

5/14/74 ARB

*Hastings,  
City of*

STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

CITY OF HASTINGS, MICHIGAN

-and-

LAW ENFORCEMENT DIVISION,

TEAMSTERS UNION

Local No. 214

FINDINGS OF FACT, OPINION AND AWARD  
Pursuant to Act 312, Public Acts of 1969 as amended

ARBITRATION PANEL

Leon J. Herman, Impartial Chairman  
Ivan J. Snyder, City Designee  
Paul Gully, Union Designee

Issued May 14, 1974

LABOR AND INDUSTRIAL  
RELATIONS LIBRARY  
Michigan State University  
JUL 26 1976

RECEIVED

MAY 13 1974

STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION  
CIVIL RIGHTS UNIT

This is a proceeding in arbitration pursuant to Act 312 of Public Acts of 1969 as amended. Ivan J. Snyder was named by the City as its designee to the panel. Paul Gully was appointed by the Union as its designee. On October 18, 1973, the undersigned, Leon J. Herman was appointed by The Michigan Employment Relations Commission as impartial chairman of the arbitration panel.

A prehearing conference was held on November 26, 1973. A joint statement of the issues to be arbitrated was prepared and stipulated by both parties. A hearing was held and testimony taken on February 1, 1974 in the City Hall, Hastings, Michigan. Briefs with statement of final offers were submitted. Thereafter conferences between the members of the panel of arbitrators were held on April 20 and May 14, 1974. A verbatim record of the proceedings was waived by stipulation of counsel for both parties.

Miller, Johnson, Snell & Cummiskey, Attorneys, by Peter A. Patterson and Jon Muth, represented the City of Hastings. Kasoff, Young, Gottesman, Kovinsky & Friedman, Attorneys, by Orlando Vargas, appeared on behalf of Local 214.

Testimony on behalf of the Union was presented by Paul Gully and Albert Stanton.

Cedric Morey, Mayor, and Richard Sunior, Chief of Police testified on behalf of the City. Full opportunity for examination, cross-examination and re-direct examination was offered to both parties. One full day was spent in the course of the hearings, with 22 exhibits submitted. A verbatim record and transcript were waived by the parties.

Both parties entered in good faith into the proceeding. No issue of arbitrability was raised. No question was raised as to the

legality or authority of the arbitration panel to determine the issues presented. Time limits were extended as required to meet the restrictions of the statute.

Local 214, the Law Enforcement Division of the Teamsters Union, is the bargaining agent for the City patrolmen and sergeants. It claims the right of representation for all members of the department up to and including the classification of Chief. For 1973-74 the parties have agreed upon all issues with respect to wages, hours and other terms and conditions of employment with the exception of the issues presented by stipulation to this panel for determination. The unresolved issues to be decided are the following:

- Issue No. 1 Wages
- Issue No. 2 Cost of Living Allowance
- Issue No. 3 Pensions
- Issue No. 4 Overtime
- Issue No. 5 Vacations
- Issue No. 6 Holidays
- Issue No. 7 Hours of Work
- Issue No. 8 Duration

The statute pursuant to which this proceeding came into being and under which this panel functions poses certain specific criteria which the panel must consider in arriving at a conclusion:

- 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.

That a City may negotiate wages, hours, and working conditions of its employees with a recognized bargaining agent has been established by the Public Employee Relations Act. The Association has been duly recognized as the bargaining agent for all Police Department employees, up to but not including the grade of Chief. Both the City and the Union have agreed to statutory arbitration of the items remaining in dispute in their current negotiations in accordance with Act 312 of the Public Acts of 1969, as amended. The City agrees that it has the lawful authority and obligation to negotiate and conclude an agreement in consonance with the award of this panel

The parties have stipulated that the panel may consider the issues above listed and render an award thereon which both will accept; that all proceedings of this panel of arbitrators have been properly taken in compliance with the governing statute, and that this award is duly processed and is binding upon the parties.

The interest and welfare of the public and the financial ability of the City to meet the increased costs resulting from implementation of this award have been considered and determined.

Comparison of wages, hours and conditions of employment, in both the private and public local sectors, as well as in comparable communities, is discussed hereinbelow, as are increases in cost of living as a factor in the determination of this panel.

