

ARB
7/14/78

31

In the Matter of Arbitration

between

THE CITY OF BANGOR (MI)

and

Re: PFAA 312, 1969 etc.

POLICE OFFICERS ASSOCIATION
OF MICHIGAN (BANGOR)*

STATE OF MICHIGAN
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City of Bangor

APPEARANCES

For the Association:

HILLER, HOWARD, LARKY & HOEKENGA
By Daniel J. Hoekenga, Esq.

For the City:

VERDONK & VERDONK
By John H. Verdonk, Esq.

Hearing held at Bangor, Michigan on February 27, 1978

before

Leo S. Rayl, Jr., Arbitration Panel Chairman
Richard Rosga, City Delegate to Panel
Fred Timpner, Association Delegate to Panel

Date of Decision & Order: July 1978

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Michigan State University

*(aka Bangor Police Officers Association)

INTRODUCTION

The Parties' presentations of cases relied solely on the submission of documentary evidence in the form of approximately fifty exhibits, and argument by counsel. The Parties did not agree on the issues remaining. For that matter, the Parties did not agree on the issues already resolved. Since the policy of Act 312 is concerned primarily with the resolution of disputes between parties, the panel's identification of issues separating the Parties from a complete Agreement was based on the separate lists provided as last-best-offers, and upon discovery. The Parties' apparent views of a complete Agreement were offered in the supplement to the City's last position, and in Association Exhibit #1. These two items, in Agreement format, were compared to discover additional disagreement. This approach was deemed proper as a liberal construal of the Act to achieve labor peace. Unfair Labor Practice charges were ignored as the panel was not competent nor authorized to consider them (another forum exists) and, in any event, no competent or substantial evidence was presented upon which a judgment could be based. Both Parties exhibited good faith by granting two extensions which permitted individual participants to be accommodated, and which permitted on-going negotiations behind the scenes. Panel delegates were particularly accommodating with regard to deliberation dates and sites. In addition, the Parties were successful in negotiating a mutually satisfactory solution to certain remanded issues.

FINDINGS

In reference to the guidelines of Section 9 of the Act, no problem concerning the lawful authority of the employer was detected. There were really no "stipulations of the parties" in evidence. Recognizing the "give and take" of negotiations - the "package or nothing" approaches - and the "trial balloons" often released, tentative agreements with one side's positions can not be considered binding until the other side presents its position in full. There was no claim of financial inability to meet costs. The public interest concerns adequate service at a reasonable cost. The level of service was not at issue - the cost judgment under 312 is affected by what other publics deem appropriate via the "comparables." Comparisons involving employment environments were made. Very little evidence was submitted in regard to private and/or non-police employment. The lion's share of evidence involved other police jurisdictions. While all exhibits were considered, many of the "comparables" offered were from areas of a different character and involved economic settings much different from Bangor. The greatest weight was given to the exhibits submitted (not jointly, but in common) dealing with police jurisdictions closest to Bangor. Both Parties offered Plainwell, Otsego, and South Haven for consideration. Regarding consumer prices, a conservative figure of six percent was considered for annual increases - especially to compare Agreements for different years. A comparison was made of overall benefits enjoyed insofar as possible. A final consideration was recognition of the fact that collective bargaining involves "trade-offs" and that certain non-economic items have great value, at least to one party or the other.

Last-minute negotiations resulted in an Agreement by the Parties that was not possible for the panel to reach. Appendix A, attached to and made a part of this Order, shows Party agreement on salaries (an issue before the panel). This salary agreement removes the issue from panel jurisdiction. The other two issues were not before the panel. This agreement had an effect on panel deliberations for other issues as prescribed in Section 9 under b, d, f, and g.

In the interest of brevity, the following section will include the issues identified by the panel, an opinion statement where deemed necessary, and a specific order in regard to the issue (in capitals). Generally, the decisions were unanimous. In those instances where the decision was NOT unanimous, or where unanimity disappeared, the initials of the two concurring members of the panel will appear in the margin at the issue involved.

ISSUE, OPINION, AND ORDER

FOR REFERENCE PURPOSES and to implement the construction of the actual Agreement between the Parties, the Agreement supplement to the City's last-best-offer is used as an outline to indicate issues and decisions of the panel. Upon occasion, it is necessary to refer to Association Exhibit #1 (an Agreement format).

1. AGREEMENT. A question concerning the bargaining agent. Official certification lists POAM.

POLICE OFFICERS ASSOCIATION OF MICHIGAN (BANGOR) IS TO BE NAMED.

2. WITNESSETH. Acceptable as written.

3. ARTICLE I - RECOGNITION

Section 1. Acceptable as written.

Section 2. Acceptable as written.

Section 3. USE ASSOCIATION EXHIBIT #1 WORDING. ~~AND~~ *AR*

~~ADD: "THE EMPLOYER SHALL MAKE FAIR AND REASONABLE RULES AND REGULATIONS."~~ *AR*

Section 4. USE ASSOCIATION EXHIBIT #1 WORDING BUT INSERT THE WORD "SPECIFICALLY" BEFORE THE WORD "PROVIDED."

