

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

In the Matter of:

CITY OF ANN ARBOR,  
Public Employer,

Case No. UC05 B-005

-and-

AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, COUNCIL 25,  
Labor Organization-Petitioner.

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**APPEARANCES:**

Dykema Gossett PLLC, by Melvin J. Muskovitz, Esq., for the Employer

Ben K. Frimpong, Esq., for the Petitioner

**DECISION AND ORDER**

Pursuant to Section 12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212, this case was heard in Detroit, Michigan on August 11, 2005, by Julia C. Stern, Administrative Law Judge for the Michigan Employment Relations Commission. Based on the record, including briefs filed by the parties on October 24, 2005, we find as follows:

**The Petition and the Positions of the Parties:**

The American Federation of State, County and Municipal Employees (AFSCME), Council 25 (Petitioner), filed this unit clarification petition on February 4, 2005. Petitioner's affiliated local, AFSCME Local 369, represents a broad unit of nonsupervisory employees of the City of Ann Arbor (Employer). Petitioner seeks to add two positions to this unit, the geographic information systems (GIS) coordinator and the traffic engineer.

Petitioner asserts that both the GIS coordinator and the traffic engineer positions are newly created and share a community of interest with its bargaining unit based on similarities in their duties, skills, education, pay, benefits, and working conditions. It also asserts that positions in its bargaining unit have historically performed the work of the two positions and that the Employer added degree requirements to these positions in order to justify their removal from the bargaining unit. The Employer disputes Petitioner's claim that employees in its unit have performed the duties now assigned to the traffic engineer and the GIS coordinator and maintains

that neither position shares a community of interest with this unit. The Employer further contends that the traffic engineer is an existing position that has been historically excluded from Petitioner's unit and that the petition is, therefore, inappropriate as to this position.

Facts:

The parties' most recent collective bargaining agreement covers the period July 1, 2001 through June 30, 2006, and describes the bargaining unit as all eligible employees in eleven city departments, excluding supervisors and confidential employees. In 2002, after this contract was negotiated, the Employer consolidated its departments into four services areas: safety services, public services, community services, and financial administrative services. Petitioner represents approximately 310 employees who work in all areas except safety services. The contract lists over 140 separate job classifications, including data entry operator, lead computer operator, coordinator of customer support and hardware maintenance, financial analyst, real property appraiser, engineering technician, traffic technician, operations specialist, draftsman, housing inspector, housing rehabilitation specialist, building, electrical, mechanical, and plumbing inspector, land development coordinator, modernization coordinator, utilities instrument technician, electrician, electronics technician, radio communication technician, laboratory technician, water plant operator, and city planner. Several positions within Petitioner's unit require a license, certification, or at least two years of college-level work in a particular field. Hourly rates for positions in the unit range from \$13.50 to \$28.34 per hour.

There exists a residual group of approximately 176 unrepresented City employees, including most information technology classifications and those requiring advanced degrees. These employees have a different wage and benefit package. Unrepresented employees contribute to the cost of their health benefits; unit employees do not. While unit employees receive step increases based on their length of service, unrepresented City employees receive wage increases within their salary range based on merit.

GIS Coordinator

On June 14, 2004, the Employer posted notices of vacancy for a new position, GIS coordinator. The Employer subsequently hired two GIS coordinators, one in its community services area and one in its public services area. Both coordinators report directly to the head of their service areas. The GIS coordinator in the community services area supervises a GIS specialist, an unrepresented position, and is responsible for hiring, training, evaluating, disciplining, and effectively recommending the discharge of the specialist. The GIS coordinator in the public services area has no subordinates at this time.

The GIS coordinator is a salaried position. The salary range for the position is \$43,919 to \$68,321 per year, or the equivalent of \$21.11 to \$32.84 per hour. The position requires a bachelor's degree from an accredited college or university in geographic information systems, geography, planning, computer science, cartography or related field; three years of GIS software and relational database experience; three years of increasingly responsible GIS project management experience; three years of applications programming experience; and one year of supervisory experience.

The City's geographic information system consists of computerized databases containing a wide variety of information about the City organized geographically, including location of utility lines, street lights, zoning areas, and many other kinds of data. Data types are referred to as "layers." The urban information systems analyst, an unrepresented information technology position in the administrative services area, has overall responsibility for the GIS City-wide.

