

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

In the Matter of:

CITY OF RIVERVIEW,
Public Employer,

Case No. R06 C-042

-and-

MICHIGAN AMERICAN FEDERATION
OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, COUNCIL 25, LOCAL 3667,
Petitioner-Labor Organization.

APPEARANCES:

Pentiuk, Couvreur & Kobiljak, P.C., by Michael P. Hurley, Esq., for the Public Employer

Carl Warner, Organization Specialist, and Ben K. Frimpong, Esq., (On Brief), for the Petitioner

DECISION AND DIRECTION OF ELECTION

Pursuant to Section 12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212, this case was heard on May 8, 2006, before David M. Peltz, Administrative Law Judge for the Michigan Employment Relations Commission. Pursuant to Sections 13 and 14 of PERA, and based upon the entire record, including the transcript of hearing and briefs filed by the parties on or before July 24, 2006, the Commission finds as follows:

Petitioner, Michigan American Federation of State, County & Municipal Employees (AFSCME), Council 25, Local 3667, represents a bargaining unit of fire department personnel, including the classifications of captain, lieutenant sergeant, fire fighter and fire fighter trainee. In the petition, filed on March 21, 2005, the Union seeks to accrete to its unit the classifications of part-time fire dispatcher and part-time fire dispatcher clerk. The City contends that the petition is inappropriate because the dispatchers and dispatcher clerks lack a community of interest with the fire fighter unit.

Facts:

There are currently five employees working for the City of Riverview in the positions of fire dispatcher and fire dispatcher clerk. Dispatchers and dispatcher clerks answer emergency

calls, receive information, ascertain the nature and degree of the emergency situation and, if appropriate, dispatch emergency personnel and equipment to the scene. They also monitor the police scanner for the City and surrounding areas to determine if mutual aid is required, record information for hazardous material and dive teams, and communicate with state, federal, and local agencies.

In addition to performing emergency dispatch duties, dispatchers and dispatcher clerks perform various administrative and clerical tasks, including preparing fire and rescue reports and other logs. The primary difference between the dispatcher and the dispatcher clerk positions is that the latter is required to perform additional clerical duties, such as assisting in the preparation of the annual departmental budget, maintaining personnel files and time cards for all fire and rescue personnel, maintaining and updating a standby shift list, and preparing payroll and billing for ambulatory services.

Dispatchers and dispatcher clerks do not engage in fire fighting or perform any emergency medical services. They are not required to be certified as fire fighters, nor do they undergo the same rigorous training process as the members of Petitioner's bargaining unit. However, basic medical skills are encouraged, and the dispatchers are required to have some familiarity with issues such as fire fighting, hazardous materials dispatching, and federal regulations so that they are able to properly communicate with fire department personnel at the scene of an emergency. At no time in the past has a dispatcher or dispatcher clerk been promoted to a position as a fire fighter with the City, nor has a dispatcher temporarily performed fire fighter duties.

Fire fighters employed by the City of Riverview perform standard fire suppression duties and emergency medical services, including transporting sick and injured people to the appropriate emergency facility, performing basic life support functions and extinguishing fires to preserve life and property. Fire fighters are also cross-trained in dispatching and perform such functions on a temporary basis when a dispatcher or dispatcher clerk is absent from work. Fire fighters are required to have Fire Fighter I or II certification and, at a minimum, possess an Emergency Medical Technician (EMT) license. They must also have drivers' certification from the State of Michigan.

Fire fighters, dispatchers, and dispatcher clerks all work in the City's fire hall, and there is regular daily contact amongst the individuals working in these positions. However, unlike the fire fighters, the dispatchers and dispatcher clerks typically are not required to work outside the building or perform any strenuous physical tasks. The dispatchers, dispatcher clerks, and fire fighters all report to the fire marshall who, in turn, reports to the fire chief. Personnel matters relating to the dispatchers, dispatcher clerks, and fire fighters are handled by the Employer's human resources department, and the positions are all subject to the same employment rules and personnel policies. Fire fighters are paid on average 33 percent more than dispatchers and dispatcher clerks and receive fringe benefits such as life insurance that are not provided to the dispatchers and dispatcher clerks.

