

**MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ACT 312 ARBITRATION**

SHELBY TOWNSHIP,

Employer,

- and -

POLICE OFFICERS ASSOCIATION
OF MICHIGAN,

Union.

Arising pursuant to Act 312, Public Acts
of 1969, as amended

Case No. D01 I-9047

ARBITRATOR'S OPINION AND AWARD

**Arbitrator Thomas J. Barnes
May 16, 2003**

CHRONOLOGY

Petition Filed: August 27, 2002
Prehearing: March 10, 2003

APPEARANCES

For the Employer:

Craig W. Lange
Mike Smith

For the Union:

James Tignanelli
William Birdseye
Jeff Walsh
Andrew Gammicchia

OPINION

This matter came on for a hearing on March 10, 2003. The parties have reached agreement on a number of issues for which they have tentative agreement on a 3-year collective

bargaining agreement which will run from January 1, 2001, through December 31, 2003. Several remaining issues listed below were submitted to the panel and have been resolved in the following manner:

Article 8

The Township seeks to modify Section 8.(2) to provide:

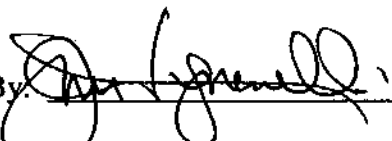
An eligibility list will be established for those candidates who have passed the written examination. Candidates who achieve a score of seventy (70%) percent shall receive a credit of one-tenth (1/10) of a point for each completed month of service. This service credit shall be added to their score on the written examination and this shall be their final score. Final scores in excess of one hundred (100) points are permitted. Placement on the list shall be based upon the candidates' final or cumulative score. In the event two or more candidates receive the same cumulative score, the candidates shall be ranked based upon seniority as defined in this Agreement. When a vacancy occurs in the rank of sergeant, the vacancy to be filled shall be filled from the eligibility list in effect at the time the vacancy occurs.

The Union opposes this change. The majority of the Panel supports competitive testing. The Township's last offer is awarded.

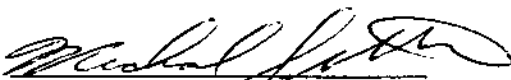
Panel Chairperson

By: _____

Union Delegate

By: _____

Township Delegate

By: _____

Article 9.4 Specialty Pay

The Association seeks to add language to the Collective Bargaining Agreement which would provide a 2.5% premium to employees working in certain specialty positions as well as to increase the amount of hours worked to 84 per pay period, consistent with those hours worked by officers in the patrol division. Specifically, the Association seeks to add the following language to the Collective Bargaining Agreement:

Provided that the current "12 hour" shifts continue for members on general road patrol, members of the bargaining unit that are performing the assignments listed below shall be placed on an 84 hour bi-weekly schedule:

DARE
Court Officer
Traffic Services


School Liaison
Patrol Investigator

Members in the listed assignments, and officers assigned as Evidence Technicians will also receive premium pay of 2.5% on all hours worked. This premium will be paid in addition to any other premium or benefits listed in the Collective Bargaining Agreement.

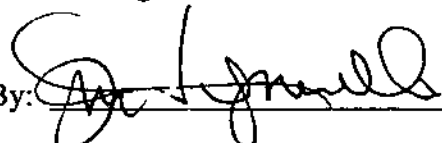
The Employer seeks to maintain the status quo and not add any language to the Collective Bargaining Agreement which would either increase the amount of hours worked by officers assigned to these specialties or provide them with premium pay up to 2.5% of hours worked.

In light of modifications to the vacation pay out and sick leave provisions, the Panel believes that the Union's position on this issue is reasonable. The Union's last offer of settlement on this issue is hereby awarded by the Panel.

Panel Chairperson

By: _____

Union Delegate

By: _____

Township Delegate

By: _____


Article 11

Two issues exist concerning Article 11. The first concerns the last sentence of Article 11.5 which provides, "Employees who are overlooked for overtime shall be compensated four (4) hours at the rate of time and one and one-half (1 ½) the base hourly rate of pay." The Township seeks to delete this provision. The second concerns Article 11.6. Employees asked to work and whom consent receive a minimum of two (2) hours pay. Employees ordered to work receive four (4) hours pay. The Township seeks to pay a minimum of three (3) hours pay, irrespective of whether one is asked or ordered. In both instances the Association seeks to maintain the status quo.

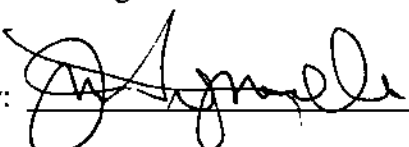
In light of the Association's decision to oversee the overtime equalization process, the language in Article 11.5 concerning overlooked overtime opportunities should no longer be necessary. Likewise, one minimum pay provision regardless of whether one is "asked" or "ordered" should provide for ease of administration.

