

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF HOLLAND,
Public Employer,

Case No. R00 G-78

-and-

GOVERNMENTAL EMPLOYEES LABOR
COUNCIL,
Petitioner-Labor Organization.

APPEARANCES:

Miller, Johnson, Snell, & Cummiskey, PLC, by Michael A. Snapper, Esq., for the Public Employer
John A. Lyons, PC, by Timothy J. Dlugos, Esq., for Petitioner

DECISION AND DIRECTION OF ELECTION

Pursuant to Sections 12 and 13 of the Public Employment Relations Act (hereafter "PERA"), 1965 PA 379, as amended, MCL 423.212 and MCL 423.213, this case was heard at Lansing, Michigan on October 25, 2000, before James P. Kurtz, Administrative Law Judge (hereafter "ALJ"), acting as hearing officer for the Michigan Employment Relations Commission. Based on the record, including the transcript and briefs filed by the parties on or before December 19, 2000, the Commission finds as follows:

The Petition and Positions of the Parties:

The petition was filed on July 12, 2000, by the Governmental Employees Labor Council (GELC). Petitioner seeks to represent a bargaining unit consisting of approximately 12-15 nonsupervisory, nonpolice employees of the police department of the City of Holland, including clerks, maintenance staff, secretaries, code enforcement officers, and administrative assistants. Prior to the hearing, the parties agreed to exclude the administrative assistant as confidential, the office manager as supervisory, and the code enforcement officer as Act 312 eligible. The only remaining

issue concerns the propriety of including the position of maintenance supervisor in the proposed unit. The Employer asserts, contrary to Petitioner, that this is a supervisory position, and as such should not be included.

Facts:

The police department of the City of Holland is organized by a chain of command. The chief of police is at the top, and below are three captains who directly report to the chief. The captain of the services division oversees the clerical staff, maintenance staff, and lock-up facility. The clerical staff has a supervisor, as does the maintenance staff. It is the maintenance supervisor position which is at issue in this case.

The maintenance supervisor is a salaried position charged with the responsibility of maintaining all 30-32 of the police department's vehicles, as well as assigning the custodial work in the police department building. The position is also responsible for the general maintenance of both the police department building and the adjacent jail facility. Two non-seasonal hourly employees, one full-time and one part-time, fall under this position's responsibility. These employees typically perform the custodial work, while the maintenance supervisor primarily handles the vehicle and maintenance work. The maintenance supervisor assigns the duties of these two employees on a daily basis, and oversees their performance. Both maintenance employees report directly to the maintenance supervisor.

The maintenance supervisor reports to the captain of the services division, and also works directly with the chief of police, primarily by making recommendations regarding the projected costs and supply needs of the maintenance department. The maintenance supervisor has the authority to make purchases up to \$500 for the general maintenance of the vehicle fleet and police department building, and also to approve such purchases by his custodial staff. For any purchases above this amount, the maintenance supervisor must obtain a purchase order with the approval of the chief of police, city manager, and/or city council, pursuant to the City's purchasing policy.

If a maintenance employee desires time off from work, he or she must receive permission from the maintenance supervisor, who has the final word on the issue. It is the maintenance supervisor's duty to report to the captain of the services division any action by maintenance employees requiring discipline. The maintenance supervisor also has the authority to recommend that discipline be imposed. The maintenance supervisor participates in the hiring process with regard to maintenance employees, such that the position is on a hiring panel along with the City's human resources officer and the captain of the services division. This panel interviews job applicants, and while the final hiring decision is in the captain's hands, the maintenance supervisor and human resources officer provide input and make recommendations concerning the decision. The position's salary and benefits are comparable to those of other City supervisors.

Discussion and Conclusions of Law:

A supervisor is one who possesses authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or to effectively recommend such action, as long as this authority requires the use of independent judgment and is not merely routine. See *Village of Paw Paw*, 2000 MERC Lab Op 370; *City of Grand Rapids Police Dep't*, 2000 MERC Lab Op 384. The authority to discipline, or to effectively recommend discipline, is a particularly important indicia of supervisory authority, even if that authority is rarely exercised. See *Tuscola Intermediate School Dist*, 2000 MERC Lab Op 226; *City of Detroit Dept of Pub Works*, 1999 MERC Lab Op 283. See also *Eastern Mich Univ*, 1999 MERC Lab Op 550. An individual is not a supervisor under PERA, however, if his or her authority is limited to merely directing the daily work of other employees and/or making work assignments of a routine nature. See *City of Lansing*, 2000 MERC Lab Op 380; *Whitmore Lake Pub Schools*, 1999 MERC Lab Op 117; *City of Detroit Human Resources Dep't*, 1999 MERC Lab Op 81.

Petitioner argues that the maintenance supervisor has only limited discretion over routine matters and possesses no real authority over the maintenance employees. Petitioner also contends that the position in question does not exercise independent judgment in carrying out its duties. We agree with Respondent, however, that the maintenance supervisor has been delegated real, as opposed to routine, supervisory authority. The position controls all of the assignments of the maintenance employees, grants them time off, may initiate and effectively recommend discipline, and is involved in their hiring process. Moreover, the maintenance supervisor is generally responsible for all of the police department's vehicles, the custodial work of the police department building, and the maintenance of both the police department building and jail facility. The position also plays a role in the police department's budget by assisting the chief of police in projecting costs and supply needs for the maintenance department. Therefore, we find that the maintenance supervisor is a supervisor in the labor relations sense and issue the following order.

ORDER DIRECTING ELECTION

Based upon the above, we conclude that a question of representation exists herein under Section 12 of PERA, and that the following employees constitute a unit appropriate for collective bargaining under Section 13 of PERA:

All nonsupervisory, nonpolice employees of the police department of the City of Holland; excluding the maintenance supervisor, administrative assistant, office manager, code enforcement officer, and all other employees of the City.

Pursuant to the attached direction of election, the aforesaid employees will vote on whether they wish to be represented for purposes of collective bargaining by the Governmental Employees Labor Council.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Chair

Harry W. Bishop, Member

C. Barry Ott, Member

Dated: _____