ASSOCIATION EXHIBIT #1 ARTICLE I-5. The Association drops this issue in exchange for other benefits.

Section 5. Acceptable as written.

4. ARTICLE II - UNION SECURITY (econ item)

Two of the three area forces have Agency Shop. INCLUDE AN AGENCY SHOP CLAUSE AS FOLLOWS:

- 1; All members of the bargaining unit shall, as a condition of employment, become members of the Union within thirty (30) days of employment or entering or reentering the bargaining unit or pay service fee equal to dues paying member.
- 2: The Employer, upon receipt of a written notice from the Union, that an employee is no longer a member in good standing of the Union, shall terminate the employment of said employee within thirty (30) days from the date of said notice, unless said employee presents a letter from the Union stating that he has been returned to a good membership status, or makes arrangements to pay the service fee, prior to the expiration of the above mentioned 30 day period.

5. ARTICLE III - GRIEVANCE PROCEDURE

Under remand to negotiations with the help of Mediator H. Case, the Parties agreed to adopt the City version (with minor modification) in the Agreement format. INCLUDE THE SIX-SECTION CITY VERSION WITH THE FOLLOWING MODIFICATIONS: Section 4. CHANGE "FIFTEEN DAYS" TO "THIRTY DAYS." Section 6. ADD: Provided that this does not prohibit the steward from investigation of any grievance while off duty at which time, the Chief shall make pertinent records available upon request. The parties agree that the steward shall not be unreasonably denied access to station during the course of such investigation.

6. ARTICLE IV - DISCHARGE CASES

Under remand, the Parties agreed to adopt the City wording with an addition. ADD: No employee shall be disciplined, suspended, or discharged without just cause. This shall not apply to layoffs.

7. ARTICLE V - SENIORITY

- Section 1. USE ASSOCIATION EXHIBIT #1 WORDING BUT SUBSTITUTE THE WORDS "POLICE DEPARTMENT" FOR THE WORD "EMPLOYER" IN TWO CASES SHOWN.
- Section 2. Acceptable as written.
- Section 3. a. Acceptable as written.
b. Acceptable as written.
c. USE ASSOCIATION EXHIBIT #1 WORDING BUT INSERT THE WORD "OBVIOUSLY" BEFORE THE WORD "IMPOSSIBLE."

- d. OMIT.
- e. USE ASSOCIATION EXHIBIT #1 "d" wording.
- f. Covered by revised "e" above. OMIT.
- g. Acceptable as written.

Section 4. USE ASSOCIATION EXHIBIT #1 WORDING OF SECTIONS 4 AND 5.

8. ARTICLE VI - LEAVES OF ABSENCE

- Section 1. Acceptable as written. -
- Section 2. Acceptable as written.
- Section 3. (econ item) USE ASSOCIATION EXHIBIT #1 WORDING. (Association Section 4 dropped.)

9. ASSOCIATION EXHIBIT #1 ARTICLE VII - PAID SICK LEAVE (econ item)

24/2
A general practice. Past Bangor policy. PROVIDE SICK LEAVE. Acceptable as written.

10. ARTICLE VII - OVERTIME (ASSOCIATION VIII)

- Section 1. (econ item) Acceptable as written (lead sentence only).
 - A. Practice leans toward time and one-half pay. Majority of panel viewed time off as non-economic. Therefore, a compromise on time off at one and one-half the court time spent on non-duty situations was agreed. GRANT COMPENSATORY TIME OFF AT A 1.5 FACTOR.

ASSOCIATION VIII, Section 1, (a) - Call-in and/or Call-back Pay. Call-in pay appears to be an area police practice. Unlike court appearance, call-in is controllable by management decision and should be less of a problem. As a balance to time off for court appearance, the call-in pay should be included. USE THE ASSOCIATION WORDING IN PARAGRAPH (a). (econ item)

11. ARTICLE VIII - VACATION TIME (ASSOCIATION IX)

24/2
R.A.R.
The Association position appears to be a bit "heavy" in comparison to immediate area police benefits while the City version is "light" in some respects. In consideration of other benefits granted the Association, the City version tends to be more acceptable. ADOPT THE CITY VACATION PLAN.

12. ARTICLE IX - SALARY RANGES (ASSOCIATION XI)

The Appendix A agreement between the Parties withdraws this issue from panel jurisdiction.

13. ASSOCIATION EXHIBIT #1 ARTICLE X - PERSONNEL FILES

Sections 1 & 2. USE ASSOCIATION WORDING IN THE AGREEMENT. (econ item)

14. ARTICLE X - UNIFORMS (ASSOCIATION XII)

Section 1. (econ item) Acceptable as written.
Section 2. Acceptable as written.
Section 3. Acceptable as written.

