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CITY OF HARPER WOODS

-AND-

STATE LODGE OF MICHIGAN
FATERNAL ORDER OF POLICE

CASE NO. D79 D946

HARPER WOODS, CITY OF

APR 22 1980
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Shirley T. Schwimmer
4/21/80
Michigan State University
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Schwimmer, Shirley T

PURSUANT TO the Police-Firefighters Arbitration Act (Act 312, Public Acts of 1969, as amended) an Arbitration panel composed of Chairperson, Shirley T. Schwimmer, Mr. Ronald L. Bultman, City Manager of the City of Harper Woods, 19617 Harper Avenue, Harper Woods, Michigan 48236, Mr. Charles Withers, State Lodge of Michigan, Fraternal Order of Police, 18860 W. Ten Mile Road, Southfield, Michigan 48075 held Hearings in Michigan Employment Relations Commission Case No. D79 D946, City of Harper Woods and State Lodge of Michigan F.O.P. on March 19, 20 and 21, 1980 in the offices of the Michigan Employment Relations Commission, State of Michigan Plaza Building, 14th Floor - 1200 Sixth Avenue, Detroit, Michigan 48226.

The City was represented by Mr. J. Russell LaBarge, Jr., attorney at law, of the law firm of LaBarge, Zatkoff & Dinning, Roseville Theatre Building, Roseville, Michigan 48066.

The Union was represented by Mr. Marc G. Whitefield, attorney at law, of the law firm of Lippitt, Harrison, Perlove, Friedman & Zack, 18860 West Ten Mile Road, Suite 200, Southfield, Michigan 48075.

Testimony was given by Mr. Douglas P. Garascia and Mr. Alex Louzon, Lieutenants in the City of Harper Woods Police Department. Mr. T.A. Penzynski, Mayor of Harper Woods

and Mr. Ronald Bultman, City Manager of Harper Woods also testified. There were thirty-six (36) Exhibits, three (3) Joint Exhibits, sixteen (16) Union Exhibits and seventeen (17) City Exhibits.

A verbatim record of the proceedings of March 19, 20 and 21, 1980 was made by the court reporter, Dorothy Turner. Post Hearing Briefs were not submitted as the parties felt all facts and arguments were adequately covered during the proceedings.

At the opening Hearing on March 19, 1980 the following oath was taken by the Chairperson, Shirley T. Schwimmer:

"I solemnly swear that I will support the Constitution of the United States and the Constitution of this State, and that I will faithfully discharge the duties of the office of the Chairperson of this arbitration panel under Act 84, Public Acts of 1976, according to the best of my ability."

An organizational meeting was held on February 11, 1980 at the offices of the Michigan Employment Relations Commission at which the following petition issues were dropped: Sick Leave, Overtime, Hospital-Dental Program, Life Insurance and Longevity.

The parties stipulated the following issues are the only issues to be resolved in this first contract between the parties by this Arbitration proceeding, and all decisions on these issues are to be fully retroactive to January 1, 1979: Personal Leave, Vacations, Holidays, Wages and Pensions.

FACTS

THE LAND size of the City of Harper Woods is 2.6 square miles. The City of Harper Woods is boarded on the south by the City of Detroit and on the east by the Grosse Pointes. The Eastland Shopping Center is located within the City as are several large regional parochial schools. Easy access to and from the City is possible since it is serviced by two (2) expressways and other major traffic arteries. The Shopping Center, parochial schools and major traffic arteries produce large numbers of cars passing through Harper Woods and a large daytime population.

Harper Woods has an estimated 1978 population of 17,000 people. It has lost population since 1970 when its population was 19,000. The number of persons per occupied dwelling has dropped from 3.15 in 1970 to 2.74 in 1978. The median age in 1978 of Harper Woods residents was 37.5 years.

The bargaining unit is composed of four (4) Police Lieutenants who were certified as a bargaining unit by the Michigan Employment Relations Commission on December 5, 1978. They entered into negotiations with the City and after unsuccessful bargaining and mediation the Union filed a petition with the Michigan Employment Relations Commission on November 5, 1979.

After an organizational meeting on February 11, 1980 at the offices of the Michigan Employment Relations Commission, State of Michigan Plaza Building, 14th Floor - 1200 Sixth Avenue, Detroit, Michigan 48226, the list of issues was reduced to the following: Personal Leave, Vacations, Holidays, Wages and Pensions.

During the proceedings the parties were able to come to an agreement as to the following issues and such stipulations were placed on the Record:

Vacation - dropped as an issue.

Personal Leave Days - The parties stipulated that the following language would govern: "Employees shall be granted three (3) Personal Leave Days with permission of the Supervisor. These days shall not be used for vacation, and are not to be deducted from sick leave, with notice to supervisor in advance if possible."

Holiday Plan - Currently Employees receive time and one half plus day off if working holiday. If not working holiday, receive day off. Parties agree Employees are to receive time and one half for working holidays. Employees who work and those who do not work holiday may elect to take the additional day off or to cash out the additional day off.

