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CITY OF DEARBORN -AND- I.A.F.F.

FEB 22 1984

CITY OF DEARBORN
-AND-
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS
LOCAL 412 AFL-CIO
MERC CASE NO. 81 - F 1352

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HEARINGS IN this Michigan Employment Relations Case No. 81 - F 1352, Act 312 Arbitration, City of Dearborn and the International Association of Firefighters, Local 412 AFL-CIO were held in the City of Dearborn, Michigan on May 4, 1983, May 9, 1983, June 7, 1983 and July 29, 1983.

The Arbitration Panel is composed of Chairperson, Shirley T. Schwimmer, Richard Cox for the City and Ronald Helveston for the Union.

John A. Entenman of the law firm of Dykema, Gosset, Spencer, Goodnow & Trigg represented the City.

Ronald Helveston of the law firm of Sachs, Nunn, Kates, Kadushin, O'Hare, Helveston & Waldman, P.C. represented the Union.

Testimony was heard from 7 witnesses. There were 83 exhibits.

Only one issue was in dispute; a wage reopener clause in the July 1, 1981 - June 30, 1983 collective bargaining agreement, Article XLII, for wages for the one year period July 1, 1982 to June 30, 1983.

CITY POSITION

THE CITY subscribes to the reasoning of the Michigan Court of Appeals in Warren Police Officers Association v. City of Warren, 89 Mich App 400, 404 (1979), where the Court stated that "The implicit goal (of Act 312 arbitration) is to provide arbitration awards which approximate agreements that would have been reached in the normal course of collective bargaining."

Respectfully, the City submits that, absent the Act 312 compulsory arbitration procedure, the agreement "that would have been reached" would have been a wage freeze for the applicable one-year period. Such, in fact, is the agreement reached with other City unions, and such is consistent with the treatment of the City's non-union personnel.

I. General

Unionized employees in the City are divided into six (6) collective bargaining units: Firefighters, International Association of Firefighters; Police Command, Dearborn Police Supervisors Association of Lieutenants and Sergeants; Police, Police Officers Association of Michigan; Operative, Technical, Professional and Officerworkers Association of Michigan; Clerical, Municipal Workers of Dearborn; Super/Tech/Professional, American Federation of State, County and Municipal Employees. The City also has three (3) meet-and-confer units, to wit: executive/administrative, police inspectors and nurses.

At present, the only collective bargaining contract settled for the period 7-1-82 thru 6-30-83 is the 227-member clerical Municipal Workers of Dearborn contract. Said contract provides for a wage and benefit freeze for said period. In addition, however, the AFSCME union has tentatively agreed to a wage freeze for said period, and the TPOAM, first certified in February, 1983, has taken a de facto freeze for said period. The three (3) meet-and confer units have taken the freeze, as have, as above noted, all City non-union personnel.

2. Demographics

The population of the City has dropped steadily since 1960. The population has decreased as follows:

1960	112,007
1970	104,199
1980	90,660

This represents a decrease of over 19% in twenty (20) years, and a decrease of 13% from 1970 to 1980. This decline occurred despite the 4% increase in the State's population from 1970 to 1980.

Despite the population decrease, it is instructive to note that Dearborn's elderly population (i.e., 65 years of age and older) actually increased from 11,831 in 1970 to 14,157 in 1980 a 20% increase in the number of elderly, and a 38% increase in the relative proportion of elderly to the remaining population. That the elderly often live on fixed incomes is well-recognized.

In 1982, Dearborn experienced a 10% unemployment rate and many of its citizens received free cheese and butter pursuant to a federal program to alleviate suffering for those below the poverty line.

3. Attitude of the Electorate

Dearborn's economy is largely dependent upon the Ford Motor Company. In the past few years, Ford has gone through very dramatic reductions in force which have hurt the City badly. In addition, the State's poor economy, and that of neighboring Detroit, have adversely impacted Dearborn's citizens.

As discussed further, the City-wide tax reassessment has greatly increased the tax burden of City residents. In 1978 the average taxpayer paid \$732 in City taxes, while in 1982 that same taxpayer paid \$1,339 - an increase of 83%. In 1982-1983 residents paid 10% more of the property tax burden than they did in 1980-1981. The slight decrease for 1983-1984 was occasioned, unfortunately for the taxpayers, by a decrease in residential property values.

Perhaps the clearest indication of the reaction of the citizens to the deteriorating economy and the rapidly-increasing tax burden is found in the electorate voting a 3-1 margin in September, 1981 to decrease the authorized millage from 20 to 15 mills. This became effective July 1, 1982. In June, 1981 a proposal to establish an income tax was defeated 2-1. And in April, 1983 residents voted against both an increase in the school millage and against the partial renewal of the existing school millage.

Adversely impacting the citizens is the fact that the City has been engaged in a consistent process of both reducing City services and increasing user fees for City services: the elimination of sidewalk snow removal, the cuts in library hours, the reduction in recreational facilities and reduction in supervised recreational facilities, the increased charges

for the City's municipal park, Camp Dearborn, the increases in health department fees, the increases in permit and inspection fees and the acceleration in collection of fines.

4. Legal Exposure

The City's financial condition is seriously imperiled by pending civil litigation and by pending property tax appeals. The facts show as follows:

A. Civil Litigation

From January, 1977 to December, 1981 the City was entirely self-insured for civil liability claims. At that time, the City obtained umbrella coverage with a retention of \$250,000 per occurrence and \$1,250,000 aggregate. The City has a higher volume of civil liability claims than other communities. As of March, 1983 the estimated accrued civil liability was \$2,300,000 -- i.e., if the City could settle all pending civil claims for a fair value, the City would eagerly pay said amount.

City Exhibit 38 details the pending claims against the City, and the probable exposure per each claim. It is interesting to note that the claim with the greatest estimated exposure (\$500,000), Hoppe v. City, arose out of an accident involving an EMS unit driven by one of the firefighters. The City is entirely self-insured on the Hoppe case, and a verdict in favor of the plaintiff could well exceed \$2,500,000. This case alone could exhaust the City's budgeted reserve for fiscal 1983-1984.

The City is also self-insured for workers compensation and unemployment compensation matters. Pending workers compensation claims amount to \$179,000 while the estimated accrued

liability for such claims constitutes \$688,000. The City has experienced a substantial increase in said claims.

B. Property Tax Appeals

Of critical significance to the City's financial condition is the stark threat to the City's fiscal integrity presented by the pending Ford property tax appeals.

Pursuant to a court-ordered property re-valuation, and coupled with State's equalization by class law, Dearborn has, since 1980, re-valued all residential, industrial and commercial property in the City. This culminated a progressive trend of a tax burden shift from industrial and commercial taxpayers to residential taxpayers. In 1961, only 19% of the property tax burden was borne by residential taxpayers. That percentage had risen to 43% by 1982. In 1981 alone, the residential tax burden increased 54%.

For the 1981-1982 tax year, Ford appealed its appraised valuation, thereby contesting some \$5,300,000 in property taxes paid. Subsequently, Ford has also appealed an additional \$5,400,000 for 1982-1983, and \$5,600,000 for 1983-1984. Said monies have been paid; the issue to be determined by the Michigan Tax Tribunal is how much, if any, of such money is to be repaid to Ford. Any monies so repaid would include a 12% per year interest penalty. For 1981-1982, other property taxpayers have appealed some \$250,000, while in 1982-1983 such other property taxpayers have appealed an additional \$327,000.

