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8/9/72 ARB

Hamtramck, City of

COMPULSORY LABOR ARBITRATION TRIBUNAL

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In the Matter of the Arbitration between *

The City of Hamtramck *

-and- *

RE: Successor Labor
Agreements to the
Contracts which
Expired on June 30,
1971

Hamtramck Police Ranking Officers Associ- *
ation; Hamtramck Fraternal Order of *
Police, Lodge #190, together with *
Hamtramck Fire Fighters Association, *
Local #750 *

8/9/72

* * * * *

Impartial Chairman appointed by State of Michigan:

M. David Keefe

Board Member appointed by the City of Hamtramck:

Chester Pierce

Board Member appointed by Involved Labor Organizations:

Lawrence Zatkoff

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OPINION EXPLAINING AWARD prepared by Chairman.

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Appearances.

City of Hamtramck

Police and Fire Labor Organizations

Edmund Torcellini, City Atty.

Eugene R. Bolanowski Atty.

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Prefatory Hearing Record

LABOR AND INDUSTRIAL
RELATIONS LIBRARY
Michigan State University

The hearing took place over the course of many meetings commencing on November 13, 1971 and concluding on July 6, 1972. A record was kept of the proceedings by a court reporter. All witnesses were sworn. The hearing closed with receipt of the final transcript from the reporter. The Board met in executive sessions on May 30, July 6, and August 9, 1972 during which the conclusions and award as hereinafter set forth were reached and adopted.

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Preparation of the Award

The diverse character of the matters brought before this Board of Arbitration has prompted the Chairman to prepare the award in two (2) parts. The first, which is this segment, incorporates decisions on all of the non-economic determinations of this Board. The second portion, which is an integral part of the total award, embraces Board decisions on the basic economic aspects of the contract with which the Pay Board has concern. It is the position of this Board of Arbitration that, in formulating the solutions applied to the disputes before it, the Board of Arbitration is, indeed, the repository of the Interests concerned, the Parties having abdicated from primary initiative of Interest on establishing the terms, conditions and standards of this Agreement, in favor of this Board. On this holding, then, it is the intention of this Arbitration Board to submit the economic aspects of this total Award directly to the Pay Board upon issuance for review, with explanations of the value factors involved.

Finally, it is apropos to note that the Opinion, discussing the subjects covered by the individual Awards in the respective parts of the total Award, are prepared by and reflect the thinking of the

Chairman. Thus, the expressions of opinion, while hopefully projected to embrace integrated Board concepts, do not necessarily present the precise views of either Partisan Board Member and neither is required to subscribe to or join in the Chairman's Opinion. The concurrence or dissent (as the case may be) of each Partisan Board Member applies only to and effectively binds each to the specific awards which are hereinafter identified as such and setup for signatures by all Member of this Board.

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I Status of Agreements and Extent of Retroactivity

In the instances of the matters before this Board of Arbitration involving the Labor Agreements between the City of Hamtramck, on the one hand, and, on the other, respectively the Hamtramck Fraternal Order of Police, Lodge #109 entered into on September 19, 1970 but effective as of July 1, 1970, (Joint Ex. 1a) and the Hamtramck Police Ranking Officers Association (Joint Ex. 1b), entered into on but effective as of July 1, 1970, identical language is set-forth in Article XX - DURATION, which commonly reads:

Sec. 1 - Duration

This agreement shall be effective the 1st day of July 1970, and shall remain in force and effect to and including the 30th day of June, 1971.

Sec. 2 - Future Negotiations

The parties agree that, commencing not later than April 15, 1971, they will undertake negotiations for a new agreement for a succeeding period.

Sec. 3 . Extension

In the event that negotiations extend beyond the said expiration date of this agreement, the terms and provisions of this agreement shall remain in full force and effect pending agreement upon a new contract. Any additional benefits or increases in wages obtained as a result of negotiations after the expiration date of this agreement shall accrue from July 1, 1971.

From the foregoing excerpt, it can be readily seen that these Agreements were of one-year's duration and that the Successor Agreements are to be made retroactive in application of added benefits or increases to July 1, 1971. The Board of Arbitration is thus so instructed and charged by the mutual will of the parties, as expressed in the expired Agreements.

