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Sub. MS4/96

STATE OF MICHIGAN
DEPARTMENT OF LABOR
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In The Matter Of The Act 312 Arbitration Between:

COUNTY OF MASON AND THE MASON
COUNTY SHERIFF,

Employer

-and-

POLICE OFFICERS LABOR COUNCIL,

Union

Opinion And Award
Of The Panel
In Case No. G94-H-3008
June 10, 1996

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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT

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Mason County

APPEARANCES:

For The Employer: David M. Foy, Esq. of Cohl, Stoker & Toskey, P.C., Lansing, MI

For The Union: Barton J. Vincent, Esq. of John A. Lyons, P.C., Troy, MI

Panel Delegates:

Chair & Neutral: Donald F. Sugerman

Employer Delegate: David M. Foy

Union Delegate: Fred LaMaire

OPINION

Prefatory Statement

Originally there were a number of issues presented in this Act 312 proceeding as being ripe for final disposition. The Chair acknowledges, with sincere thanks, the conscientious effort made by the parties that resulted in the resolution of all but one issue. Thus, the subject of this decision was reduced to the issue of wages to be paid unit employees for calendar years 1995, 1996, and 1997--the stipulated term of the parties new collective bargaining agreement.

Background

The County of Mason and the Mason County Sheriff (for convenience referred to jointly as "Employer") has recognized the Police Officers Labor Council ("Union" or "POLC") as the exclusive representative of its employees in an appropriate unit.¹ The single unit is composed of the classifications set forth below with the number following representing the employees in each category for the two divisions:

The Corrections Division

Jailers - 9
Corrections Sergeants - 2

The Patrol Division

Deputies - 8
Detectives - 2
Sergeants - 5

¹There have been at least two previously negotiated contracts between the parties.

One factor concerning the jailer classification is to be noted. When prior contracts were negotiated, the corrections division employees performed a dual function. In addition to their custodial duties they were responsible for dispatching patrol division employees. Presumably it was this aspect of their work that brought them within the coverage of Act 312.

The dispatch function has since been removed from the job duties of the jailers as Citizens of the County voted to replace this with a 911 system. For this reason, in early 1995 the Employer filed a petition with the Michigan Employment Relations Commission seeking to remove jailers from this Act 312 proceeding. The petition was subsequently withdrawn. The parties agree that for the purposes of this proceeding, jailers and corrections sergeants are a part of the unit. This decision and award will encompass these classifications as well as those in the patrol division.

Whether Act 312 coverage for jailers will continue after 1997 is not properly a matter for Panel concern. In this proceeding it will be assumed that even without dispatching duties, corrections division employees continue to perform on a full-time basis. In other words, while the qualitative nature of the work may have changed its quantitative feature has remained essentially the same.

The classification nomenclature identifies the principal duties that are performed. Jailers and corrections sergeants perform custodial duties; Deputies perform road patrol duties; Detectives perform investigative duties, and; Sergeants perform patrol and investigative functions and oversee the work of deputies and detectives.

Criteria for Determination

Section 9 of Public Act 312 of 1969 sets forth the factors upon which this Panel is required (and has in fact) based its decision. They are:

- (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 wages, hours and conditions of employment of the employees involved in the arbitration proceedings 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 dependency 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.

Pursuant to subsections (b) and (d) the parties have agreed that for the purpose of this proceeding, the communities that are comparable to the County of Mason are the following counties:

Antrim
Charlevoix
Cheboygan
Iosco
Mecosta
Newaygo
Oceana
Otsego

The Last Final Offers of Settlement

The Union's last final offer for each of the three years is: 3.5 percent, 3.75 percent and 3.75 percent.

The Employer's corresponding offer is based upon classifications. For the patrol division (sergeants, detectives and deputies) it is 3.3 percent for each year of the contract and for the corrections division (jailers and corrections sergeants) it is 1.5 percent for each year of the contract.

Discussion

The Panel has the option of selecting from the competing last final offers on an annual basis. In other words, it need not select either the Employer's offer for the three years or the Union's offer for the three years, but can elect a mix thereof. The Employer disdains this approach. It gives rise, it says, to eight different possible combinations. The

Employer believes, of course, that its "bulk" offer is the most appropriate one and the one that should be adopted by the Panel. The POLC has a similar devotion to its "bulk" offer.

The two offers--at least insofar as they relate to the patrol division classification--are extremely close. The difference is two tenths of a percent the first year. This translates into \$54.00 overall. In the next two years the difference is slightly greater; about one-half of a percent for each of the years. This converts to \$181.00 and \$317.00 annually, respectively. Thus, it is clear, that were the Panel dealing exclusively with the offers for the patrol division neither would be particularly distinguishable. Either could easily be adopted and would carry the day without much fanfare.

