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12/4/70

IN THE MATTER OF THE ARBITRATION

between

THE FLINT FIRE FIGHTERS ASSOCIATION, LOCAL 352, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO
and THE CITY OF FLINT, MICHIGAN

12/4/70 Russel Smith

Flint, City of

Under Act No. 312, Michigan
Public Acts of 1969

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THE FLINT FIRE FIGHTERS ASSOCIATION, LOCAL 352, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO

-and-

CITY OF FLINT, MICHIGAN

Arbitration Proceeding Pursuant To Act No. 312, Michigan Public Acts of 1969

APPEARANCES

For the Union: Milliken & Magee, Attorneys (by David S. Magee).

For the City: Robert E. Weiss, City Attorney; and Wade D. Withey, Deputy City Attorney.

OPINION

This arbitration proceeding has been conducted pursuant to Act No. 312, Michigan Public Acts of 1969, and upon the initiation of the parties. The members of the Arbitration Panel are: Clayton Pringle (Delegate of the Union); John T. Damm (Delegate of the City); and Russell A. Smith, Chairman (appointed by the delegates of the parties).

This Opinion has been written by the Chairman of the Panel. Concurrence by the other members of the Panel in the Award does not necessarily indicate agreement with everything stated in the Opinion.

The Union is the collective bargaining representative, under Michigan law, of all uniformed members of the Flint Fire Department. The City and the Union are parties to a collective bargaining agreement dated September 11, 1967 as subsequently amended (Tr. 9).

A. PROCEDURAL MATTERS

By letter dated July 31, 1970 addressed by the parties, jointly, to the Michigan Employment Relations Commission it was stated that the parties had been engaged in collective bargaining, that on July 20, 1970 the Union requested mediation, that on July 23, 1970 a mediator met with the parties, but that the dispute remained unresolved, that "it is the intent of the City of Flint and Local 352, I.A.F.F. AFL-CIO to waive any fact-finding and to herewith initiate binding arbitration proceedings in compliance with Act 312 of the Public Acts of 1969" and that, pursuant thereto, the parties had designated their respective delegates to the Arbitration Panel (Jt. Ex. 1). The parties' delegates by letter dated August 10, 1970 informed Russell A. Smith that he had been selected to serve as Chairman of the Panel

(Jt. Ex. 2). By letter dated August 13, 1970 the Chairman notified counsel for the respective parties that the initial hearing in the matter would be held Friday, August 21, 1970 at the City Commission Chambers in the Flint City Hall, and that the initial hearing would be for the purposes "(1) of determining, if possible, the issues to be decided by the Panel, and (2) of arranging for such procedures and subsequent hearings as may be deemed desirable" (Jt. Ex. 3).

At the hearing held August 21, 1970 the parties agreed, upon the suggestion of the Panel, to make their principal presentations in writing in the form of initial and reply briefs to be submitted, respectively, on or before September 28, 1970 and on or before October 12, 1970, and that additional hearings would be held, to the extent necessary, beginning October 19, 1970 (Tr. 5). The parties also waived the statutory requirement that hearings be concluded within thirty days after they began (Tr. 6).

At the hearing the City requested the Panel to "order" other persons or parties "having an interest in these proceedings" to intervene and become parties to the proceeding (Tr. 15-16). The Panel unanimously refused this request on the ground that it lacked the authority to order intervention (Tr. 17-18). The City then made an alternative request that "other units that represent the various City employees also be required to submit a position as to their contract talks, their negotiations, and the possibilities and realistic evaluation of their positions ... and order them to testify" (Tr. 18). This request was likewise unanimously denied by the Panel (Tr. 22).

Subsequent to the hearing the parties filed their principal and reply submissions in accordance with the time table which had been established. These are deemed to be part of the record in this case, and are sometimes referred to hereinafter as "B" and "RB", respectively. Section 6 of Act 312 provides, among other things, that "any oral or documentary evidence and other data deemed relevant by the arbitration panel may be received in evidence" and that "technical rules of evidence shall not apply and the competency of the evidence shall not thereby be deemed impaired". In light of these provisions, it is the judgment of the Panel that the written submissions of the parties are to be deemed "evidence" to the extent that they include or refer to data or documents in support of particular contentions subject, of course, to appropriate evluation for probative weight, and to the extent that the submission by a party includes assertions of fact which are either expressly acknowledged to be accurate by the other party or are not denied by the other party.

On October 12, 1970, the parties, through their respective attorneys, entered into a stipulation reading as follows:

> It is hereby stipulated by the above parties, through their respective attorneys, that they waive their rights to oral testimony

> and oral argument scheduled for October 19 and 20, 1970, so that the Arbitration Panel may commence its meetings leading to an award.
>
> It is further stipulated that the parties shall present whatever testimony may be desired by the Arbitration Panel, if and when said Arbitration Panel requests said testimony.

On October 22, 1970, they stipulated further as follows:

> It is hereby stipulated by the above parties, through their respective attorneys, as follows:
>
> 1. That the findings of the Arbitration Panel will be submitted to the parties as soon as possible with the justification and findings of fact to follow within a reasonable length of time, not to exceed forty-five days from the date of the award.
>
> 2. That there shall be a three year contract effective as of July 1, 1970 with right to re-open negotiations at the end of two years on all economic issues.

Thereafter, the Panel met in executive session and, on October 25, 1970, made an award, which was unanimous on all issues submitted. This award, which follows hereinafter under the caption "AWARD", was delivered to the parties October 26, 1970.

B. STANDARDS FOR DECISION

Section 6 of Act No. 312 provides that a Panel's "majority actions and rulings shall constitute the actions and rulings of the Arbitration Panel" and, under Section 8, that an arbitration panel "shall make written findings of fact and promulgate a written opinion and order upon the issues presented to it and upon the record made before it ...". Section 8 further provides: "The findings, opinion and order shall be just and reasonable and based upon the factors prescribed in Sections 9 and 10." Sections 9 and 10 provide as follows:

> 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.

