

STATE OF MICHIGAN
COMPULSORY ARBITRATION

In the Matter of:

TOWNSHIP OF MERIDIAN

Employer,

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

-and-

Case No: L10 A-4007

POLICE OFFICERS ASSOCIATION
OF MICHIGAN,

Union.

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ACT 312 AWARD

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APPEARANCES

FOR THE COMPULSORY ARBITRATION PANEL

Mark J. Glazer, Impartial Chairman
Paul J. Brake, Public Employer Designee
James DeVries, Labor Organization Designee

FOR THE EMPLOYER

Dennis B. DuBay, Esq.
Keller Thoma, P.C.

FOR THE UNION

James DeVries, Business Agent
Police Officers Association of Michigan

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STATE OF MICHIGAN COMM.
EMPLOYMENT RELATIONS
DETROIT OFFICE

The POAM Unit of the Meridian Township Police Department, consisting of Police Officers, School Resources Officers, the Court Service Officer and the Investigators, requested Act 312 arbitration on June 9, 2010, pursuant to a wage reopener for years 2010, 2011 and 2012 of the contract. There are 29 persons in the bargaining unit. The chairperson was appointed on July 15, 2010. Pre-hearing conferences were held. The parties have waived all applicable time limits.

A hearing was held on February 7, 2011, with a second scheduled day cancelled by the parties. An Executive Session was also held. Thereafter, by direction of the panel, modified LBOs were submitted for the 2012 contract year. Post-hearing briefs were submitted by the parties.

The wage issues are to be considered individually, for each year of the contract.

The panel is statutorily required to apply provisions of Section 9 of Act 312 in reaching its decision. However, pursuant to *City of Detroit v DPOA*, 408 Mich 410, 482, the panel may apply greater weight to some factors over others. The Section 9 criteria are:

- (a) The lawful authority of the employer.
- (b) Stipulation of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet these 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 proceeding.
- (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 factfinding, arbitration or otherwise between the parties, in the public service or in private employment.

COMPARABILITY

The following communities were stipulated as the external comparables for this proceeding:

Charter Township of Flint
Charter Township of Grand Blanc
City of Norton Shores
Charter Township of Pittsfield
Burton

Additionally, the Union offers East Lansing as a proposed comparable. This is opposed by the Township.

Although East Lansing is a contiguous community, it has a much larger population than the other comparables, not including the significant student population at MSU. It has 40 police officers in contrast to Meridian Township's 29 officers. This would not support comparability.

Of particular importance is the recent Meridian Township Police Supervisory Act 312 Award, Case No.: L09 A-4001. In that proceeding, the above stipulated communities were accepted by the parties and the panel. Pursuant to Section 9 (d) of Act 312, internal comparability supports

the rejection of East Lansing as a comparable in this proceeding. Moreover, Section 9 (h) of the Act requires a consideration of results that normally occur during collective bargaining. It would be expected in collective bargaining that both the police command unit and the police patrol unit would use the same comparables, because of the similarity of their functions and issues. Accordingly, the comparables in this proceeding will be limited to those which have been stipulated to by the parties, both in this proceeding, and in the Command Officers Act 312 arbitration.

SUMMARY POSITION OF THE UNION

It is asserted that the Township has sufficient current assets to meet current liabilities. Further, it is argued that long-term liabilities are not a burden to future revenues. The Union argues that the Township has taken an excessively pessimistic view of its future financial position. It is noted that the Police Department has lost five positions since 2008. The fund balance at the end of 2009, \$3,848,379, is said to show that the Township has successfully survived the financial crisis of 2008.

The Union maintains that the Township has lost ground among its comparables, moving from the second highest paid in 2009 to the fourth highest paid in 2011.

The Union proposes a lump sum payment of \$700 for 2010. The Union proposes a 1% increase for 2011, which it equates to a total cost of approximately \$701 per employee. For the third year of the contract, the Union proposes a lump sum of \$1,100.

It is noted that the Township has entered into an agreement to patrol Williamstown Township. This is argued to represent a revenue opportunity for the Township. Further, because of

reduced personnel, it is maintained that the Williamstown Township patrol will represent an unreasonable burden on the existing officers, which should result in additional compensation.

SUMMARY POSITION OF THE EMPLOYER

It is noted that property taxes are the major source of revenue for the Township, and that they have been in decline. The Township projects a 15% decrease in property tax revenues by 2013. The Employer further notes that there continues to be a decline in state revenue sharing.