The parties therefore have only two unresolved issues: Wages and Pension.

The Police Lieutenants 1978 wages were \$21,737.00 and their pension plan was voluntary retirement at age

55 based on best five (5) years and 1.75% of base wages on all years worked.

FINAL OFFER OF THE UNION

WAGES: Base wage for Harper Woods Lieutenants for the calendar year 1979 shall be equal to the sum of \$24,100.00 or \$11.58 per hour, fully retroactive to January 1, 1979.

PENSION: Improved pension system whereby the current annuity factor is increased to 2% per year of service for all years worked, based upon "gross pay", as that term has been utilized by the City prior to November, 1978. In requesting this increase, Employees agree to pay one half of the percentage increase for funding this pension improvement, and said percentage increase shall be based upon "gross pay". All other aspects of the pension system, with this exception, shall remain in tact.

FINAL OFFER OF THE CITY

WAGES: The Employer, the City of Harper Woods, submits a base wage increase for the contract year 1979 for the four Police Lieutenants of 8.5%. An 8.5% base wage increase would increase the base wage received in 1978 from \$21,737.00 to \$23,584.64.

PENSION: Current annuity is increased to 2% per year of service for all years worked on base pay. Employees agree to contribute 6%.

The parties have stipulated to the use of the following communities for comparables:

Centerline
East Detroit
Ferndale
Hazel Park
Madison Heights
Mt. Clemens
Roseville
St. Clair Shores

STATUTE

AS PROVIDED by Michigan Statute Act 312, Public Acts of 1969 as amended, paragraph 423.239, Section 9, 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.

UNION POSITION

THE CITY of Harper Woods borders on one of the highest crime precincts in Detroit. Over 100,000 cars a day pass through the City. The Eastland Shopping Center and the regional parochial schools greatly increase the daytime population.

Of the comparable cities, Harper Woods has the highest crime rate. Although Eastland Shopping Center has its own security force, all arrests and warrants are processed through the Harper Woods Police Department.

The Police Lieutenants of Harper Woods if paid the \$24,100.00 asked by the Union would still be one of the lowest paid Police Lieutenants in the comparable cities. Only Mt. Clemens at \$23,499.00 and Centerline at \$24,009.00 would be below Harper Woods. At \$23,584.00 only Mt. Clemens would be lower.

As to pensions - all the other cities based their pensions on "gross wages" only Harper Woods bases its pension on "base pay".

Harper Woods has the lowest Annuity Factor (1.75%) of base pay. It is offering 2% of base pay. Other pensions except for East Detroit and Roseville which are best 5 years are based on "gross pay" best 3 years.

The Union is only asking the City to bring the four Police Lieutenants to near the level of the other comparable communities.

The City has the ability to pay this increase in wages and pensions. The City would not have to raise taxes to pay for the wage and pension improvements. The City presently has a projected surplus for 1980 and had a projected surplus in 1979. Presently the City is receiving 12% of its income from interests on its investments.

The cost of the wage increase would be \$2,061.44 on base wage for the four Police Lieutenants over the City offer.

The All Cities Consumer Price Index from December 1979 rose 13.3% and authorities agree that essentials rose even more than the 13.3%. A 13.3% increase of the base wage of \$21,737.00 would be \$25,285.11 just to keep up with the All Cities Consumer Price Index. The Union is not asking to keep pace with inflation. It is asking to bring Harper Woods Police Lieutenants in line with the comparable communities.

EMPLOYER POSITION

THE CITY of Harper Woods is 2.6 square miles. Its population has been decreasing since 1970, and a large portion of its residents are older citizens on fixed incomes.

The residents of Harper Woods are adamant in requiring fiscal responsibility of their City government. The residents have demonstrated numerous times by their rejection of increased millage, they are not prepared to vote for increased millage.

The City has a present levy of 19 mills, and its limit under the Headlee Amendment would be 19.5 mills. The City is therefore almost at its constitutional millage limit.

Although the City has a high crime rate, most of the crime originates at the Eastland Shopping Center. Eastland Shopping Center and Hudsons have their own security forces. They patrol Eastland and have the power to make arrests on Shopping Center premises.

The wage increases for the Police Lieutenants based on the City offer has grown faster than the rate of inflation from 1967 to 1979. Many experts consider the Consumer Price Index overstates the rise in the cost

of living by upwards of 2% annually, and this over-adjustment is feeding right back into inflation.

The City offers 8.5% wage increase to the Police Lieutenants while increases for other City employees average 6.15% for 1979.

The City offer on pensions of an increase in the annuity factor from 1.75% on base wages with a 3% employee contribution to 2% on base wages with a 6% employee contribution is in addition to the F.I.C.A. which the City pays for employees. The F.I.C.A. benefits are in addition to the pension benefits and only East Detroit and Mt. Clemens offer F.I.C.A. benefits.

