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#### STATE OF MICHIGAN

### DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

#### **EMPLOYMENT RELATIONS COMMISSION**

In the Statutory Arbitration between:

### CHARTER TOWNSHIP OF HURON

Employer

-and-

MERC Act 312 Case No. D01 J-0975

### POLICE OFFICERS LABOR COUNCIL

(Communications Officers Unit)
Union

# FINDINGS, OPINION, AND ORDER OF THE ARBITRATION PANEL

January 10, 2003

Panel:

Maurice Kelman, Impartial Chairman

Dawnette Bowers, Employer Delegate

Jerry Caster, Union delegate

Counsel for Employer:

Kevin J. Foley, Esq.

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Southgate, MI 48195

(734) 283-4000

Counsel for Union:

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# Hearings

The proceeding was conducted pursuant to public Act 312 of 1969, as amended (MCL 423;231 et seq.). An evidentiary hearing was held on October 10, 2002, at the Huron Township Hall in New Boston, Michigan. Witnesses for the Union were Nancy Ciccone and Jerry Caster. The Employer's witness was Richard James, Esq. Final offers were submitted on November 6 and briefs were exchanged on December 16. The panel met to deliberate in executive session on December 23, 2002.

# Issues in Dispute

Issues relating to the following provisions of the collective bargaining agreement are before the panel for resolution:

1. Article XII, sec. 21. Wages

2. Article XXI, sec. 5. Retiree health insurance

3. Article XIII, sec. 1. Vacations

4. Article XIV, sec. 5. Holidays

5. Article XXV, sec. 13. Cleaning allowance

# Prehearing conference

At the prehearing conference on June 20, 2002, the parties identified the issues as set out above, selected a hearing date, established a schedule for exchanging lists of comparable and documentary exhibits, and entered into the following stipulations:

- 1. The panel has proper jurisdiction and all statutory time limits are waived.
- 2. All issues in dispute are economic.
- 3. The terms and provisions of the predecessor contract (1998 through 2001) are re-adopted except as altered by the panel's award.
- 4. The new contract term will be four years: 1/01/02 through 12/31/05.
- 5. The final offer procedure applies separately to the matter of wage increases for each year of the contract.

# Summary of final offers and panel's award

	<u>Issue</u>	<u>Union</u>	<b>Employer</b>	<u>Adopted</u>
1.	Wages			
	2002	4%	3%	Union
	2003	4%	3%	Union
	2004	6%	4%	Union
	2005	6%	4%	Union
2.	Retiree	100% paid	status quo	Union
	health ins.	effective	(reimbursement	
		1/01/04	of \$500/month)	
3.	Vacations	11 days after 1 yr.	25 days after 20 yrs.	Employer
		18 days after 5 yrs.	effective 1/01/03	
		25 days after 10 yrs.	(no other change)	
4.	Holidays	16	status quo (14)	Employer
5.	Cleaning	\$150/yr.	status quo(\$75)	Union
	allowance	prorated for part-timers	\$0 for part-time	

# Background

Huron Township currently employs five full-time and two part-time communications officers – commonly referred to as dispatchers. They are uniformed personnel but are not sworn law enforcement officers. The job classification was once part of the patrol officers bargaining unit but in the mid 1990s the dispatchers were separated into a unit of their own, though they retained the same bargaining agent – POLC – that represents the other two units in the police department, viz., patrol (including non–supervisory detectives) and command (sergeants and lieutenants).

# Statutory framework

Resolution of the issues in contention is governed by Section 9 of Act 312, MCL 423.239:

...[T]he 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.

The panel is mindful that it has the responsibility to "make the difficult decision of determining which particular factors are more important in resolving a contested issue under the singular facts of a case." City of Detroit v. DPOA, 408 Mich. 410, 484 (1980). Let it be recorded at the outset that the Employer makes no claim of financial inability to grant the wage and other economic improvements sought by the Union and found no need to adduce evidence about the township's fiscal condition and outlook. Instead, the focus of both parties has been entirely on comparisons to the wages and benefits of dispatchers in communities cited as comparable as well as on "internal" comparison to the contracts of the sister police bargaining units in Huron Township. Relevant comparison, then, is the most salient of the Section 9 factors in the panel's analysis of the rival offers, as will appear from the discussion that follows.