By mutual agreement, relations between the parties have continued in status quo. No objectionable practice has been charged against either party.

Other factors considered by the parties and the panel are listed in the opinion.

It should be emphasized at this point that all comments, opinions and interpretations of factual evidence stated herein are solely and exclusively the responsibility of the impartial arbitrator, unless specifically attributed to another member of the panel.

This proceeding falls within Section 423.238 (MSA 17.455(38)) as last amended wherein it is provided that each party must submit to the arbitration panel and to each other its last offer of settlement on each economic issue, as to which the arbitration panel must adopt the last offer which, in its opinion, more nearly complies with the applicable factors above prescribed.

The parties and the panel have agreed that all issues above listed are economic except No. 5, Vacations, and No. 8, Duration. As to these two issues, conventional arbitration practice applies.

#### ISSUE NO. 1: WAGES

The Union points out that the City of Hastings is the County seat of Barry County. It is located some 35 miles from Grand Rapids, 40 miles from Lansing, 35 miles from Kalamazoo, and 22 miles from Battle Creek. Its population was fixed in the last census at about 6,600 people. The principal industries in the city are A. W. Bliss Company, a division of Gulf and Western Metals Forming Company; the Tyden Corporation, the Viking Corporation, Hastings Aluminum Division of

National Steel Corporation, and a number of smaller plants. Both Pennock Hospital and Barry County Medical Center are located within the city. As the County seat, the city serves as a central facility for over 50,000 people annually.

The Union has averaged out wages paid to patrolmen in Area 2 as reported in the Michigan Municipal League Book for the fiscal year beginning July 1, 1973, for cities of 4,000 to 9,999 in population. It has computed the annual wage average for patrolmen in Area 2 cities in the 4,000 to 9,999 bracket as \$9,864.50. Currently, the maximum rate for patrolmen in Hastings is \$9,048.00, which is paid to only one officer.

The Barry County deputies have been paid \$9,342.71 for the calendar year 1973. Their local Union has filed for arbitration under Act 312 for an increase in rates of pay for the 1974 year.

Michigan State Policemen with three years of seniority receive \$11,170.00. After five years, the salary is increased to \$13,509.00. In Hastings, except for the one officer who has seventeen years of seniority, patrolmen receive an annual rate of \$8,320.00 after three years on the force.

The City points out that of the City employees, only the Public Service Department members are organized. Their maximum hourly rate, effective July 1, 1973, is \$4.05 per hour. Any settlement made with police will unduly affect the Public Service Department rates since the contract there expires June 30, 1974 and negotiations are soon to be undertaken. Furthermore, the supervisory area will also be affected by a wage adjustment in this department.

The City lists a number of communities in its population bracket, showing that eight communities pay salaries of \$8,245.00 to \$9,750.00 per annum. The Barry County Sheriff pays \$9,342.00, and the City of Charlotte pays \$11,288.00. (It has been shown that the \$8,825.00 rate listed for the City of Dowagiac was increased as of April 1, 1974 to \$9,885.00). It is also established that the Charlotte contract calls for a 45-hour week as against a 40-hour week in Hastings. In Marshall, the maximum salary is \$10,066.00, but Marshall patrolmen are not paid extra for overtime. Barry County deputies are not paid holiday pay for holidays not worked.

The Union has shown that rates paid to employees in private industry in and about Hastings are higher than paid to these officers. The City contends that the hourly rate it offers compares favorably with the topmost labor grades in the City.

The City has made a final offer for patrolmen, dispatcher and sergeant, based upon a three year package commencing July 1, 1973.

PATROLMEN	1973-4	1974-5	1975-6
Start	\$6850	\$7350	\$7884
6 Mos.	7500	8000	8534
1 yr.	7720	8220	8754
2 yrs.	8160	8660	9194
3 yrs.	9150	9650	10184
DISPATCHER	7260	7625	8000
SERGEANT	9550	10050	10584

According to the City, the increases offered a three year patrolman will amount to 10% in the first year, 5.5% in the second, and 5.5% in the third. The increase for a dispatcher will be 20% the first year and 5.5% in each of the second and third years. The sergeant's rate is fixed at \$400.00 above the top patrolman rate.

