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July 7, 1977

Mr. Robert Pisarski
Director
Michigan Employment Relations Commission
State of Michigan Plaza Building
14th Floor, 1200 Sixth Avenue
Detroit, Michigan 48226

Re: City of Jackson -and- Jackson Fire Fighters
Local 1306, I.A.F.F. - Act 312 Arbitration

Dear Mr. Pisarski:

On Wednesday, July 5, 1977, I met with panelists Michael F. Ward (for the City of Jackson) and Ronald R. Helveston (for the Jackson Fire Fighters) in "executive session" on this matter. After a cordial discussion of the issues, primarily directed around Issue I contained on pages 4 through 5 of the enclosed Findings of Fact, Opinion, Award and Order, (Minimum Man Power), it was agreed that the Findings of Fact, Opinion, Award and Order would be filed with the Commission forthwith. Mr. Ward, on behalf of the City of Jackson, declined to execute the Award, indicating that he would mail directly to the Commission his dissenting position. Therefore, I have executed the Award and Mr. Helveston has executed the Award, indicating his individual dissents on individual issues (including a concurring opinion on Issue III).

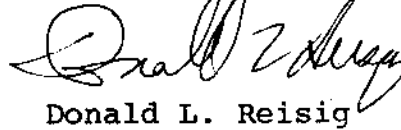
Depending upon the thrust of Mr. Ward's submission to the Commission, which he indicated he would file forthwith, there may be instances where both panelists have dissented from the opinion and award of the Chairman. If, on the other hand, Mr. Ward chooses not to sign the Award or not to indicate concurrence or dissent on any issue, there will be situations where the vote on certain issues is equally divided.

If hereafter you have any questions concerning this

Mr. Robert Pisarski
Page -2-
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matter, do not hesitate to contact me.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Donald L. Reisig", written over the typed name.

Donald L. Reisig

DLR/sab

cc ~~Dr.~~ Charles M. Rehms
Mr. William Ellmann
Mr. Michael Ward
Mr. Ronald R. Helveston
Ms. Ann E. Neydon

Enclosures

STATE OF MICHIGAN
Employment Relations Commission
Statutory Arbitration
(Act 312 Arbitration)

In the Matter of
Statutory Arbitration
between:

CITY OF JACKSON

-and-

JACKSON FIRE FIGHTERS
LOCAL 1306, I.A.F.F.

PANELS' FINDING OF FACT, OPINION, AWARD AND ORDER

Appearances:

For the City of Jackson:

Michael F. Ward, Esq.,
Jacobs & Ward
Suite 808
151 South Rose Street
Kalamazoo, Michigan 49006

Appearances:

For the Jackson Fire Fighters:

Ann E. Neydon, Esq.
Marston, Sachs, Nunn, Kates,
Kadushin & O'Hare, P.C.
1000 Farmer
Detroit, Michigan 48226

Panelists

Donald L. Reisiq - Chairperson
Michael F. Ward - Appointed by the City of Jackson
Ronald R. Helveston - Appointed by Jackson Fire Fighters

INTRODUCTION

The Jackson Fire Fighters Association, Local 1306, I.A.F.F., hereinafter referred to as the Union, is the recognized exclusive collective bargaining representative of the employees of the Fire Department of the City of Jackson below the rank of Chief under applicable Michigan Law [Act 336, PA 1947, as amended by 379, PA 1965 as amended, being Michigan Compiled Laws §423.201, et seq; and MSA 17.455(1) et seq]. On June 28, 1976, the Union initiated binding arbitration proceedings pursuant to Act 312, PA 1969 as amended [MCLA §423.231, et seq] to resolve certain issues in dispute between the parties. The economic issues to be hereafter determined shall, pursuant to §8 of Act 312 be determined pursuant to §8 of Act 312, i.e. the "last best offer" as to each separate economic issue. Determination therein shall be made pursuant to §9 of Act 312 which designated the factors to be considered by the panel in reaching their findings. In addition to economic issues, the parties have also agreed that there are certain non-economic issues to be decided by the panel (although some dispute exists between the parties as to whether or not certain of these matters are subject to arbitration).

After pre-trial procedures, pursuant to agreement between the parties, hearing in this matter commenced March 14, 1977, and concluded March 18, 1977, consuming two full days of testimony. The parties were thereafter requested to make their final "last best offers", by April 1, 1977, and to submit Briefs upon all issues submitted to the panel by April 15, 1977.

However, final submissions from all parties were not received until May 9, 1977.

The matter is ripe for adjudication and determination. The parties, have indicated and represented that they both seek a three (3) year contract which will commence July 1, 1976, and terminate June 30, 1979.

GENERAL BACKGROUND

The City of Jackson is located in the southern portion of mid-Michigan, approximately 75 or 80 miles west of the City of Detroit. It is a city of approximately 45,000 population (1970 census), and is the County Seat of Jackson County, a County of 143,000 people. It lies about 40 miles east of the City of Battle Creek, 35 miles west of the City of Ann Arbor, and 40 miles south of the Cities of Lansing and East Lansing. The city itself, once the center of the railroad industry in southern Michigan, now has a light industrial economic base and also serves as a major shopping center for the surrounding area. No evidence was adduced at the hearing concerning any grievous "political" or "economic" problems confronting the City of Jackson as a municipal unit.

