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Garden City, City of

In the Matter of the Arbitration between)

THE CITY OF GARDEN CITY)
Garden City, Michigan)

-and-)

GARDEN CITY POLICE OFFICERS ASSOCIATION)

3/20/74

This arbitration was conducted pursuant to the Police and Fire-Fighters Arbitration Act (Act No. 312 Public Acts of 1969, as amended), in a dispute involving contract negotiations between the City of Garden City and the Garden City Police Officers Association. A hearing was held at the Holiday Inn, Trumbull at Fort Street, Detroit, Michigan on January 7, 1974. A transcript of the hearing was made by Accurate Court Reporters and a copy furnished to the Arbitration Panel. The Arbitration Panel met in Detroit, Michigan on January 29, 1974, and the Chairman was asked to write an Opinion and Award on the issues presented on the basis of presentations at the arbitration hearing and the discussions held with other members of the Arbitration Panel.

ARBITRATION PANEL

E.J. Forsythe, Chairman
Michael Ward, City Representative
Ronald Evina, Union Representative

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APPEARANCES

JUL 29 1976

For the City of Garden City
Michael F. Ward, Attorney
Joseph Dvonch, Federal Programs Coordinator

For the Garden City Police Officers Association
Joseph Valenti, President, Teamsters Local No. 214

BACKGROUND AND POSITION OF THE PARTIES

Prior to the hearing on January 7, 1974, the parties met in an attempt to resolve certain of the then open issues. At the hearing the parties submitted a document as a joint exhibit as their agreed upon Collective Bargaining Agreement which constitutes the matters which have been negotiated and which has a duration of two years dating from July 1, 1973, to midnight June 30, 1973, with the exception of four areas in dispute. It was stipulated at the hearing that the document, Joint Exhibit No. 1, would be made a part of the award of this panel. The four issues remaining are discussed below.

RETROACTIVE PAY

It is the Association's position that they are to receive retroactive pay to July 1, 1973, while the City's position was to offer retroactive pay effective the date the panel renders its award.

In its position the City says the testimony of Mr. D'Vonch at the hearing established that the Association had requested only two collective bargaining meetings prior to July 1, 1973, and that one meeting was only for the purpose of exchanging proposals and the second meeting was of extremely short duration. The City states that a Mediator was appointed on

May 27, 1973, but was never requested by the Association. The City's argument is that since there was no mediation before initiating arbitration, the Association did not properly initiate arbitration before the expiration of the City's 1972-73 fiscal year, and, therefore, were not properly in arbitration prior to the commencement of the City's 1973-74 fiscal year pursuant to Section 3 and 10 of Public Act 312, 1969 as amended. In addition the City charges the Association with refusal to bargain until October 16, 1973, and argues that the wage increase should be denied retroactively.

The Association maintains that the Police Officers chose to abide by the language of the statute rather than strike and test its validity in the Courts. It says it followed the procedures of the law by filing for mediation and by filing for Arbitration under Act 312.

The Association points out that the process in negotiations in the technical field usually takes more time than the statute allows. In short the Association says retroactivity is the price for avoiding a strike, which it maintains was the intent of the no strike provision in the statute.

The Association maintains that they should not be penalized because the negotiations could not be completed by July 1, 1973, and notes that in fact negotiations had begun, mediation had been requested as had arbitration prior to July 1, 1973

TWO-MAN CARS AFTER THE HOURS OF DARKNESS

The expired collective bargaining agreement, Page 10, Section F of Article 13, provides for a double car in the event that five regular road men report for duty on their shifts except for the day shift.

The Union's position is that the City provide all double cars after the hours of darkness was in fact a Safety demand, one which does not interfere with the Management's Rights function of the City of Garden City.

The parties submitted evidence on this issue in the form of comparables. The City submitted eight (8) contracts from surrounding cities which it believed to be comparable to it. It shows that from the eight comparable cities only one, the City of Westland, requires as a matter of contract that two men be assigned each patrol car during the hours of darkness.

The Association said at the hearing that the cities of Livonia, Taylor, Farmington Township, and Wayne require two men to be assigned to patrol cars during the hours of darkness.

It is the position of the Association that its demand of two-officers assigned to each patrol car after the hours of darkness is for the safety of the officers and the deterrent of crime whether they be acts against the residents or against the officers themselves.

VACATIONS

Under the prior Agreement, Article 14, Vacations, Page 13, the schedule is, under one year--none, 1 year through 5 years--12 days, upon completing 5 years, 18 days, upon completing 10 years, 24 days, plus one day for every year over 10 years.

It is the position of the Association that the present vacation schedule remain in effect for the duration of this Collective Bargaining Agreement. The position of the City is to limit or restrict the present vacation scheduling by allowing those officers who have accumulated more than 24 days to keep the maximum accumulation or "red circle" type system and for those officers who are at 10 years or below cannot accumulate beyond the 24 days.

BUSINESS LEAVE DAY LANGUAGE

The evidence submitted on this issue by each party took the form of oral argument at the hearing. The Association maintaining that the language of the expired Agreement should prevail or be raised to three days, but without the restrictions the City would impose as a result of granting the third day.

They City's position is as outlined in Section 5, Page 15 of the joint stipulated Agreement, which is, in order to take a personal business leave

day the employee must give the City five (5) days notice, must receive the approval of his immediate supervisor and the request must be for an activity which requires the employee's presence during his regularly scheduled shift day and which is of such a nature that it cannot be attended to at a time when he is not scheduled to work.