Annually, Dearborn receives approximately \$30,000,000 in property taxes. So stated, for each of the above years the City has approximately 18% of its property tax receipts in jeopardy. Both in flat dollars, and as a percentage of total

property tax, this is an enormous unprecedented sum.

The City has retained outside counsel to defend against the Ford tax appeals. Ford has retained a well-known Detroit firm. The respective firms have estimated that the trial will last in excess of thirty (30) weeks and estimated legal fees at \$650,000 for 1983-1984.

The defense of these appeals is greatly hampered by the fact that the appraiser the City hired to appraise the Ford property issued a report supporting Ford's position. Indeed, the City has counter-sued said company contending that its report was materially deficient. The defense is further hampered by the greater resources marshaled by Ford (appraisals, legal, etc.) than the City can afford.

In consideration of the very substantial likelihood that Ford will be successful in its appeals, the City very recently made an extraordinary settlement offer to Ford of nearly fifty cents on the dollar, or \$5,000,000 for the two (2) tax years 1981-1982 and 1982-1983. Ford "summarily" rejected this offer, and proceeded to trail.

The result of the Ford tax appeals is likely to be known this year. Should Ford win even a substantial portion of the disputed amounts, the result will be economic catastrophe for the City. As is clear, the City has not escrowed any monies to pay any amount to Ford.

5. Nature of the Job

There was much ado at the hearing respecting the nature of the job of a firefighter. Despite the gloss the Union attempted to paint, the undisputed facts show that the job has not been hazardous, the safety record is excellent, and a firefighter's normal work day is one of relative ease.

Indeed, over the past 5-10 years the productivity of a firefighter has actually substantially decreased, as evidenced by the dramatic reduction in the number of runs, both fire and rescue. Simply put, it is not every employee who can earn his/her pay playing basketball, cooking and sleeping all while on duty.

There are 121 firefighters employed by the City, eight (8) of whom work a five day, forty-hour week. The remaining 113 employees work a 54-hour workweek. On any given day, 38 firefighters are assigned among four (4) fire stations. A firefighter works a 24-hour shift, from 8:00 a.m. to 8:00 a.m. the next day..

A firefighter works three (3) 24-hour periods in a nine-day (216 hour) cycle, with an extra 24-hour day off each three (3) months. A firefighter is scheduled as follows: on, off, on, off, on, off, off, off, off. So states, a firefighter is scheduled to work only 117.67 days per year. In addition, a firefighter receives nine (9) days vacation a year, and another nine (9) sick days a year. Since the average firefighter takes approximately five (5) sick days a year subtracting nine (9) vacation days and five (5) sick days from 117.67 days results in a firefighter actually working only 103.67 days per year.

It is clear that Dearborn is not densely populated. Dearborn's population per square mile ranks Dearborn 20th out of the 26 comparable communities. Indeed, as derived therefrom, the average comparable community has a population density 32% higher than Dearborn. In addition, Dearborn has the second-highest ratio of firefighters per capita as among the 26 comparables.

In terms of fire and rescue runs, it is startling to note that the number of fire runs in 1982 was lower than any year since 1975, and that the number of rescue runs in 1982 was lower than any year since 1973. Indeed, since 1980 the number of fire runs has decreased by 617, or 30%, while since 1978 the number of rescue runs has decreased by 636, or 15%. The total number of fire and rescue runs in 1982 was the lowest total since 1973, and the number of fire runs in 1982 was only 8% higher than the number in 1953!

These low figures "may" reflect the continually declining population of Dearborn. These low figures may also reflect the increasingly firesafe nature of Dearborn's industrial, commercial and residential structures. During the past twenty (20) years department fire codes have tightened, the Fire Marshal's office has recently doubled in size, resulting in better fire protection and numerous City ordinances have been enacted proscribing burning leaves, requiring smoke detectors, setting occupancy limits, requiring sprinkler systems and regulating restaurant grills and gas stations. Moreover, the City has been quick to demolish garage homes which may present a fire hazard. Further, in recent years both OSHA and MIOSHA have been enacted and enforced in Dearborn, and that has increased safety. Additionally, all structures in Dearborn are subject to the national BOCA building code, as well as the codes and standards established by the National Fire Protection Association. The Fire Marshal and the City's Building Department make annual inspections, and the Fire Marshal keeps detailed hi-rise plans, unique among comparable communities (except Southfield). Indeed, the Fire Marshal keeps a list of every type of establishment in the City.

The City has "the best equipment that money can buy". The department is well-staffed, and the City sends more firefighters to any given fire than comparable communities.

Likely as a result of the foregoing, there has never been a work-related death of a Dearborn firefighter, and in 1982 only four (4) work days were lost due to injury. This may also be a result of the extensive training received by the firefighters.

Training comprises a significant portion of a firefighter's normal work day. Also prominent is eating lunch and dinner, roll-call, equipment checks, bed making, housework, recreation (including ping pong, pool, basketball, horseshoes, radio and television and weight lifting) and sleeping. Shopping for food and cooking is the task of one (1) firefighter per station (or four firefighters) each day. Several of the firefighters have private bedrooms.

As to actually fighting fires, in 1982, there was less than one-half structure fire per calendar day, and not all firefighters on duty respond to each fire. If even one-fourth of the firefighters on duty actually respond to a fire, that means that the average firefighter responds to approximately 13 fires a year, or about one (1) fire every eight (8) working days. Some of these fires are so small they can be extinguished by stepping on them.

There is no restriction upon a firefighter respecting working other jobs. The staggering number of days off per firefighter per year (approximately 261 days per year) gives a firefighter more than ample opportunity to earn additional income working second jobs; some firefighters do hold second jobs. So stated, a firefighter is in an enviable position vis-a-vis other City employees.

Notably, the City employed more firefighters in 1982 than it did in 1960, despite the sharp drop in population. Additionally, firefighters enjoy solid job security, for there has never been a layoff of a firefighter, and firefighters are the only City bargaining unit to have a minimum manpower guarantee. That type of job security, coupled with the high wages and benefits and coupled with the ease of the job itself has resulted in only two (2) voluntary terminations in the last 10 years.

6. City Financial Condition

Extensive, indeed exhaustive, testimony was received concerning the City's overall financial condition, its efforts to reduce costs and expenditures, and its efforts to increase revenues. Salient to any City effort to curb its ever-increasing expenditures is the fact that personnel costs comprise some 70% of the budget. Critical to the overall situation is that current expenditures exceed current revenues, so that the City is presently being financed out of its general fund reserve. Indeed, for fiscal 1982-1983, despite the confluence of a number of favorable events, the City still lost some \$300,000.

In January, 1978, the City embarked on a program of reducing the overall City employee complement. This reduction has continued to date. In 1979, there were 1,181 fire, police, and general employees, while by March 1983 that total had been reduced to 941 -- a decrease of 18%. The workforce reduction has occurred almost entirely through reductions in general, as opposed to fire and police, employees. About ten (10) police positions have been eliminated while full-time fire positions have remained stable. So stated, the decrease in

the general employee complement, since 1978, has been 26%. Another 46 general employees are to be reduced for 1983-1984 raising said percentage to a staggering 32%.