Discussion and Conclusions of Law:

The City of Riverview contends that the dispatchers and dispatcher clerks have no community of interest with the members of Petitioner's bargaining unit. In support of this contention, the Employer cites differences in pay, benefits, qualifications and training; the lack of interchange or career progression from dispatcher to fire fighter; and differences in duties and working conditions, including the fact that dispatchers are not exposed to dangerous situations or required to engage in rigorous physical activity.

A primary objective of the Commission is to constitute the largest unit which, in the circumstances of the particular case, is 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 (1952). Community of interest is determined by examining 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 promotion ladders and common supervision. See e.g. *Covert Pub Schs*, 1997 MERC Lab Op 594, 601; *Grand Rapids Pub Schs*, 1997 MERC Lab Op 98, 106. In making a unit placement determination, we are not required to find the "optimum" or "most" appropriate bargaining unit, but rather only a unit appropriate for collective bargaining based upon the facts of each particular case. *City of Lansing, Bd of Water and Light*, 2001 MERC Lab Op 13; *City of Zeeland*, 1995 MERC Lab Op 652.

There is no dispute that the dispatchers and dispatcher clerks employed by the City of Riverview are eligible for arbitration under 1969 PA 312 by reason of the fact that a significant function of their job is to relay emergency calls to fire and emergency medical personnel. *Village of New Haven*, 1988 MERC Lab Op 601, 602-603; *Blissfield Police Dep't*, 1988 MERC Lab Op 528, 531. Our policy against the fragmentation of bargaining units suggests that multiple units of Act 312-eligible employees should be avoided wherever possible. *Berrien Co Sheriff*, 1984 MERC Lab Op 1072, 1077. In accordance with this policy, we have held that a bargaining unit consisting of all Act 312-eligible employees of the same department is a presumptively appropriate unit, and we have consistently permitted emergency dispatchers to vote to determine whether they wish to be part of fire fighter and law enforcement units on this basis. See e.g. *City of Saginaw (Fire Dep't)*, 1992 MERC Lab Op 601; *Shelby Twp*, 1995 MERC Lab Op 395; *Chesterfield Twp*, 1989 MERC Lab Op 185; *Van Buren Twp*, 1988 MERC Lab Op 291; *City of Ypsilanti*, 1987 MERC Lab Op 855; *City of Birmingham*, 1986 MERC Lab Op 794; *City of Fenton*, 1984 MERC Lab Op 1086; *Green Oaks Twp*, 1982 MERC Lab Op 1400.

Here, the evidence establishes that the dispatchers and dispatcher clerks work in close proximity to the fire fighters and that their job function in ensuring the public safety is integrated with that of the members of Petitioner's bargaining unit. The dispatchers and dispatcher clerks exercise independent judgment in responding to emergency calls and monitor the police scanner to determine whether mutual aid may be needed. To that end, they are required to have knowledge of basic principles relating to fire fighting, as well as familiarity with federal regulations. Human resources and personnel matters are centralized and the dispatchers and

dispatcher clerks are subject to the same work rules and personnel policies as the fire fighters. The dispatchers and dispatcher clerks also work under the same chain of command as the fire fighters. These additional factors support the presumption of appropriateness described above. In so holding, we note that the Employer has not set forth any facts to rebut this presumption or in any way distinguish this matter from the cases cited above. Accordingly, we conclude that a community of interest exists between Petitioner's existing unit and the dispatchers and dispatcher clerks, and find that they constitute an appropriate bargaining unit under Section 12 of PERA. We will therefore direct an election whereby the dispatchers and dispatcher clerks may vote on whether they wish to be represented by Petitioner.

ORDER

Based upon the findings and discussion above, we conclude that a question concerning representation exists under PERA, and that the following employees constitute an appropriate residual bargaining unit under Section 13 of the Act:

All fire dispatchers and fire dispatcher clerks employed by the City of Riverview, excluding supervisors and all other employees.

Pursuant to the attached Direction of Election, the above employees may vote on whether they wish to be represented for purposes of collective bargaining by Michigan AFSCME Council 25, Local 3667, or by no labor organization. If the employees vote to be represented by Petitioner, they will be accreted to the existing bargaining unit of fire department personnel represented by AFSCME.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Christine A. Dardarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____