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7-1-78 to 6-30-80

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

ARBITRATION PURSUANT TO ACT 312,
PUBLIC ACTS OF 1969, AS AMENDED

IN THE MATTER OF ARBITRATION
BETWEEN:

MERC CASE
NO. L78E393

THE CITY OF LANSING (City)

-and-

FRATERNAL ORDER OF POLICE,
CAPITOL CITY LODGE #141
(Park Police) (Union)

OPINION AND AWARD

APPEARANCES:

Arbitration Panel

Mario Chiesa, Impartial Chairman

Daniel J. Bodwin, City Delegate

Robert C. Vogel, Union Delegate

Appearing on behalf of Union:

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Lansing, Michigan 48933

Appearing on behalf of the City:

James L. Stokes, Esq.
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LABOR AND INDUSTRIAL
RELATIONS COLLECTION
Michigan State University

Lansing, City of

INTRODUCTION

The actual hearing in the above-mentioned matter took place on May 14 and June 29, 1979. The location of the hearing was at the Holiday Inn South, Lansing, Michigan. The parties agreed to waive the time limits contained in the statute and further agreed that all statutory prerequisites had been followed and the matter was properly before the panel for an adjudication on its merits.

The parties further agreed that the total award in this matter would be comprised of: the awards issued by the panel, all settlements and tentative agreements, and prior contract language which was not modified by the panel's awards, tentative agreements and/or settlements.

The executive session was held in this matter on August 24, 1979. This Opinion and Award follows as soon thereafter as possible.

ISSUES AND LAST OFFERS OF SETTLEMENT

Initially, the parties brought quite a few issues to the hearing. Nevertheless, as a result of sincere efforts, the issues were reduced to only two. The first issue is wages, while the second is holiday and leave days. Both were characterized as being economic.

The parties agreed that if the Union's position regarding wages were accepted by the panel, then the panel must accept the City's position regarding holiday and leave days. Conversely, if the City's position regarding wages is accepted, then the Union's position regarding holiday and leave days must be accepted.

The last offers of settlement submitted by the parties further narrowed the dispute.

The Collective Bargaining Agreement has a duration of two years commencing on July 1, 1978, and terminating on June 30, 1980.

Keeping this in mind, both parties submitted a last offer of settlement which sought an 8.7% increase in wages effective June 30, 1978. Thus, the wage rate for the first year of the Collective Bargaining Agreement was settled. In the second year of the agreement, the City offered, effective July 1, 1979, a 7% wage increase, plus a \$500.00 increase at the four year level regarding both level 1 and level 2 Park Security officers. The Union is seeking, effective July 1, 1979, a parity wage level equal to that being paid non-supervisory patrol individuals.

Regarding the holiday and leave issue, and keeping in mind that it is tied to the wage issue, the Union is seeking a continuation of the status quo, i.e., the language contained in the prior Collective Bargaining Agreement, while the City is seeking the holiday and leave provision incorporated in the new Collective Bargaining Agreement concerning the non-supervisory patrol individuals.

PRELIMINARY MATTERS

The parties have agreed that the attached exhibit, Exhibit 1, is the Collective Bargaining Agreement which shall exist between these parties from 7/1/78 to 6/30/80, with the exception of the wage and holiday and leave issues concerned with herein.

Thus, the arbitration panel adopts Exhibit 1 and each and every provision therein as its Opinion and Award for the areas concerned with therein.

Maurice P. Chene 11-5-79
CHAIRMAN

D. J. Boduin
CITY DELEGATE

UNION DELEGATE

FINDINGS

The entire thrust of this dispute boils down to really one question. That question could fairly be stated as: Do Park Police officers perform the functions performed by non-supervisory officers to such a degree that they are entitled to parity pay?

Thus, both of the parties presented evidence directed at that question, along with the costs involved in adopting either of the last offers of settlement.

Because of the nature of the case, your panel will not have to deal with data regarding comparable communities, etc. The entire dispute centers around the duties and functions being performed by the Park Police officers in relation to the duties and functions being performed by the non-supervisory patrol officers.

All of the testimony in this matter was given by two individuals, Mr. David Henderson, a Park's Officer 1, and Mr. Carl Acker, Park's Police Supervisor.

The City of Lansing has 120 parks amounting to 2,400 acres. One is in Lansing Township, one is in Eaton County and another is in Clinton County. Thus, many of the parks owned by the City of Lansing are in Ingham County, but outside the corporate city limits, Eaton County and Clinton County. In order to function in these jurisdictions, the Park Police officers were deputized by the respective Sheriff's Department.

Prior to February 4, 1979, the Park Police were part of the Parks Department. Subsequent to February 4, 1979, they became part of the Lansing Police Department.

Subsequent to the change certain security functions which were previously done by the Park Police, were eliminated from their list of duties. Thus, they no longer make fence inspections, lighting inspections and they are not responsible for most of the watchmen.

