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In the matter of the <u>Act 312</u> Arbitration between))
Chesterfield Township) Case No.096J-2993 (A&B)
and)
Police Officers Labor Council)
)

The arbitration was authorized by the provisions of P.A. 312 of 1969 as amended. A hearing was held in the offices of the Employer on November 10, 1997. The Union was represented by Mr. John A. Lyons, Attorney, and the Employer by Ms. Brenda Boughton, Township Clerk.

The Employer's panel representative was Elbert J. Sharp. The Union's representative was Richard R. Wieler.

The proceedings were recorded and transcribed by Philip Liburdi. Last best offers were exchanged December 18, 1997. Post-hearing briefs were waived. The parties waived the time limits in the Act.

Witnesses for the Union
 Nancy Ciccone
 Kathy Strength

Witnesses for the Employer
 Brenda Boughton
 Glenn Fairman

Statutory Authority

"Act 312 of 1969 provides for compulsory arbitration of labor disputes in municipal police and fire departments.

Section 8 of Act 312 states in relation to economic disputes that:

The arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in Section 9. The findings

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opinions, and orders as to all other issues shall be based upon the applicable factors prescribed in Section 9. (emphasis added)

Section 9 of Act 312 contains eight factors on which the arbitration panel shall base its opinions and orders. The factors are as follows:

- (a) The lawful authority of the Employer.
- (b) Stipulation of the parties.
- (c) The interest and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) A comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services within other communities generally:
 - (i) In public employment in comparable communities;
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices of goods and services commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances presented during the pendency of arbitration proceedings.
- (h) Such other factors not confined to the foregoing, which are normally or traditionally taken into consideration in determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration or otherwise between the parties, in the public service or in private employment.

Section 10 of Act 312 provides that the decision of the arbitration panel must be supported by competent, material and substantial evidence on the whole record. This is supported by the Michigan Supreme Court's decision in City of Detroit v Detroit Police Officers Association, 408 Mich 410 (1980). In that case the Court commented on the importance of the various factors as follows:

The legislature has neither expressly nor implicitly evinced any intention in Act 312 that each factor in Section 9 be accorded equal weight. Instead, the legislature has made their treatment, where applicable, mandatory in the panel through the use of the word "shall" in Sections 8 and 9. In effect then, the Section 9 factors provide a compulsory checklist to insure that the arbitrators render an award only after taking into consideration those factors deemed relevant by the legislature and codified in Section 9. Since the Section 9 factors are not intrinsically weighted, they cannot of themselves provide the arbitrators with an answer. It is the panel which must make the difficult decision of determining which particular factors are more important in resolving a contested issue under the singular facts of the case. Although, of course, all "applicable" factors must be considered. Id. p. 484."

Preliminary Comments

The case involving the Patrolmen and Dispatchers and the one involving the Sergeants and Lieutenants have been consolidated by mutual consent.

The matter involves a wage reopener for wages effective 01/01/97 to 12/31/97.

The parties agreed on the comparable communities of Harper Woods, Roseville, Shelby Township, and Utica. The Employer proposed the addition of New Baltimore. The Union did not agree.

In addition to the issue of wages for Patrolmen, Dispatchers, Sergeants and Lieutenants, there was an issue of dispatcher manpower.

Prior to the beginning of the hearing, there was a settlement reached on wages for the dispatchers, effective 01/01/97:

Step 1 - Start \$8.80 per hour
Step 2 - 90 days \$10.75 per hour
Step 3 - One year \$11.60 per hour
Step 4 - Two years \$12.32 per hour

Step 5 - Three years \$15.13 per hour

During the course of the hearing, the parties agreed on wage differentials for Sergeants as 16% above that of the highest paid patrol officer, and Lieutenants as 25% above the salary of the highest paid patrol officer.

Issue: Patrol Officer Wages - Article XV Wages & Salary Section 1

Union Proposal

<u>Start</u>	<u>1 year</u>	<u>2 years</u>	<u>3 years</u>	<u>4 years+</u>
\$27,474.29	31,089.32	33,981.36	37,596.40	41,211.44

Employer Proposal

<u>Start</u>	<u>1 year</u>	<u>2 years</u>	<u>3 years</u>	<u>4 years+</u>
\$25,214.00	29,663.20	32,422.58	35,871.79	39,321.01

The Union's proposal represents a 9% increase, the Employer's proposal 4%.