The Union has proposed as a final offer for a three year patrolman an annual rate of \$9,864.50. It has insisted upon a one year contract, but at the urging of the chairman, and over its protest which is here recorded, asked an increase of 5.5% in the second year of a two year package.

The chairman is of the opinion that an annual salary of \$9,150.00, in the current inflationary period which we are undergoing, is far too low to permit an officer to meet his expenses and support his family in reasonably adequate circumstances. It must not be forgotten that living expenses have increased some 10% in the past year alone, and it is predicted by the Federal government economists that costs will be even higher in 1974 and 1975. The chairman therefore proposes that the Union offer of \$9,864.50 per annum for three year patrolmen in the first year of a two year contract, with a 5.5% increase in the second year, be established. Mr. Gully concurs. Mr. Snyder dissents.

The chairman further proposes that the progression schedule for increases suggested by the City, from start up to three years be adopted and that salaries in each bracket be adjusted to the three year salary at the same percentage as is contained in the City proposal. Mr. Gully and Mr. Snyder concur.

As to dispatcher, the chairman agreed with Mr. Snyder that the City's offer of \$7,260.00 per annum for the first year, with a 5.5% increase in the second year, was adequate and should be adopted. Mr. Gully dissents.

It was unanimously agreed by the panel that the sergeant rate be fixed at \$400.00 per annum above the top patrolmen rate.



ISSUE NO. 2: COST OF LIVING ALLOWANCE

The Union has proposed as its final offer that patrolmen and sergeants be allowed a cost of living allowance of \$ .01 for every .04 rise in the 1967 cost of living index. The City has rejected the proposal in its entirety.

The chairman points out to the Union that he has proposed a substantial increase in salaries in order to let the officers catch up with the excessive inflationary push of the past few years. In addition, he has proposed a 5.5% increase in salaries which will be effective on July 1, 1974, barely a month after the issue of this Opinion and Award. It is the chairman's considered opinion that these salaries adequately compensate the officers for the anticipated rise in cost of living to at least the termination of the second year of the proposed agreement. In the circumstances it is felt that the officers are fairly compensated and need no cost of living allowance. He therefore proposes that the cost of living allowance be denied. Mr. Snyder concurs. Mr. Gully dissents.

ISSUE NO. 3: PENSIONS

At the present time, the City maintains an employee retirement system designated Benefits C-1, whereby the City contributes 8.23% to \$4,200.00 plus 11.7% over \$4,200.00 in wages. It objects to any change in the pension plan, not only because it would create excessive costs, but because it would sever the policemen's pension from that of other City employees.

The panel members unanimously agree that the City pension plan as presently constituted be continued without change.

ISSUE NO. 4: OVERTIME

The City has proposed with respect to overtime that officers be paid at straight time rate for the year commencing July 1, 1973; at time and one-half for hours worked over eight hours in one day or forty hours in any work week for and during the year commencing July 1, 1974. It is emphasized that there shall be no pyramiding of overtime or premium pay; that holidays not worked shall not be counted as hours in excess of forty in any work week; and that when hours worked in excess of forty hours are due to schedule rotation, those hours shall not be counted for purposes of calculating overtime.

The City further proposed that an employee may, at the option of the employer, be given compensatory time off in lieu of cash payment, at the rate of straight time during the first year and time and one-half during the second year of the contract. Such compensatory time shall be scheduled by the employer with consideration for the expressed preferences of the employees.

The Union has demanded that, in both the first and second years, time and one-half shall be paid for hours worked over eight hours in any one day or forty hours in any scheduled work week. It objects to compensatory time and demands that payment of overtime be made in cash.

With respect to the first year of the proposed agreement, the panel took into consideration the fact that the year has almost expired. To recalculate overtime for the first year of the agreement would constitute an unexpected burden upon the City finances and an onerous chore for the City Finance Department. It is therefore unanimously agreed by the members of the panel that, during the first year of the proposed agreement, overtime shall be paid at straight time rates for

hours worked over eight hours in any one day or forty hours in any scheduled work week. During the second year of the agreement, time and one-half the regular hourly rate shall be paid for hours worked over eight hours in any one day or forty hours in any scheduled work week.