The reduction in general City employees has been accomplished through attrition, a hiring freeze, and subcontracting. Effective July 1, 1983, the City reduced approximately 55 positions through the subcontracting of its sanitation function. The reduced employees were placed in a "job pool", financed with federal funds received for that purpose. Said funds cannot be used for wage increases for current employees, including firefighters.

Certain City costs, such as utilities, energy, workers and unemployment compensation insurance and health care are virtually uncontrollable. Indeed, health care costs have almost quintupled in the last 12 years. However, pursuant to an aggressive cost containment program, the City has been reducing its costs as possible. In addition to reductions in employee complement and money-saving subcontracting, the City has been using its equipment productively, decreasing energy usage, decreasing the size of its fleet, pooling vehicles, implementing management audits, consolidating operation in order to decrease its building facilities, and reducing its telephone expenditures. It has cut library hours and staff, moved sewage from the general fund to a user-paid enterprise fund and made Camp Dearborn, its public park, wholly self-supporting.

Despite the foregoing, the economic picture is bleak. Fiscal 1982-1983 saw a decrease in all of the following:

1. Property taxes levied.
2. Non-property tax revenues.
3. Interest on short-term investments.
4. Federal revenue sharing.
5. State revenue sharing.
6. Unencumbered fund balance.

In 1983-1984, the situation continues to deteriorate. State shared revenues for 1982-1983 still haven't been entirely received, and the total tax base has shrunk some 2%. Worse yet, citizens are now paying their taxes in installments further worsening the City's cash flow -- a cash flow which necessitates a payroll cost in excess of \$1,000,000 each two weeks. Of course, the decline in fund balance results in less money to invest, which results in less interest earned, and so on in a vicious cycle.

Fiscal 1982-1983 was, as before noted, a fortunate year for the City in certain respects. There were several significant one-time revenues, such as cable television franchise fees and reimbursements from the Detroit Metropolitan Water and Sewer Department. Additionally, the extremely mild winter resulted in a savings in excess of \$1,000,000. Indeed, without the mild winter and the hiring freeze, the \$300,000 actual deficit would have been \$3,100,000.

7. Wages Paid To City Employees

At least another \$1,500,000 was saved, for 1982-1983, by virtue of the wage freeze adopted by the elected City Council in June, 1982. The 1982-1983 budget contained no funds for any wage increases.

The wage freeze concept was, in part, based upon a blue-ribbon task force report issued March 1, 1982. Said task force, comprised of representatives from business and labor organizations (including AFSCME, the UAW, and Teamsters), was formed in January, 1982. Its mission was to review the City's financial position and to make recommendations as to how best to effect budget dollar improvements with the least negative impact on our City. The task force, noting the depressed economy, the City's demographic changes, and the anticipated budget deficit, commissioned the Citizens Research Council to provide data, reviewed financial and budget records, reviewed wage and fringe benefit studies, and reviewed operational information. Said report, concluded that Dearborn's per capita expenditures for fire protection ranked Dearborn first among nine (9) other communities. It also found that Dearborn's property tax base grew at a much slower rate, over the past 10 years, than the statewide average.

The task force found that "the existing revenue structure will not support the existing pattern of City expenditures", and specifically recommended a "wage freeze for all City employees". This was deemed necessary to protect the general fund's unencumbered fund balance which, for the last 10-12 years, has remained almost constant at approximately \$6,000,000. Said amount has remained relatively constant despite the fact that the size of the general fund has doubled in that period, and despite the fact that inflation has clearly eroded the purchasing power of that sum. So stated, Dearborn's fund balance is presently worth about 26% of its former value.

The wage freeze concept recommended by the task force was not a new concept to Dearborn. The wages and benefits of all non-union City personnel including management, department

heads, supervisory employees were frozen effective January 1, 1982. This occurred despite the fact that the Charter provides that all elective and appointive City officials shall receive ~~wage~~ increases proportionately to those received by the City's general employees. The eight percent (8%) increase received by general employees in July, 1981 was not received by said officials. Indeed, department heads, such as Fire Chief Polidori and Personnel Director Cox, have not received a wage or benefit increase since January, 1981.

Since July, 1981, the only City employees to receive any sort of wage increase are the firefighters, who received a \$0.03 per hour cost of living increase in January, 1983. No other City group, including the police, received any increase. With said cost of living increase, the firefighters, since July, 1967 (the beginning of the CPI index), have received a 220% salary increase, while the Consumer Price Index has increased only 192%. This enormous salary increase does not, of course, include in-grade salary step adjustments which have greatly benefitted the firefighter.

For fiscal 1982-1983, three (3) City employee groups have accepted a wage freeze -- i.e., 227 MWD employees, 91 AFSCME employees and 243 TROAM employees. Of relevance is the fact that AFSCME performed an "extensive budget analysis" of the City's finances, an analysis which confirmed "the City's financial crisis". AFSCME auditors worked closely with Pultorak in reviewing the City's financial condition before agreeing to the freeze. Both police unions are currently unsettled, further supporting Pultorak's indisputable contention that a wage increase to firefighters impacts upon the wages of other City employees.

8. Comparable Cities

The parties have stipulated as to the comparable communities to be used in this proceeding. Recourse to the respective exhibits demonstrates that Dearborn firefighters, even with a wage freeze for 1982-1983, are very well paid when juxtaposed with firefighters in comparable communities.

As to the workweek, Dearborn's 54 hour workweek is shared by five (5) other communities. Eleven (11) communities have longer work weeks for their firefighters, while only nine (9) cities have shorter work weeks. As to COLA, some thirteen (13) cities do not have COLA for their firefighters, while Dearborn does.

For 1981-1982, Dearborn ranked eighth in total cash compensation paid to firefighters, and fifth in salary. For 1982-1983, assuming a wage freeze, Dearborn ranks eleventh in total cash compensation paid to firefighters, and eighth in salary. Assuming a wage freeze, a Dearborn firefighter's salary is still 3.1% higher than the average salary received in comparable communities.

Of significance, for 1982-1983, firefighters in six (6) communities received a wage freeze (Detroit, Livonia, Westland, Ferndale, Wyandotte and Pontiac), while firefighters in Southgate took a 7% wage cut. For that period, Livonia firefighters also lost their COLA. Given that a Dearborn firefighter presently costs the City almost \$38,000 per year, as opposed to a general City employee who annually costs the City approximately \$27,000, it is fail to state that said firefighter is very well compensated, both as compared with other City employees and with firefighters in comparable communities.

The dramatic increase in the Dearborn firefighters' salary vis-a-vis the Consumer Price Index must also be considered,

especially when it is recognized that health care, an important upward force in the CPI, is fully paid by the City. Health care costs almost quintupled in the last 12 years.

A 4½% wage increase to firefighters would cost the City approximately \$147,000, without considering roll-up costs (such as unemployment and workers compensation insurance, pension, overtime and the like). The 15% pension roll-up factor would add another \$22,000 to that figure. While the City could pay such a one-time increase, it must be appreciated that a base wage increase is not a one-time cost, but rather continues in successive years. Moreover, as above noted, wages paid to firefighters necessarily impact upon other City employees.