FORMAT

Hereafter, it shall be the format of this arbitration determination that there will first be a discussion of the issue with findings of fact and conclusions of law, and then a determination of the award on each issue. Where the Chairman has been advised that the parties have agreed and have settled their differences with reference to any issue, it will be so indicated. Where it is essential to indicate specific language submitted by

one party or the other, that also will be so indicated. Each award will be followed by a place for signature of each panelist. If any panelist dissents from the award made, he will so indicate.

One final word of explanation. Even though requested to do so, the City of Jackson did not submit to the Chairman a "final best offer" on all economic and non-economic issues as requested by the Chairman. It thus became necessary to glean from the record of the two days of hearing what that position was with reference to various issues. It would be most helpful, if in the future, particularly in matters involving multiple disputed issues, if the parties would submit at least a summary statement of their respective positions. Though it can be pointed out, that the City did submit individual proposals on individual items, as well as submit as Exhibit 4 their "proposed contract", in the course of the hearing and thereafter the City did recede from certain positions, thus, again, making it necessary to "search and find" the City's exact position on each issue.

FINDINGS OF FACT AND AWARD

Upon the consideration of the entire record, and the 54 exhibits submitted to the panel, the following findings of fact, conclusions of law, and awards are made:

ECONOMIC ISSUES

ISSUE I

Minimum Man-Power

One of the most hotly disputed matters at the arbitration hearings was the issue of minimum man-power. The record substantiates the fact that the Jackson Fire Department has, in fact, decreased in size over recent years. Union Exhibit 12 shows that in 1972 there were 91 fire fighters whereas as of March 8, 1977, there were 78 fire fighters. The record also indicates that the City of Jackson is divided into four fire fighting districts requiring a component of at least 20 men on duty per shift (Exhibit 20). Exhibit 19 illustrates that in 1974 there were 32 days when less than 20 men were on duty; that in 1975 there were 71 days in which there were less than 20 men on duty; and in 1976 there were 78 days in which less than 20 men were on duty. National Fire Fighting Standards indicate that a certain minimum component is necessary to run a station or to run a fire rig. In the opinion of the Chairman it is in the interest of the safety of the individual fireman that a proper component of fire fighters be available at all times. Though the City has indicated in its Brief and correspondence to the Chairman, that it does not consider minimum man-power to be a subject of mandatory bargaining, particularly when predicated upon the safety of the citizens of the community, the Chairman finds that the arguments of the fire fighters, and the evidenced produced by them, supports both the contention that it is in the interest of the individual fire fighters safety, as well as the safety of the community, to have minimum man-power

requirements. There is no apparent economic reason, such as dire financial condition of the City, which would override considerations of the safety of an individual fireman. In addition, the City has recognized in the past the need to have a minimum component of 20 men on duty; there appears to be no justification for the gradual erosion of this provision.

AWARD

The City shall at all times maintain a minimum complement of twenty (20) 24-hour-fire fighters on duty on each shift.



Donald L. Reisig, Chairman



Panelist

Panelist

ISSUE II

Pay for Acting Rank

The record indicates, that through the gradual diminuation of ranking officers (captains) and drivers, and the City's failure to promote to fill vacancies in such positions, increasingly lower paid personnel have been required to act in the capacity of higher rank, without commensurate compensation. The City's posture in this regard, is untenable, i.e. that a fire fighter is a fire fighter, and that he can perform all functions without regard to compensation. If that were, in fact, the case, then there would be no necessity for classification distinctions between the various fire fighters. Simple economics, would dictate that if the City can require an employee to act at higher rank without commensurate compensation, then little or no purpose would ever exist to "promote" anyone to higher rank, or to fill vacancies in higher ranking positions. Though the City, by this award, will not be compelled to promote to fill vacancies, at least, there will be some encouragement, where a vacancy exists, to promote a properly trained and qualified individual to a position.

AWARD

The contract in this matter shall provide as follows:

"An employee temporarily assigned or required, for a minimum of at least 13 hours during a shift, to accept the responsibility and duties of a position above that which he normally holds shall be paid at the rate of pay for the job to which he is transferred or assigned as though he had been permanently promoted to such job. Rate of pay shall be figured hourly by dividing the annual salary of the employee

by hours worked per year (2808 hours). The employee shall be paid the difference in hourly pay between his present salary and the salary of the job being performed. When an employee has accumulated 2808 hours in the first step to which he would be promoted, he shall be entitled to receive acting pay at the next step rate, and will continue to move from step to step after accumulating 2808 hours at any step. This hours requirement shall be reduced according to any change in the work week.

For purposes of this provision only, the City shall pay the employees for such work on or about the 1st of January and the 1st of July each year.



Donald L. Reisig, Chairman



Panelist

Panelist

ISSUE III

Medical Insurance for Retirees

Perhaps the Chairman is being obtuse upon this issue, but it appears upon cursory reading by the Chairman of the existing contract between the Fire Fighters and the City that the City is to pay the full cost of hospitalization for the individual retiree, but not his family.

