

Arb. 5/18/98

209

**STATE OF MICHIGAN**  
**COMPULSORY ARBITRATION**

In the Matter of:

**CITY OF EAST LANSING,**  
Employer

Case No. L94 C-4031

**DISPATCHERS**

-and-

**CAPITOL CITY LODGE NUMBER 141,**  
**FRATERNAL ORDER OF POLICE,**  
Union

STATE OF MICHIGAN  
BUREAU OF EMPLOYMENT RELATIONS  
DETROIT OFFICE

98 JUL 28 AM 10 18

PT 1000-10

EAST LANSING, CITY OF

**COMPULSORY ARBITRATION**

Pursuant to Act 312, Michigan Public

Act of 1969, as amended.

**AWARD**

**Arbitration Panel**

Peter D. Jason  
Arbitrator/Chairman

Michael Benedict  
City Delegate

Denise Barowicz  
Union Delegate

**STATE OF MICHIGAN**  
**COMPULSORY ARBITRATION**

In the Matter of:

**CITY OF EAST LANSING,**  
Employer

Case No. L94 C-4031

-and-

**DISPATCHERS**

**CAPITOL CITY LODGE NUMBER 141,**  
**FRATERNAL ORDER OF POLICE,**  
Union

---

These proceedings were commenced pursuant to Act 312 of the Public Acts of 1969 as amended. The arbitration panel was comprised of the Chairman, Peter D. Jason, City Delegate, Michael Benedict and Capitol City Lodge No. 141 Delegate, Denise Barowicz.

A Prehearing was held on March 21, 1996 and hearings were held on June 20, 21, October 24, November 21, 1996; June 24, September 4, October 24 and December 11, 1997. The City of East Lansing was represented by Mr. Theodore J. Tierney of Counsel to the firm of Vedder, Price, Kaufman, and Kammholz of Chicago, Illinois. Capitol City Lodge No. 141, Fraternal Order of Police was represented by R. David Wilson of the firm of Wilson, Lawler & Lett, PLC. The record consists of 1,004 pages of recorded testimony and a total of 169 exhibits. After submission of last best offers on January 19, 1998, the parties forwarded written briefs on February 23, 1998. The panel met in executive session on December 12, 1996 and April 15, 1998. The duration of the contract between the parties is the four (4) year period from July 1,

1994 to June 30, 1998.

The bargaining unit involved in these proceedings consists of three classifications. They are dispatchers, clericals and parking and code enforcement (PACE) officers. Although they are in the same bargaining unit, the dispatchers are the only employees covered by Act 312. When the parties failed to reach agreement on their collective bargaining agreement, the Capitol City Lodge #141 filed for compulsory arbitration. Because the clericals and PACE officers were not eligible, the parties stipulated to the appointment of Peter D. Jason to act as Chairman of the Act 312 panel for the dispatchers and as fact finder for the non eligible employees. Since the issues were the same for all the employees, common hearings were held.

The parties stipulated that the outstanding issues in this matter were all economic and so the panel was guided by Section 8 of Act 312 for the dispatchers. This Section provides that each economic issue must be decided by the panel selecting the last best offer which more nearly complies with the applicable factors in Section 9.

The applicable factors to be considered as set forth in Section 9 are as follows:

- (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.*

Where not specifically referenced, the above factors were considered but not discussed in the interest of brevity.

## **BACKGROUND**

The City of East Lansing is a university and residential community located in Ingham County in south central Michigan. It has a total land area of 9.4 square miles and a population of approximately 51,000. Michigan State University is located within the City and accounts for 3.4 square miles of the land area and approximately 20,000 of the population. Approximately two-thirds of East Lansing's land area is devoted to educational, residential or recreational use and one-third is commercial property. Industrial land use is virtually non-existent. Michigan State University has its own police department but during the pendency of these proceedings the City of East Lansing has become responsible for police dispatching at the university.

Fraternal Order of Police, Capitol City Lodge No. 141, is the recognized exclusive bargaining representative for the bargaining unit consisting of eight clericals, nine PACE officers and thirteen dispatchers.