Sec. 10. A majority decision of the arbitration panel, if supported by competent, material and substantial evidence on the whole record, shall be final and binding upon the parties, and may be enforced, at the instance of either party or of the arbitration panel in the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside. The commencement of a new municipal fiscal year after the initiation of arbitration procedures under this act, but before the arbitration decision, or its enforcement, shall not be deemed

> to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or its decision. Increases in rates of compensation awarded by the arbitration panel under section 10 may be effective only at the start of the fiscal year next commencing after the date of the arbitration award. If a new fiscal year has commenced since the initiation of arbitration procedures under this act, the foregoing limitation shall be inapplicable, and such awarded increases may be retroactive to the commencement of such fiscal year any other statute or charter provisions to the contrary notwithstanding. At any time the parties, by stipulation, may amend or modify an award of arbitration.

Under Section 10 "a majority decision of the Arbitration Panel, if supported by competent, material, and substantial evidence on the whole record, shall be final and binding upon the parties ...". Section 9 states that determination shall be based upon the "factors" specified therein, "as applicable". Sections 9 and 10, read together, leave some doubt about the question of the extent to which a specified "factor" may or must be considered in a particular case unless urged by a party or brought into the case by the panel and buttressed by some "evidence" in the "record". But in any event it seems reasonably clear that not every "factor" specified in Section 9 must be considered by a panel, since the specified factors are to be considered only "as applicable". Applicability of a factor depends in part upon its having been urged by a party or introduced by the panel, but also in part upon the panel's judgment concerning its weight in the particular case. Moreover, in considering a particular factor, a panel, although bound to support its determination by the evidence of "record", must surely be entitled to take judicial notice of certain kinds of information which are a matter of public record or common knowledge.

C. THE ISSUES UNDER SUBMISSION

At the hearing held August 21, 1970 the parties submitted for the record a copy of a memorandum dated August 20, 1970 prepared by George Duckworth, Deputy City Manager of the City of Flint, stating (Jt. Ex. 5):

> To: Arbitration Panel
>
> Gentlemen:
>
> On August 3, 1970, a meeting was held between representatives of the City of Flint and Local 352 for the purpose of determining what items should be brought before this Arbitration Panel. The City, through their Bargaining Agent, Mr. Kay and the Union, through their spokesman, Richard Satterley,

mutually agreed that the following items would be stipulated as still in dispute:

(1) WAGES: A 25% wage increase based on the base rate of a fire fighter with five (5) years seniority demand by the Union.

(2) COST-OF-LIVING: A cost-of-living factor as follows: An adjustment of .01¢ per hour for each three tenths (.3) increase in the BLS Cost-of-Living Index. The C-O-L adjustment shall be made on a quarterly basis provided such increase will take effect on the first pay period following the release of statistics from the Bureau of Labor Statistics.

(3) PENSION: Amend Section 16 of Ordinance 1860 as amended as follows: Amend Section 16 (a) to read:

"A fireman member who has attained 25 years of service in the employment of the City shall have the option of retiring on the anniversary of his twenty fifth (25th) year in City employment or is fifty-five (55) years of age, whichever occurs first, at a rate of two percent (2%) per year of service multiplied by his final average compensation.

Amend Section 18 by deleting all after the words: "of his credited service" (Note: This amendment is necessary to coincide with the requested amendment to Section 16.

Delete Section 26 (f).

(4) HOSPITALIZATION INSURANCE: City paid Blue Cross Blue Shield plan MVF-2 with prescription rider for all members including Retired members.

8/21/70 (5) RULES & REGULATIONS: Negotiation of Departmental Rules and Regulations as agreed to and provided for in contract.

8/21/70 (6) RETIREMENT: A provision whereby any Fire Department uniformed employee who, because of injury or illness may be transferred to another Department through rehabilitation or other reason, shall be eligible to retire under the provisions of Ordinance 1860 provided for fire fighters.

(7) PERSONAL DAYS: Five (5) personal days which may be used for personal reasons.

(8) STATION PREFERENCE: A provision whereby fire fighters may choose the Fire Station of his choice in accordance with his Departmental seniority.

(9) LIFE INSURANCE: An increase in life insurance coverage from $4,500 DI to $10,000 DI with $2,000 carried after retirement paid by the City.

8/21/70 (XX) HOLIDAY COMPENSATION: Language on compensatory time for Holidays to coincide with the present method to be included in the contract.

(11) MINIMUM MANPOWER:

8/21/70 (XX) CLOTHING: An agreement as to the amount and type of clothing to be furnished by the City.

Although the above mentioned items are still in dispute, the parties tentatively have agreed on four of them as to context. Until such time as language has been agreed on and signed by both parties, we therefore, request that all items be considered in arbitration.

George Duckworth
Deputy City Manager

It was stipulated that this document states the issues which are under submission for decision by the Panel except that the items numbered (5), (6), (10), and (12) had in fact been resolved subsequent to the preparation of the document and therefore are not submitted for decision (Tr. 8-9).

D. CONSIDERATION OF THE ISSUES

Retirement Benefits

Present Provisions

These are spelled out in the Pension Ordinance (No. 1860) as amended. The Ordinance establishes pension plans for City employees generally, but with some degree of differential treatment of police and fire fighters from other groups and as between themselves. In dispute, and under submission in this case, are those provisions providing the following: (1) Provision for

voluntary retirement at age 55 and mandatory retirement at age 62, if the employee has 10 years of service [Section 2.22 and 16(a)]; (2) provision for a straight life pension of 2% of the employee's final average compensation multiplied by his years of credited service, not to exceed 25 years, plus 1% of his final average compensation multiplied by his years of service in excess of 25 years (Section 18); (3) provision for reduced pension benefits to widows of employees who die in line of duty or who die within three years beginning after disability retirement, limiting the pension to the widow to $4,500 per year [Section 26(f)].

Union Demands (B 12)

1. The employee should have the right to retire after 25 years of service without regard to age, with mandatory retirement at age 62.

2. A change in the pension formula to provide for a pension equal to 2% of the final average compensation multiplied by years of service.

3. Deletion of the dollar limitation on widows' benefits.

City Response

1. The City agreed, during negotiations, on certain changes in the Pension Plan other than those above listed. It rejects the specific proposals enumerated above (B 17).