CITY CONCLUSION

The question arises: why should this Panel award firefighters a 4½% salary increase? It is clear that Dearborn's firefighters are already much better off than firefighters in comparable communities, while a wage increase would promote the Dearborn firefighters nearly to the top of the comparables' salary scale. Moreover, the Dearborn firefighter, who enjoys unsurpassed job security by virtue of the no-layoff policy and the guaranteed minimum manpower clause, Act 312 requires that the Panel consider "the continuity and stability of employment", has experienced a substantial decrease in productivity in the last 5-10 years, in contrast to general City employees who have seen their work load decline only slightly while their workforce has decreased substantially.

Simply put, the case has not been made why Dearborn's firefighters should be better treated than all other City employees, including management, who have taken a wage freeze.

Indeed, the firefighters are the only group to have received an increase COLA for 1982-1983 as it is.

The City's financial condition was well-documented. Clearly, Dearborn finds itself in financial peril, and there is no question but that expenditures currently exceed revenues. While, at this writing, Dearborn could pay the sought-for increase, that situation has been accomplished largely by virtue of the facts of the wage freezes taken by all other City employees, by the mild winter experienced in 1982-1983 and by the hiring freeze imposed in other City departments. The City's vigorous efforts to increase revenues and decrease expenditures have borne some fruit -- but why should those fruits (at the expense of, for example, dramatic cuts of library staff and hours) be paid to firefighters?

Act 312 requires that the "welfare of the public" be considered. The plight of the Dearborn citizen, deeply affected by the recession and the cutbacks at Ford, was also well-documented. As residential taxes increased over 50%, the population decreased, and 10% of those remaining are unemployed. The over-65 population has substantially increase, and citizens living below the poverty level have been sustained through federal food give-aways. Faced with increased taxes and user charges, yet with decreased City services, the Dearborn citizens have decreased the City's millage, refused to renew school millages and votes against an income tax. It is these citizens who would have to pay wage increases to firefighters.

The fact that the task force recommended a wage freeze cannot be disregarded. An exhaustive study, undertaken by representatives of three (3) major labor organizations, concluded that a wage freeze was necessary to protect Dearborn's financial integrity. Additionally, the AFSCME union independently re-

viewed the City's financial condition, and concluded that a "crisis" exists.

The pending Ford tax appeals present a grave threat to the City. With over \$5,000,000 per fiscal year in Ford property taxes in dispute, an award of any significant amount of that sum will bankrupt the City. The City's genuine concern as to its ability to successfully defend said tax base is underscored by its efforts to settle at almost 50% of the liability -- efforts summarily rejected by Ford.

The City believes that an Act 312 award should approximate an agreement which would have been reached in the normal course of collective bargaining. Given all of the foregoing, the City respectfully submits that its offer of a wage freeze would have been the result reached in the normal course of collective bargaining.

So stated, the City respectfully requests that its last offer of settlement be awarded by this Panel.

UNION POSITION

I. Background

In order for the panel to fully assess the parties' last best offers, a complete picture of the City of Dearborn and its Fire Department is crucial. The City of Dearborn is situated in southwestern Wayne County. Dearborn covers about 24.5 square miles with a population in excess of 90,000. During business hours, this population is vastly increased because of Dearborn's wide ranging commercial and industrial activities.

Dearborn's State Equalized Value (S.E.V.) is one of the highest in Michigan - almost two billion dollars, up from \$1.6 billion a few years ago. Dearborn is known primarily for its worldwide tourist attractions, Greenfield Village and the Henry Ford Museum. About two million tourists annually flood the city. Dearborn also serves as the home of the world headquarters of Ford Motor Company and the national headquarters of the American Automobile Association (AAA) and United Technologies. Additionally, Fairlane Town Center, a sprawling shopping mall with five major anchor stores and hundreds of retail establishments, is located in Dearborn. Nearby is the sixteen story Hyatt Regency Hotel.

The City of Dearborn continues to show significant economic growth. Ford Motor Company is expanding its facilities to include a diversified products technical center. Further, the City has slated 3,520 acra for future commercial and industrial growth.

Dearborn's past economic growth and the continuation of this trend have put Dearborn in the position where it can render

unprecedented non-essential services to its citizens. Indeed, Dearborn ranks number one in unique expenditures in 10 out of 112 activities, the most notable expenditures being in the area of recreation. Dearborn provides its residents with numerous sports facilities, Camp Dearborn, a 626-acre "Citizen's Country Club," and a luxury retirement complex in Florida.

Many of Dearborn's various activities provide unusual firefighting hazards. Perhaps the foremost fire hazard is the Ford Motor Company Rouge Plant, which, covering 1,200 acres, is the largest industrial complex in the world. In November, 1979, the Dearborn Fire Department took over the full responsibility for fighting fires in this plant. The Dearborn Fire Department responds, on the average, to 12 fire alarms per month at the Rouge Plant. The Rouge Plant is unique because it manufactures its own glass, steel and rubber, causing frequent problems with coke ovens and other manufacturing processes. The plant currently contains twenty hazardous material storage sites and five more sites are proposed. Testimony established that hazardous materials have been found unlabeled outside these storage locations, posing even greater danger to Dearborn firefighters. In fact, one Dearborn firefighter is now "almost a vegetable" because of a fire in the Rouge Plant.

Other areas of Dearborn besides the Rouge Plant have hazardous materials. Common carrier trucks transport such materials on Dearborn's two major expressways. Dearborn has a couple of railroad systems that carry hazardous materials through the City. Additionally, motor vehicle accidents and spillages occur on Dearborn's surface streets as these hazardous materials are being routed to its vast industrial complexes. Moreover, tanker fires occur because of Dearborn's Great Lakes shipping. Further, Dearborn possesses seven petroleum tank

farms and fuel storage areas. These facilities store gasoline, fuel oil and kerosene, all flammable liquids. Dearborn's 22 dry cleaning and three recycling centers also provide special hazards because of the cleaning solvents and special processing. In short, Dearborn is the proverbial powder keg, posing dangers and dilemmas to firefighters of an unusual nature, especially when compared to "comparable" cities.

The following facts about Dearborn further illustrate that Dearborn does indeed present unusual firefighting hazards. These special problems include limited access to many facilities, hazardous materials such as grease and liquor, pedestrian traffic and high concentrations of people in various areas and buildings, sometimes unable to fend for themselves because they are ambulatory or young. A partial list of what the Dearborn firefighter must protect includes:

1. three colleges - Henry Ford Community College, University of Michigan at Dearborn and Detroit College of Business (33,600 students).
2. 61 apartments and townhouses.
3. 25 hotels and motels, totaling almost 2,000 rooms including the sixteen story Hyatt Regency.
4. 4 hospitals and medical facilities.
5. nearly 2100 food and liquor establishments.
6. 25 public school, 13 business school, 12 parochial schools and 1 private school
7. innumerable recreation facilities, parks, playgrounds and pools.
8. 3 day care centers.
9. Fairlane Town Center and;
10. Greenfield Village, the Edison Institute and Henry Ford Museum.

Thus, as this list demonstrates - and the Rouge Plant and other hazardous sites in Dearborn accentuate - Dearborn firefighters are placed in perils not present in other cities.

The city of Dearborn has therefore wisely employed some of the best trained firefighters in the state. Many current firefighters, and all new firefighters, have an Associates Degree in Fire Science and are licensed Emergency Medical Technicians. The purpose of the EMT requirement is to ensure that well-qualified employees operate the Fire Department's rescue company. Dearborn firefighters, unlike many comparable communities' firefighters, rescue victims of motor vehicle accidents, heart attacks, stroke and epileptic shock. Other communities' fire department personnel that double up as firefighting and rescue companies receive a premium. Dearborn firefighters, however, receive no extra compensation for performing this additional job. Dearborn's Fire Department consists of 121 men at four fire stations. The Fire Chief is the only position in the department that is not in the bargaining unit.