The Williamstown Township contract is asserted to allow two positions to be filled, but it denies that a profit will be obtained, and it is denied that the contract will help the Township's overall financial position.

The Township projects cost increases for police personnel in the range of 7.8% for such things as pension contributions and insurance from 2010 until 2013. In particular, the cost of health insurance is projected to increase considerably, at a rate of 23% from 2010 until 2013. The Township projects a general fund deficit of \$373,830 in 2011 and \$547,871 in 2012.

The Employer maintains that in terms of overall compensation, the Township is second among the comparables. It offers 0% for 2010, 0% for 2011 and a lump sum of \$400 for 2012. The Award to the Police Command is also cited.

The Township denies that the Williamstown Township contract will result in an increase in work for officers, particularly because the overall number of calls has declined.

ISSUE I: FIRST YEAR WAGES-- 2010

The Union offers, "700 cash bonus for all bargaining unit members who were employed on or after January 1, 2010." The Township offers a "0% adjustment."

In my recent Award involving the Police Command, I found that a \$700 lump sum was necessary for the Command Officers in 2010, because the Firefighters received a \$700 lump sum in 2009, along with lump sum payments to other groups. The Police Command received 0% in 2009, without a lump sum payment.

In 2009, the POAM unit also received a \$700 lump sum payment. Therefore, parity is maintained between the Command and the POAM units, if the POAM unit receives no lump sum payment for 2010. Internal comparability, under Section 9 (d), requires that both the POAM unit and the Command unit receive the same lump sum payment over the 2009-2010 period, resulting in 0% for the POAM in 2010.

Moreover, under Section 9(h) of Act 312, it would not be expected that collective bargaining would result in a higher payment over the 2009-2010 period to the patrol officers than the command officers. Also, it would be expected that command morale would suffer, and perhaps impact upon the interest and welfare of the public under Section 9(c), if command officers received less money than those in the lower ranks.

Further, declining revenue and increased expenses were established for 2010, which supports the Employer's offer. The external comparables would not require a different result. The Employer's LBO should be awarded.

AWARD ON WAGES FOR 2010

The Township's LBO of a 0% adjustment in wages is awarded for 2010.

ISSUE II: SECOND YEAR WAGES-2011

For the second year wages, the Union offers, "The Union's Last Best Offer is a 1.0% increase for all steps contained in the collective bargaining agreement. Wages to be retroactive to January 1, 2011 for all hours compensated." The Employer's Last Best Offer is 0% adjustment for 2011.

In my recent Command Award, the Union also offered 1% and the Township offered 0% for 2011. The Award was 0%. Therefore, as a matter of internal comparability under Section 9(d), it would be expected that the POAM unit would receive the same Award as the Supervisory unit. The police patrol and the command units perform similar work, and an increase for the patrol unit only is inappropriate.

Moreover, it could negatively impact upon morale for the command unit, and therefore impact on the interest and welfare of the public under Section 9 (c), if the command was denied a wage benefit awarded to the patrol officers.

In my Command Award, I concluded that the negative financial picture for the Township required a 0% in 2011. I wrote:

Remaining is 2011, where the Union offers a 1% increase and the Township offers 0% on the pay scale. The evidence shows that Township revenue is primarily based on taxes of personal residences pursuant to Proposition A. The 2011 taxable value is estimated to fall

12%, from \$185,295,00 to \$1,440,104,00. Township property tax revenue is estimated as falling significantly in 2011 as follows:

2009 \$10,574,194

2010 \$10,374,300

2011 \$9,129,384

The Union argues that these figures lack credibility. However, they were based upon the analysis of the existing data by Township experts, and countervailing testimony and evidence is not present. If wage increases are made in 2011, at a time of seriously declining revenues, a likely outcome is further layoffs of police officers, which is contrary to the best interest of the public. Further, on the existing evidence, the Township has established that it has an ability to pay problem. Consequently, the Section 9 factors favor the LBO of the Township.. the present data would not justify an increase on the wage scale, when revenues are reasonably forecasted to decline in 2011.(L09 A 4001, pp. 16-17)

The same reasoning requires that the Union's LBO be rejected in this matter. Further, the external comparables do not require a different result in the same manner as they did not support an increase in the Command Act 312 Award.

AWARD ON WAGES FOR 2011

The Township's LBO of a 0% adjustment in wages is awarded for 2010.

ISSUE III: THIRD YEAR WAGES-- 2012

For 2012, the Union offers an eleven hundred dollar lump sum payment as follows:

Effective January 1, 2012, a lump sum payment to all bargaining unit members in the amount of one thousand one hundred (\$1,100) dollars.