The GIS coordinators perform the following duties within their respective service areas: (1) evaluate GIS technology, including hardware and software, and develop systems and applications; (2) conceptualize and develop GIS applications that can be used to improve decision making and set priorities within the service area; (3) write and develop programs to analyze, sort and extract data from the GIS; (4) write programs that allow others in the service area to access GIS information that is useful to them and train users on the programs; (5) integrate GIS information with other City information systems; (6) set strategy for the GIS system, including what information will be kept and how that information will be obtained and entered; (7) set strategy for how GIS information will be used within the service area to streamline work processes; (8) coordinate GIS functions across the City to ensure that any action taken with respect to the GIS, i.e. adding a new layer of information, is congruent with other layers of information; (9) develop models from GIS information to analyze the performance of various City systems, e.g. efficiency of solid waste collection based upon the size of the solid waste cart used at each household; and (10) identify and implement streamlined methods for making GIS data available to users.

The GIS coordinators are responsible for identifying new types of information to be added to the GIS system within their service areas. GIS coordinators also develop GIS applications within their service areas that analyze existing work processes and systems, identify inefficiencies, and remedy these inefficiencies. To accomplish this, the coordinators meet and work with managers and supervisors in the different units within their service areas.

The Employer considers the GIS coordinators to be performing both managerial and higher-level information technology functions. The Employer provided examples of other higher-level information technology positions, all with different duties, that have been historically excluded from Petitioner's unit. Petitioner's bargaining unit includes some positions with duties related to information technology. For example, the operations specialist in traffic engineering and a city planner, members of Petitioner's unit, regularly input and access the data in the GIS. The operations specialist also created GIS programs for use in traffic engineering using some of the same software used by the GIS coordinators.

#### Traffic Engineer

The traffic engineer position was posted as a civil engineer position within the public service area. Civil engineers have never been included in Petitioner's bargaining unit. Ten civil engineers are currently employed in the project management unit within the Employer's public service area. The unit is responsible for all the City's capitol improvement projects, oversight of private development construction within the City, and traffic engineering. Each of the ten civil engineers focuses on a specific area, including traffic, highway engineering, utilities, and

environmental engineering. Historically, two of the ten engineers have been assigned traffic engineering responsibilities. Prior to the City's 2002 reorganization, engineers performing these duties had the title of traffic engineer. The reorganization abolished this title and, thereafter, employees with these responsibilities were classified simply as civil engineers.

In 2004, one of the two civil engineers assigned to traffic engineering left City employment. On August 17, 2004, the Employer posted a notice of job vacancy for a traffic engineer. The posting stated that the individual hired was to be classified as either a civil engineer III or civil engineer IV, depending on qualifications. According to the Employer, it listed the position title as traffic engineer rather than civil engineer because it wanted to attract the attention of candidates with the proper qualifications. The posting stated that the position required a bachelor's degree in civil engineering with an emphasis on traffic engineering; a professional engineering license in the State of Michigan or the ability to obtain one within six months from the date of hire; and a minimum of five years of progressive traffic engineering and project management experience.

On January 10, 2005, the Employer hired Patrick Cawley as a civil engineer IV to fill the vacant position. The salary range for a civil engineer IV is \$43,919 to \$77,491 per year, or the equivalent of about \$24 to \$37 per hour. Cawley is licensed as a professional engineer and professional traffic operations engineer. He has more than ten years experience as a traffic engineer. Cawley and the other civil engineer assigned to traffic engineering review and monitor traffic movements; analyze, report, and optimize traffic flow conditions; review and evaluate traffic and transportation engineering analysis and designs; correlate and adjust data for different types of traffic studies; recommend engineering solutions to traffic problems; design and oversee major traffic engineering projects; develop new methods and approaches to traffic problems; review the work of consultants and other project team members, including members of Petitioner's bargaining unit; and assume overall responsibility for the correct and timely completion of projects.

An operations specialist, a position within Petitioner's bargaining unit, works in the traffic area of the field operations unit. The operations specialist has ten temporary employees that report to him. The salary range for the operations specialist position is \$42,000 to \$55,000 per year. The job description for the position describes it as a "skilled technical paraprofessional position of an engineering/micro-computers operations nature." The operations specialist is not required to have a college degree, but two years of college with course work in engineering or statistics, plus technical paraprofessional work experience, is considered desirable for the position. The operations specialist, and the temporary employees who work for him, perform traffic and turning movement studies, identify curbs, sidewalks, and gutters that need repair, and determine where pavement markings and crosswalks should be placed. The operations specialist and his employees mark crosswalks and do some curb repair. The operations specialist also oversees the work of the outside contractors who do the pavement marking and curb, gutter, and sidewalk repair.

The operations specialist job description states that the position "administers computerized right-of way databases of traffic volumes, accident reports, traffic control orders, and inventories of traffic signals, signs, pavement centerline and intersection markings, City

owned street lights, and guardrails.” The operations specialist regularly enters data into the GIS on traffic flow, speed limits, sections of pavement that need repair, street lighting, and guardrails and fences. At the time of the hearing, the operations specialist was working on migrating the City’s street sign inventory database into the GIS. He has also created GIS applications; for example, he created a program to generate a report on defective sidewalks based on complaints and another to generate an inventory of bike paths and their conditions.