### Comparable communities

Both parties accept the comparability of these three communities:

Flat Rock Grosse Ile Township Woodhaven

Their lists of proposed comparables otherwise are divergent. The Union tenders another four communities, which the Employer excludes:

Plymouth Riverview Saline Wayne

The Employer proposes three that the Union rejects.

Brownstown Township Sumpter Township Van Buren Township

The Union's list comprises seven municipalities in western Wayne County (and, in the case of Saline, adjacent Washtenaw County) which have a population and a taxable property base that is within 50% to 150% of Huron Township's.

The Employer's list is more eclectic. It includes two non-adjacent communities named by the Union – Grosse Ile and Woodhaven – for the reason that they were accepted by both sides in an Act 312 arbitration in 1987. Also on the Employer's list are four communities chosen

<sup>&</sup>lt;sup>1</sup> Case No. D86 I-1858. Omitted is the city of Trenton, which was the third stipulated comparable in that case but which has dispensed with civilian dispatchers and transferred their duties to regular police officers.

specifically because of their contiguity to Huron Township – City of Flat Rock and Brownstown, Sumpter, and Van Buren townships.

Population and taxable value unquestionably are relevant factors in identification of comparable communities for Act 312 purposes. Geographical proximity alone, however, does not spell comparability; otherwise the City of Detroit and adjoining Grosse Pointe would be one another's Act 312 comparables. The Union's 50/150% criterion for population and tax base of course is arbitrary, but line drawing always is. The fifty percent plus or minus range is nevertheless reasonable and is commonly used in statutory wage arbitrations. Sumpter Township, one of the Employer's comparables, presents a special case. Even if it meets the Union's population and property standards, it is properly discounted as a counterpart community because its dispatchers are employed by a separate agency serving both Sumpter and the city of Belleville and lacking access to Act 312 procedures.

The panel accordingly adopts the Union's seven proposed comparables as appropriate to this case and will highlight those three included communities that appear on the Employer's list as well.

### **ISSUE #1:WAGES**

# Article XII, Sec. 1

# **Background**

For the year 2001, the final year of the previous four-year agreement, the wage scale for full-time dispatchers was:

Starting pay

\$11.27/hr.

60 days

\$11.85/hr.

12 months

\$14.47/hr.

Administrator

\$15.60/hr.

The figure for part-time dispatchers was \$10.89/hr.

### Union's final offer

For all dispatchers, full-time and part-time:2

Effective 1/01/02:

4% increase

Effective 1/01/03:

4%

Effective 1/01/04:

6%

Effective 1/01/05:

6%

<sup>&</sup>lt;sup>2</sup> Following the hearing the Union withdrew a demand for a 3-month/6-month/1-year step system of pay for part-time communications officers culminating in hourly rate parity with full-time dispatchers.

# Employer's final offer

For all dispatchers, full-time and part-time:

Effective 1/01/02:

3%

Effective 1/01/03:

3%

Effective 1/01/04:

4%

Effective 1/01/05:

4%

#### Discussion

The annualized base pay of a full-time dispatcher in Huron Township was \$30,098 as of 2001. The comparison to the 2001 wage level in the three joint comparables is:

Grosse Ile	\$32,261
Flat Rock	30,705
Woodhaven	30,289
Average	31,805

Huron trailed all three and was below average by 3.1% (\$987). As for the full set of seven comparables, base pay for 2001 ranged from \$36,381 in Wayne to Woodhaven's \$30,289 and averaged \$32,328. Huron was in last place, 6.9% (\$2,230) below the average.

Even if one resorts to the Employer's suggested comparables – sans the grossly anomalous Act 312-ineligible Sumpter Township, whose dispatcher wages are 18 to 19% below average on any set of comparisons including the employer's – Huron finds itself 4.1% (\$1,295) below the average salary of \$31,393 and behind all five communities. In short, emerging from the last collective bargaining agreement, Huron Township was at a distinct competitive disadvantage in terms of the wage scale for communications officers.