Union Arguments

1. In favor of the right to retire after 25 years of service --

   a. In July 1968 the fire fighters, by agreement, received a retirement escalator consisting of 2% increase of benefits for each of the first 10 years following retirement, this having been negotiated by virtue of an automatic reopener clause in their 1967 Agreement (Ex. 25). During the current negotiations the City offered the Union "the Police Officer plan" which does not include the escalator provision, but provides for optional retirement after 25 years of service and mandator, retirement at age 55. This the Union rejected. However, the rationale supporting a right of a policeman to retire after 25 years applies equally to a fire fighter because of the physical rigors of his job, and the possibility of failing health (B 12-13).

b. The cost to the City would be "minimal compared to the greater efficiency per member resulting in an increase in competitiveness due to a higher promotional opportunity", and the plan "would attract a larger number of highly qualified personnel in an occupation rapidly becoming more hazardous" (B 13).

c. In industry generally, pension benefits are fully paid by the employer, while in Flint the fire fighers pay 5% of their gross wages toward retirement (B 14).

d. Fire fighters with over 25 years of service are not, except in cases of good health, able to perform the more rigorous duties required in fighting fires and saving lives (B 14).

2. The present restriction on a widow's benefit "is not realistic in these inflationary times" (B 14). The benefit is now determined by a formula related to the deceased husband's pension; hence "there is no longer the need to establish an upper limit for this pension ..." (B 14).

3. (The brief appears to contain no arguments in support of the requested increase in the amount of the pension benefit by using the 2% multiplier for all years of service.)

4. Responses to the City's arguments.

a. The City states that its plan provides "very substantial benefits", making it equal to "prevailing plans". But of the eight cities covered in the City's comparison group, only four have plans like those of Flint and the comparison group is too limited (RB 20-21).

b. The City is in error in its claim that most Firemen retirees simply transfer their employment (RB 22).

c. The $4,500 ceiling on total benefits under Section 26 "is now less than 50 percent of <u>total</u> benefits paid to the survivors of a Fire Fighter killed in the performance of his duties" and "this, by any standard, is far from being a 'prevailing' benefit" (RB 22).

5. The statement by the City that during negotiations the City Manager took the position that the City was unable to make any offer on the basic 25 year retirement and straight 2% per year demand is untrue. On July 31 the Union made an offer concerning the 25 year proposal. "When informed that the cost of our demand was from 3% to 6%, Union negotiators offered to pay 1% towards financing of the change with the understanding

that any pay increase awarded in arbitration would be reduced by 1%. The City Manager then offered the same plan as negotiated with the Police and was rejected on the ground that it did not include the escalator negotiated by the Union in 1968 and provided that we relinquish our workmen's compensation rights on a duty disability or death. The City Manager agreed to study the Union's proposal of 1% contribution by members towards a 25-year retirement" (RB 20; Ex. 69).

City Arguments

1. The City has already "made movement" in the area of pensions (B 17), and the offers made and accepted, especially the five year reduction from 20 to 15 in the credited service requirement for an Ordinary Death Pension, "are costly as are most retirement provisions" (B 17).

2. An examination of the City's comparison group shows that half the cities have a plan corresponding to Flint's, although the City agrees this "prevailing plan" is tending to disappear as the result of bargaining (B 18). The City's escalator provision is more favorable than most such other provisions.

3. In view of the City's "difficult financial situation" and the "prospect of decreasing revenue", the City "must place primary concern on salaries and fringe benefits for current employees" (B 18).

4. Most Firemen do not retire, but simply transfer jobs, which is not the basic assumption underlying a retirement program (B 18).

5. An actuarial estimate is that the cost of the 25-55 option would be 6% of present payroll, or $216,316 (B 19).

6. The option to retire after 25 years "is not given by any of the cities in the survey area" (B 19; Ex. 15). As to the police, they obtained this through bargaining, but at an increased cost to the police. On the other hand, the fire fighters in 1968 bargained for and obtained an escalator benefit without additional cost to the employee (RB 13).

7. The Union is not legally entitled to bargain for "retirees". The judicial decision under the NLRA cited by the Union has been overruled by the Court of Appeals (B 14).

Findings and Conclusions

An analysis of the arguments and comparative data presented does not establish a case in support of the demands made by the Union except, to a degree, for parity of treatment as between fire fighters and police. The existing plans for these two groups contain certain advantages in each over the other. In the case of the fire fighters, it is the "escalator" provision negotiated in 1968. In the case of the police, it is the right of optional retirement after 25 years of service.

The Panel has concluded that the retirement demands of the Union should be denied, except that if the police, pursuant to their current negotiations, gain the "escalator" clause now in the plan for fire fighters, the plan for fire fighter members shall be amended to include the 25-year option to retire which is now in the plan for policeman members, but that the mandatory retirement age for Firemen shall continue to be 62 years.

Hospitalization

Present Provision

MVF-1 Blue Cross-Blue Shield Ward Service Plan for active members and their families. No coverage for retirees.

Union Demand

MVF-2 Plan with prescription rider for all active and retired members.

City Response (B 21)

The City offers to change to MVF-2 Family Ward coverage with prescription rider subject to agreement that employees will pay any increased premium cost by payroll deduction, but its offer provides for the liberalized benefits only with respect to persons in active employment status.

Union Arguments

1. Certain "comparisons" were noted (B 16-17).

   a. Genesee County provides MVF-1 for employees, their families and retirees and their families, semi-private room (Ex. 28).

   b. General Motors provided MVF-2 for active employees and families and MVF-1 for retirees and families, both with prescription rider.

   c. Twenty-five Michigan cities provide hospitalization for their retirees (Ex. 29).

2. The cost of medical treatment has risen much faster than the general rise in the cost of living, and this is especially serious for retirees (B 14). Many retirees draw pensions of less than $80 per month.

3. With respect to the City's arguments --

   a. Even the City's own comparison group, limited as it is, supports plans for retirees (of varying kinds) (RB 23).

b. The Union's data show that 25 cities cover retirees, thus refuting the City's claim that its present plan is in accord with "prevailing practice" (RB 24).

City Arguments

1. The City did offer "some movement" as indicated above (B 21).

2. The City has maintained a "consistent position against granting benefits to its "current" retirees, believing that its primary obligation is with respect to current employees and that this is "paramount" this year because of an "absence of recurring revenue" and the prospect for a decrease in anticipated revenue (B 21).