## **COMPARABLE COMMUNITIES**

As noted earlier, Act 312 directs the panel to consider economic benefits paid in comparable communities when deciding economic issues. In this matter the parties did not agree which communities were comparable. The City urged that the following communities were comparable: Allegan County, the City of Battle Creek, Bay County, Eaton County, City of Kalamazoo and Muskegon County. The Lodge asserted that Allegan and Muskegon counties were not comparable and substituted the Cities of Farmington Hills, St. Clair Shores and Sterling Heights in their stead. After a complete review of all the data, the Chairman was convinced that the City's argument on comparables was much more reasonable. The City's argument was convincing because its comparables have all been used in previous Act 312 cases either by stipulation or by decision of a panel. On the other hand the Lodge suggested three cities in close proximity to the City of Detroit. No Detroit area cities have ever been deemed comparable before and should not be used now. The higher cost of living in and around a large city like Detroit is not a factor in East Lansing. Therefore, for purposes of this arbitration the Chairman considered the City's comparables pertinent for comparison and not those submitted by the Union.

## **ISSUES**

The parties agree that the issues that are dealt with by the panel in this award are the only issues currently in dispute.

On August 12, 1996 the parties signed a **Stipulated Arbitration and Factfinding**

**Interim Award and Order** relative to wages, etc. See Appendix 1.

During the bargaining process, the parties also resolved issues concerning Compensatory Time, Clerical Overtime Distribution, Family and Medical Leave Act, Dental and Long Term Disability Insurances, and Article 14, Other Leave, Section 14.2 Funeral Leave. See Appendix 2.

Further, the union withdrew the longevity "Me Too" issue in its Last Best Offer so that issue is resolved. Also, the City agreed to amend Section 4 to provide no cost health insurance to dispatchers retiring at age 50 so this issue was resolved for the dispatchers. The remaining issues are:

1. Holidays
2. Shift Premium
3. Retirement
4. Health Insurance

The Chairman believes that common sense requires that the party demanding a change in the status quo has the burden of persuading the panel that a change is warranted. With this ground rule the remaining issues will be considered.

#### **ISSUE 1        -        HOLIDAYS**

**City's Last Best Offer:**        The City proposes no change to the current contract regarding the number of holidays granted to dispatchers in this bargaining unit.

**Union's Last Best Offer:**        The Union amends its original proposal and now proposes to add New Years Eve Day, as a holiday, effective

December 31, 1996. In lieu of cash payment for the holiday compensation that would be for a retroactive period, each employee is to be credited with 16.0 hours of holiday time in the current holiday bank already in existence (pro-rated for part-time employees). Future holiday compensation for this holiday is to be as originally proposed during the arbitration proceedings.

The Chairman has selected the Union's Last Best Offer on this issue. In reviewing the external comparables, there is support for granting an additional holiday. Battle Creek provides fourteen (14) holidays and Eaton County provides twelve (12). In reviewing the internal comparables, the courts and the police and fire departments all provide at least twelve (12). Thus, I was convinced that one (1) additional holiday should be granted.

## **ISSUE 2       -       SHIFT PREMIUM**

**City's Last Best Offer:**       The City proposes no change to the current contract and that no shift premium be granted.

**Union's Last Best Offer:**       Effective the date of the arbitration award, the following shift premium proposal represents the Lodge's Last Best Offer and final proposal concerning this issue: Hours worked between 6:00 p.m. and 6:00 a.m. shall receive a shift premium of \$.35 per hour.

The Chairman has selected the City's Last Best Offer on this issue. This issue has arisen before in the parties' bargaining and has been consistently rejected by the City. The question is whether circumstances have changed. The Chairman notes that this is essentially a wage issue and the parties have agreed to wages at a level above the level of changes in the cost of living. Also in this agreement, the dispatchers have received an additional increase to compensate them for the extra work they do dispatching for the police department at MSU. Thus, the Chairman finds that the compensation package is fair and an additional premium is not warranted. This judgment is bolstered when reviewing the external comparables. Although some communities provide a shift premium others do not so this information was not decisive. However, when the internal comparables are reviewed only one City bargaining unit has a shift premium. This convinced me that a shift premium was not justified in this case.