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The third contract in the trilogy before the Arbitration Board concerned the City of Hamtramck and the Hamtramck Fire Fighters Association, Local 570, (Joint Ex. 1c), entered into on October 8, 1970, but effective from July 1, 1970. The term of this contract deviated from the pattern established in the twin Police Agreements and, in its *Article XX - DURATION*, reads as follows:

Sec. 1 - Duration

This agreement shall be effective the FIRST day of JULY, 1970 and shall remain in force and effect to and including the THIRTIETH day of JUNE, 1972. This shall not include the item of wages, which shall be negotiated on a yearly basis.

Sec. 2 - Future Negotiations

The parties agree that, commencing not later than April 15, 1971, they will undertake negotiations for a new agreement of attached Schedule 'A', and, further, the parties agree to undertake negotiations on the entire contract.

Sec. 3 - Extension

In the event that negotiations extend beyond the said expiration date of this agreement, the terms and provisions of this agreement shall remain in full force and effect pending agreement on a new contract.

Article XX, for the brevity of its language, boasts a wealth of ambiguous and contradictive concepts. Section 1 indicates that the Wage agreement is not included in the basic Agreement. Yet, wages were set forth in Schedule A of the basic contract. However, Section 2 provides fortimely renegotiation of Schedule A, pointing to a July 1, 1971 effective date. Further, Section 2 orders mid-stream renegotiation of the *entire contract* at the same time...although the basic understanding had a full year of its duration to run. The concern of the Board, of course, is to determine out of this whether Pay Board requirements with respect to retroactivity have been met.

The anomaly which the confusing structure of Article XX appears to present is, in fact, quite reconcilable to the purposes of this Board. As of this date, the two (2) Police Unions have been without a contract for over a year (since June 30, 1971) and the final year of the Firemens agreement has run its course (to June 30, 1972). There is no question whatsoever but that the Police Agreements ordered the successor contracts to result in a July 1, 1971 effective date on economic matters. With respect to the Firemen, the following factors conclusively establish July 1, 1971 also as the effective date to be applied:

1. Historically, parity in wages and effective applications thereof have applied between Police and Fireman contracts

in these relationships with the City of Hamtramck.

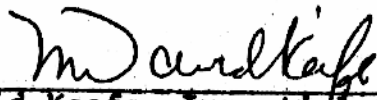
2. The past practice, when negotiations overran the target-dates for increases, has been to implement increases retroactively, and
3. The Fireman's contract, commencing with July 1, 1970, calls for wages to be negotiated on a *yearly basis*, or to an effective date of July 1, 1971 for application.
4. The positions of the Parties before this Board of Arbitration in the hearings were that the three (3) Agreements (Joint Ex. 1a: 1b and 1c) were identical in the retro-active effect permissible under the powers and responsibilities of this Board.

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AWARD #1

Retroactive Effects of this Award

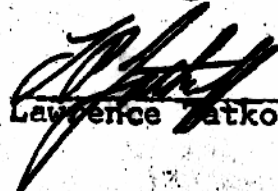
Each Agreement is hereby declared to be made retroactive to July 1, 1971 with respect to the Wage Schedule applicable thereto, only, and all other parts of the Agreement emanating out of the total Award are hereby declared to be effective with the date of issuance of the Award.


M. David Keefe, Impartial Chairman

Dissenting:

Lawrence Zatkoff, Esq.

Concurring:



Lawrence Zatkoff, Esq.

Concurring:

Chester A. Pierce

Chester Pierce, Esq.

Chester Pierce, Esq.

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II - General Contents and Substance of Agreements:

This Board of Arbitration, having reviewed each of the Expired Agreements (Joint Ex. 1a - City Hamtramck and Hamtramck Fraternal Order of Police, Lodge #109; Joint Ex. 1b - City Hamtramck and Hamtramck Police Ranking Officers Association, and Joint Ex. 1c - City of Hamtramck and Hamtramck Fire Fighters Association, Local #750) and having also studied the areas of dispute between the parties to each of the aforementioned Labor Agreements relative to adopting Successor Agreements thereto, as well as having considered the positions and arguments of all the principals with regard to propose or advocated solutions to the problem attendant upon arriving at determinations as to the terms and conditions which shall prevail in such Successor Agreements, has deliberated and is persuaded that each particular Successor Agreement in the respective relationships shall consist of the specific changes, modifications, additions and deletions, as the case may be, hereinafter set forth in this Opinion and Award which, together with the portions of each Agreement which remain unaffected thereby, shall prevail and, in each instance, constitute the full and complete Agreement between the parties to each particular relationship.