Therefore, the Employer's position on these issues is awarded.

Panel Chairperson

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Union Delegate

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Township Delegate

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Article 15 Vacation Cash Payout.

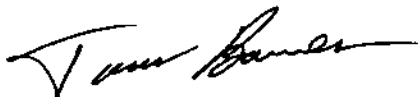
An issue exists with regard to Section 15.6 of the Collective Bargaining Agreement. That provision currently provides as follows:

All vacations shall be discharged by December 31st of the following year. In no event shall an employee lose his/her vacation days. Said days not used by December 31st of the contract year shall automatically be computed in cash payment and paid to the employee on the next regular payday.

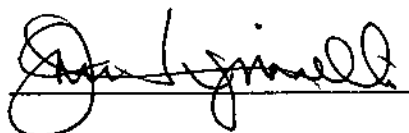
The Employer seeks to establish a limit on the number of vacation days which may be paid to an employee annually. Currently, employees may cash in all of their vacation days should they so choose. In light of improvements to the Retirement System, it is the Award of the Arbitration Panel that Section 15.6 shall be replaced by the following language:

All vacations shall be discharged by December 31st of the following year. In no event shall an employee lose his/her vacation days unless not discharged by that date. Said days not used by December 31st of the contract year shall be computed and paid to the employee on the next regular payday. No employee may cash in more than 84 hours of vacation per year. Upon retirement from the Department, however, an employee shall be permitted to receive a cash payment for all hours of unused vacation allotted to him in his final year of employment not to exceed 240 hours.

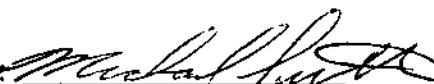
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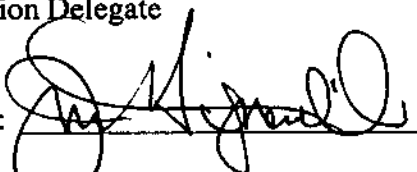
Article 15 Show-up Time

Under the terms of the Collective Bargaining Agreement employees are entitled to show-up time for a period of fifteen (15) minutes prior to the commencement of their shift. This provision is found in Section 10.4 of the Collective Bargaining Agreement. There is a provision, however, found in Section 15.8 of the Collective Bargaining Agreement that provides, "in the event that the first four (4) hours of the shift are not worked, the employee shall report for roll call fifteen (15) minutes prior to the last four (4) hours which he/she is working." In short, the employees are awarded "show-up pay" when they do not show-up for the commencement of their shift. The Employer seeks to remove this provision so that employees shall not receive show-up time if they do not appear for work prior to the commencement of their shift. This seems like an eminently fair proposal. It is the Award of the Panel that the last sentence of Section 15.8 of the Collective Bargaining Agreement shall be eliminated and the Employer shall henceforth not be required to pay show-up pay to employees who do not appear for show-up time as that term is defined in Section 10.4 of the Collective Bargaining Agreement.

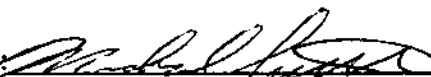
Panel Chairperson

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Union Delegate

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Township Delegate

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Article 19 Sick Leave Grant System.

Although the parties have agreed to certain minor modifications in this provision which lend to the clarity of this Article of the contract, there remains an issue concerning Section 19.1D and 19.1E. Those provisions provide as follows:

D. At the end of each contract year, any credited hours in excess of the two hundred forty (240) hour bank will be paid for at the rate of one hundred (100%) percent of the then current base

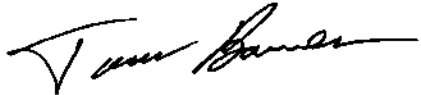
hourly rate of pay and the bank returned to two hundred forty (240) hours.

E. Upon separation from the Department for reasons other than disciplinary cause, any credited sick hours will be paid for at one hundred (100%) percent of the then current base hourly wage. Said hours to be redeemed shall not exceed two hundred forty (240) hours maximum.

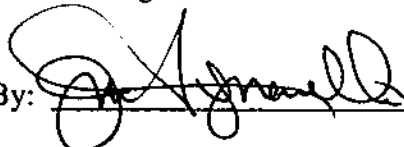
The Township seeks to reduce the percentage paid on both an annual basis and upon separation of employment as contained in these two paragraphs from 100% to 80%. The Union seeks to maintain the status quo.

In light of the modifications made to the pension plan and the inclusion of various items in average final compensation for many officers which has not been included in the past, the Employer's last offer is granted. The reference to "one hundred (100%) percent" as contained in both 19.1D and 19.1E shall be modified and replaced by the words "eighty (80%) percent."