Prior to the change the administrative head of the Department was the Parks Director, while now it is the Chief of Police.

Now, the officers must report for lineup, briefing and roll call and must follow the exact procedure City Police follow before they are sent out on the street.

Apparently in the near future the Park Police officers will be wearing a blue uniform, which will be very similar, if not identical to that worn by Lansing Police officers.

Prior to the change Park Police officers were controlled by "general city regulations" while subsequent to the change, they are subject to the rules and regulations and disciplinary procedures of the Lansing Police Department.

Prior to the change Park Police officers rotated shifts irregularly. After the change they rotate their shifts just like City Police officers, i.e., every month.

Since the change some officers and specifically Officer Henderson, have been assigned to investigate traffic accidents outside the parks, answer domestic calls, act as a back-up officer and also as the initial officer, and has responded to fight calls in bars, plus answering B & Es and an in-progress alarm.

Mr. Henderson testified, and there is no reason to find differently, that when he was hired as a Park Police officer he was acting mainly in a public relations function, assuring the safety of the people in the parks and only arresting and issuing citations when it was absolutely necessary. Since he and the other Park Police officers have been transferred to the Police Department, they are actually policing the parks, issuing citations and making arrests. They have a police log to maintain and must complete all the paperwork which a regular police officer does.

Since the change the Park Police officers' immediate supervisor is still Carl Acker, but during the time Mr. Acker is not assigned to duty, the Park Police officers answer to sector sergeant or shift lieutenant. Prior to the change if Mr. Acker was not present, Mr. Henderson, the man who had the highest seniority, was the acting supervisor.

At roll call the shift commander assigns the police officers to their various districts and then assigns the Park officers to patrol the parks. On occasion the Park Police officers have been assigned to duties other than park policing.

For instance, there was a labor dispute at the Motor Wheel Corporation and the Park Police officers were assigned to a patrol function outside the parks, on the night shift. There was a shortage of City police officers and thus the Park Police officers were utilized in the City patrol function.

Prior to the change Park Police officers were not engaged in an active training program. Since the change Park Police officers are subjected to the same platoon training program that are the City police officers, including the monthly shooting program and the first aid verification.

Both prior and subsequent to the change, the Park Police officers respond to emergency calls of accidents and injuries and patrolled the City's parks twenty-four hours a day, seven days a week.

Both prior and subsequent to the change, the Park Police officers maintain a watch over all the park buildings, facilities, vehicles and property. Further, they respond to and investigate complaints, apprehend violators and conduct follow-up investigations.

Both prior and subsequent to the change, Park Police officers transport or escort large sums of money from City recreation centers to City Hall. Subsequent to the change they assist Lansing Police officers, when directed, in apprehending criminals and traffic violators. They also respond to citizens' calls for assistance. Prior to the change the officers were not dispatched to citizens' calls for assistance and were not directed to assist Lansing Police officers and apprehending criminals and traffic violators.

Both prior and subsequent to the change, Park Police officers provide public relations and safety education to citizens.

Prior to the change and to a much lesser degree subsequent to the change, Park Police officers provide field supervision for watchmen working at critical positions, who are not supervised by Parks and Recreation.

Prior to the change Park Police officers were not dispatched by the Lansing Police Department, but subsequent thereto, they are being dispatched by the Lansing Police Department.

Both prior and subsequent to the change, the Lansing Police Department investigates all fatal accidents in City parks. All other accidents were and are being investigated by Park Police officers. In addition, both prior and subsequent to the change, the Park Police officers handled and handle all calls for service in City parks when available.

Prior to the change Park Police officers did most of their own investigations, except for possibly homicides where they would then notify the Police Department. Subsequent to the change the Park Police officers make the initial report regarding homicides and rapes and then turn those matters over to the Lansing Police Department Detective Bureau. All ^{PART}~~Park~~ 2 offenses are investigated by the Lansing Park Police as they were prior to the change.

Apparently the character of the activity the Park Police officers are now engaged in is different than the character which was exhibited prior to the change. To explain, prior to the change, the Park Police officers took a low-keyed approach and had a different relationship with civilians, especially youth, than they now do. Subsequent to the change they are acting more

like police officers than they have in the past.

Prior to the change in duties Park Police officers could back up Lansing Police officers if they so chose, but subsequent to the change, they are required to do so if dispatched.

As a final finding regarding the non-supervisory Park Police officers, it would be fair to state they are performing substantially all the functions that they did prior to the change with only a few being eliminated, but are also performing some additional functions that are normally performed by Lansing Police officers.

As far as it concerns the Park Police supervisor, the chain of command is substantially different. Prior to the change the Park Police supervisor reported to the Assistant Park Director or the Director himself. Now, the Park Police supervisor reports to a lieutenant or a captain in the Lansing Police Department.