Fire Prevention Division perform annual building inspections to ensure compliance with the City's two fire codes, the NEPA and BOCA. They enforce a smoke detector ordinance and investigate possible arsons. Recently, these investigations have lead to some hard-to-get arson convictions. The Fire Prevention Division and Maintenance Division employees work a 40-hour workweek; the Firefighting Division workds an average 54-hour week.

The Firefighting Division works a three platoon system - the "Denver-System". Under this system, firefighters work three 24-hour shifts in a nine-day period. The shift starts at 8:00 a.m. and training sessions are conducted in the

morning and the afternoon. The Dearborn firefighters are in the forefront of the nation in high-rise training and have even written a booklet on the subject. Through the shift, the firefighters are called upon to perform fire and emergency runs. In 1982, for instance, there were 1,474 fire runs and 3,672 rescue runs. During this year, 13 firefighters sustained injuries while performing their job. Although firefighters are allowed to sleep at night during their 24-hour shift, frequently their sleep is interrupted by fire and rescue alarms. After returning from an alarm, all apparatus must be put back into service - hoses and ladders returned to their proper place, masks serviced, oxygen tanks refilled and protective gear cleaned. Because of the change in respiration rate and adrenaline that flows through their system during an emergency, firefighters find it difficult to return to their normal state so that they can sleep. Minor injuries sustained at a fire also interfere with the firefighters' ability to rest.

Besides the general stress of a firefighter's job and the particular hazards in Dearborn, the Dearborn firefighter is forced to bear an even greater burden because of understaffing. Experts in the fire protection field recommend that fire departments maintain a staff of 1.5 firefighters per thousand population. Accordingly, Dearborn should have 135-136 firefighters instead of 121 firefighters. It should be noted that this 135-136 figure is conservative because it is based upon only the residential population, and thus fails to account for daily inflation of the Dearborn population by the influx of thousands of shoppers, tourists and workers. Further, the City itself, by adopting the NFPA in its entirety, impliedly admits a manpower shortage. The NFPA standards require a five-man engine company. The Dearborn Fire Department runs three men engine

companies - if nobody's sick, four men. Hence, the City of Dearborn knowingly disregards the very public safety standards that it expressly adopted. This testimony clearly establishes that the Dearborn Fire Department is understaffed.

In sum, Dearborn firefighters are highly skilled professionals who provide essential public services. Each working day they face possible injuries or death, particularly in light of Dearborn's unusual hazards. Yet, the City of Dearborn, one of Michigan's most prosperous cities, refuses to grant these dedicated men a wage increase. Paradoxically, the City's proffered reason for this blanket refusal is ability to pay. The testimony and exhibits of this arbitration clearly demonstrate that this defense is meritless.

2. Comparability Data

Section 9 of Act 312 specifies the factors which must be considered by the panel in its decision. One of these factors is that the panel compare wages, hours and working conditions of the employees involved in the proceeding with those employees performing similar services in comparable communities. The concept of "comparability", of course, implies that the objects being compared are not identical; rather, they share certain similarities. Often times such similarities are academic constructs or artificial categories. With this in mind, the Union originally relied upon twelve cities which it considered the most comparable for this Act 312 arbitration. The Union contends that as the category of "comparable" cities expands, the reality of similarities contracts. There are, to be sure, varying degrees of comparability. To suggest that there are twenty-five other cities in the area that are comparable to a city so unique as Dearborn puts assunder any traditional concept

of comparability. When this occurs, it negates the nuances in working conditions and city budgeting and finance so important in determining a fair wage.

Although working conditions and current wages and benefits are considerations in granting a wage increase, the issue here is the City of Dearborn's ability to pay the wage increase. Thus, the most relevant comparability data are the exhibits that compare the cities' SEV and taxes. In all of these exhibits, Dearborn demonstrates prosperity rather than depression. A summary of the data proves this proposition.

Dearborn, by ranking 13th, represents the median out of the 26 cities used in the comparability data in square miles, population and population per square mile. In State Equalized Value (SEV) - the value of real and personal property the most important statistic - Dearborn, with a SEV of \$1,878,837,505, ranks third out of 26. Moreover, Dearborn is behind only Pontiac in the percentage (20%) of SEV that is attributable to industry.

Dearborn also stands out in the data with regard to the city taxes. Dearborn ranks second out of 26 in the amount of revenue it receives from city taxes, behind only Detroit. Its residents, however, recently lowered their millage to 15.00 mills. The City subsequently added 1.21 mills for sanitation. They pay only 89% of the average even though the city receives 108% of the average in city taxes. This is due, for the most part, to Dearborn's heavy commercial and industrial base which creates a much less-than-average tax burden upon its residents. This point is further illustrated by the fact that Dearborn residents pay only 4.79% of their median family income to taxes, placing Dearborn 24th out of 26 cities. This is so in spite of Dearborn ranking 9th out of 26 in median

family income (\$26,935). Hence, Dearborn residents pay out a small percentage of a comparatively large income.

Yet, Dearborn firefighters are paid only \$25,518 - \$1,400 less than Dearborn's median family income. With this base wage, Dearborn ranks 6th out of 12, or 8th out of 26. But Southfield, the most comparable city to Dearborn because of its high SEV and similar tax base, pays its firefighters \$27,390 - 7.34% above Dearborn. In addition, Southfield, unlike Dearborn, pays a 9-10% premium for EMTs. The City of Dearborn thus routinely requires skills for which comparable cities pay premium wages. Furthermore, Dearborn firefighters not only possess these skills, but also apply them with greater frequency than other cities. Dearborn ranked from only 2nd to 4th out of 12 cities in the past four years in the number of fire and emergency runs.

In the maximum wage and cost of living survey, Dearborn ranks 9th out of 26. These figures, however, fail to account for such factors as the percentage of pension contribution that the employees pay. For example, the Cities of Pontiac, Ferndale and Wyandotte have, or will have (by the end of 1983), picked up all their employees' pension contributions. In Dearborn, a firefighter contributes 5-6% of his wages to their pension plan.

In regard to total cash compensation, Dearborn ranks 14th out of 26 (\$27,824). Total cash compensation in other cities is much greater. In Lincoln Park, for instance, the total is \$32,084 and in Southfield, \$30,375. This latter figure again excludes Southfield's 9-10% premium for EMTs.

The Dearborn wage figures must be considered with increases in the cost of living. From 1976-82, the Consumer Price Index (CPI) rose 64.83%. During this period, however, Dearborn firefighters' wages rose only 41.38%, lagging 23.45%

behind the increase in the cost of living. If a Dearborn firefighter's wage had been advanced at the inflation rate, they would currently be paid \$30,013. Furthermore, in this six-year period the Dearborn firefighters' purchasing power - the real wages of employees based upon inflation and the CPI - was cut from \$10,642 in 1976-77 to \$9,127 in 1981-82.