# a. 2002 wages

Although the union might wish to eliminate the dispatchers' pay gap in one fell swoop, its requested wage increases are inspired by the most recent labor agreements negotiated by POLC on behalf of Huron Township patrol and command officers, both of which call for 4% raises in 2002 and 2003 and 6% increases in 2004 and 2005. The 2002 wage increases in the three stipulated comparables average 3.2% and in the larger group of seven comparables they average 4.3%. If adopted, the Union's proposed first year 4% raise brings Huron dispatchers to \$31,302 and narrows the departure from the average of the joint comparables to 2.5%, whereas the employer's 3% offer widens the downward departure from the salaries in the agreed comparables to 3.4%. Considering all seven of the relevant comparables, the Union's proposal still leaves Huron dispatchers farther below the average (7.2% versus 6.9% in 2001), though it does manage to overtake Woodhaven's salary by \$105.

The Employer's counteroffer of a 3% increase for 2002 is more than a full percentage point below the average increase granted in the seven comparable communities (4.3%), though it is consistent with the wage improvement factor for the three joint comparables (3.2%). The net result of the Employer's final offer is to worsen rather than merely to maintain Huron's current wage shortfall vis-a-vis the other communities.

It is argued, however, that a more refined comparison would adjust for the circumstance that in six of the seven comparables (all but Plymouth) wages are established on a July 1 to June 30 basis whereas Huron's wage scale is keyed to the calendar year. Consequently a comparison of July 1 wages in other cities with January 1 wages in Huron causes some distortion

and makes the Huron figure look worse than it is. The panel accordingly recalculated calendar 2002 wages for all the comparables, to this result: The average calendar-year salary paid in the seven comparable communities is \$33,268. That still leaves the Union-proposed wage of \$31,302 below average by 5.9% and the Employer-offered Huron wage of \$30,001 below average by 6.8%

The Employer correctly observes that in addition to Section 9(d) comparison of wages. Act 312 directs the panel in section 9(f) to consider "the overall compensation received by the employees, including direct wage compensation, insurance and pension, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received." However, the panel is unpersuaded that factoring in earnings and fringes over and above base wages would significantly elevate Huron dispatchers in relation to their counterparts in other communities. Neither party has undertaken to compute the dollar value of all the items mentioned in Section 9(f). Each has included some benefits that the other does not;<sup>3</sup> each has looked only at its own nominated comparable communities; and each has selected a different year for a comparison of overall economics (Employer 2001; Union 2002). According to the Union's analysis of the seven relevant comparables, Huron dispatchers are as far behind in average total compensation (7.3%) as they are below average base wages (7.2%) Lacking enough data from the employer that might paint a much different picture of overall compensation, the panel concludes that the Union has made its case for a 4% wage improvement for 2002.

<sup>&</sup>lt;sup>3</sup> Employer – holidays and estimated cash value of sick days; Union – shift premiums and cleaning allowance.

# b. 2003 wages

Comparative salary information for the second year of the new agreement is incomplete. Wages for 2003 have not been resolved (or were unreported at the time of the hearing) in Flat Rock, Plymouth, or Saline. The average salary in the four comparables that have settled for 2003 (Grosse Ile, Riverview, Wayne, Woodhaven) is \$34,588,which represents a 3.2% improvement over 2002. The Union's proposed 4% second-year wage increase would bring the Huron salary to \$32,554 – still 5.9% below the settled comparables and only slightly ahead of last-place Woodhaven. The Employer's counteroffer of a 3% wage increase yields a Huron salary of \$32,241 – 6.8% below the settled comparables. The Union's final offer marginally reduces the comparative wage gap from 2001 and 2002. It is reasonable and is adopted by the panel.

# c. 2004 and 2005 wages

The Union's proposed 6% raises in the two outyears would produce a 2004 salary of \$34,507 and a 2005 salary of \$36,577. The Employer's 4% proposal for both years translates into a 2004 salary of \$33,856 and a 2005 salary of \$35,210 (or \$35,887 if the Union prevails in its third-year proposal).