### **ISSUE 3       -       RETIREMENT**

City's Last Best Offer:       The City proposes no change to the current contract regarding retirement benefits for members of this bargaining unit.

Union's Last Best Offer:       The Lodge proposes that the proposed B-4 improvement be effective for all members of the bargaining unit as soon as it can be implemented by MERS after receiving the arbitration award with the Employees of the bargaining unit contributing one percent (1%) of wages toward its cost and



the Employer paying the remainder of the cost of this benefit improvement.

The Chairman has selected the City's Last Best Offer on this issue. The union's argument in support of this demand was that it did not cost much and that its members would contribute 1% of their salary to allay that cost. However, in reviewing the comparables there was little evidence to support this demand. Using the external comparables, the union admitted the data did not support its demand but using the internal comparables the union suggested that other groups have improved these benefits especially when they have helped pay for the increased cost. After careful consideration, the Chairman finds that the current retirement benefit package in conjunction with social security benefits, is fair and no improvement is warranted. The Chairman would also like to make clear that he regards retirement benefits as deferred compensation. Since I found that the compensation package was fair, I rejected the union demand. I do not mean to suggest that the demand was inappropriate or that the employees should not have improved benefits at some future time.

#### **ISSUE 4       -       HEALTH INSURANCE**

**City's Last Best Offer:**       The City proposes to extend to the dispatchers in this bargaining unit the same health insurance benefits now in effect for all other City employees and future retirees.

**Union's Last Best Offer:**       The Lodge will accept the Employer's proposed health plan

effective July 1, 1998, without the automobile provision making the employee's automobile insurance the primary insurance coverage and without the spouse coverage limitation clause.

The Chairman has selected the City's Last Best Offer on this issue. In an effort to control costs, the City has purchased two health care plans to provide services for its employees. All City employees except the ones in this bargaining unit, are now members of one of these plans. Recognizing this, the union has also agreed that this bargaining unit will accept these new plans but rejected the City's demand that auto insurance becomes the primary health care insurance for injuries due to auto accidents. The union also rejected the City's other demand that members spouse's insurance is primary when it is provided at no cost. However, since all other City employees have the same plan, I was convinced that the evidence did not justify a change for this bargaining unit. There was credible testimony that the two health care plans are being administered with very few problems and this system has been effective in cutting costs.

### **SUMMARY**

The Chairman's decisions on the issues are as follows:

#### **ISSUE 1 - HOLIDAYS**

One additional holiday should be granted.

<b>CITY:</b>	<input type="checkbox"/>	<b>AGREE</b>	<input type="checkbox"/>	<b>DISAGREE</b>
<b>UNION:</b>	<input checked="" type="checkbox"/>	<b>AGREE</b>	<input type="checkbox"/>	<b>DISAGREE</b>

## ISSUE 2 - SHIFT PREMIUM

A shift premium is not justified.

CITY:	<input type="checkbox"/>	AGREE	<input type="checkbox"/>	DISAGREE
UNION:	<input type="checkbox"/>	AGREE	<input checked="" type="checkbox"/>	DISAGREE

## ISSUE 3 - RETIREMENT

There will be no change on current retirement benefits.

CITY:	<input type="checkbox"/>	AGREE	<input type="checkbox"/>	DISAGREE
UNION:	<input type="checkbox"/>	AGREE	<input checked="" type="checkbox"/>	DISAGREE

## ISSUE 4 - HEALTH INSURANCE

This bargaining unit will receive the same health care plans currently in effect for all other City employees.

CITY:	<input type="checkbox"/>	AGREE	<input type="checkbox"/>	DISAGREE
UNION:	<input type="checkbox"/>	AGREE	<input checked="" type="checkbox"/>	DISAGREE

5/18/98

DATED

5/21/98

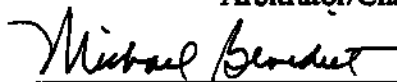
DATED

5/21/98

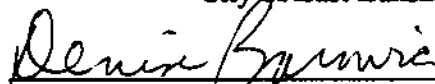
DATED



Peter D. Jason  
Arbitrator/Chairman



Michael Benedict  
City of East Lansing Delegate



Denise Barowicz  
Union Delegate