A composite of this data presents a picture of Dearborn which is most telling. Dearborn's high SEV proves that Dearborn has more valuable property and assets than all comparable cities except Detroit and Warren. Detroit and Warren, however, have populations of 1,203,339 and 161,134 in comparison to Dearborn's 90,660. Sterling Heights (population 108,999) and Southfield (population 75,568), the closest cities to Dearborn in regard to population, have SEVs that are \$1,374,486,051 and \$1,386,316,968, respectively - one half billion dollars less than Dearborn. These two cities, however, pay their firefighters more in both wages and total cash compensation. Moreover, Dearborn ranks second in the amount of city tax revenues they receive, while its residents rank third in paying out the least amount of taxes in proportion to their income. Yet, Dearborn, hardly an average City in wealth, pays its firefighters only an average wage. This is so despite the fact that Dearborn firefighters face greater hazards, are more highly qualified and skilled, and perform more fire and emergency runs than most comparable cities. Dearborn firefighters clearly deserve a wage increase and the comparability data shows that the City cannot realistically claim an inability to pay it.

3. Ability To Pay

The City of Dearborn has asserted an inability to pay a wage increase to its Fire Department personnel. The City,

however, while confessing that "they are not broke", says that it does not want to pay the wage increase because "they don't want to be broke". This desire, while laudable, is, of course, wholly insufficient justification for denying a wage increase based upon ability to pay. Indeed, this wage increase could be paid out of an \$800,000 contingency fund. Nevertheless, the City attempts to avoid its obligation to Dearborn firefighters by predicting budget deficits and large legal liabilities. It relies upon misleading financial documents intended to conceal available, unallocated funds which are more than sufficient to satisfy the Union's equitable economic demands.

The City's first argument is that it is exposed to a \$5.5 million liability in tax appeals and various lawsuits that will exhaust all escrow and reserve funds. These lawsuits, however, are totally irrelevant to this proceeding. First, the estimates of the judgments of these lawsuits cannot be scientifically supported. In fact, the City's own evidence, its Annual Financial Report for 1982 states in Note L that "In the opinion of City management and its counsel, it is not possible to reasonably estimate the potential refund, if any, which might arise from the resolution of these (tax appeal) petitions." The City's own evidence, therefore, shows that neither liability nor its amount is certain. Second, even if the City is held liable, final judgments after the appeal process are years away. These judgments, if any, will be paid out about four or five years from now. This arbitration, however, deals solely with a wage increase for the 1982-83 fiscal year. Thus, possible future liability of an amount based upon speculation and conjecture cannot be considered a relevant factor in the ability of the City of Dearborn to presently pay a wage increase.

Moreover, the City attempts to paint a picture of financial crisis after having placed a millage reduction proposal on the ballot in September, 1981. As a result, real and personal property taxes were reduced by $\frac{1}{2}\%$ (.5 mills). In a recently issued Opinion and Award, noted labor arbitrator Robert Howlett was faced with a similar ability to pay argument in Madison Heights, where millage rates were reduced by .4 mills. He stated:

This is not a persuasive argument. If the argument were carried to its logical extreme, the City Counsel could roll back millage further and thus reduce the salaries of City employees. While the financial condition of a city is, pursuant to statute, a consideration in the payment of employees' wages and salaries, city employees cannot be expected to make a "gift" of their services to the citizens of the municipality. City of Madison Heights -and- Madison Heights Fire Fighters, Local 1357, IAFF, AFL-CIO, MERC No. D 81 E-2737, Opinion & Award (Howlett, Sept. 9, 1983)

Mr. Howlett's point should be wekk taken by the instant panel.

The City then brings in evidence about other cith employee wages freezes. It stresses the fact the appointed department heads, at the request of their appointer, the Mayor, voluntarily waived an 8% salary increase. The fact that political appointees, at the top of City wage scales, refused a wage increase, a politically popular and perhaps motivated action, has no bearing whatsoever on whether the City can afford to give its fire-fighters a wage increase. Additionally, the City offers in evidence a heresay statement about an unratified labor agreement of another bargaining unit of City employees. In this letter the bargaining commitee, not the employees involved, agreed with the City to impose a wage freeze. This letter was drawn up solely for the purpose of influencing this arbitration. These two attempts to show that other City employee groups are succumbing to the City's false cries of a financial crisis fail miserably.

The City also relies on misleading and patently incorrect documents. Charts prepared by the Department of Personnel show the cost to the City of a Fire Fighter I's wages and fringe benefits to be \$37,779. The City, however, admitted at the hearing that it duplicated the cost of vacations, sick and funeral leaves. These benefits, totaling \$3,072 are already figured into the base wage. To add this in again as a fringe benefit erroneously inflates the city's cost by this amount. The presentation of this misleading, erroneous document casts suspicion on the reliability and validity of other city exhibits.

A second example of deceptive documents is the hearsay report of the Mayor's Budget Stabilization Task Force. This report was made by a "blue ribbon panel" in 1982. The chairman of this committee asked the Citizens Research Council, an independent organization, to compile the data for the City. The mission of the task force was to review the City's financial position and make recommendations on how to improve the budget. This data, however, was based upon the years 1980-81, when Ford Motor was in the red and the forecasts for the Dearborn economy were dismal. The economy of Dearborn goes up and down depending on Ford Motor. But now, since Ford Motor Company is making record profits, Dearborn's economy is steadily on the rise. The information the report relied upon was outdated and obviously does not refer to the current situation.

This outdated report is the very information that the Mayor relied upon in recommending the 1982-83 wage freeze that the City Council adopted for the budget. This wage freeze was recommended because the task force report predicted a \$3.6 million deficit for 1982-83 which included a 5% wage increase for all City employees. The report admits, however, that its figures are not ironclad: "The size of the projected budget deficit

is subject to fluctuation as the budget process develops, and numbers become more precise." Even after a "shortfall" of expenditures over revenues, the City retains a \$5.1 million fund balance, which is \$2 million more than they had at the end of fiscal year 1980-81! The City's own documents cannot belie the fact that there is an absolute ability to pay the meager 4.5% increase requested by this unit.

Ideally the City believes five percent of the operating budget should remain in the unappropriated fund balance to protect the City's budget from unanticipated expenditures. At the end of 1982-83, the unappropriated fund balance was \$2.4 million, or nearly 5.5% of the budget. Therefore, at 82-83, the City's unappropriated funds were .5% richer than is ideal.

With regard to the City's efforts to reduce non-essential expenditures, which will result in a savings of millions of dollars in 1983 and 1984, it should be noted that in 1979-80, the City of Dearborn ranked first out of ten similarly sized Michigan cities in expenditures in twelve major service areas, including libraries, parks and recreation and government administration. Cutbacks in these and other non-essential services frees funds for essential services - such as wage increases for a well-qualified, hard-working firefighting department. The following examples substantiate these savings. By subcontracting out some city services, such as sanitation, the City saves \$962,000 per year. The reduction in City workforce - from 1,300 positions in 1978 to 918 in 1983-84 - has amounted to millions of dollars in savings. The 10-15% reduction in library services alone saves the City \$200,000 - \$300,000 per year. Furthermore, the City will receive \$976,000 in Federal Jobs Bill funds to put some displaced employees to work in other City jobs, further saving the City unemployment

costs of \$7,800 per worker. Moreover, in 1982-83, the City saved more than half a million dollars in premium savings from its self-insurance program. The sewage system, formerly a drain on the General Fund, was changed to an enterprise fund with user charges. Similarly, the City has imposed new or increased user and service charges in other areas. Increased user charges at Camp Dearborn have made the camp self-supporting for the first time. Additionally, computer systems have "substantially accelerated the collection of fines". The City also has a new aggressive short term investment fund that has produced "substantially higher returns". City engineering and construction costs are funded by restricted sources and are charged back to the individual projects, so that money finds its way into the general fund as a reimbursement. These examples establish that the City can afford to pay 120 firefighters a more than reasonable 4.5% wage increase. In fact, the \$300,000 that the City hopes to realize from the sale of their sanitation fleet will more than cover this wage increase.