Panel Chairperson

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Union Delegate

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Township Delegate

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Article 21 Hospital – Surgical – Medical Coverage.

Currently, Article 21 of the Collective Bargaining Agreement provides for Blue Cross/Blue Shield, master medical option MVF-1 and master medical option IV, subject to the availability of such coverage. In addition, there is a Five (\$5.00) Dollar prescription co-pay.

The Employer seeks to modify this provision and maintain Blue Cross/Blue Shield Community Blue Option I and Ten (\$10.00) Dollar prescription co-pay drug rider. The Union seeks to maintain the status quo.

In light of health care premium costs and their spiraling inflation, the Employer's last offer of settlement on this issue is awarded.

Panel Chairperson

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Union Delegate

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Township Delegate

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Article 23.6 Retirement Benefit Allowance.

A major issue exists between the parties concerning the provisions of the retirement system. The current provisions in the Collective Bargaining Agreement create a three tier system under the provisions of Act 345 of Public Acts of 1937. Officers hired after July 1, 1995 receive pension benefits at a significantly reduced level over those hired prior to this date. The Association seeks to level the playing field and provide the same pension for members of the bargaining unit, regardless of hire date. The Panel believes that Section 23.4 should be modified to "level the playing field." For this reason, the phrase "for employees hired prior to July 1, 1995," shall be removed from the provision. The provision shall henceforth provide:

"Average Final Compensation shall include and be limited to, regular wages, overtime pay, longevity pay, holiday pay, unused sick leave in pay pursuant to Section 19.1(E), compensatory time in pay, court time and show-up time. Accrued unused vacation taken in pay pursuant to Article 15 shall also be included."

Likewise, Section 23.2A(3) provides for a smaller pension computation for employees hired after July 1, 1995. The Association seeks to change this to provide a consistent pension computation of 2.5% of average final compensation pursuant to Section 29.2A(2). The Employer seeks to maintain the status quo. For the reasons set forth above, the Panel awards the Association's position on this issue. Section 23.2A(3) shall be deleted from the Collective Bargaining Agreement. All employee's pension computation shall be as set forth in Section 23.2A(2).

An issue also remains concerning employee pension contributions. Currently, employees hired after July 10, 1992 pay a 5% pension contribution. Employees hired prior to that date pay or little or no contribution under Section 23.2I. The record reflects that there is only one (1) person in the bargaining unit who currently contributes a 1.0% pension contribution. The remainder contribute 5.0%. It is the decision of the Panel, in light of the fact that there have been significant changes in the pension provisions for the Unit, that all employees contribute 5.0% into the parties' plan. For the one (1) employee who currently pays 1.0%, the Award shall provide that she begin to pay 3.0% employee pension contribution on the date that compensation at her new salary level commences. She shall begin to pay 5.0% pension contribution, as do other members of the Bargaining Unit, effective in the first pay period of December, 2003.

To the extent that this Award includes additional items in final average compensation other than wage and overtime as set forth in Section 23.4 of the expired agreement, the employee contribution on the gross compensation related to those items being included in final average

compensation shall commence at the same time as the new wage rates become actually applicable to hours worked by employees in the bargaining unit.

The final issue relates to the Employer's proposal seeking to eliminate Section 23.6 of the Collective Bargaining Agreement. Currently, that issue is before an Act 312 panel considering the terms and conditions of a Collective Bargaining Agreement between the Charter Township of Shelby and the Shelby Township Command Officers Association, represented by the Police Officers' Labor Council. It is apparent that this issue shall be resolved in that proceeding prior to rescheduling an additional hearing date and subsequent Award in this one. Therefore, it is the decision of the Arbitration Panel that this issue shall be held in abeyance, with this Panel retaining jurisdiction, and no decision will be made until the parties have had the benefit of the Award in the Shelby Township/COA Act 312 arbitration. Once that Award has been issued, the panel will reconvene for purposes of argument and a decision on that specific issue unless the Employer and Union mutually resolve that issue. If during the COA Act 312 arbitration, the issue of Section 23.6 should be expanded to include issues outside of the current Act 312 proceedings between the Township and the COA, then those specific items which are currently unforeseen, but which are added as a result of the Act 312 process between those parties, shall likewise be within the jurisdiction of this Arbitration Panel.

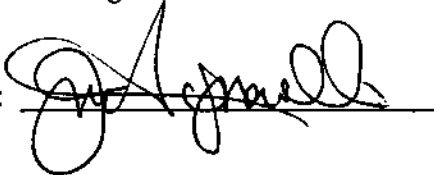
Panel Chairperson

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Union Delegate

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Township Delegate

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