The Union's demand mirrors the Huron patrol and command settlements, which schedule a 6% increase in those bargaining units for both 2004 and 2005. However, the panel does not find the demand justifiable simply and solely on the basis of this "internal comparison." It is true that Section 9(h) of the statute instructs us to take account of "other factors...which are normally or traditionally taken into consideration in the determination of wages, [etc.]," and it is true that equal treatment of employees in the same employer's work force despite their division into

even be an established negotiating outcome. No such history is evident in Huron Township.

Since the dispatchers separated from the patrol unit, they have negotiated two successive contracts. The latest (1998-2001) demonstrates that there is no recognized rule of parity with sworn officers when it comes to pay raises. All three police units, to be sure, received 5% increases in 1999 and 2000. But dispatchers got only a 3% raise in 2001 while patrol officers and sergeants and lieutenants, whose contracts are negotiated on different cycles, received 4%.

The Union's current wage demands must find their rationale not in any lockstep relationship with the patrol or command units but through external comparisons with other dispatchers. As discussed above, the external comparisons do in fact provide strong support for the Union's proposed first and second year increases of 4%. As it happens, there is no wage data available from any of the comparable communities for years 2004 and 2005. One can, though, extrapolate from the improvement factor in recent years. Between 2000 and 2002 the seven comparables granted an average annual wage increase of 4.1%. The four comparables that have settled for 2003 raised wages by an average of 3.2%. If a similar pattern is projected through 2005, it is evident that the Employer's 4% offers leave Huron's relative position unchanged for the last two contract years, which is to say the pay gap for Huron dispatchers would remain somewhere between 5 and 6%.

On the other hand, if the Union's 6% pay raises were awarded for the third and fourth years of the contract, the pay disparity would be narrowed to 2% (though Huron's base salary would still trail five of the seven comparables). Therefore the panel adopts the Union's wage

proposals for 2004 and 2005 since they bring Huron Township to a more competitive salary level.

# ISSUE #2: RETIREE HEALTH INSURANCE

Article XXI, Sec. 5

# Background

Section 5 of the Insurance Article (Art. XXI) of the 1998-2001 agreement states:

Retirees and part-time employees will be allowed to participate in the Employer's Blue Cross-Blue Shield group coverage, or other like coverage substituted therefor, upon payment of their own premiums; provided such premiums are received by the Employer not less than ten (10) days prior to their due date. Effective with ratification of this Agreement, Employer agrees to reimburse employees who retire and who qualify under MERS, Five Hundred Dollars (\$500.00) per month toward hospitalization insurance premiums for the employee and his/her spouse.

#### Union's final offer

The Union requests that Article XXI, Sec. 5 be modified to provide that the Employer pay 100% of the premium for the health insurance coverage of retiree and spouse, effective January 1, 2004.

# Employer's final offer

No change from present contract language.

#### Discussion

What the Union seeks is direct parity with retirees from the patrol unit, whose fully-paid health benefit comes into effect in 2004. Retirees from the command officers unit also enjoy the same benefit, as indeed do other non-police Township retirees.<sup>4</sup> It is a striking incongruity that dispatchers alone among the Township's unionized employees are not assured fully-paid health insurance in retirement, and no explanation for this disparate treatment has been offered by the Employer. This is not to minimize the current employer reimbursement of as much as \$6,000 per year of premium payments. The problem for the retiree is that the spiraling cost of health insurance exposes him or her to ever more onerous burdens if the employer's reimbursement remains frozen for the life of a new agreement.

The Union request is directly supported by three of the seven comparable communities – Flat Rock, Grosse Ile, and Riverview – all of which furnish to retiree and spouse the same fully-paid health coverage that active employees receive, as well as fully-paid supplemental coverage when Medicare kicks in. The other four comparables have different measures of premium payment by the employer. In Plymouth the retiree pays 50% of the premium for single-person coverage. Saline, Wayne, and Woodhaven have contribution formulas based on years of service and expressed as a percentage of the total premium cost. Retirees with twenty-five years of service in Saline and Wayne actually will qualify for fully-paid health insurance. Huron Township stands alone in defining the employer's contribution as a fixed dollar amount.