The Employer offers a four hundred dollar lump sum as follows:

Appendix A shall continue as status quo:...2012 Adjustment \$400.

Section 9 of Act 312 provides in paragraph (g) for a consideration of :

Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

Subsequent to the hearing, during an executive session, the Township indicated that 2012 property tax revenues were projected to fall, and that health care premiums were increasing significantly. However, the Township stated that two non-312 units within the City had settled for 2012, with a \$400 lump sum bonus. The Township maintains that internal comparability requires a \$400 payment for this POAM unit. It also argues that the Township's negative financial position will not permit a greater increase.

The Union argues that Act 312 was written with the understanding and requirement that police officers be treated independently, and more favorably if necessary, than other township employees. Further, it is argued that the additional work required by the Williamstown Township contract justifies a higher lump sum payment to the POAM unit.

I agree with the Union that it is not automatically bound by the increases awarded to the non-312 eligible units. Internal comparability represented by non-312 eligible units is only one factor of

many in Act 312. This is noted in the Command Award, where I indicated that the AFSCME employees had received a \$500 signing bonus in 2009, whereas the Act 312 eligible firefighters received \$700. Therefore, the POAM unit is not automatically required to receive \$400.

That said, the Union in its Attachment "A" to its brief notes that \$701 equates to approximately a 1% increase to a top paid police officer. This means that the Union's \$1,100 offer equates to approximately a 1.57 percent payment. In contrast, the \$400 offered by the Township represents approximately .57 percent.

For the two settled units in 2012, there is no suggestion of an increase of 1.57 percent. In fact, the Township appears to moving down from the \$500 previously paid to AFSCME. Moreover, the continued reduction in tax receipts and continued increase in health expenditures would not support the significant increase from the \$700 lump sum previously paid the POAM unit in 2009, to the \$1,100 sought for 2012.

Finally, the \$1,100 sought by the POAM would also likely be received by the other act 312-eligible units, the Police Command and the Firefighters. The cumulative effect of an additional \$700 per Act 312-eligible employee, (\$1,100 vs. \$400), could be deleterious to a township that is facing both reduced income and higher health care costs.

The Union argues that the additional work required by the Williamston Township contract justifies its proposal. However, at the time of the hearing, there was not a record that either favors or disfavors the union's contention. Consequently, the Union's proposal cannot be awarded based upon the Williamstown Township contract.


I am sympathetic to the POAM unit, which is necessarily facing a small increase. However, a 312 arbitrator lacks the jurisdiction to order additional taxes, at a time that tax revenues are falling due to the financial crisis, and health care costs are increasing. Based upon the relevant Act 312 factors, the Employer's LBO of a \$400 lump sum payment should be awarded. If 2012 turns out to be a significantly better year than expected, that can be corrected in future contract negotiations or Act 312 proceedings.

AWARD ON WAGES FOR 2012

The Employer's LBO of a \$400 lump sum wage adjustment for 2012 is awarded.

PANEL SIGNATURES

Date: 6.20.11



Mark J. Glazer, Chairman

Date: _____

Paul J. Brake, Public Employer Designee*

Date: _____

James DeVries, Labor Organization
Designee**

* Concurs on all LBOs awarded to the Employer; dissents on all LBOs awarded to the Union.

**Concurs on all LBOs awarded to the Union; dissents on all LBOs awarded to the Employer.

PANEL SIGNATURES

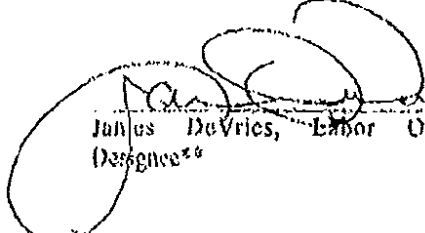
Date:

Mark J. Glazer, Chairman

Date:

Paul J. Brako, Public Employer Designee*

Date:


Julius DeVries, Labor Organization
Designee**

* Consents on all LBOs awarded to the Employer; dissents on all LBOs awarded to the Union.


** Consents on all LBOs awarded to the Union; dissents on all LBOs awarded to the Employer.

PANEL SIGNATURES

Date: _____

Mark J. Glazer, Chairman

Date: June 15, 2011



Paul J. Brake, Public Employer Designee*

Date: _____

James DeVries, Labor Organization
Designee**

* Concurs on all LBOs awarded to the Employer; dissents on all LBOs awarded to the Union.

**Concurs on all LBOs awarded to the Union; dissents on all LBOs awarded to the Employer.