(Clearly, the City is to pay the full cost of hospitalization for any employee retired on duty disability pension on or after July 1, 1974, including the cost of hospitalization for the duty disability retirees dependant children under age nineteen (19) as well as spouses.) However, on the record it was pointed out to the Chairman by both parties that in fact the existing contract had been interpreted to only provide hospitalization benefits for "current retirees", evidently meaning those who had already retired at the time the contract went into effect. The Fire Fighters seek, however, full paid hospitalization for all employees who retire after July 1, 1976, including their families.

This is an instance where hard economic choice must be made. The Union's proposal in this regard, though limited in duration to age sixty-five (65) or eligibility for Medicare still fails to recognize the availability of other insurance on the part of the spouse, thus creating a situation where the City's costs could be unnecessarily increased.

The City's proposal, on the other hand, as evidenced by the City's Exhibit No. 4, i.e. the proposed contract is, to

say the least, ambiguous. Though it is recognized by both parties that benefits for retirees are not the subject of mandatory collective bargaining and/or arbitration under Act 312, the City's proposal contained on Page 11 of the Exhibit (Article X, Section II) would clearly, by its literal terms, appear to cover all those who prior to commencement date of the new agreement were in the status of "current Fire Department retirees". Thus, even those employees who retired subsequent to July 1, 1974, and who through the interpretation of the contract given by the parties were not entitled to hospitalization benefits for the period July 1, 1974 through June 30, 1976, by the provisions of the City's last best offer in this matter would as of July 1, 1976 be entitled to hospitalization benefits. On the other hand, holding to the interpretation of the term of "current Fire Department retirees" apparently utilized by the parties, would mean that those present employees who retired during the life of this contract, would not be entitled to hospitalization benefits. The panel cannot accept such an absurd interpretation of the contract. A more logical construction of the language of the City's offer is that a present employee of the Fire Department, when he retires, becomes, pursuant to the City's last best offer on this subject, a "current Fire Department retiree", and thus, pursuant to the City's last best offer would be entitled to individual hospitalization benefits.

Subject to such an interpretation, i.e. that employees subject to this contract who hereafter retire are entitled to individual hospitalization benefits, the City's proposal, under

all the facts and circumstances is the "most reasonable" and that offer is accepted as the award of the panel. Certainly, a compelling argument can be made that present economic conditions require current employees who hereafter retire are entitled to at least the benefit of hospitalization insurance covering themselves individually. If in fact, it was not the intention of the drafter of the City's last best offer to include current employees covered by this contract within the definition of "current Fire Department retirees" as they retire, then by way of caveat, it would appear to the Chairman that the City's last best offer is totally unreasonable and not in line with the comparable submitted in the Fire Fighters' Exhibit No. 30 and the City's own comparables in Exhibit No. 46. (It should be noted here that with reference to some of the comparables payments of hospitalization premiums for Fire Fighters are made pursuant to pension plan agreements and/or paid out of pension funds.)

AWARD

The contract between the Union and the City of Jackson shall provide hospitalization-life insurance benefits, including benefits to present employees who retire during the period of this contract, as follows:

Section 2: "The employer will provide and pay the entire premium cost of a medical, hospital and surgical hospitalization plan, in effect at the time of retirement for all current Fire Department retirees, designated MVF I or comparable coverage with another carrier, for all employees covered by this contract who retire on duty disability pension, on or after July 1, 1974, and such plan shall also include their spouses and dependant children under nineteen (19) years of age, in all cases where full family coverage is not provided and paid for by

the spouse's employer. If a retiree, whose insurance premium is being paid for by the City, should subsequently expire, the insurance coverage as provided for his/her spouse and dependents shall be continued on a payroll deduction basis if the spouse is eligible to continue receiving pension benefits.

In order to qualify for the above benefit, the employee must be covered by the City of Jackson group insurance continuously from the date of retirement from the City service.


Donald L. Reisig, Chairman

See continuing opinion:


Panelist

Panelist

CONCURRING OPINION

In light of the interpretation Chairman Reisig has given to the contract language, I concur in the Panel's award of the City's last best offer on medical insurance for all retirees which provides full paid Blue Cross/Blue Shield MVF I or comparable insurance for each employee, though not his spouse or dependent children, who retires on or after July 1, 1976, the effective date of the current contract, and continues full paid Blue Cross/Blue Shield MVF I or comparable insurance for each employee who retires on duty disability pension on or after July 1, 1974, including his spouse and dependent children under age 19, in all cases where full family coverage is not provided and paid for by the spouse's employer.

CONCUR:



RONALD R. HELVESTON, Panel Member

ISSUE IV

Personal Leave Day

The Union's proposal in this regard, at first blush, seems reasonable, i.e. for one day personal leave each year. However, certain factors mitigate against that concept in the existing fact situation. In the first instance the very nature of the so called "Kelly days" worked by the fire fighters provides them with periodic days off in which to accomplish and perform personal business. In the event of an emergency situation, they would not be able in most instances to give the required 24-hours notice. In addition, the Union has advocated throughout this matter the need for full man-power compliments and full compensation for acting at higher rank. The granting of unscheduled personal leave days accentuates both problems. Certainly, emergency leave can be granted when essential either by rearranging work schedules or by taking the time off from vacation days, rather than necessitating the docking of pay. Particularly, in light of the City's concession to grant an additional holiday, a personal leave day appears, based upon the total record, as unnecessary. In addition, it appears that the existing contract provision, which the City does not seek to change, effecting sick leave provides that employees shall be entitled to one (1) working day of funeral leave with pay for attendance at funerals of the immediate family.