The City has made a reasonable offer on wages and pensions within the statutory comparables. Anything more would be unreasonable and not in the interest and welfare of the residents of the City of Harper Woods.

DISCUSSION

THE STATUTE provides "the arbitration panel shall base its findings, opinions and order upon the following factor(s) as applicable:

(c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs."

The City has claimed that its final best offer is based on these factors: It has had a fall in its population, and the population has a large number of retired people on fixed incomes than in the comparable cities. Fiscal responsibility, the interest and welfare of the public and the "pulse of the community" as articulated by Mayor T.A. Penzynski would prevent any increase in taxes.

Furthermore the City presently is at 19 mills, and even if the residents would vote for an increase, the City under the Headlee Amendment would reach its constitutional limit at 19.5 mills.

The Mayor placed great emphasis on the fact that the City must be financially responsible. However, he did not in anyway indicate how a granting of the four Police Lieutenants a pay increase of \$515.36 over the City offer

which would cost the City \$2,061.44 for the four Police Lieutenants would be fiscally irresponsible. Nor was there any evidence presented by the City that the increase in base wage would require a raise in taxes.

There are no exact figures available on the costs of the pension increase in the final offer of the City or the Union. Pension costs offered in evidence at the Hearing were based on the original offers and not on the final offer.

The full cost of the increase would not be borne by the City alone. The increase cost of the pension would partially be borne by the increased employee contribution. Even if the full costs of the increase were borne by the City, there is no evidence this would require a tax increase.

The Mayor testified that of the City revenues: 4% is from the Federal Government, 23% is from the State Government and that 60% of the revenues are from the City.

On cross examination the Mayor admitted the City has approximately a 2% surplus, and also that 12% of the Cities revenues come from interest on investments.

These figures clearly indicate the City has the ability to pay without increasing millage. The City does not have to ask its declining population of older citizens on fixed incomes to increase millage in order to fund these increased wages and pensions.

Furthermore, the Mayor admitted on cross examination that Eastland Shopping Center Contributes 30% of the Cities revenue.

Concerning the pension, the City has argued since the Union members are also covered by Social Security this should be included as a cost of the pension and also included as a benefit.

Of the comparable cities, Mt. Clemens and East Detroit also have Social Security.

Although F.I.C.A. is a cost to the City, the Employee matches the Cities cost out of his wages. Any increase in cost for the City is matched by an increase in cost to the Employee. While some police Employees consider Social Security to be a benefit, others do not ^{so} consider it. Some Employees prefer not being covered by Social Security. They voluntarily retire with a pension and then work in a Social Security covered position so that at later retirement they are covered by a City pension and also by Social Security. The two not being integrated.

Both parties have discussed the rate of inflation, and both have presented evidence of diametrically opposite conclusions. The City claims the employees wages have risen faster than inflation. The Union that they have lagged behind inflation. A close examination of the figures shows the All Cities Consumer Price Index was 13.3% from December 1978 to December 1979. The City final offer is 8.5%, and the Union final offer is 11.56%.

A careful consideration of the costs and comparables inevitably lead to the conclusion that the City has been unable to sustain its case. Although the attorney for the City tried valiently, the testimony of Mayor Penzynski on cross examination was fatally damaging.

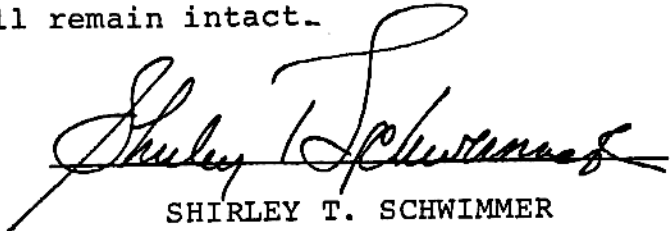
CONCLUSION

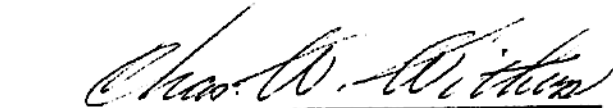
AFTER CAREFULLY considering and weighing all of the testimony, the Exhibits and the arguments of the parties and after carefully considering the statute and its application to the evidence presented, I find that the Union's final best offer as to wages and pension comes within the criteria laid down in the statute.

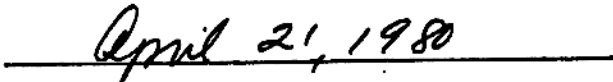
ARBITRATION AWARD

THE LIEUTENANTS of the City of Harper Woods Police Department shall receive the base wage of \$24,100.00 per year retroactive to January 1, 1979.

The Lieutenants of the City of Harper Woods Police Department pension shall be based upon 2% per year of service for all years worked based upon "gross pay" as that term has been utilized by the City of Harper Woods prior to November, 1980. Employees shall pay one half (1/2) of the percentage increase for funding this pension improvement. All other aspects of the pension system, with this exception, shall remain intact.


SHIRLEY T. SCHWIMMER


CHARLES W. WITHERS


DATE