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ACT 312 ARBITRATION PANEL

In the Matter of Arbitration between:

CITY OF BENTON HARBOR

and

**POLICE OFFICERS LABOR COUNCIL -- PATROL OFFICERS' UNIT
MERC CASE NO. G91 K-0069**

HEARING DATE: June 23, 1994

ARBITRATION PANEL: Richard Potter, Chairperson
James Quinn, Union Designee
David Walker, City Designee

APPEARANCES:

For the Employer:

James L. Waters: Counsel for the City

For the Union:

Kenneth Zatkoff: Counsel for the Union

Nancy Ciccone: Research Analyst

INTRODUCTION:

This dispute involves unresolved issues pertaining to a collective bargaining agreement between the City of Benton Harbor and the Police Officers Labor Council representing the patrol officers' unit of the Benton Harbor Police Department.

At a pre-hearing conference on January 11, 1994, it was agreed that the duration of the contract would be for five years, commencing on 7/1/91, and ending on 6/30/96. The contract will consist of the issue of wages, which is decided below, the parties' agreements and the 1986-91 collective bargaining agreement between the parties.

Language agreed to by the parties on the issues of a clothing allowance, handguns and overtime was to be included in this award, but was not provided to the panel.

DISCUSSION OF THE WAGE ISSUE:

<u>Effective Date</u>	<u>Union</u>	<u>City</u>
7/1/91	6% increase	1% lump sum payment
7/1/92	6% increase	2% lump sum payment
7/1/93	6% increase	2% increase
1/1/94	3% increase	-0-
7/1/94	3% increase	2% increase
1/1/95	3% increase	-0-
7/1/95	3% increase	2% increase

The city's primary argument is based upon its ability to pay. Indeed, the only exhibits presented by the city prior to its brief were its budgets and financial statements. Its position is that its economic condition be the "dominant and controlling factor in this case."

Specifically, the city states in its closing brief that it is already in violation of the Headlee Amendment and is thus unable to raise revenue further and that acceptance of the union's position would force the city into bankruptcy. It claims that of the comparable jurisdictions, it has:

1. The greatest population decrease from 1980-1990 (-12.8%).
2. The lowest proportion of high school graduates.
3. The lowest per capita income.
4. The lowest per capita SEV.
5. The highest tax rate.
6. The highest percentage of citizens living in poverty.

The union's position is based primarily upon a comparison of Benton Harbor salaries with the average of salaries from the comparable jurisdictions, which include the following communities:

Benton Township	Niles Township
Muskegon Heights	St. Joseph
Niles	

Under the union's proposal, the average patrol officer's salary will be raised from over \$3,000 below the average of comparable communities to slightly below average (patrol officers) and somewhat above average (detectives) in 1995. Obviously, the goal of the union proposal is to move the unit from near the bottom of the comparables to above the midpoint by 7/1/95. The union argues that the city's presentation of financial information was insufficient to demonstrate inability to pay, and certainly the information that was provided, without explanation, was not complete. Nonetheless, it is clear from the financial reports and budgets that Benton Harbor is not financially healthy. Thus, clearly "the interests and welfare of the public" and the financial ability of the unit of government to meet those costs must be a factor.

At the same time, the members of this unit have had no increases in pay for four years and, considering they were at the low end of the comparison of other police forces, have fallen even further behind. However, it is not reasonable that the unit that was at the bottom of the comparable jurisdictions at the end of the last contract should be raised to above the middle as a result of the 312 Arbitration. Indeed, it would be unusual, absent unusual circumstances, that the relative position would change so dramatically. No such unusual circumstances were presented at the hearing.

There is a reluctance to award bonuses inasmuch as they do not recognize the increase in cost of living. However, to do otherwise in this instance would be to award three successive increases that are out of line (6%) with other units and the cost of living. Moreover, since the union proposal is front-end loaded with the largest percentages in the first three years, it presents the panel with the prospect of enormous retroactive payments of over 50% of salary.

AWARD:

<u>Effective Date</u>	<u>Amount</u>	<u>LBO</u>	<u>Dissenting Panelists</u>
7/1/91	1% lump sum payment	city	James Quinn, union designee
7/1/92	2% lump sum payment	city	James Quinn, union designee
7/1/93	2% increase	city	James Quinn, union designee
1/1/94	-0-	city	James Quinn, union designee
7/1/94	2%	city	James Quinn, union designee
1/1/95	3%	union	David Walker, city designee
7/1/95	3%	union	David Walker, city designee

Salary payments and increases are to be retroactive for all unit members on the payroll on 12/20/94.

All other provisions of the agreement are as negotiated by the parties or remain the same as in the previous contract.

By their signatures, the panel members signify their agreement with this award,
except as noted above.


Richard H. Potter, Chairperson

12.29.94
Date


James Quinn, Union Designee

1-2-95
Date


David Walker, City Designee

1/13/95
Date