It is further unanimously agreed that there shall be no pyramiding of overtime or premium pay, that holidays not worked shall not be counted as hours in excess of forty in any work week, and that when hours worked in excess of forty are due to schedule rotation, such hours shall not be counted for purposes of calculating overtime pay.

It is further unanimously agreed by the panel that no overtime pay shall be payable unless the time is authorized in advance by the Chief of Police or his authorized designee.

Mr. Gully concurs with the chairman that all overtime shall be paid in cash rather than in form of compensatory time. Mr. Snyder dissents.

#### ISSUE NO. 5: VACATIONS:

This item has, by agreement of all parties, been declared non-economic. It is the Union request that any vacation time not consumed during a fiscal year may be accumulated and carried over to the following year. The City has objected to any accumulation and has demanded that all vacations be taken in the year in which they are earned.

The panel has unanimously agreed that there shall be no accumulation of vacation time beyond the year in which it is earned, unless the consent thereto of the Chief of Police has been obtained in advance. Lacking such advance approval, vacations not taken during the year in which they are earned may be compensated for by cash

payment but may not be carried over into the following year. Exception may be made for vacations already accumulated from 1973-4 through arrangement with the Chief of Police.

ISSUE NO. 6: HOLIDAYS

The City has proposed, as its final offer, that in the year 1973-74, the employees be granted six paid holidays in accordance with the schedule presently in effect. In the year 1974-75, it is proposed that the average of Area 2 cities in the 4,000 to 9,999 range be allowed. The City calculates this to total 8-1/2 holidays.

The Union has proposed that holidays for both years be increased from 6 to 8-1/2 days.

The chairman proposes that no change be made in the 1973-74 holiday program of six holidays because of the fact that the year has almost passed. In the second year, he proposes that 8-1/2 holidays be allowed to the employees. Mr. Snyder concurs as to the first year proposal. Mr. Gully dissents. The panel unanimously agrees upon the 8-1/2 holiday proposal for the second year of the proposed agreement.

ISSUE NO. 7: HOURS OF WORK

The panel is in agreement that the proposal made by both parties be adopted, to the effect that an employee's schedule shall constitute eight consecutive hours, including a one-half hour paid meal period. The City asks, in addition, that officers may be required to spend up to one-half hour of reporting time following the end of each shift without pay. The Union insists that all working time be paid regardless of the purpose of the time.

The chairman cannot in good conscience recommend that an employee be required to spend time on the job for any reason without

compensation. He therefore proposes that any time spent in reporting after the close of the shift shall be paid as hereinelsewhere directed. It is noted, as stated in the directions with respect to overtime generally, that no overtime may be incurred unless approved by the Chief or his designee in advance.

ISSUE NO. 8: DURATION

This, it is agreed by all parties, is a non-economic issue. The City has proposed a contract running for three years from July 1, 1973. The Union has insisted that it will consider only a one year contract effective July 1, 1973. It has argued that the panel has no authority under the statute to direct a contract of more than one year duration without the consent of all parties.

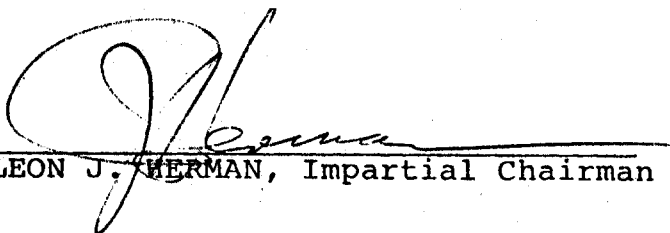
The chairman is of the firm conviction that the panel may order a contract term of longer than one year. He notes that it is a rare statutory arbitration proceeding which is not so protracted as to extend far into the term of the first year of any proposed agreement. To require the parties to resort immediately to a new arbitration proceeding, when the matter can be disposed of for at least one or possibly two more years by negotiation, discussion and presentation of offers in the one proceeding, would seem to be overly expensive and hardly necessary. As a consequence, and over the strong objection of the Union, the Chairman proposes that a two year agreement be executed. Mr. Snyder concurs. Mr. Gully dissents.