<sup>&</sup>lt;sup>4</sup> The Chairman was advised in executive session that there are three Teamster-represented units in Huron Township, all of which are provided 100% employer-paid retiree health insurance.

It warrants repeating that the Employer has not raised any fiscal objection to the Union's proposal. Furthermore, in actual fact no one is expected to retire from the communications unit during the four-year term of the new labor agreement. Based on the benefits provided by comparable public employers and reinforced by considerations of internal fairness on a matter as fundamental as medical care, the panel adopts the Union's final offer.

### **ISSUE #3: VACATIONS**

# Article XIII, Sec. 1

# Background

The 1998-2001 agreement allots paid vacation days based on years of service:

1 year but less than 3 years -	5 days	
3 years but less than 5 years -	10 days	
5 years but less than 10 years -	15 days	
10 years or more –	20 days	

### Union's final offer

The Union requests that the vacation provision be modified to read as follows:

1 year but less than 5 years -	11 days
5 years but less than 10 years -	18 days
10 years and thereafter -	25 days

# Employer's final offer

Retain the present steps and number of vacation days up to 20 years of service, but add (non-retroactively) a new step at that point which would read: "Twenty (20) years and thereafter – 25 days."

#### Discussion

The Union's proposal corresponds to the current vacation entitlements in the patrol officers' contract. But there is no custom of uniformity as to vacation days among the three bargaining units in the police department. Dispatchers have four seniority steps, the others three. Patrol officers with less than five years of service receive 11 days but sergeants and lieutenants receive 12. Patrol receives 18 vacation days after five years on the job but sergeants and lieutenants get 19. On the other hand, at twenty years patrol officers qualify for 25 vacation days while twenty-year command officers receive 24 days. There is no compelling reason why dispatchers' rights should match patrol's (or for that matter those of sergeants and lieutenants).

The comparisons that count are external. For dispatchers with five or more years on the job the average number of vacation days granted by the three joint comparables is 16.7; by the Union's comparables 16; and by the Employer's five comparables 18.7. For dispatchers with ten or more years the averages for the three sets of comparable is 23.3, 22, and 24.7 respectively. And as to dispatchers with twenty years seniority, the numbers are 25, 24, and 26.1. It appears, then, oddly enough, that the Union's proposal is closer to the Employer's comparables and the Employer's offer is closer to the Union's comparables, while the three stipulated comparables are as supportive of one side as the other. Since it is the Union's seven comparables that the panel

considers the most apposite and since the Employer's offer redresses the one conspicuous deficiency of the current provision, i.e., the vacation rights of the twenty-year employees (for whom five additional days will bring Huron into line with most of the other communities with respect to this cohort of employees), the panel adopts the Employer's final offer.

**ISSUE #4: HOLIDAYS** 

Article XIV, Sec. 5

Union's final offer

The Union proposed that two more holidays – Martin Luther King Day and Presidents

Day – be added to the current complement of fourteen holidays.

Employer's final offer

No change.

Discussion

Once again the Union seeks conformity with the patrol unit's agreement. As was the case with vacation rights, so too as to holidays: the three police bargaining units have distinctive contractual provisions. Although patrol has negotiated 16 holidays, sergeants and lieutenants, like dispatchers, have 14 – and not always the same holidays. Gaining parity with patrol officers is not a sufficient reason to adopt the Union's proposal.

<sup>5</sup> Command officers get Presidents Day but not Columbus Day, and vice versa for the communications unit.

Nor do the external comparisons to other dispatchers afford the Union any comfort. Each of the three stipulated comparables grants 13 holidays, one less than Huron dispatchers currently receive. The other four communities on the Union's list are even less generous, Plymouth granting 12.5 days and Riverview, Saline, and Wayne only 12. Indeed, of all the suggested comparables there is just one, Brownstown Township, that matches Huron's 14 days.

Consequently with Huron dispatchers already ahead of the other communities, there is no justification for altering the status quo. The Employer's position is adopted by the panel.