OPINION AND AWARD

The parties have stipulated and agreed to a Collective Bargaining Agreement, said Contract having been submitted to this panel as Joint Exhibit No. 1, with the exception of four issues. Therefore, the stipulated Contract is hereby incorporated by reference into this Award and made a part thereof and the same is ordered into effect as a result of the stipulation between the parties at the hearing.

As to the remaining four issues the following constitute the decision and Award of the majority of this panel and will be incorporated into the stipulated and ordered Agreement.

ISSUE 1: RETROACTIVITY

It is the position of the City that the panel cannot render a decision effective during fiscal year 1973-74 because the Association did not engage in any mediation prior to demanding arbitration as provided by Section 3 of

Public Act 312, 1969, as amended and that the Association did not properly initiate arbitration before the expiration of the City's 1972-73 fiscal year and, therefore, were not properly in arbitration prior to the commencement of the City's 1973-74 fiscal year and thus the panel, pursuant to Section 10 of the Act, cannot render an Award effective in fiscal year 1973-74.

However, the documents produced at the hearing do show that the Association did request mediation on May 23, 1973, City Exhibit No. 1, a Mediator was appointed on May 31, 1973, City Exhibit No. 4, and requested arbitration on June 27, 1973, City Exhibit No. 3. The Mediator made his appearance at a meeting between the parties on July 7, 1973, and the parties continued to bargain following the death of the Union attorney, Winston Livingston in August, 1973, and in fact had reached an agreement on an entire Contract with the exception of four issues by the time of the arbitration hearing.

There were negotiation meetings between the parties prior to July 1, 1973, not successful which unfortunately is not uncommon in the first two meetings of contract negotiations. Early in their negotiations, it is undoubtedly true that neither side was prepared to accept the complete proposals of the other. Since the meetings in May and June of 1973, there have been further

negotiations, as is evidenced by a complete Contract with the exception of these four issues, a Mediator was requested and appointed.

Based upon the material and evidence submitted by the parties, the majority of this panel has decided that retroactivity is justified back to July 1, 1973.

ISSUE 2: TWO-MAN PATROL CARS DURING THE HOURS OF DARKNESS

The evidence submitted by the parties on this particular issue was in the form of comparables. The City submitted eight (8) Contracts from surrounding cities which it believed to be comparable to it. From the eight comparable cities, only one, the City of Westland, requires as a matter of Contract that two men be assigned each patrol car during the hours of darkness. In the examples submitted by the Association, not all cities cited required by contract that two men be assigned to patrol cars during the hours of darkness, the others made it a policy to do so, rather than a contractual requirements.

Based upon the contrasting evidence submitted, the panel will not require the employer to man its patrol cars with two officers during the hours of darkness. However, the Association has pointed out that the expired Agreement between the parties did specify that two men be used under

certain specific circumstances. The specific language appearing on Page 10 thereof reads as follows:

With the exception of the day shift, in the event that a shift has five (5) regular road men on duty, a double car shall be used on said shift.

It is, therefore, decided by this panel, by majority vote, that the above language, from the expired Agreement, be included in the new Agreement between the parties.

ISSUE 3: VACATIONS

The evidence submitted by the parties to support their respective positions on this issue consisted of comparables.

The comparables submitted by the City establish that no city in the surrounding area allows unlimited accumulation of vacation days off.

Based on the evidence and comparables presented at the hearing, the panel feels that to allow an unlimited accumulation of vacation is unsupportable by the evidence submitted. Therefore, the City's position on vacation is accepted. It is, therefore, ordered that the entire vacation Article contained in the stipulated Agreement remain unchanged.

ISSUE 4: BUSINESS LEAVE DAY LANGUAGE

It is the decision of the majority of this panel that the City should have some additional controls on the business leave days, however, that the controls

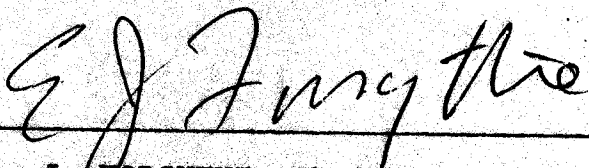
requested by it are too extensive in the absence of proven abuse. Therefore, it is the award of the majority of this panel that Section 5, Page 15 of the stipulated Agreement be amended to read:


Section 5: - A permanent full-time employee who has completed his probationary period shall be allowed three (3) personal-business leave days per year, provided he request same three (3) regularly scheduled shift days in advance of the requested time off.

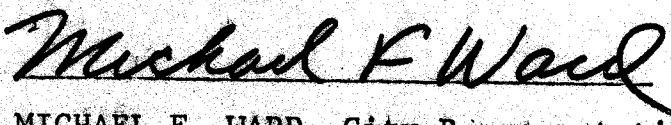
The above language is hereby awarded.

The parties are to be congratulated upon bargaining a considerable portion of their Agreement themselves and the panel wishes to thank both parties for their cooperation in the presentation of evidence on the remaining four issues.

DATED: March 20, 1974


D. J. FORSYTHE, Chairman


RONALD EVINA, Union Representative
(DISSENTING)


MICHAEL F. WARD, City Representative