A close examination of the City audits further proves that the City has funds which it can use for this proposed wage increase. The General Fund balance, out of which a wage increase could be paid, is illustrated by the attached chart.

DEARBORN FIRE FIGHTERS ASSOCIATION
1983 ACT 312 ARBITRATION

GENERAL FUND BALANCE

<u>June 30,</u>	<u>Total</u>	<u>Unreserved</u>	<u>Reserved for Reassessment</u>	<u>Reserved for Subsequent Year's Expenditures</u>	<u>Reserved for Encumbrances</u>
1982	\$6,401,834	\$2,485,432		\$3,149,878 <u>1/</u>	\$ 766,524
1981	4,503,895	2,175,530		1,866,050 <u>2/</u>	462,315
1980	6,162,745*	762,370	\$ 330,375	5,070,000 <u>3/</u>	3,449,031
1979	7,553,189*	2,093,189	2,100,000	3,360,000	705,453
1978	5,246,034*	3,146,034		2,100,000	478,822

*Does not include reserve for encumbrances for these years due to an accounting change effective for 1980 - 1981 which began including reserves for encumbrances in the fund balance.

SOURCE: Audited Annual Financial Reports

- 1/ Dearborn Revenue and Fund balance trend prepared April 18, 1983 shows 299,542 deficit compared to 3,149,878 deficit shown above.
- 2/ Dearborn Revenue and Fund balance trend prepared April 18, 1983 shows 2,397,939 surplus compared to 1,866,050 deficit shown above.
- 3/ Dearborn Revenue and Fund balance trend prepared April 18, 1983 shows 5,306,496 deficit compared to 5,070,00 shown above.

This chart shows an unencumbered fund balance of \$5,335,768 in 1982. This amount was reached by adding the \$2,485,432 unreserved figure to the \$2,850,336 which was not needed for the subsequent year's expenditures, as footnote 1 reports (the \$3,149,878 reserve should realistically be \$299,542). Thus, even if the City keeps the \$2.5 million hedge it currently has for working capital, unallocated funds in excess of \$5 million remain that could pay a wage increase.

Acknowledging this General Fund balance of several million dollars, the City of Dearborn, a comparatively wealthy city with millions of dollars in an unallocated reserve fund, thus refuses to pay a well-deserved wage increase to the firefighters, who provide essential public services, because it wants to invest this money to become even wealthier. The absurdity of the City's ability to pay argument is apparent.

The transparency of the argument becomes even clearer when one examines the 1983-84 budget figures. State shared revenues, which dropped slightly in 1982-83 (\$3.6 million), are back up to \$4.14 million in 1983-84. Similarly, non-property tax revenues went up from 1982-83 to \$15 million in 1983-84. In addition to the reduction in residential property tax rates, the tax burden on residents decreased 3% from 1982 to 1983. Business and industry tax revenues went up 3-4% in 1983-84. Overall, the total General Fund revenues for 1983-84 went up from 1982-83.

Aside from the 1982 General Fund balance being available to pay out the wage increase, the 1983-84 budget shows an \$800,000 contingency reserve could also be used for this purpose. The City concedes this Act 312 wage increase could be paid out of this Fund. Counsel for the City of Dearborn also admits that the City can pay. The true reason behind the

City's resistance to paying the firefighters a wage increase is other employee groups will also want a wage increase. This consideration, however, is totally irrelevant to the issue in this arbitration: Can the City afford to pay the firefighters a wage increase? The answer to this question, as the City itself admits, is yes.

In sum, the evidence and testimony at the hearing leaves no doubt that the City is able to pay the 4.5% wage increase of the Union's last best offer. The consideration of other factors discussed in the brief buttress this conclusion. Arbitrator George T. Roummell placed great weight on these other factors in a Southgate Fire Fighters arbitration. Although he noted that the employer's financial situation was "serious," and that the City had been obliged to sell tax anticipation notes, Arbitrator Roummell emphasized that:

...there are other factors besides purely the 'financial ability' of the unit which reflect upon that financial ability and also have to be considered. (City of Southgate, 54 LA 901 at 908, George T. Roummell, Jr., 1970).

These other factors to be considered include comparison of compensation in other communities, the interests of the public in adequate fire protection and the increase in cost of living.

Mr. Roummell expressed his concurrence with Hyman Parker, former director of Michigan Employment Relations Commission, who stated in part:

It is as much a part of the City's responsibility to pay reasonable and fair wages as it is to provide reasonable and fair service and capital improvements.

The employees should not be required to bear a disproportionate burden of the City's present liability to secure additional sources of revenue.

*

*

The current budget, by failing to provide for wage adjustments, has relegated the needs of employees to a position which is completely subordinate to all other municipal expenditures. This imbalance in the distribution of available funds should be promptly corrected by re-allocating funds budgeted for other purposes. Whatever methods the City, in its judgment feels are appropriate to secure additional sources of revenue should, of course, be utilized but pending the receipt of such additional revenue, it is recommended that the present funds available for municipal expenditures be reallocated so as to afford the employees fair and reasonable wage increases. 54 LA 901-910, quoting Hyman Parker in The Matter of City of Grand Rapids, SLMB Case No. G63 K-515 (June 19, 1964).

Mr. Roumell summarized his opinion on the ability to pay matter as follows:

In a final analysis, it becomes a question of priority, and that indeed, though the financial situation in Southgate is difficult, it is far from hopeless. This panel may require a re-evaluation of budgetary priorities.

Section 9 of Act 312 permits many factors to be considered in evaluating the entire situation in arriving at an order. Among these factors is that the firefighters should not bear the brunt of a financial situation that they did not cause.... 54 LA 901, 910

Mr. Roumell, then, granted a wage increase the Southgate Fire Fighters even though Southgate was experiencing financial difficulty. In the instant case, by contrast, there is no financial difficulty. Hence, the rationale of the Southgate decision applies with even greater force to the City of Dearborn.

UNION
CONCLUSION

An examination of the City of Dearborn's finances clearly and unequivocally indicates that more than enough funds are available to provide an equitable increase to these fire-fighters. The City suffers not from an inability to pay, but an unwillingness to pay. Under the criteria of Section 9 of Act 312, this panel must reject the City's last offer and award a fair increase as proposed by the Union.

APPLICABLE STATUTORY PROVISIONS

MCL 423.239, MSA 17.455(39):

Sec. 9. Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) 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 and with other employees generally:
 - (i) In public employment in comparable communities.
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices for 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 during the pendency of the arbitration proceedings.
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the 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.

DISCUSSION AND FINDINGS

DEARBORN LIKE many other mature cities is facing a decline in population and an increase in its older population.

There has been a decrease in population of over 19% in the last twenty (20) years and a decrease of 13% from 1970 to 1980. The population of those 65 years of age and over has increased in the years 1970 to 1980 by 20% and a 38% increase in the relative proportion of 65 years and older to the remaining population.