3. The City believes there is a "moral question" in relation to provision of benefits to retirees because of the potentiality of early retirements. There is also a problem "of open ended liability to the City and its taxpayers" (B 21). Any such provisions would be "at the expense of current employees" because of escalating costs (B 22).

4. The City's comparison group survey shows that its present policy for current employees "is equal to the policy of any city surveyed", and that its policy as to retirees is "the prevailing practice" (B 22).

5. The City questions the legal right of the Union to bargain for retirees (B 22).

Findings and Conclusions

Comparison data submitted indicate (laying aside the issue with respect to current retirees) that most communities provide a Blue Cross-Blue Shield medical-hospitalization plan, with the cost borne by the particular city, but that the MVF-1 plan is at least as frequently used as the MVF-2 plan. Retirees are covered under a substantial number of the plans.

Neither the comparison data submitted nor other considerations indicate that the MVF-2 Plan should, at this time, be provided for fire fighters. However, there is solid support for the inclusion of a prescription rider in the MVF-1 Plan, with a so-called "$2.00 deductible" as a cost control measure, and for the view that the cost of the plan should be borne by the City. The "retiree" question presents some difficulties, including the question whether the City is legally obligated to negotiate benefits for persons already retired. But there is no such question with respect to the amendment of the existing plan so as to extend benefits to <u>future</u> retirees.

We have concluded that the hospitalization plan should be the MVF-1 Ward Service Plan with a "prescription rider",

$2.00 deductible basis; that it should cover active employees and their families and, in addition, future retirees and their spouses provided, as to such future retirees and their spouses, they should lose their coverage at such time as they may be covered by any other plan. We have concluded, further, that the cost of the plan should be borne by the City.

Personal Leave Days

Present Provision

None.

Union Demand

Each employee to have the right to 5 paid personal leave days to be used at his request and without regard to departmental manpower strength.

City Response

"No" (B 23). The Union states that the City on July 21, 1970 offered a certain proposal (Ex. 30) which the Union accepted, but that the City withdrew this offer on July 13 and submitted a second proposal which was more restrictive (Ex. 31), and then later withdrew both offers (B 18).

Union Arguments

1. All employees "have personal requirements which necessitate personal leave days" to complete business transactions, attend funerals of friends, visit doctors and dentists, etc. In many instances, these cannot be completed during off-duty time (B 18).

2. The City has given Public Health Nurses two such days (B 18; Ex. 32).

3. Comparisons -

   a. Genesee County employees are granted 5 personal leave days each year with a right to accrue up to 10 such days (B 19; Ex. 33).

   b. General Motors employees have personal leave days which, if not used, are credited to the employee with pay (B 19; Ex. 48-A, 48-B).

   c. A survey of fire departments in the state shows that 36 of them provide personal leave days (B 19; Ex. 34).

5. With respect to the City's arguments -

a. The City uses its own selected and narrow comparison groups (RB 25).

b. The Union survey shows 20 other cities have more generous "annual leave" provisions than does Flint (RB 25; Ex. 63).

c. As to the claim the City has a "special provision for emergency leave", this is true but is subject to the contingency that the supervisor considers the request for leave "meritorious", and the consequence is that this provision is inconsistently administered (RB 25).

d. The Union agrees that acceptance of its proposal would involve more frequent overtime calls of employees off duty; however, the amount of total overtime paid has been small (RB 26).

City Arguments

1. A survey of its comparison group shows no cities providing for paid personal leave (B 23; Ex. 18).

2. The idea of paid personal leave has "crept into the scene via agreements completed with teachers and nurses; both professional classes" and this year it has appeared in the requests of all other bargaining units. It is "... a simple subterfuge for additional time off with pay". "Added annual leave time would have served the same purpose with fewer strings attached." The fire fighters have "very generous annual leave benefits" and these should suffice (B 25).

3. It is difficult "to discuss the subject seriously" in view of the large amounts of off-duty time the 56-hour week employees have (B 23).

4. The present agreement provides for "emergency leave" (B 24).

5. Responses to the Union's arguments -

a. The agreement with the Public Health Nurses provides that the personal leave days are to be charged against sick leave (RB 16).

b. The other group cited by the Union "enjoys such leave under a combination of circumstances, some of which are part of a sick leave system and some of which are vacation leaves" (RB 16). The City is aware that General Motors has the policy described by the Union, but GM "reports that it is deeply concerned with one and two day absenteeism..." (RB 17).

Findings and Conclusions

The pertinent comparison data submitted do not provide substantial support for the Union's request. Nor has the Union demonstrated on the basis of other considerations that its request should be granted.

Life Insurance

Present Provision

Active members have a $4,500 policy with double indemnity for accidental death. There is no provision for life insurance for retired employees who first became employees of the City after April 7, 1947. Employees hired since then have retained their status as "charter" pension members and have a policy of $2,000 after retirement.

Union Demands

A policy of $10,000 for active members and $2,000 "for all retired members" (B 23).

City Response

The City offered to increase insurance for active members to $6,000, without cost to the employee, to extend coverage for six months to an employee on leave of absence, and to allow an employee to purchase up to $4,500 additional insurance on a payroll deduction basis. (Apparently it has offered nothing in the case of retired employees). (City Brief 27; Union Brief 23)

Union Arguments

1. For years the City's charter pension plan provided for $2,000 insurance at the expense of the City to an employee retired after 25 years of service. The Union "merely requests a continuance of this $2,000 policy for those persons who will retire under the provisions of the so-called 'Gabriel' pension plan which replaced the 'Charter' pension plan". Employees who have retired since 1947 have come under the latter plan. (B 23)

2. The Union's Michigan city survey shows that 18 provide some form of life insurance for retirees (Ex. 40), ranging from $1,000 to $10,000, and that 48 cities provide more life insurance for active members than does Flint, 26 going to $10,000 or more (B 24, Ex. 40).

3. Under the 1967 General Motors contract employees on the average received a $10,000 policy and extra accident insurance of $5,000 (B 24; Ex. 42).

4. The cost of group insurance is considerably less than the cost of insurance to the individual employee and should be granted as a matter of equity (B 24).

City Arguments

1. The City refers to its comparison group (B 27; Ex. 20).

2. The City has made the offer indicated above, and this "was within $100 of the average face value of insurance provided by the surveyed cities...". As to retirees the survey data supports the City's position.