AWARD

The Union's offer of a personal leave day is
rejected.


Donald L. Reisig, Chairman

Dissenting:

Panelist

Panelist

ISSUE V


Sick Leave Pay-Out

The Union's offer in this regard, is designed to create some form of remuneration for those employees who do not utilize all of their accumulated sick leave at the time of retirement. (The existing contract provides for 50 percent of salary for unused sick leave at the time of retirement with a maximum of ninety (90) days accumulation.) It is the finding of the Chairman that the additional inducement toward accumulation of sick leave rather than utilization, actually can result in a savings to the City. In light of the City's present policy of charging two sick leave days for each duty shift an employee is absent, the added remuneration appears called for.

AWARD

Effective July 1, 1976, the City shall pay to employees that retire on or after that date an amount equal to seventy-five (75%) percent of salary for unused sick leave at the time of retirement with a maximum of ninety (90) days accumulation.


Donald L. Reisig, Chairman


Panelist

Panelist

ISSUE VI

Sick Leave Policy

The controversy and dispute surrounding the sick leave policy, has reference to what is a "work month" with reference to credit for sick leave allowance. The City's proposal is that the employee must actually work one hundred twenty (120) hours or be on worker's compensation, vacation or holiday to obtain the applicable credit, whereas the Union's offer is that the employee must work one hundred (100) hours for credit to a 24-hour employee or sixty (60) paid hours for a 40-hour employee. (The Union's offer recognizes that a small number of employees work a 40-hour week. It also may contemplate possible reduction in the work week in the future.) Both proposals would eliminate credit for sick leave when the employee is on sick leave, personal leave or military leave. Since the basic work month for the Fire Fighter is in most instances two hundred fifty six (256) hours, requiring only one hundred (100) hours of work in a given month to obtain a sick leave would appear to be unreasonable. Within the parameters of the last best offers, insufficient flexibility exists to reduce downward the number of hours worked to obtain sick leave credit for the forty (40) hour per week employee. Thus, the City's last best offer is determined to be the most reasonable under all the facts and circumstances. If, hereafter, the work week by operation of law is in fact shortened, this matter will undoubtedly have to be renegotiated between the parties.

AWARD

In order to accumulate sick leave for any given month an employee must actually work one hundred twenty (120) hours or be on worker's compensation, vacation or holiday.


Donald L. Reising, Chairman

Dissenting:

Panelist

Panelist

ISSUE VII

Wages

The parties have heretofore agreed the contract term would be for three (3) years commencing July 1, 1976, though as will be later addressed, there is an argument with reference to the retroactivity of any award made by the arbitration panel. The parties have, therefore, broken their wage proposals and last best offers on wages into annual increments. With reference to the first year, July 1, 1976 to June 30, 1977, the City has offered a Five Hundred Fifty Dollar (\$550.00) across the board increase effective January 1, 1977. The Fire Fighters proposal is the same dollar amount but effective July 1, 1976. It is the thrust of the Union's argument that if permitted to strike, the wage differences between the parties would have been resolved long before the present time and that the new wage rates would, thus, have gone into effect before January 1, 1977. In turn, the Union maintains that the legislative policy behind Act 312 would be better maintained if any wage increase was retroactive to July 1, 1976.

Though the Union's arguments, in and of themselves are compelling and persuasive, in light of the resolution of the contract dispute between the City of Jackson and the Fraternal Order of Police, Leonard Carey, Lodge No. 70, by arbitration award April 14, 1977, granting to the Jackson Police Department a Five Hundred Fifty Dollar (\$550.00) across the board wage increase effective July 1, 1976, and in light of Mr. Ward's April 22, 1977 letter to the Chairman in which he indicates that the City of

Jackson has "withdrawn" the issue of parity from consideration by the panel and "agrees to include the parity language from the expired contract in the new contract", it is clear to the Chairman that the City of Jackson, in effect, desires parity treatment of its policeman and fire fighters on the issue of compensation. Considering all statutory factors, as well as the reasons above indicated, the last best offer of the fire fighters of Five Hundred Fifty Dollars (\$550.00) across the board wage increase effective July 1, 1976 for the first year of the contract is accepted as the award of this panel.

Second Year of Contract - July 1, 1977 through June 30, 1978

The parties have proposed identical last best offers of Five Hundred Dollars (\$500.00) across the board increase effective July 1, 1977. Since there is no disagreement concerning these last best offers, it is the award of this panel that effective July 1, 1977, an additional Five Hundred Dollars (\$500.00) across the board increase shall become effective.