Prior to the change the Park Police supervisor arranged all the shifts, days off, vacations and handled disciplinary matters. Subsequent to the change the Park Police supervisor sets up the shift that is passed down from the Lansing Police Department. Park Police supervisor still deals with disciplinary matters concerning the individuals on his shift. Other shifts are controlled by the sergeant on the particular shift.

The Park Police supervisor has much more paperwork to do now than he did prior to the change.

Obviously, when considering the data, it must be found that the Union's last offer of settlement is more expensive than the City's last offer of settlement. However, while that is clearly so, it cannot be found that **the** cost of the Union's offer makes it prohibitive. That is just not the case.

It must also be found that the total increase in cost of the Union's last offer of settlement is approximately 18.8%, while the City's is approximately 10.5%. This may or may not, even if it is relevant, exceed the guidelines issued by the Federal Government. Nevertheless, neither cost, nor the guidelines were paramount factors in this decision.

DISCUSSION

Perhaps the first thing that should be considered is the cost aspect of this dispute. Frankly, as stated in the previous section, there is no question but that the Union's last offer of settlement is more expensive than the City's. However, it must be kept in mind that the City has never taken the position that it cannot afford the Union's demands. Even though cost is always a relevant factor, the cost of the proposals in this matter is not an important element of deciding this dispute. The cost of the proposals were only presented in a manner which makes them comparable to each other. The impact upon the City is only known in absolute dollar figures and not as it relates to the City's ability to absorb same.

Another comment is appropriate before the final considerations are stated. Even taking into consideration the statements made at the hearing, your chairman believes that in the future, and perhaps shortly in the future, the Park Police officers will be totally assimilated within the Lansing Police Department. To put it very simply, Park Police officers will become Lansing Police officers. It would be naive to think that the Lansing Police Department command would clearly respect the difference, if any, between Lansing Police officers and Park Police officers.

In examining this record, it must be kept in mind that the panel was presented with evidence establishing the state of affairs as it existed at the time the hearings took place. Your chairman cannot base his opinion on what he thinks will happen, but only upon what the record establishes.

The record does establish that the Park Police officers are now engaged in performing police duties which they did not perform, and in fact were not responsible for prior to February 4, 1979. In addition some of the duties that they have performed are no longer being performed. Thus, your chairman must conclude that the February 4, 1979 change has altered the job duties for which the Park Police officers are responsible.

Yet, the evidence establishes that the Park Police officers are doing substantially, and perhaps predominately the same type of functions that they have done in the past. The testimony does establish that they are acting more like police, but they are performing the same type of duties, with some exceptions, in the same locations that they have in the past.

It is true that now they are dispatched to back up police officers and have performed certain functions which they have not done in the past. Yet, when examining all of the evidence, the functions and duties performed by the Park Police officers are still substantially the same as those performed prior to the change.

The Park Police officers still respond to emergency calls, patrol the parks, as apparently a permanent assignment, watch over the park buildings, facilities, vehicles and property, transport or escort sums of money from City recreation centers and golf courses to City Hall, provide public relations and safety

education, and supervise watchmen, even if the number of watchmen has been substantially reduced.

Even if the panel assumes that the Park Police officers are performing the same duties that Lansing Police officers are performing, the panel must consider what Park Police officers have done prior to the February 4, 1979 change.

In that respect, the testimony clearly establishes that the conduct of the Park Police officers prior to the change was unlike that of a Lansing Police officer serving during the same period of time. If we assume that Park Police officers are now performing all the functions of police officers and in the past have not done so, then it would only seem reasonable to assume that the probability is that Park Police officers have far less experience in police-type functions than do Lansing Police officers with comparable seniority. This can be the only conclusion arrived at if the Park Police officers did not perform all of the duties performed by Lansing Police officers prior to the February 4, 1979 change. Taking nothing away from the Park Police officers, if the February 4, 1979 change was as dramatic as the Park Police officers now argue, then obviously they do not have the same type of experience in those functions as would a Lansing Police officer with a comparable amount of seniority.

At the bottom line, your chairman must take the position that even though the Park Police officers are now performing many of the functions performed by Lansing Police officers, which were not previously performed by the Park Police officers, this increase in responsibility does not make parity a mandatory conclusion because the Park Police officers are still performing

substantially the same type of functions that they were prior to the February 4, 1979 change.

When this is considered in light of the previous statements regarding experience and the change in the general approach to the duties, your chairman can only conclude that the City's last offer of settlement is more acceptable than the Union's.

The City's last offer of settlement recognizes the additional duties performed by the Park Police officers. The Union's last offer of settlement would eliminate any distinction whatsoever. Yet, the record establishes that some of those distinctions still remain. Whether they remain viable distinctions in the future is not before this panel.

AWARD

The panel orders that the City's last offer of settlement be adopted and implemented forthwith.

By signing this award a delegate does not necessarily agree with the chairman's rationale, but does agree with the final outcome of this matter.

Mario Cruz 11-5-79
CHAIRMAN

UNION DELEGATE
Z. J. Bodin
CITY DELEGATE