3. The City is not legally required to negotiate with respect to benefits for retirees (B 28).

Findings and Conclusions

The pertinent comparison data submitted do not support the Union's demand for an increase in the amount of the policy provided for active members. There is substantial support, however, for including future retirees in the program, on a reduced basis, and for the proposition that the cost of the plan shall be borne by the City. Our conclusion is that the existing plan should be continued, but with the modification that provision shall be made that future retirees shall be provided with a $2,000 policy, the cost of the plan to be borne by the City.

Station Preference By Seniority

Present Provision

None.

Union Demand

There shall be station preference in each occupational level based upon departmental seniority, to be exercised on January 1 of each year. (Language of demand quoted at City Brief, page 25)

City Response

"No" (B 25). Rejected.

The Union states that the City offered station preference to all members with a minimum of 3 years' seniority with the right to exercise it no oftener than once in 2 years (B 20; Ex. 35). The Union states it orally accepted this offer, but that the City withdrew the offer at the next negotiating session.

Union Arguments

1. Fire fighters have already, in practice, been accorded a degree of station preference.

a. Drivers (Exs. 36 & 37) can refuse an opening "that occurs at a particular station" in anticipation that a more preferable opening will develop (B 20).

b. For many years Firemen have picked vacations "upon a basis of seniority in a particular fire station" (B 20; Ex. 38).

2. Job and shift preference "are a long established right of employees throughout Flint area industries" (B 21).

3. Many reasons dictate the desirability of station preference (B 21-22).

a. Proximity to the employee's residence.

b. Alarms vary in frequency from one station to another, and an older employee might prefer a station "with a lower run experience."

c. An employee might feel he would be more compatible with employees in a particular station.

d. A past agreement (now circumvented) for the assignment of Drivers in accordance with departmental seniority "resulted in this classification of employees being more efficient and of higher morale than prior to such agreement" (B 21).

e. The longest seniority employee should be of the most value to the City (B 22).

f. This is a minimal request in view of much broader seniority requests that are typical (B 22).

City Arguments

1. No city in its comparison group provides the benefit (B 25; Ex. 19).

2. The proposal constitutes an "infringement of management rights". It is the "right and responsibility" of the Chief to make both personnel and equipment assignments" (B 25).

3. The request is contrary to the "team aspect of firefighting" so often stressed by the Union (B 25).

4. The "happy family" argument of the Union is fallacious; it just wouldn't happen (B 25).

5. What the Union has in mind is a "senior citizen" fire station, and this is not the appropriate way to man a station to serve the community (B 26).

6. The Union's argument in terms of proximity to home is "almost an absurdity" in view of the Union's consistent and successful demands to broaden the residential requirement (B 26).

Findings and Conclusions

The pertinent comparison data provide no substantial support for the Union's demand, nor are the other arguments advanced by the Union persuasive. We conclude that the Union's demand should be denied.

Minimum Manpower

Present Provision

None.

Union Demand

That there be employed a certain minimum of men per shift per station, for a total minimum of 70 men (B 25), and it should be provided that whenever the complement falls below the stated level, the City will call an off-duty fire fighter in the same classification at time and one-half.

City Response

"No" (B 29).

Union Arguments

1. Through the processing of the grievance procedure there had been an agreement that these minimum manpower demands would be maintained (Ex. 43). The settlement was honored for about a year until shortly after the present Chief took office and was informed by City Manager Kay he no longer had to honor it (B 25).

2. The American Insurance Association has continuously recommended minimum manpower requirements at even higher levels (Ex. 44), as has the Municipal Fire Administration (Ex. 45). The former made a specific report concerning Flint (B 26; Ex. 46).

3. Response to City's arguments.

The City's principal objection is its view that this is a matter of "management rights."

However, "when a lack of manpower at a particular station affects the health and safety of fire fighting personnel, it is no more a management right than is the excessive speed of an assembly line of a General Motors Plant" (RB 29).

City Arguments

1. Even the Union during the negotiations modified its demands to some extent (B 21).

2. The City's survey group shows that minimum manpower agreements are not the prevailing practice. Of this group, only Saginaw has such a provision (B 29).

3. "We strongly believe that the right to determine the size of the work force is a management right. We do not intend to relinquish this basic right by negotiation." Moreover, the Union's demand is inconsistent with the inclusion in the agreement of a "management clause". (B 29)

4. The inclusion of such a provision "concurrent with compulsory arbitration would be a serious error and could raise some very difficult legal questions". For example, the consequence of an award [apparently referring to money issues] might, in the City's judgment, require reorganization of City services, including curtailment of manpower; yet this could not be achieved in the Fire Service if the proposed provision were in the agreement.

5. While the City is understaffed, as are all other municipalities, in terms of standards recommended by the American Insurance Association, the City to date has met its manpower problems successfully (B 30).

Findings and Conclusions

The pertinent comparative data submitted fail to support the Union's demands. Nor are the Union's other arguments persuasive. Moreover, there is merit in the City's position that "manning" should, in general, be regarded as a managerial function, and especially so in light of the possibility that the City, in order to finance its services of all kinds in the face of declining revenues may find it necessary to reduce manpower in some or all departments.

Wages (and Cost of Living)

Present Scale and Classifications

The existing Fire Department classifications and wage levels are established by an Ordinance adopted July 1, 1969 (Un. Ex. 13). The Ordinance establishes two series of classifications designated by an "occupational level" of "F" and "FF", which, we understand, refer, respectively, to the 56-hour week and 40-hour week classifications. For each classification

there is a starting rate and a series of progressions to the fifth year, at which time a maximum or "base" rate is established for the classification. In addition, longevity increments are provided for beginning, respectively, with the 11th, 16th, and 21st years of service.

The presentations on the wage issue in this case have been concerned primarily with the base (5th year) rate for Fireman, although, as noted below, the parties are also in disagreement concerning the appropriate adjustments, if any, to be made with respect to the other classifications in the Fire Department. The existing starting rate for Fireman is $8,424, and the fifth year rate is $9,970. In addition, a "night bonus" is paid which, according to the City, brings the basic rate to $10,402 (City Ex. 10).