Third Year of Contract - July 1, 1978 through June 30, 1979

The issue of the third year wage increase is complicated by the City's linking its monetary wage increase to a possible cost of living provision: that is, the City during the third year has offered a One Thousand One Hundred Dollar (\$1,100.00) across the board increase with no cost of living provision for the third year or, in the alternative, a Seven Hundred Dollar (\$700.00) across the board increase with a cost of living "bridged" to five percent (5%) based upon a four year fire fighter's salary. The Fire Fighters' proposal, in turn, for the third year of the contract

is a One Thousand Three Hundred Seventy-Five Dollar (\$1,375.00) across the board increase effective July 1, 1978. Though the Fire Fighters have also asked for a five percent (5%) bridged on a cost of living during the third year, the "COLA" provision is not linked to their proposed wage increase. (The issue is further complicated by the fact, as later discussed under cost of living, that both parties have agreed to a cost of living bridged to five percent (5%) during the second year of the contract -- the only difference being the City's proposal is based upon a four-year fire fighter's salary and the Fire Fighters proposal is based upon a twelve-year fire fighter wage. Thus, to accept the City's proposal of One Thousand One Hundred Dollars (\$1,100.00) across the board and no COLA for the third year, would mean that the COLA provision would be in effect for the second year but not the final year of the contract.)

Though the Chairman believes that in this era of erratic economic growth, where the threat of inflation is at all times present, a cost of living formula is the best protection for the wage earner against the vicissitudes of economic conditions over which he has no control, at the same time the Chairman and the panel are not in a position of merely choosing that level of compensation which seems most reasonable and applicable to them. We must, of course, choose from the alternatives presented to us. In turn, though the arbitration award made April 14, 1977 between the City of Jackson and the Jackson Fraternal Order of Police, is not necessarily binding upon this panel, the parties long history of parity pay for fire fighters and policeman is a consideration which

can be given weight.

Analyzing the individual proposals, starting with the Fire Fighters, if the Fire Fighters' wage proposal is accepted, at the commencement of the third year of the contract (July 1, 1978) the full paid Jackson Fire Fighter would be earning Eighteen Thousand Seven Hundred Ninety Dollars (\$18,790.00) per annum (without consideration of any second year cost of living which might be folded into the base rate). Based upon the Fire Fighters' own exhibit, No. 39, the base wage of a full-paid fire fighter in the City of Jackson exceeds all "out state" comparables submitted, other than Ypsilanti. The comparables submitted which exceed the City of Jackson's full paid wage for fire fighters were all essentially suburban Detroit communities. Thus, the Chairman starts with the predicate that at the commencement of the contract period, the Jackson Fire Fighter is not underpaid at least with reference to comparable cities. On the other extreme, the City's proposal for a Seven Hundred Dollar (\$700.00) wage increase plus a cost of living provision bridged at five percent (5%) appears equally unreasonable. If the cost of living does not exceed the five percent (5%) figure, the officers' wage rates for the third year of the contract would only be increased by four percent (4%), at least one percent (1%) less than the historically recognized inflation - wage rate increase over the past forty-five years. If either the Union or the City had proposed a third year COLA without the bridging provision, perhaps even this proposal might be deemed, pursuant to the standards of Act 312, to be an acceptable offer.

Thus, almost by a process of elimination, the majority of the panel comes reluctantly to the conclusion that the alternative last best offer made by the City of a One Thousand One Hundred Dollar (\$1,100.00) across the board increase during the final year of the contract is, under all of the facts and circumstances most equitable. It may, in and of itself, depending upon economic trends, be somewhat inflationary. However, it does not subject the fire fighter to the potential vicissitudes of a cost of living increase of under five percent (5%) nor does it subject the City to an unreasonable across the board wage increase. At the same time, it does require that under the cost of living issue of this arbitration award that the cost of living provision be eliminated for the third year of the contract, which the Chairman is reluctant to do for the policy reasons indicated at the outset of this section. At the same time, this award continues "parity" with the award heretofore made to the Jackson Police Officers. (The Chairman has considered the Union's arguments that the City's proposal, wherein across the board wage increases are "tie barred" to COLA provisions, is impermissible. Though as indicated above, such a "tie barring" makes the analysis more complex, the Chairman can see no reason why such a proposal should be declared void. In this regard, the Chairman rejects the Fire Fighters' arguments on this point.)

Summary of Award on Issue of Wages

1) First Year - July 1, 1976 through June 30, 1977-
Five Hundred Fifty Dollars (\$550.00) across the board effective

July 1, 1976.

2) Second Year - July 1, 1977 through June 30, 1978
Five Hundred Dollars (\$500.00) across the board effective
July 1, 1977.

3) Third year - July 1, 1978 through June 30, 1979
One Thousand One Hundred Dollars (\$1,100.00) across the board
effective July 1, 1978.


Donald L. Reisig, Chairman

Dissemt as to the third year.