It is, of course, understood, since the proposed agreement begins on July 1, 1973, that retroactive payments must be made to these employees. The chairman proposes that such payments be made within ninety days from the date hereof. Mr. Snyder and Mr. Gully concur.

Apart from the issues above discussed, the parties have reached agreement on the terms and conditions of a collective bargaining agreement to be executed between them. By unanimous direction of the panel, it is ordered that the already agreed upon terms be added to the awards herein made and be incorporated into a collective bargaining agreement to be formally executed by the parties

The chairman would be amiss if he did not take this opportunity to thank the representatives of both sides for their courtesy and cooperation and for the good will which they displayed in seeking to arrive at an agreement. I am deeply appreciative.

May 14, 1974  
Southfield, Michigan



LEON J. HERMAN, Impartial Chairman

AWARD

The panel of arbitrators, unanimously or by majority vote as indicated in the attached opinion, do hereby award as follows:

1. The salaries of all three year patrolmen shall be increased to \$9,864.50 per annum effective July 1, 1973, to be further increased by 5.5% effective July 1, 1974.

2. The progression of increases for patrolmen from start to three years shall be in the format proposed by the City. The salary at each step shall be adjusted to the three year salary at the same percentage factors as are contained in the City proposal.

3. The dispatcher salary shall be \$7,260.00 per annum effective July 1, 1973 to be increased by 5.5% effective July 1, 1974.

4. The rate of pay for sergeants shall be \$400.00 above the three year patrolman rate.

5. No cost of living allowance is granted.

6. There shall be no change in the current retirement pension formula.

7. Overtime work shall be paid for at straight time during the 1973-4 fiscal year; and at time and one-half during the 1974-5 fiscal year for all hours over eight in a day or forty in a scheduled work week, provided, that there shall be no pyramiding of overtime pay, that holidays not

worked shall not be counted as hours in excess of forty in any work week, and that hours worked in excess of forty in a week due to schedule rotation shall not be counted for purposes of calculating overtime pay.

No overtime pay shall be payable unless the overtime is authorized in advance by the Chief of Police or his authorized designee. All overtime earned shall be paid for in cash.

8. Vacation time may not be carried over from one fiscal year to the next without advance approval of the Chief of Police. Vacation time not consumed during the year earned, and not approved for carryover to the next year, shall be compensated by cash payment. Vacations accumulated from 1973-4, but not thereafter, may be taken in the succeeding fiscal year upon arrangement with the Chief of Police.

9. Six holidays are allowed for the year 1973-4. Eight and one-half holidays are allowed for the year 1974-5.

10. Hours of work shall constitute eight consecutive hours inclusive of a one-half hour paid lunch period. All reporting time after the close of a shift shall be paid for as hereinelsewhere directed.

11. The term of the contract shall be from July 1, 1973 to and including June 30, 1975.

12. All retroactive payments due hereunder shall be made within ninety days from the date hereof.

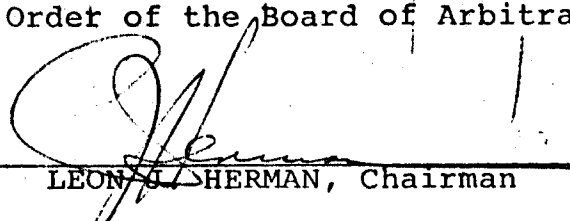
13. Terms and conditions heretofore agreed upon by the parties shall be included with this Award in the collective



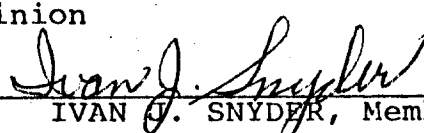
bargaining agreement to be formally executed.

May 14, 1974

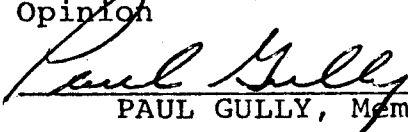
By Order of the Board of Arbitrators

  
\_\_\_\_\_  
LEON J. SHERMAN, Chairman

I agree with the foregoing Award  
except as noted in the attached  
Opinion

  
\_\_\_\_\_  
IVAN J. SNYDER, Member

I agree with the foregoing Award  
except as noted in the attached  
Opinion

  
\_\_\_\_\_  
PAUL GULLY, Member