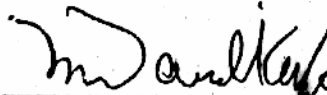
NOTE: The Renewed Portions of the Expired Agreements which are unaltered by changes, modifications, additions or deletions due to directions of this Board, are hereby affirmed to be incorporated into the Successor Agreements without deviation from the precise language and form in which such items appear in Joint Exhibits 1a: 1b, and 1c, respectively. Thus, it is the finding of this Board that any attempt at deletion, modification or change with specific reference to Article VII, Sec. 4 (c), Sec. 5 and Sec. 7, which may have been undertaken unilaterally by the Hamtramck City Council are utterly without force or effect for the purposes of having altered the expired Agreements or causing the affected items to be considered as anything else but renewed portions of the successor agreements under this award. The conclusion of this Arbitration Board is that the Expired Agreements, as written and as adopted and signed by the parties to each specific relationship, represented and constituted the real and binding mutual Agreements and Commitments between each set of parties which prevailed upon the expiration date of each document. Therefore, this Arbitration Board holds that the renewal and continuation of such terms and conditions through re-insertion in the Successor Agreements are not in any manner or by any means additions to the non-economic or economic burden, obligation, expectancy or right of any of the parties.

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AWARD #II

The General Contents and Substance of Agreements

Each Agreement subject to the authority and jurisdiction of this Board of Arbitration is hereby directed to consist of the exact form and substance of the expired Agreements, except as changed, modified, added-to or deleted from by specific rulings of this Board as hereinafter set forth.



M. David Keefe, Impartial Chairman.

Dissenting:

Lawrence Zatkoff, Esq.

Chester Pierce, Esq.

Concurring:



Lawrence Zatkoff, Esq.



Chester Pierce, Esq.

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III - Duration of Successor Agreements:

Each of the Expired Agreements covering the Police Bargaining Units had run its full course as of Midnight, June 30, 1971 and the Firemans contract finally ran out on June 30, 1972. Thus, all Bargaining Units are without renewal Agreements at the time this Award is in process of preparation. Establishment of Successor Agreements on any basis but extended terms would find such awarded contracts adding to, rather than minimizing, the problems of the

parties. Solutions confined to the contract year of 7-1-71 to 6-30-72, would conclude the business of this hearing by inflicting *catchup* negotiations on the Principals...because the successor contracts to these renewals would already be in effect. Nor would one year extensions beyond that grant the parties some respite from bargaining so that they could adjust to the terms of the new Agreements. In short order, they would return to the table as that abbreviated extension allowed reopenings. The marathon negotiations in this case are all the evidence needed to demonstrate that, left to their own devices, these Parties would be perpetually engaged in collective bargaining in which the contract term would have expired before the revised terms were reached in agreement. Thus, these modifications would, in large measure, never apply at all within the time span of the contracts dated duration. In the Chairman's objective judgment, the only sane solution is to establish duration of three (3) years from the date of Wage Retroactivity on July 1, 1971 so that the Agreements shall prevail without change until June 30, 1974. For the two Police Organizations, this represents, technically, three-year successor contracts; for the Firemen, technically, the renewal is for two years. Actually, since all else but Wages becomes effective on the date of issuance of the Award, the real duration of implementation of the basic Agreement (other than wages) is only for about 22 months.

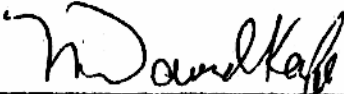
The Parties are strongly urged to order their affairs, in the grace period thus provided, so that direct negotiations, mediation and arbitration (if necessary) will be completed in timely fashion coincidental to the 6-30-74 expiration date.

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AWARD #III

Duration of Successor Agreements

It is hereby ordered that the expiration date to each of the Labor Agreements hereby affected (Joint Ex. 1a; 1b; 1c) shall be June 30, 1974.


M. David Keefe, Impartial Chairman

Dissenting:


Concurring:

Lawrence Zatkoff, Esq.



Lawrence Zatkoff, Esq.

Chester Pierce, Esq.



Chester Pierce, Esq.

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IV - Disposition of Substantive Non-Economic Matters.