Union Demand

The Union request is that each salary grade within the Department be increased by an amount equal to 25% of the Fireman's five year (base) rate effective as of July 1, 1970. The amount of the requested increase would be $2,492.50 per classification. The Union also requests that the agreement include a "cost-of-living" provision pursuant to which there will be an adjustment in base pay of 1% per hour for each .3% increase in "the" Bureau of Labor Statistics index, such adjustment to be effective for the first pay period commencing after release of the index (B 10).

Although the parties, as noted above, stipulated for a three-year agreement effective as of July 1, 1970, with a "reopener" on "economic" issues at the end of the first two years, neither the Union (nor the City) in their basic wage presentations dealt with the question of the wage level for the second year of the agreement.

City Response

The City has not made any offer of a wage increase. Its general position in this proceeding is that the Award should be "realistic" (B 14). It opposes the inclusion in the agreement of a "cost-of-living" provision (B 15).

Union Arguments

(1) Wage Increase

1. A flat increase is sought on the ground that "the starting salaries of Fire Fighters in the City have been notably low as compared to other municipalities in the State of Michigan" and, in consequence, "it is necessary to substantially increase the starting salary rather than to perpetuate this inequity by a percentage increase." The Union avers that "at the same time, there is a sufficient difference between base salaries in the higher ranks so that the FFF /Union/ is of the opinion a flat increase will not destroy the relationship between ranks". (B 6)

The Union states that it has not submitted "inflated demands with the intention of bargaining downward", and that the City's position, throughout the negotiations, has been that with police or fire fighter arbitrations inevitably in prospect, the City would not make any offer at all since this "would be the starting point for an arbitrator" (B 1). The Union asserts that "today's Fire Fighter is a highly skilled, highly trained professional in a highly technical and highly hazardous occupation" and that in Flint he "is not being paid in accordance with the responsibility of his job, let alone his value to the community..." and that he is lagging far behind other segments of the community which are less important, with the result that "at the present time, Flint's fire fighters are, in effect, subsidizing the rest of the community" (B 5). The Union asserts that the City cannot, with reason, plead poverty or inability to pay" (B 2, and that in the light of all relevant considerations its wage demand "is realistic and conservative" (B 5).

The Union's specific arguments in support of the requested increase fall into several groups (B 6-9). First, it relies upon a state-wide survey which it has made of "Wages-Fringe Benefits" of communities having collective bargaining relationships with locals of the International Fire Fighters Association (Un. Ex. 14), and it notes the relative position of the Flint Fireman and various other classifications to and including the rank of Captain among comparable classifications in their communities. In addition, it notes their relative position among comparable classifications in communities in the list having a population of 50,000 and over. It also compares the salary level paid Flint's 24 top administrators with the salaries of such administrators in each group and claims that they are "near the top" in contrast with the position of fire fighters. (Exs. 14, 20, 21 and 21b)

Second, the Union asserts that at the time of entering into the last agreement for a wage increase, the negotiated level made Flint fire fighters the second highest in the state, exceeded only by Detroit, thus implying that this differential should be maintained or at least constitutes a relevant consideration.

Third, the Union cites wage developments in local industry in Flint and, among other things, states that hourly rated employees in the Flint-Detroit area are the highest paid in the United States exclusive of Alaska. It noted that General Motors, the largest employer in Flint, was engaged in negotiations with the UAW and that substantial increases could be expected. The Union referred to the wage rates then being paid GM-Buick Firemen which were stated to be $3.65 per hour for a 40-hour week plus shift differentials, with the resulting range of $12,000 to $16,000 per year (Ex. 22).

Next, the Union relies on a "cost of living" argument, stating that the annual rate of increase in the CPI has been about 6% since July 1, 1968, when the last wage increases were negotiated, and on this basis asserts that the fire fighters have "lost 12 percent since then" (Exs. 17 & 18).

Finally, the Union contends that the "comparison group" of municipalities used in the City's presentation is completely unacceptable since only two of the eight "even remotely compared with the industrial aspect of Flint" and they do not compare in population (RB 3). The group is dispersed around the state, and the Union notes that the City of Pontiac is not included, which, it says, is the closest to Flint "and closely resembles the industrial magnitude of Flint" (RB 5). The Union claims that Flint more closely resembles Detroit and the surrounding metropolitan area in all aspects than any other specific area. It suggests that if the Panel elects not to use its state-wide survey as the basis for comparisons, a more appropriate grouping than that proposed by the City would be cities within a 70 mile radius of Flint (RB 10).

(2) Cost-of-Living Provision

The Union's case for the inclusion of a "cost-of-living" provision in the agreement is, essentially, two-fold: First, it claims that this "is the best method of preventing a shrinking paycheck due to the increase in the cost of living" (B 10). Second, it asserts that "a majority of the work force" in the Flint area, under the influence of the General Motors-UAW contracts, is working under collective bargaining agreements which provide for cost-of-living adjustments (B 11). It disagrees with the City's contention that such provisions are unsound in principle and present difficult if not unmanageable budgetary problems.

City Arguments

(1) Wage Increase

The City, by way of background, has provided an extensive analysis of its fiscal and budgetary situation, including references to its available revenue sources. While it does not claim an inability to pay appropriate wage increases, the implication of its presentation is that the Panel should take serious account of the City's financial problems, including the fact that anticipated revenue from income taxes will be "severely affected by the General Motors strike" (B 4-5). The City states that agreements have not yet been negotiated with any groups of City employees "because of the uncertainty regarding the amount of financial resources available" (B 4), and "pending the decision of the Arbitration Panel in this case" (RB 6A). "The City continues to believe that the decision of the Arbitration Panel must precede its resolvement of economic matters with the other /bargaining/ units" (RB 6A).

In support of its general "position", which apparently is that the Panel should either award no wage increases at all, or at most increases very substantially less than demanded by the Union, the City relies primarily on comparisons which it has made of wage and other benefit levels presently obtaining in cities of 50,000 and over in an area of the state identified

by the Michigan Municipal League in its statistical abstracts as "Area 2". This excludes the Detroit Metropolitan Area (designated by the League as Area 1) and, except for Area 1, includes all of the State's lower peninsula south from a line just north of Bay City, Midland and Mount Pleasant. Eight cities, aside from Flint, are in the comparison group (Exs. 10 & 11). The City asserts that the survey shows that its base rate for Fireman compares favorably, indeed exceeds, the 1969 rates in effect in such other cities, not even taking account of the night bonus paid to Flint's 56-hour employees, and likewise compares favorably, especially taking account of the night bonus, with the rates currently being paid in such other cities, most of which have settled their 1970 wage issues. The inference apparently sought to be drawn is that the proper application of the statutory criterion of comparison with public employment in comparable communities requires the conclusion that no increase is justified in Flint.