**ISSUE #5: CLEANING ALLOWANCE** 

Article XXV, Sec. 13

# Background

Although they are not sworn officers, dispatchers are required to wear uniforms.

Article XXV, Sec. 9 provides: "The Employer will furnish any equipment and uniforms it requires employees to wear on duty other than shoes. Uniforms will be repaired, maintained and replaced by the Employer as needed." Section 13 of the same article states: "Full-time employees shall be entitled to an annual cleaning allowance of Seventy-five Dollars (\$75.00). Said cleaning allowance shall be paid quarterly the first pay period of January, April, June and October."

#### Union's final offer

The Union proposes to increase the annual cleaning allowance to \$150 for full-time dispatchers and to provide a prorated allowance for part-time dispatchers (based on 2080 hours per year for full-time employment), with both changes effective as of January 1, 2002.

# Employer's final offer

No change.

### Discussion

Huron Township dispatchers are at a gross disadvantage vis-a-vis the comparables. Two communities pay a combined clothing-and-cleaning allowance (Grosse Ile – \$1,400; Riverview – \$600). Two communities pay separate allowances for uniforms and for cleaning, and another two, alá Huron Township, provide for cleaning alone. Flat Rock's allowance for cleaning is \$600; Wayne's \$275; Woodhaven's \$250; and Saline's \$200.6 Huron would remain behind all the others by a sizable margin even if the current allowance were doubled, as the Union requests.

As to this item it should be noted that the Union does not argue for parity with Huron Township's sworn officers but it does contend, justly in the panel's view, that a \$75 cleaning allowance is much too low when compared to the \$200 paid to sergeants and lieutenants and the \$250 provided for patrol officers. The Employer counters that the difference is not invidious but reflects the sedentary character of communications work. That distinction, to be sure, explains

<sup>&</sup>lt;sup>6</sup> in the seventh comparable community, Plymouth, cleaning is directly supplied by the employer, so there is no cash allowance.

why the dispatchers' cleaning needs are not the same as physically active members of the police force but \$75 per annum simply is not enough to cover normal laundering and dry cleaning expenses. There is no reason at all why dispatchers should bear any portion of the cost when no such burden is placed on their counterparts in other communities. Moreover, the same principle of employer responsibility for cleaning expenses supports the Union's modest demand for extension of the allowance on a prorated basis to the two part-time dispatchers.

The panel adopts the Union's final offer.

# ORDER

The panel, by majority vote, awards as follows:

Issue	1	_	W	29	es
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a.	The wage inc	rease for the first year of the contract (2002) shall be 4%.
	Concurring:	Maurice Folway
	_	) - (! <del>(</del>
		Drunette & Brevers
	Dissenting:	Definence Division
b.	The wage inc	rease for the second year of the contract (2003) shall be 4%.
	Concurring:	Maurice toluga
		Q A VB
	Dissenting:	Spinotte K. Drivers
c.	The wage inc	rease for the third year of the contract (2004) shall be 6%.
	Concurring:	Marie Lalway
	•	
		Shunette & Brusis
	Dissenting:	ZATURINE TO TUVEUS
d.	The wage inc	rease for the fourth year of the contract (2005) shall be 6%.
	Concurring:	Maurice Faluray
	<b>75</b> 0	Downitte & Bowers
	Dissenting:	Zumen X. Duwers

#### Issue 2 - Retiree health insurance

Beginning on January 1, 2004, the Employer shall pay the full health insurance premium for the retired employee and his/her spouse.

Dissenting: Macuelo Jaluari

Dissenting: Drumitte & Brusers

# Issue 3 - Vacations

Present years-of-service steps and number of vacation days remain unchanged for employees with less than 20 years of service. A new step shall be added, effective January 1, 2003, to read "Twenty (20) years and thereafter = 25 days."

Dissenting:

Dissenting:

Dissenting:

No change from previous contract.

Dissenting:

Issue 5 - Cleaning allowance

Retroactive to January 1, 2002, the annual cleaning allowance for full-time employees shall be \$150.00 and a prorated allowance shall be paid to part-time employees.

Dissenting: Mount & Beweis