15. ARTICLE XI - MISCELLANEOUS (ASSOCIATION XIII)

Section 1. (econ item) Acceptable as written.
Section 2. USE THE CITY VERSION BUT INSERT THE WORDS "REGULAR POLICE". BEFORE THE WORD "DUTIES."
Section 3. (econ item) Acceptable as written.
Section 4. Acceptable as written.
Section 5. (econ item) Acceptable as written.
Section 6. (econ item) Acceptable as written.
Section 7. In substance, NEW EMPLOYEES HIRED AFTER 7/1/78 SHALL RESIDE WITHIN BOUNDARIES OF THE BANGOR SCHOOL DISTRICT UPON SUCCESSFUL COMPLETION OF PROBATION AS A CONDITION OF CONTINUED EMPLOYMENT. CURRENT EMPLOYEES WHO NOW LIVE OUTSIDE THE BANGOR SCHOOL DISTRICT ARE EXEMPT FROM THIS PROVISION UNLESS THEY VOLUNTARILY RELOCATE WITHIN THE BANGOR SCHOOL DISTRICT.

ASSOCIATION XIII-Section 5. Dental & Optical Insurance dropped in favor of other benefits. (econ)

ASSOCIATION XIII-Section 7. Dropped - in conflict with another provision.

16. ARTICLE XII - DURATION (ASSOCIATION XIV)

THE AGREEMENT BETWEEN THE PARTIES WILL BE EFFECTIVE FROM 7/1/76 THROUGH 6/30/79, EXCEPTING WAGES. THE SALARY SCHEDULE WILL BE APPLICABLE TO THE PERIOD OF 7/1/78 THROUGH 6/30/79.

17. COST OF LIVING PROTECTION

Dropped by both Parties in favor of other benefits.

18. RETROACTIVITY

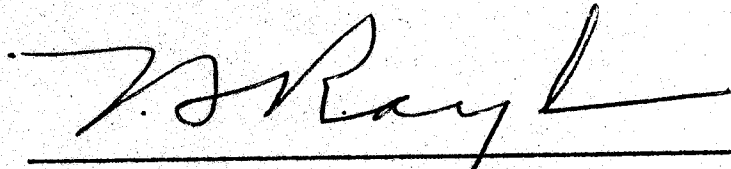
WAGES (SALARY SCHEDULE) SHALL BE RETROACTIVE TO 7/1/78.

Inasmuch as the panel delegates were also authorized representatives of the Parties, a greater degree of compromise and informal stipulations regarding acceptance or dropping of issues occurred.

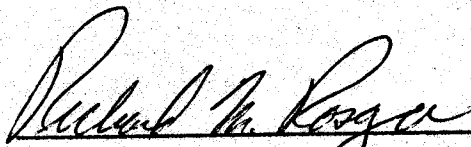
ORDER

The Arbitration Panel hereby directs the implementation of the specific instructions given in the previous section, the adoption of items labeled as "Acceptable as written", and the deletion or omission of items labeled as "Dropped", in the Agreement to be drafted by the Parties.

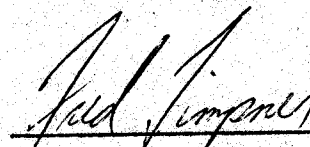
July 14, 1978



LEO S. RAYL, JR., CHAIRMAN



RICHARD ROSGA, CITY DELEGATE



FRED TIMPNER, ASSOCIATION DELEGATE

AGREEMENT BETWEEN THE PARTIES RECITY OF BANGOR & POLICE OFFICERS ASSN. OF MICHIGAN (BANGOR)

in connection with the matter of arbitration under the Police-Firefighters Arbitration Act (312, PA 1969, as amended) initiated June 14, 1977.

The Parties agree in substance as follows:

1. SALARY SCHEDULE (7/1/78 thru 6/30/79)

nm
~~\$ 14,800~~ *R.R. 11*
 Sergeant --- ~~\$14,500~~ (2040 hours)

Patrolman - \$12,000 (upon successful completion of probationary period - 2040 hours)

- \$9,568 (hiring rate - 2040 hours)

2. HOLIDAYS (not an issue before the arbitration panel)

Eight (8) paid holidays as previously recognized by the City and as indicated in Joint Exhibit #1 presented at the arbitration hearing of February 27, 1978.

3. DUES AND FEES DEDUCTIONS (CHECKOFF) (not an issue before the arbitration panel)

- 1: The Employer will deduct, upon receipt of signed authorization by individuals so long as said authorization remains in effect, any initiation fee and dues or fees in the amount as certified by the Union and forward the same to the Union within ten (10) days after such deductions have been made. Such sums shall be accompanied by a schedule showing for whom deductions have been made.
- 2: The Employer shall not be liable to the Union by reason of the requirements of this Agreement for the remittance of payments of any sums other than that constituting actual deduction made from wages earned by employees.

BY:

Richard M. Rosga

RICHARD ROSGA
 AUTHORIZED REPRESENTATIVE
 CITY OF BANGOR (MI)
 July 14, 1978

BY:

Fred Timpner

FRED TIMPNER
 AUTHORIZED REPRESENTATIVE
 POAM (Bangor)
 July 14, 1978