During the 1980's Dearborn's economy which has always depended heavily on the health of Ford Motor Company declined along with the general depression in the automotive industry. As a result Dearborn experienced a 10% unemployment rate which was less than most communities in the state.

In the past the property tax burden on residential property compared to commercial and industrial property was significantly lower than in most communities in Michigan.

The City under court order and equalization by class law has been forced to re assess all residential, industrial and commercial property in the City. This tax burden shift from industrial and commercial taxpayers to residential taxpayers brought about an increase of 54% on residential property.

The City of Dearborn is therefore facing a changing financial future. While its past fiscal and tax policies could support the pattern of past expenditures the present and immediate future revenues cannot carry the same level of non essential services formerly provides its residents.

The City, aware of the major change in its economic status, has sought to implement a major restructuring of its spending priorities. The City has engaged in a consistent process of reducing City services and increasing user fees for City services. The City has eliminated sidewalk snow removal, phased out City sanitation pickup and replaced it with outside contractors. It has reduced recreational facilities, reduced supervised recreational facilities and made Camp Dearborn self supporting as well as increasing charges for municipal parks. The City has increased user fees, increased permit fees and inspection fees and accelerated the collection of fines.

The City has reduced the overall number of City employees through attrition, a hiring freeze and subcontracting.

During 1982-1983 there were several one time revenues: cable television franchise fees, reimbursement from the Detroit Metro Water and Sewer Department and savings on snow removal.

During 1982-1983 there was a decrease in revenues in the following areas: property taxes, non property taxes, interest on short term revenue sharing, state revenue sharing and unemcombered fund balance.

Another factor which may severely impact the City's financial condition is its legal exposure.

The City litigation exposure related to past fiscal and budget decision is an important fact. Of critical and unusual significance is the Ford property tax appeals presently in the courts. The City is facing a return of \$5,400,000 for 1982-1983 and \$5,600,000 for 1983-1984 plus a 12% per annum interest penalty to Ford companies. This is in addition to other property tax appeals, workers compensation, unemployment compensation and other civil liabilities.

A clear assessment of the City's financial picture supports a finding that the City has the ability to pay an increase. However the ability to pay is not the only factor to be considered under Act 312.

1. Comparison of compensation in other communities and other Dearborn employees;
2. Compensation for firefighter's working conditions and professional training;
3. Increases in cost of living;
4. Use of income from reduction in non-essential expenditures to prevent subordinating employees interest to other City expenditures.

The compensation of firefighters in Dearborn compared to other communities ranks Dearborn in the upper third of the 26 communities in base salary and total compensation.

The firefighters were the only City employees (at the time the record closed) to receive any type of cash wage increase in the 1982-1983 fiscal year (they received \$0.03 COLA). The firefighters receive an average compensation higher

than the average City employees compensation.

The firefighters face many and unusual fire fighting hazards, certainly more risky than other employees and possibly more risky than other firefighters. They are also highly skilled with training and skills demanded from them beyond that demanded in many other communities. They are trained and licensed EMTs and must have a degree in Fire Science.

While the firefighters present compensation does not seem adequate when the assets of the community and the extra skills are considered, nevertheless there are also some other working condition benefits to consider. The firefighters receive the "best equipment" available, they receive continuous on-the-job training and their efforts in increased inspection, enforcement of the fire codes plus their excellent investigation and prosecution of arson have resulted in a decrease in the number of fire runs in the City. Unfortunately, there has been one seriously injured firefighter who has been permanently disabled.

There have been no layoffs. They have a minimum manpower guarantee in their contract, and there have been only two voluntary termination in 10 years.

The increases in cost of living and inflation have hurt everyone, individual and City, not only the firefighters. The firefighters received a \$0.03 COLA increase under this contract and thus, have received some, albeit inadequate, additional income.

The City is in a period of fiscal restraint. It has formulated and implemented a plan to cut costs to fits its decreased revenues. It has looked to the foreseeable future and has found it is not rosy. It has not, as many other governmental units, denied the reality of its problem. It has not waited until it is in deep financial deficit to implement a plan. The City has reduced non-essential services to pay for necessary City expenditures. The employees should not have their needs subordinated to other City expenditures. In fact, Dearborn has not subordinated their interests. The cost containment program, the increased user fees, the cut in non-essential services, the reduction of the general work force while maintaining the same number of police and firefighters, and the thoughtful way the employee complement is being reduced demonstrate that the City employees' needs are not being subordinated to other City expenditures.

The City has used the saving from cost cutting to reduce the "short fall" or deficit in expenditures. An increase for the firefighters would have to be paid from reserves or "savings".

This issue, whether the firefighters should be granted a 4.5% increase under a wage re-opener clause effective for one year's wage July 1, 1982 through June 30, 1983, was included as part of the 1981-1983 collective bargaining agreement because the parties had apparently agreed on a "wait and see" position as to whether the City's economic plight would improve. If it improved the firefighters should be given a raise. A deficit exceeding \$3 million was forecast. Such deficit was, in 1981-1982, \$300,000.00. While, as the Union clearly pointed out,

the City's economic position has improved, nevertheless the record shows current expenditures exceeded current revenues. The City also faces well documented exposure to over \$16 million dollars in legal claims in the future, three times its "savings" or reserves. These reasons arguably would explain a denial of a 4.5 percent increase under this one year wage opener clause. The improved and favorable circumstances justifying the wage increase did not occur.

To overcome the above reasons for denial, there should be compelling evidence that the firefighters compensation is unexplainably low compared to the other 25 comparable communities and to other Dearborn employees or the working conditions are so inadequate as to justify an increase or firefighters have suffered from the cost of living increases and problems of inflation out of proportion to other employees or the needs of the employees of Dearborn, in particular the firefighters, are being subordinated to other City expenditures. The record does not support any of these reasons.

Therefore, the award is to the City, "No increase above the three cent (\$0.03) cost of living adjustment". An increase cannot be supported given Dearborn's expenditures and revenues, and considering the firefighters needs. There was an insufficient improvement in the economic picture to warrant an increase within this collective bargaining agreement.

I have come to this conclusion after a careful consideration and weighing of all of the evidence and arguments of the parties.

Before closing I wish to comment on the Dearborn firefighters who appeared before the panel and those who were present during the hearing. I was very impressed by their sense of professionalism and the pride they exhibited in their work.

A W A R D

MERC CASE NO. 81 - F 1352

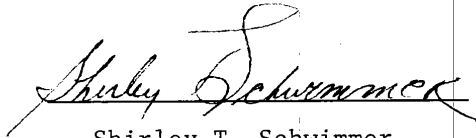
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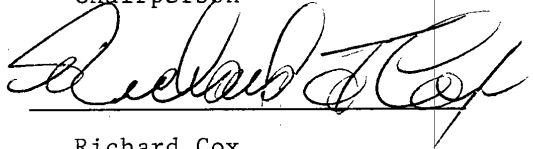
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AWARD

THE LAST Offer of the City is accepted. No increase above the three cent (\$0.03) cost of living adjustment.

A handwritten signature in cursive script, reading "Shirley T. Schwimmer".

Shirley T. Schwimmer
Chairperson

A handwritten signature in cursive script, reading "Richard Cox".

Richard Cox
Panel Member