Instead, the case turns upon the offers for the corrections division. Does the Employer's offer of 1.5 percent for each year of the contract or the Union's offer of 3.5 percent for the first year and 3.75 percent for the second and third years best satisfy the criteria of Section 9 set forth above. While the Union's offer is somewhat higher than warranted by the criteria, it is closer to the mark than the substantially lower offer of the Employer.

Three factors lead the Panel (or at least a majority thereof) to adopt the POLC offer. First (although not necessarily in order of importance) is the Consumer Price Index ("CPI"). For all urban consumers, the CPI for 1994 increased 2.7 percent. For 1995 it increased 2.5 percent. And for the first three months of 1996 it is increasing at an annualized rate of about 2.9 percent (the difference between the CPI for January, February, and March 1996 and the corresponding CPI for those months in 1995).

For the purpose of this proceeding an assumption will be made that the CPI will continue at approximately the same level as the preceding two years. For the balance of 1996 and for 1997 it will increase at about 2.7 percent. This being the case, the Employer's offer will result in an erosion of the employees earnings of between one and one point five percent annually. The POLC offer will better the CPI by about 1.0 percent. Given the two alternatives, the Panel believes that equitable considerations favor keeping pace with the CPI rather than permitting wages to dip below the averages.

Second (perhaps in recognition of the trend in the CPI), the Employer granted wage increases to its non-union represented employees of 2.6 percent for 1995, 2.3 percent for 1996, and 2.4 percent for 1997. This is a total of 7.3 percent. On this basis, too, the Employer's offer to corrections division personnel of 4.5% must be viewed as insufficient. While it is true that corrections division employees are ranked first among the comparable communities and their overall compensation places them in this same position, this was achieved through voluntary negotiations.

Third, is the criteria of the comparable communities. Although the rate of the jailer is higher than the average of the other communities, the Panel notes the percentage increases granted to employees in this classification for 1995. The figures are: Antrim - 3%; Charlevoix - 4%; Cheboygan - 3.95%; Iosco - 3%; Mecosta - 3.02%; Newaygo - 4.93%; Oceana - 4.82%; Otsego - 4.05%.

The average of the wage increases for jailers in the comparable communities is 3.85% for 1995 and the median average is 3.97%. It is the function of the Panel to award an amount the parties themselves would have settled on had their negotiations been successful.

The Panel believes this figure would have been closer to 3.3 percent given the settlements among the comparable communities.

For 1996 the percentage increases are: Antrim - 2%; Charlevoix - 1.96%; Cheboygan - 3.81%; Iosco - 3%; Mecosta - 4.04%; Newaygo - 6.36%; Otsego - 3.99%. Eliminating the increase for Newaygo which appears to be skewed, results in an average increase of 3.13 and a median average of 3.4. It again appears that a settlement in the area of 3.0 percent will enable the unit employees to maintain their position among their counterparts in the comparable communities. This factor favors the Union's offer over that of the Employer.

As with CPI, it is impossible to gauge increases that will be negotiated or awarded in the comparable communities for 1997. Only Iosco County has settled its agreement for that year. Employees received an increase of slightly over 3%. There is no reason to believe that the other comparable communities will alter the trend increases of approximately 3%. While of course, speculative, history suggests that the POLC offer, albeit somewhat high, will less depreciate employee wages than the offer of the Employer.

A W A R D

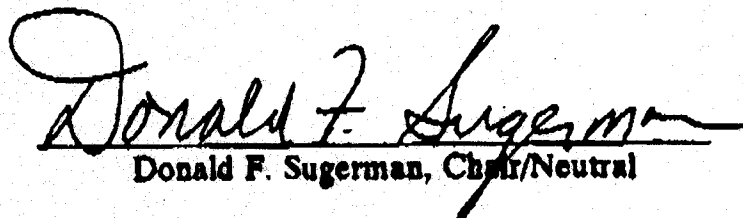
The Panel adopts the final offer of settlement submitted by the POLC. It, rather than the final offer of settlement from the Employer, more closely satisfies the criteria of Section 9 of the Act. Accordingly, the Panel majority awards all unit employees wage increases of 3.5% effective January 1, 1995, 3.75% effective January 1, 1996 and 3.75% effective January 1, 1997. All other modifications of the prior contract agreed to by the parties are to be incorporated therein and items not amended are to be continued from the prior agreement unchanged.

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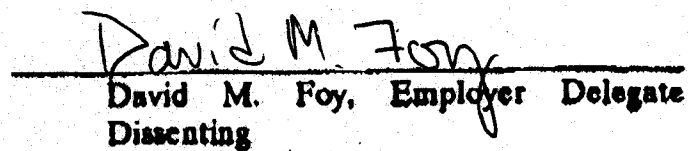
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Donald F. Sugerman, Chair/Neutral


Fred LaMaire, POLC Delegate


David M. Foy, Employer Delegate
Dissenting