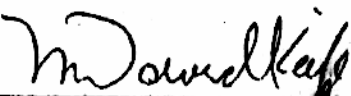
The disputed Items have been carefully reviewed by this Arbitration Board with the result that, in each specific instance, the Board decided that each Successor Agreement, as appropriate, shall reflect the changes set forth, immediately following:

A: Agency Shop - AWARD #IV

1. It is hereby ordered that Article V shall be amended forthwith in its Section 1 so as to incorporate and reflect a conventional

Agency Shop provision. In this, the Employer is to be held harmless from liability possibly emanating out of enforcement (if any) of the termination feature until such time as the long-awaited State Supreme Court decision on the legality of the clause is forthcoming. The provision, from that point in time, is to apply in conformance with the Court rulings.

2. This Board retains jurisdiction over any dispute which may arise between the parties over contract language, implementing this award.


M. David Keefe, Impartial Chairman

Dissenting:

Lawrence Zatkoff, Esq.

Chester Pierce, Esq.

Concurring:



Lawrence Zatkoff, Esq.



Chester Pierce, Esq.

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B: Miscellaneous Modifications - AWARD #V

1. Article VII, Section 3 (d) is hereby amended by deleting the words *cash benefits* from where they appear at the end of the second sentence and by substituting the word *overtime* therefore.

2. Article VIII, Section 7 is amended by deleting the last sentence of the last paragraph entirely.

3. Article X, Section 1 (c) is amended by suffixing the following language: *when deemed practical by the Employer.*

4. Article XI is amended by deletion of the pre existing language and substitution of the following: *Current bargaining-unit personnel shall be appropriately subject to and entitled to pensions and retirements as provided in the two (2) presently prevailing City Charter Amendments. Any future charter amendments shall be mutually discussed.*

5. Article XIII is amended by deleting the last sentence in its entirety.

6. Article XV, Section 2 is amended by suffixing the following language: *provided a grade of 70 is reached on the written examination.*

7. Article XV, Section 5 is hereby deleted in its entirety.

8. Article XVI, Section 4 is deleted in its entirety and the following is substituted therefore:

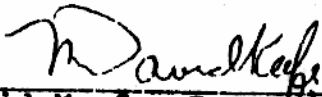
Every officer of the department employed on the afternoon or midnight platoons (shift) or on a leave or vacation shall be entitled to compensatory time or cash at the option of the Employer and in accordance with the following schedule for each and every court appearance at the rate of time-and-one-half, provided, however, if the Employer elects compensatory time, then said Employer shall make provisions that it be granted within 60 days of the time earned. Failure to grant such compensatory time within 60 days shall thereupon result in requiring the Employer to make immediate cash payment in lieu thereof.

9. Article XVI, Section 5 is deleted in its entirety and the following is substituted therefore:

The Director of Public Safety shall reassign personnel within the department by utilizing those who are qualified for the new assignment. Reassignment shall be made only after consultation with the Chief of Police.

10. Article XVIII is hereby deleted in its entirety.

* * * * *


M. David Keefe, Impartial Chairman

Dissenting:

Concurring:

Items: 1____, 2____, 3____, 4____,
5____, 6____, 7____, 8____,
9____, 10____

Items: 1____, 2____, 3____, 4____,
5____, 6____, 7____, 8____,
9____, 10____

Lawrence Zatkoff, Esq.

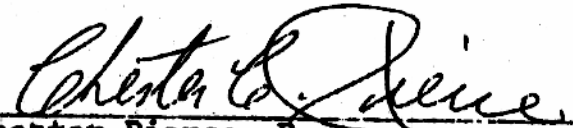


Lawrence Zatkoff, Esq.

Items: 1____, 2____, 3____, 4____,
5____, 6____, 7____, 8____,
9____, 10____

Items: 1____, 2____, 3____, 4____,
5____, 6____, 7____, 8____,
9____, 10____

Chester Pierce, Esq.



Chester Pierce, Esq.

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C. Arbitration - AWARD # VI

1. It is hereby ordered that Article XIV *Grievance and Arbitration* shall be amended by deleting the language heretofore set forth in *Step Five* and substituting therefore language reflecting conventional resort to arbitration through the Voluntary Labor Arbitration Rules of the American Arbitration Association.

2. The Board of Arbitration retains jurisdiction over any dispute which may arise between the parties over contract language, implementing this award.

M. David Keefe
M. David Keefe, Impartrial Chairman

Dissenting:

Concurring:

Lawrence Zatkoff, Esq.