The City has made a point by point reply to the Union's specific arguments in support of its demand. Its general view is that the Union's demand is "... completely unrealistic and without a valid basis", and it rejects the idea of a flat across the board increase because "previously developed pay relationships have been badly distorted" already by the two previous flat amount increases (B 11-14). It notes that the Union's demand would result in an increase four times the equivalent of the increase in the cost of living. It also makes reference to the fact that of the City's 203 Firemen, 96 (46%) receive added pay above the base rates because of their classification in higher ranks such as Driver or Sergeant, and apparently thus implies that this fact should be given due account in making comparisons with the wage levels in other communities (B 12). The City further states that it has had no problems of recruitment. It avers that the last two wage increases (of $1,000 each effective July 1, 1968 and July 1, 1969) far exceeded the amounts granted to employees "outside the safety services", and that all of the facts lead to the conclusion that the Panel "must consider substantially deescalating rates of increase to Flint Firemen" (B 13).

The City argues further that the Union's survey data lack any semblance of a "sound, statistical presentation" in that the Union has "made no effort to select a characteristic sample of the cities from the 86 surveyed" (RB 6). It challenges the Union's claims concerning the "rank" of the Flint fire fighters in the Union's own survey group in that the Union takes no account of the night bonus which is paid in Flint (RB 7). It rejects as irrelevant under Act 312 the Union's attempted reliance on pay rates for hourly rated production workers in the City of Flint, as well as any recent wage settlements involving such workers (RB 7). In relation to the Union's "cost of living" argument, the City notes that in each of the last two fiscal years fire fighters received an increase of $1,000 and, in connection with the agreement providing for such increase, "agreed to abandon the cost of living plan then in effect". Further, according to the City, the cost of living

increase from July 1964 through June 1970 has been 25.19% while, during the same period, the base rate for Fireman has increased 77.3% and the base rate for Deputy Fire Marshal, a 40-hour employee, has increased 81.69% (RB 8). The City rejects as irrelevant under Act 312 the Union's attempt to use comparisons of the relevant salary position, on a state-wide basis, of administrative personnel (RB 9). The City also rejects as improper under the statute the Union's attempted comparison with the rates paid Firemen employed by General Motors in the Flint area (RB 8-9).

(2) Cost-of-Living Provision

The City contends that on the basis of its comparison group of cities, "there is little support" for the Union's request (B 15; Ex. 13). It asserts that a cost-of-living" provision is "very difficult to handle under the strict budgeting necessary in municipal operation and that, without a "ceiling", it "is completely impractical" (B 15). Further, the City believes that such provision would "ultimately have undesirable effects on the basic pay plan" by distorting pay level differentials, and that this would be further "aggravated" by the fact that the 56-hour fire fighter with his 2,912 hours per year has a "multiplier" much higher than the 40-hour employee with his 2,080 hours (B 16). The City also opposes cost-of-living provisions as economically unsound and as tending to aggravate the problem of inflation (B 16).

Findings and Conclusions

The initial question is whether there should be a wage increase effective as of July 1, 1970 in the amount demanded by the Union, or, if not, in what amount, if any. Under Section 9 of Act 312 one of the applicable criteria is comparisons of "wages, hours and conditions of employment" with those of other employees "performing similar services" ... "in public employment in comparable communities" [Section 9(d)]. Typically, the parties to this proceeding disagree concerning what are the appropriate groupings of "comparable communities". The Union, as noted above, relies upon a state-wide survey of communities having collective bargaining relationships with affiliates of the Union, and, alternatively, suggests a comparison group consisting of cities within a 70-mile radius of Flint. The City, on the other hand, relies primarily on comparisons with cities of 50,000 population and over in the area identified as "Area 2" in the statistical data published by the Michigan Municipal League. The effect of using the City's proposed comparison group is to exclude cities in the Detroit metropolitan area where, doubtless influenced by Detroit settlements, wage rates for fire fighters and police tend to be higher than in "out-state" areas. The effect of using the Union's alternatively proposed comparison group is to weight heavily the Detroit area wage levels.

Whether Flint should be regarded, for wage settlement purposes, as a part of, or at least as reasonably subject to influence by Detroit area settlements, is a key problem in the

selection of comparison data. It seems unrealistic, in view of Flint's relative proximity to Detroit, and its relationship to the automotive industry, to exclude Detroit area comparisons completely, although precisely how the data derived from these comparisons should be weighted is not easily answered. In the judgment of the Chairman, some probative weight should be attached to Detroit area wage levels, but not, at least at this point in time, controlling weight as against other kinds of comparison. A tenable approach at this juncture is to examine, for comparison purposes, salary levels in a group consisting of those cities of population 50,000 and over in the Michigan Municipal League's Areas 1 and 2.

From League publications, of which we take judicial notice, we are able to derive some data, although the "returns" are incomplete, using this kind of comparison group. As of the time of our award, these data indicated that those cities (within the suggested population range) in "Area 2", taking account of 1970 increases, had an average base salary for fire fighters of $9,225, and in "Area 1" of approximately $11,000. Flint's 1969-1970 salary levels, without any increase at all, could be justified if the Area 2 group were regarded as controlling, but not if the Area 1 group were regarded as controlling. The average (not weighted) of both groups was approximately $10,112, without taking into account such "fringes" as the "night bonus" paid by Flint. In relation to the average base salary in both groups of cities (50,000 and above) Flint's position was relatively good, taking account of its night bonus, but without any attempt to calculate and evaluate, comparatively, the value of other "fringe" benefits. This assumes the validity of a weighting of the Area 1 communities at a level equal with those of Area 2. A different and less favorable result to Flint would be produced if the Area 1 communities were weighted more heavily.