Panelist

Panelist

ISSUE VIII

Cost of Living

The issue of Cost of Living wage adjustments have been referred to in the preceeding section under Wages. The Fire Fighters maintain, that for the first year of the contract the provisions of the 1974 to 1976 contract (Article VI, Section 4, Pg. 8) should be applied pursuant to Section 13 of Act 312, and that, therefore, the Fire Fighters should receive as of January 1, 1977 a 3.3 cost of living wage adjustment payable on that date. This issue was not completely addressed during the course of the hearing. Though an argument can certainly be made that pursuant to Section 13 of Act 312, even the escalating terms of the earlier contract should be given full force and effect, the parties have not approached other issues on this basis. In fact, this panel has heretofore and will hereafter rule that provisions of any new contract will be retroactive to July 1, 1976. Thus, it would appear that no rationale exists for continuing the cost of living language of the 1974 - 1976 contract through the first year of any new award. In addition, it must be pointed out that neither party has suggested that for later years of the contract the 1974 - 1976 formula should be utilized; rather, they have urged that any cost of living allowance after July 1, 1977, be bridged at five percent (5%), though each party has urged a different base rate for the application of the cost of living formula. In light of the fact that all parties were aware by the time of the hearing in this matter what the impact of the actual rise in the cost of living during the last six month period (March 30, 1976

through September 30, 1976) was in fact, and thus could have made provision therein in their basic wage offers, in light of the other awards made herein, no cost of living provision shall be made during the first year of the contract.

During the second year of the contract, both parties are in agreement that a cost of living increase bridged to five percent (5%) should be awarded. The City, however, would base the cost of living increase upon a four (4) year fire fighter's salary, whereas the Fire Fighters urged the increase to be based upon a twelve (12) year fire fighter wage. We find to predicate the cost of living increase upon twelve (12) years of service to be uncalled for under the present facts and circumstances. Again, based upon the parity concept to be discussed hereafter, the award of April 14, 1977 made to the Jackson Police Officers predicated the COLA provisions based upon a four (4) year patrolman's salary.

Though the Chairman has indicated his personal preference for a COLA provision, in the discussion of "wages" under Section VII above, wherein the issue of cost of living for the third year was discussed, because of the varying economic proposals of the parties it was therein determined that a One Thousand One Hundred Dollar (\$1,100.00) across the board increase would be granted during the third year in lieu of a COLA provision. The rationale and reasoning therein is adopted here.


AWARD

No cost of living award should be made for the first and third years of the contract. With reference to the second year

of the contract, effective with the first pay period beginning on or after July 1, 1977, and thereafter, a cost of living adjustment, if applicable, should be made semi-annually with the first pay period beginning on or after January 1 and July 1 and should be folded into the base wage. Such adjustment should be based on changes, if any, in the consumers price index, 1967 series = 100, for the City of Detroit, as prepared by the United States Department of Labor, Bureau of Labor Statistics, for the proceeding six month period. There should be no increase in the salary based upon a zero (0) to five percent (5%) increase in the cost of living allowance for any six month period. For each full percentage increase above five percent (5%) in the cost of living allowance above the base there should be a corresponding one percent (1%) increase in salary based upon a four (4) year fire fighters salary.


Donald L. Reisig, Chairman

Dissenting:


Panelist

Panelist

ISSUE IX

Food Allowance

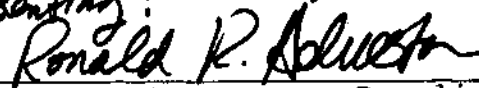
The Fire Fighters seek retention of the former contract provision providing for a Four Hundred Thirty Two Dollar (\$432.00) per year annual food allowance, and, in addition, seek a COLA factor added to the food allowance. The City's position is that the Four Hundred Thirty Two Dollar (\$432.00) allowance should be continued without a COLA factor. Based upon the comparable provided by the City [Exhibit 46(g)], the Four Hundred Thirty Two Dollar (\$432.00) food allowance appears to the Chairman to be ample and sufficient. To apply a COLA formula to the Four Hundred Thirty Two Dollar (\$432.00) food allowance appears to be an unnecessary exercise of bookkeeping and administrative time.

AWARD

An annual subsistence allowance of Four Hundred Thirty Two Dollars (\$432.00) per annum shall be made to each Fire Fighter, prorated where necessary to reflect actual months of services, is awarded.


Donald L. Reisig, Chairman

Dissenting:



Panelist

Panelist

ISSUE X

Fire Alarm Operators

The Union proposes that the following clause be added to the contract:

"There should be a full paid class 52 fire alarm operator for each platoon or shift worked in the Department and the position should be filled by 24-hour fire fighters."

The City has proposed that they be allowed to go to civilian dispatchers rather than continue to use 24-hour fire fighters as alarm operators. No creditable evidence of any substantial nature was adduced at the hearing as to the economic savings engendered by the City if they were allowed to go to civilian dispatchers or the lack of necessity for fire fighting training, nor was any evidence adduced as to the civilian's proficiency and training in fire fighting. On the other hand, the Fire Fighters produced evidence that it was essential that the dispatcher not only have a complete familiarity with the City, its fire fighting districts, the potential hazards and risks fire fighters are exposed to, but in addition, possess essential fire fighting training and skills, in order to make the informed judgments that are essential in the dispatching of fire fighting equipment and personnel. Though an argument can be made that this determination is one that should be made upon a "managerial" basis, here the total record mandates that the considerations of fire fighters' safety be given optimum consideration.