**Comparison of Base Wage for Top Paid Patrolman
Union Proposal-Employer Proposal**

<u>Unit</u>	<u>Jan. 1st Base</u>	<u>July 1st Base</u>
Harper Woods	Contract expired 12/31/96	
Roseville	43,979	45,298
Shelby Township	46,108	46,108
Utica	41,963	43,222
Average	44,017	44,876
Chesterfield Township	41,212	41,212
Union Proposal		
Over/(Under) Average	(2805)	(3664)
Chesterfield Township	39,321	39,321
Employer Proposal		
Over/(Under) Average	(4696)	(5555)

The above data shows clearly that, with the Employer's 4% proposal, there would remain a significant gap between the wages for the top paid patrolman in Chesterfield Township and the average wage paid in the mutually agreed upon comparable communities, namely \$4696 or \$5555, depending on whether one chooses Jan. 1st or July 1st as a basis of comparison. The identical related gaps for 1996 were \$4824 and \$5350 indicating that with the Employer's proposal, the gap would be widening as of July 1st.

The absence of Harper Woods data cannot reasonably be anticipated to alter the picture significantly. The 1997 average is only 5% over the 1996 Harper Woods wage.

Were the New Baltimore data of \$36,079 included, the average as of July 1st would be \$42,676. This would still represent a gap of \$1464 for the Union proposal and \$3355 using the Employer's proposal. These gaps are influenced by not including any Harper Woods data. Were the 1996 Harper Woods data used to compute the average of the comparable communities with New Baltimore included, the result would be \$42,527, only a \$149 difference from the average above.

It follows that even with New Baltimore data included and assuming zero 1997 increase for Harper Woods, there would still be a negative gap between patrol officers salaries in Chesterfield Township and those of comparable communities of \$1315 using the Union proposal and \$3206 for

the employer's proposal. Clearly these figures are unrealistically conservative, inasmuch as Harper Woods patrol officers are likely to receive a 1997 increase in the order of 3% based on historical data.

The ranking of the Chesterfield Township wages would not change with either Union or Employer proposal. It would remain no. 5, as it has since 1994 which is as far back as covered in the exhibits.

The percentage gap between the Union proposal and the average wage of the mutually agreed upon comparables for Jan. 1st and July 1st is 7% and 9% respectively. The same gap using the Employer proposal would be 12% and 14%.

One way to evaluate the gap is to note that even with the Union's more liberal proposal, on July 1st that it would take roughly one month's wages from the average patrolman (\$3740) to close the gap (\$3664).

In the hearing, the Employer asked the panel to consider the SEV for the comparable communities in evaluating the data. However, it acknowledged prior acceptance of Harper Woods, Roseville, Shelby Township, and Utica as mutually agreed comparable communities. The SEV data supplied by the Employer was incomplete, as it did not include Harper Woods. Accordingly it is impossible to evaluate this contention.

The Employer's wage data for the comparable communities for top paid patrolmen show some discrepancies from the copies of the contracts submitted by the Union. The Employer's figure for Roseville was \$43,979

which is accurate for 01/01/97 as covered in the Union data, but does not reflect an increase to \$45,298 on 07/01/97. Reference to the Utica contracts shows the top patrol officer wage to be \$41,963 on 01/01/97, not \$39,941, as provided by the Employer. The latter figure was effective 07/01/94 to 06/30/95. Moreover, Utica's figure for 07/01/97, according to their contract, was \$43,222.

It must be concluded that the Union's wage data is more accurate because of its greater detail and support by the respective contracts.

The police dept. in Chesterfield Township is supported by a specific millage. Financial audit reports for 1994-1997 show a declining fund balance for the police dept. resulting in a deficit of \$90,017 in 1996. Although the police dept. millage has been increased, according to the Finance Director, Glenn Fairman, it will still result in a deficit requiring transfers from the general fund. Evidence on the millage and the specific financial impact of the different wage proposals were limited to Mr. Fairman's oral testimony.

In cross-examination, Mr. Fairman acknowledged that the deficit was limited to the police fund and not to the general fund. The latter has an anticipated fund balance of \$3.5 million. Fairman agreed that general fund monies "can be used for any purpose(s) including wages". He was familiar with the decision criteria of Section 9 of Act 312.

Although Mr. Fairman had general questions regarding the accurate portrayal by the Union of the Economic Comparison of its proposal, it

provided no documentation to challenge the accuracy or completeness of the Union's data.

Despite the claim of the financial burden to be imposed on the Township by adoption of the Union's proposal, it did not articulate any assertion of an inability to pay. Yet, Mr. Fairman expressed awareness of the criteria in Section 9, wherein inability to pay is clearly included.