Another criterion recognized by the statute, and commonly used, is the increase in the cost-of-living over some pertinent period. The City seeks to depreciate this as a factor in this proceeding by comparing wage levels of 1964 with existing levels, and the increase in the cost of living during this period. This analysis, in the opinion of the Chairman, is subject to question for the reason, among others, that the parties during their negotiations in 1968, when they entered into a two-year agreement and provided for a $1,000 increase for each year, presumably took into account at least the increase in the cost of living between 1964 and 1968, and may have regarded the deferred increase for the second year as based at least in part upon their forecast of the cost of living increase during the initial year of the agreement. If they did, it would be appropriate to take this into account in applying the cost of living criterion with respect to the Union's demand for an increase effective as of July 1, 1970. On the other hand, it may be that the parties intended to establish, by virtue of the $1,000 deferred increase which was to become effective July 1, 1968, a substantial increase in real earnings. If so, any

increase in the cost of living since that date has obviously reduced real earnings, and it would be appropriate to use July 1, 1969 as the base from which to apply the criterion of increase in the cost of living in evaluating the wage issue question as of July 1, 1970. Unfortunately, there is no clear indication in the evidence whether or to what extent either of these approaches underlay the negotiation of the deferred increase effective July 1, 1969. Ordinarily, in the case of one-year agreements, the cost of living criterion is argued and commonly used as one basis for an increase for the ensuing yearly period measured by the increase in cost of living during the preceding contract year. If this approach is appropriate here, despite the fact that the prior contract was for a two-year period, then it would follow that the increase in the cost of living of 5-6% during the period July 1, 1969 to July 1, 1970, would justify an increase of at least that amount as of July 1, 1970.

Another criterion which has some relevance is 1970 wage settlement patterns for fire fighter contracts in the comparison areas. The data submitted are somewhat sparse, but seem to indicate that for the Area 1 cities the range has been 7-20% with the average around 9%, and for the Area 2 cities the range has been 5-15% with the average likewise around 9%.

Still another criterion applicable under the statute, depending on the facts, is the ability of the City to pay requested or awarded increases. The City has not pleaded inability to absorb any wage increase for fire fighters or other employees, although the analysis of its fiscal position as presented by its Director of Finance (City Ex. 2) seems to imply that any increases in wages would pose serious fiscal problems for the City, especially in view of very substantial decreases in its anticipated revenues (from income taxes and other sources) as the result of the General Motors-UAW strike. In the opinion of the Chairman, this (partially temporary) fiscal problem should be taken into account in our determination of the wage issue.

Taking account of the foregoing considerations, and others which have been argued, we have concluded that a wage increase effective as of July 1, 1970 is justified, but that it should be lower for the initial period of the agreement than would be warranted but for the City's fiscal position in light, particularly, of its loss of revenues in consequence of the GM-UAW strike. By the same token, we think a step increase should be granted effective January 1, 1971. Since the parties have stipulated for a three-year agreement with a "reopener" on all "economic issues" at the end of the second year, we are left with the question of how to settle the wage issue for the first two years of the agreement despite a paucity of submitted data or argument with respect, actually, to anything but the first year. Our conclusion is that the most reasonable solution is to require the institution of a cost-of-living provision beginning January 1, 1971, the granting of a further step increase

in base rates July 1, 1971, and a continuation, thereafter of the cost-of-living provision with a revised base, all as provided in the Award.

E. AWARD

I. The Panel on October 25, 1970, determined and awarded as follows on the issues submitted for decision:

1. Retirement.

The retirement demand of the Union is denied, except that the Panel rules that if the Fraternal Order of Police, pursuant to their pending negotiations, gain the "escalator clause" now in the plan for fireman members, the plan for fireman members shall be amended to include the twenty-five year option to retire which is now in the plan for policeman members, but the mandatory retirement age for firemen shall continue to be sixty-two years.

2. Hospitalization.

The hospitalization plan shall be what is known as Blue Cross-Blue Shield "MVF-1" Ward Service Plan with a "prescription rider", $2.00 deductible basis. It shall cover active employees and their families and, in addition, future retirees and their spouses provided, as to such future retirees and their spouses, they shall lose their coverage at such time as they shall be covered by any other plan. The cost of the plan shall be borne by the City.

3. Personal Leave Days.

The Union's request for inclusion of a "Personal Leave Day" provision in the agreement is denied.

4. Life Insurance.

The life insurance program now in effect shall be continued but with the modification that provision shall be made that future retirees shall be provided with a $2,000.00 policy. The cost of the program shall continue to be borne by the City.

5. Station Preference by Seniority.

The Union's request with respect to this issue is denied.

6. Minimum Manpower.

The Union's request with respect to this issue is denied.

7. Wages and Cost of Living.

A. Effective as of July 1, 1970 there shall be an increase of five (5) percent in the salary level presently established for each salary grade and rank.

B. Effective as of January 1, 1971 there shall be an increase of five (5) percent in the then existing salary level for each salary grade and rank.

C. Effective as of January 1, 1971 there shall be placed in effect a "cost-of-living" provision, predicated on the U.S. Department of Labor BLS Consumers Price Index, All Cities, using its index of December, 1970, as the index base, and salary levels established pursuant to Paragraph B, above, as the salary base, and providing for payments as of April 1, 1971 and as of July 1, 1971 in amounts proportionate to the respective changes in the index as compared with the index base. Such payments shall be separate cost-of-living payments, and shall not be added to the then existing salary levels for other purposes.

D. Effective as of July 1, 1971 there shall be an increase of five (5) percent in the salary level for each salary grade and rank established pursuant to Paragraphs A and B, above.

E. Effective as of July 1, 1971, there shall be placed in effect a "cost-of-living" provision, predicated on the above index, but using as the index base the index of June, 1971, and salary levels effective as of July 1, 1971 established pursuant to the foregoing provisions, and providing for payments as of October 1, 1971, January 1, 1972, April 1, 1972 and July 1, 1972. Such payments shall be separate cost-of-living payments, and shall not be added to the then existing salary levels for other purposes.

F. By appropriate notice given prior to July 1, 1972, either party may re-open the contract for negotiation of modifications, effective July 1, 1972 with respect to any and all "economic" matters.

II. The Panel, as further stated in the Award, reserves jurisdiction to settle any dispute which may arise concerning the interpretation or implementation of this decision.

For the Panel:

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Russell A. Smith
Chairman

December 4, 1970