AWARD

The contract between the Union and the City of Jackson shall provide as follows:

Fire Alarm Operator

"There shall be a full paid, class 52, fire alarm operator for each platoon or shift worked in the Department and the position shall be filled by 24-hour fire fighters."


Donald L. Reisig, Chairman


Panelist

Panelist

ISSUE XI

Computation of Overtime

The City seeks a reduction in the rate of hourly overtime compensation for all Union employees. It proposes, that the hourly rate for overtime purposes be determined by dividing the annual salary by 2,912 hours (the average hours worked per year by 56-hour employee), instead of by 2,080 hours, (the average hours worked per year by a 40-hour employee). Though traditionally, because of the nature of the so called "Kelly day" the fire fighter has actually been required to work a greater number of hours in a given year, there is no rationale whatsoever for supporting the concept that his hourly rate, for overtime purposes, should thus be calculated upon the reduced rate. An hour of overtime is no less an hour out of the fire fighters life than it is an hour out of the life of any other employee. The concepts of parity, now espoused by all of the parties, would likewise dictate that if an equally compensated policeman and fireman both put in an additional hour of work time (overtime) they should be compensated for that overtime at an equal rate. The City's proposal would create a situation where a fire fighter working overtime would be compensated at a lower rate than a policeman working overtime.

AWARD

The provisions of the July 1, 1974 through June 30, 1976 contract between the Fire Fighters and the City of Jackson contained within Article VI, Section 5, are continued. That provision reads as follows:

"All employees covered by this agreement shall be paid overtime pay for all authorized overtime work at the rate of time and one-half in cash. For purposes of this agreement, the employees hourly rate of pay shall be the annual salary for each employee divided by 2,080 hours."


Donald L. Reisig, Chairman


Panelist

Panelist

ISSUE XII

Other Economic Issues

A review of the total record, as well as the presentations of the parties, would indicate that the parties are in agreement upon five additional economic issues. Thus, it is the award of the panel on said issues as follows:

1) Clothing Allowance - The parties have agreed that effective July 1, 1976, the uniform allowance shall be increased from One Hundred Twenty Dollars (\$120.00) to One Hundred Sixty Dollars (\$160.00) per annum.

2) Comparable Insurance Carriers - The parties have agreed to add the following paragraph to the contract clause on hospitalization/life insurance:

"The employer may provide medical, surgical and hospitalization insurance coverage through a carrier other than Blue Cross Blue Shield, provided that there shall be no decrease in any benefit currently provided by the Blue Cross Blue Shield coverage or required to be provided thereunder."

3) Released Time - The parties have agreed that the released time provision in this contract shall be amended to provide in its entirety at follows:

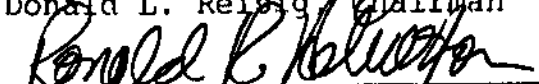
"Officers and other representatives of the Union shall be afforded reasonable time during regular working hours without loss of pay for Union purposes, with the approval of the Fire Chief, including negotiations with the City and settlement of grievances arising under this contract. Union delegates, not to exceed two (2) in number shall be afforded time off with pay up to three (3) days to attend the bi-annual Michigan State Fire Fighters Convention and time off with pay up to five (5) days to attend the bi-annual International Association of Fire Fighters Convention."

4) Parity - The parties have agreed that the parity provision in the contract should be amended to provide in its entirety as follows:

"The parity relationship between the corresponding ranks of employees in the Fire Department and Police Department shall be continued for the duration of this agreement and there shall not be a differential greater than Five Hundred Fifty Dollars (\$550.00) in the wage rates between the corresponding ranks of employees. In the event there is established for the fiscal contract year, 1976 - 1977, 1977 - 1978, or 1978 - 1979, by arbitration, negotiation, or otherwise, compensation or cash benefits for the Jackson Police Department that change the current aforementioned parity relationship, the compensation provided herein shall be adjusted to restore said parity relationship for all corresponding ranks in the Police and Fire Departments."

5) Superintendent of Fire Alarms - The parties have agreed that the position of Superintendent of Fire Alarms shall be eliminated and that one additional budgeted fire fighter position shall be added in the Fire Department. Further, the parties have agreed to red-circle the base wage rate, as adjusted, to reflect any retroactive wage increases awarded by this panel, of the employee currently holding this position, George Pickett, until such time as the highest fire fighter longevity step wage rate reaches the same level; however, George Pickett shall continue to receive the same semi-annual cost of living adjustments payable to other unit members, though such payment shall be made to him by separate check on the first payday beginning on or after January and July 1 and shall not be folded into his base wage. Further, the parties have agreed that George Pickett shall be assigned to the fire fighter position created by this agreement.


Donald L. Reising, Chairman


Ronald K. Blum, Panelist

ISSUE XIII

Non-economic Issues

In addition to the economic issues addressed heretofore, the parties have submitted proposals on certain non-economic issues. With reference to those non-economic issues, the panel is not bound by the "last best offer" of the parties, but may choose alternatives, supported by the record, which carry out the purposes of Act 312.