Discussion and Conclusions of Law:

GIS Coordinator

The determination of whether a new position should be included in a bargaining unit rests on whether the position shares a community of interest with the unit positions. In making unit determinations, our primary objective is to constitute the largest bargaining unit which, in the circumstances of the particular case, is the most compatible with the effectuation of the purposes of the law, and which includes within a single unit all employees sharing a community of interest. *Hotel Olds v State Labor Mediation Bd*, 333 Mich 382, 387 (1952); *Genesee Co Cmty Mental Health Services*, 18 MPER 29 (2005); *Macomb Co*, 17 MPER 35 (2004); *Univ of Michigan*, 2001 MERC Lab Op 6, 8. It is our policy, whenever possible, to avoid leaving positions unrepresented, especially isolated ones. *Charlotte Pub Schs*, 1999 MERC Lab Op 68; *City of Muskegon*, 1996 MERC Lab Op 64, 70. Therefore, when a newly created position shares a community of interest with the unit that seeks to include it, we will generally accrete the position to the existing unit rather than leave it with a residual group of unrepresented employees. *Lake Superior State Univ*, 17 MPER 9 (2004); *Saginaw Valley State College*, 1988 MERC Lab Op 533, 538.

In determining whether employees have a community of interest we examine a number of factors, including similarities in duties, skills, and working conditions; similarities in wages and employee benefits; amount of interchange or transfer between groups of employees; centralization of the employer's administrative and managerial functions; degree of central control of labor relations; common promotional ladders; and common supervision. *Macomb Co*, 17 MPER 35 (2004); *Covert Pub Schs*, 1997 MERC Lab Op 594, 601.

The GIS coordinators oversee the GIS in their respective service areas and develop GIS applications to help managers and supervisors perform their work more efficiently. Although a number of positions in Petitioner’s unit use the GIS, none of them has been responsible for the operation of the GIS or for creating programs for use outside of their individual work areas. We conclude that members of Petitioner’s unit have not historically performed the GIS coordinator’s work. Moreover, although Petitioner’s unit covers a broad range of positions, we find no indication that any unit position requires GIS knowledge or information technology skills akin to that required of the GIS coordinator. We also find that none of the other factors we generally consider in determining unit placement point toward finding a community of interest between the GIS coordinator and Petitioner’s unit. While there are unit employees who are paid more than the lower end of the GIS coordinator’s salary range, the maximum salary for the position is substantially more than the top wage paid to any unit position. The record does not indicate that there are any positions in the bargaining unit that report directly to the head of the service area,

as does the GIS coordinator. The GIS coordinators work most closely with managers and supervisors who are outside Petitioner's unit. Based on the factors set out above, we conclude that the GIS coordinators do not share a community of interest with employees in Petitioner's unit and the petition to add the GIS coordinator to Petitioner's unit must be dismissed.

Traffic Engineer

Unit clarification is not appropriate when it would disturb an existing agreement of the parties concerning unit placement of a position, even if the agreement resulted from the acquiescence of a party and not by express consent, unless the position has undergone recent substantial changes. *Jackson Cmty College*, 2001 MERC Lab Op 179, 184; *Grosse Pointe Pub Library*, 1999 MERC Lab Op 151, 153-154. When a position or group of positions has been historically excluded from a union's bargaining unit, the union must file a representation petition to add these positions to its unit. *Northeast Michigan Cmty Mental Health*, 1999 MERC Lab Op 369, 373; *City of Lansing*, 1994 MERC Lab Op 261, 266.

Petitioner asserts that the traffic engineer and the operations specialist in the traffic engineering area, a unit position, do essentially the same work and are essentially the same position. The evidence does not support this claim. The record indicates that two civil engineers perform traffic-engineering duties that are distinct from those of the operations specialist. Moreover, the traffic engineers, whatever their titles, have always been excluded from Petitioner's unit. In 2004, one of these positions became vacant and was filled. We conclude that in 2004, the traffic engineer position was not new, had been historically excluded from Petitioner's bargaining unit, and had not undergone any recent substantial change. Clarification of the bargaining unit is not appropriate in these circumstances, and the petition must therefore be dismissed.

**ORDER**

It is ordered that the petition in Case No. UC05 B-005 is dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Nora Lynch, Commission Chairman

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Nino E. Green, Commission Member

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Eugene Lumberg, Commission Member

Dated: \_\_\_\_\_