Conclusion

In full and careful consideration of the evidence provided the panel, the gap indicating the significantly lower wages for the patrolmen in Chesterfield Township is very clear. Without changing the historical relationship of the Township's wages to those of agreed-upon comparable communities, the Union's proposal would narrow the gap, whereas the Employer's proposal would widen the adverse comparison.

Although the Employer in oral testimony spoke of the financial burden involved, there was no indication of an inability to pay were the Union's proposal to be adopted.

In view of all the evidence and testimony, it is clear the Union's proposal will better reduce the adverse comparisons and still conform to the Act's decision criteria.

No evidence bearing on the other decision criteria in Section 9 was presented.

Decision: The Union proposal is adopted, effective 01/01/97

Concur: Richard A. Wilkes Harold F. Knight

Dissent: Ernest James Hoff

Issue: Sergeant Wages

Union Proposal: \$47,805

Employer Proposal: 45,612

The Employer's proposal incorporates a 7.45% increase over the current rate and is 16% over its proposed top paid patrolman.

The wages for sergeants and lieutenants are linked to those of the patrolmen by virtue of the differentials agreed to in the hearing, specifically 16% above the top paid patrol officer for sergeants and 25% above the top paid patrol officers for lieutenants. In view of the fact that the panel has adopted the Union proposal for patrol officers, it necessarily follows that the Union proposals for sergeants and lieutenants is adopted, inasmuch as it incorporates the agreed-upon differentials.

Decision: The Union proposal is adopted, effective 01/01/97.

Concur: Richard A. Wilkes Harold F. Knight

Dissent: Ernest James Hoff

The Union submitted totals for the economic compensation packages based on their proposals for patrolmen, sergeants, and lieutenants, as related to those of the comparable communities. No data of this nature was submitted by the Employer, particularly in a manner that would permit comparisons.

The data for the economic compensation comparison submitted by the Union includes base wage, longevity, shift premium, uniform cleaning and education incentive. It shows that the figure for patrolmen is \$3656 below the average of the comparable communities using the Union proposal. The similar figure for sergeants is \$4409 and for lieutenants \$7963. (Note: No figure was available from Utica.)

Pursuant to the agreement on Sergeant and Lieutenant wage differentials Article XV Wages & Salary, Section 1 of the Command Contract should be amended to read:

"The following wage and salary pay differential shall apply to the ranks of lieutenant and sergeant:

- (A) The wage and salary of sergeant shall be an amount equal to 16% above that of the highest paid patrol officer.
- (B) The wage and salary of lieutenant shall be an amount equal to 25% above the salary of the highest paid patrol officer.

Issue: Dispatch Staffing

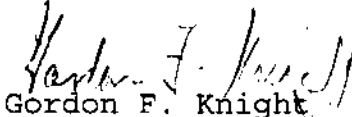
Union proposal: There shall be two (2) LEIN certified dispatchers on duty during the following hours seven (7) days per week: 11:00 a.m. to 7:00 p.m.; 7:00 p.m. to 3:00 a.m.

Employer proposal: None.



There was testimony given by Union witness Strength during the hearing. The Employer has agreed to hire two additional full-time dispatchers. The Union, during the hearing, indicated that it's last best offer would require that there be two dispatchers on duty at certain hours. It's proposal contains just this idea.

Decision: The Union proposal is adopted.

The Panel Chair expresses his appreciation to his fellow panelists for their helpfulness in the deliberations leading to these decisions.


Gordon F. Knight

February 11, 1998

CONCUR:  Gordon F. Knight
DISSENT: 

GORDON F. KNIGHT, Ph.D.
2454 Seminole, Detroit, MI 48214
Phone: (313) 922-2167

February 27, 1998

Mr. Shlomo Sperka, Director
MERC
1200 Sixth Street, 14th floor
Detroit MI 48226

Dear Sol:

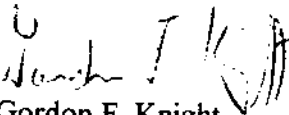
A question has arisen concerning the effective date to implement the award on Act 312 Case No. 096J-2933 A&B as it relates to Dispatch Staffing.

After consultation with the parties, the Chair has determined that the changes in Dispatch Staffing be made effective July 15, 1998.

The employer's representative concurs. The union representative dissents.

This decision is to become part of the subject award.

Sincerely,


Gordon F. Knight

cc: E. J. Tharp
R. Weiler

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