Lawrence Zatkoff, Esq.

Chester Pierce, Esq.

Chester Pierce, Esq.

DATED: August 9th, 1972
Roseville, Michigan

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Part II -- Wage Schedules

Discussion

The City of Hamtramck is an enclave of the City of Detroit and an immediate neighbor of the City of Highland Park. The crime rate in the City of Hamtramck is equal to the rate in a high crime Precinct of Detroit. The City of Hamtramck has also been afflicted with a number of conflagrations exceeding any normal rate applying to surrounding districts. Hamtramck is a densely populated municipality with considerable heavy industrial installations within its borders. This intensifies the efforts required to control either crime or fire hazard. The Hamtramck Police and Firemen operate under

cut-back manpower quotas, with inferior, worn-out equipment. They are paid at rates more than 20 percent lower than the Detroit scales and at an even greater disparity (about 25 percent) in comparison to Highland Park. Specifically, as of 6-30-71, Hamtramck lagged \$2,101.00 behind Detroit and \$2,822.00 behind Highland Park.

It is self-evident that the job-performance demands on the affected Hamtramck Employees exceeds, perforce, the intensity of individual effort and responsibility elsewhere in comparable areas. Yet this expenditure is demanded at such significantly inferior wage rates that there is no hope, at all, of seriously proposing Pay Board approval of truly merited catchup. Indeed, the deplorable state of the City exchequer would probably make such a Pyrrhic victory for the Bargaining Units, were approval asked and granted. However, despite the very real and pressing crisis in which the City finds itself enmeshed, this Board is unpersuaded that its Budget has been cut to the bone of only essential services and that no *featherbedding* jobs are tolerated in its overall personnel structure. Thus, there is no compelling reason, as this Board views the picture, to cause the Police and Fire units of the City to subsidize the City with a new form of economic servitude which would deny the rightful aspirations of these Employees to enjoy the fruits of a living-standard equal to their peers. This Board concedes to the Employer the right to manage his own affairs and to determine what departments will be maintained and by what quota of employees and managers. But, in the absence of a *bare bone* budget, this Board cannot approve the inadequate offer by the Employer to these Employees. In arriving at the solutions spelled out in the award, the Board is mindful of the fact, demonstra-

ted to its satisfaction, that reexamination by the City of its budgeting allocations could result in absorption of the costs herein (which are, to say the very least, well merited) without dislocating its ultimate balance.

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The Wage Award -- AWARD #VII

1. Effective as of July 1, 1971, the wage schedules are to be increased by 5.5 percent, factored by Pay Board formula, against base pay plus included fringes.

2. Effective as of July 1, 1972, the wage schedules are to be once more increased by the 5.5 percent formula indicated in 1, above, on the rates existing as of 6-30-72.

3. Effective as of July 1, 1973, the wage schedules are to be again increased in accordance with the 5.5 percent Pay Board formula already outlined.

4. The Employer is hereby directed to put the full value of the awards set forth in Parts 1; 2; and 3, immediately above, without delay, as called for by the effective dates specified.

5. In addition to the permissive increases by basic Pay Board formula, wage schedules are to be increased by the annual sum of \$250.00 as of July 1, 1971; \$250.00 as of July 1, 1972 and \$250.00 as of July 1, 1973, as catchup which the Pay Board is hereby prayed to approve and grant as clearly warranted.

6. This Arbitration Board retains jurisdiction in the event that there is any dispute as to the exact sums ordered to be granted

in parts 1, 2 and 3 of this Award VII, in accordance with the Pay Board formula.

7. This Arbitration Board retains jurisdiction over any possible disallowance by the Pay Board of the *catchup* ordered to be granted under part 4 of this Award VII for the purpose of redetermining the economic alignment of this award in keeping with other permissive allowances under Pay Board practice.


M. David Keefe, Impartial Chairman

Dissenting:

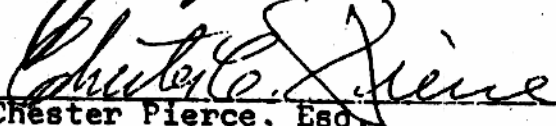
Lawrence Zatkoff, Esq.

Chester Pierce, Esq.

Concurring:



Lawrence Zatkoff, Esq.



Chester Pierce, Esq.

DATED: August 9th, 1972
Roseville, Michigan