1) Changes in Work Week - The City has raised the issue with reference to the possible need in the future to change the work week in order to comply with State Law on overtime hours. Though as the Chairman understands it, the issue of whether or not the fire fighters present work week might require overtime compensation for certain of the hours over forty (40) hours per week, is still not resolved, there remains a distinct possibility that during the period of this contract, either by law or judicial decision, determinations might be made with reference to the length of the work week that would have direct economic impact upon both the City and the Fire Fighters. Not being able to anticipate at the present moment what changes may be deemed necessary, but at the same time attempting to preserve to the City their ultimate managerial prerogatives, the panel can only suggest that in the event changes in the fire fighters work week are deemed necessary, those changes be made only upon further negotiation with the fire fighters. It is the purpose of the award in this matter to both prevent any unnecessary negative economic impact upon the City, while at the same time prevent any negative economic impact upon the individual fire fighter and/or prevent any economic advantage to the fire

fighter or to the City, at the expense of the other, caused by such changes in the law.

AWARD

The following language shall be included in the contract:

"Any changes or adjustments in the fire fighters work week, hours per week or platoon system shall be made only after negotiations and agreement between the parties. If such changes are hereafter mandated by law, then the parties hereafter may utilize all existing legal procedures for negotiating economic impact of those changes upon the respective parties. Said procedures shall include negotiation, fact finding, mediation, and arbitration."

2) Elimination of Ordinance Language in the Contract -

Article XVII of the contract in effect July 1, 1974 through June 30, 1976, contains therein a "management" clause. That clause contained a reference to a city compensation ordinance which the city has indicated has previously been repealed. It appears that the parties are now in substantial agreement that a change may be made. The Fire Fighters have suggested the following language which the panel finds to be appropriate, and which shall be added as part of the contract.



"The employer (The City of Jackson) on its own behalf and on behalf of the electors of the City of Jackson hereby retains and reserves unto itself all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws and Consitution of the State of Michigan and/or the United States. The exercise of these powers, rights, authority, duties and responsibilities by the employer and the adoption of such rules and regulations and policies as the employer may deem necessary, shall be limited by and subject to, the terms of this agreement."

3) Promotions - The Union has proposed a promotional scheme, based primarily upon seniority, though they have indicated

in their Brief that the promotional system would be based upon "seniority and ability". Unfortunately, the system that they proposed creates no objective standards for the measurement of ability. The City has, in turn, proposed the adding of language to Article XIV of the contract which "will establish the present promotional system" in the contract. Unfortunately, the City has failed totally to articulate the present promotional system. Adding to the confusion on this issue, is the record supported evidence that the City has through recent years failed to make promotions when there were vacancies in higher positions. (See comments on Issue II, "Pay for Acting Rank".)

It would appear somewhat arbitrary and capricious for the Chairman and the panel to impose detailed standards for promotion without further negotiation and input between the parties. Certainly, eligibility requirements, predicated upon seniority, as have been suggested by both parties may properly be considered as a component of any promotional program. On the other hand, complete disregard of merit is a step backward into the dark ages of public employee-employer relations lends itself to the abuses of patronage and creates dissention. Recognizing that a "merit" component based upon a testing procedure often creates dissatisfaction, at least such an attempt at objectifying the promotional processes provides a foundation for continuous improvement of the system. Therefore, the parties shall at their option, continue to negotiate a fair and equitable system of promotion which recognizes both seniority and merit. At a minimum, such system shall require the maintenance on an annual basis of an eligibility roster for all positions within the Fire Department covered by this contract and shall provide for a "testing" component which shall

be designed to objectively measure those skills essential for the positions to be filled. (Reference may be made to the existing City of Jackson's Civil Service Requirements in this regard.) If unable to agree upon a system of promotion, the parties may hereafter choose to submit their differences upon this issue to impartial arbitration. Absent any such agreement on the part of the parties as to a promotional system, or absent any agreement to submit their areas of difference with reference to promotional system to arbitration, the existing promotional system shall continue, subject to the scrutiny of the grievance procedure contained within the contract.


Donald L. Reising, Chairman
Dissent only as to promotions:

Panelist

Panelist


ISSUE XIV

Retroactivity

It is clear in this matter that mediation was first requested by the Union May 24, 1976, and arbitration first requested by the Union on June 28, 1976. (See joint Exhibit 1 - 3/14/77.) Since the City's fiscal year began July 1, 1976, it is apparent that the provisions of this award are fully retroactive. (Unless and except it is the clear indication by the panel on any issue to the contrary.)



Donald L. Reisig, Chairman



Panelist

Panelist

ISSUE XV


All Other Issues

Except for those issues commented upon herein, it is the clear intent of the parties that the contract language contained within the contract between the parties for the period of July 1, 1974 through June 30, 1976 shall be the language of the new three (3) year contract commencing July 1, 1976. Any matters not covered in the earlier contract or not included within this arbitration award, were not submitted by the parties or considered by the panel.

Conclusion - Each individual award is as noted under the topic, and subscribed to by the panelists as indicated. Each award is ordered as the determination of the arbitration panel. It is so ordered.


Donald L. Reisig, Chairman

Michael F. Ward
Individual dissents as indicated


Ronald R. Helveston
Individual dissents as indicated

July 6, 1977