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**ACT 312 ARBITRATION PANEL**

In the Matter of Arbitration between:

**CITY OF BENTON HARBOR**

and

**POLICE OFFICERS LABOR COUNCIL -- COMMAND OFFICERS' UNIT  
MERC CASE NO. G91 K-0070**

**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 command 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 and health insurance for retirees and

*Benton Harbor, City of*

dependents, both of which are economic issues and are decided below, the parties' agreements and the 1986-91 collective bargaining agreement between the parties.

## **DISCUSSION OF THE ISSUES:**

### **Wages:**

<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 command officer's salary will be raised from somewhat below the average of comparable communities to well above the average 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 lump sum payments 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 in addition to over a 27% increase in base pay on 1/1/95.

**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.

**Retiree Health Insurance:**

The union proposal is:

The city will provide at city expense for all active lieutenants and sergeants and their dependents, a hospital and medical insurance plan which shall provide for benefits and coverage at least equal to the benefits and coverage previously provided under the Blue Cross/Blue Shield group policy which was in effect on December 31, 1977, as stipulated in the court order. Effective July 1, 1991, the city shall provide and pay for hospitalization insurance for all future retirees and their eligible dependents. The coverage shall be equivalent to that which is provided full-time employees.

The city proposes no change, which means it does not pay for the health insurance of either employees or their dependents.

Among the comparable jurisdictions, Niles Township does not provide retiree insurance; Niles provides it for the retiree. Muskegon Heights and St. Joseph provide insurance for the retiree and spouse until age 65, when they are covered by Medicare, and Benton Township covers the retiree and dependents until age 65. Benton Township and St. Joseph require the retiree to pay 50% of the premium and Niles requires a \$10 per month contribution from the retiree. The union proposal, with no age limit, no contribution and coverage for all eligible dependents, would be superior to the coverage of any of the comparable communities.

A troubling aspect of the union proposal is that it is retroactive to 7/1/91. There was no information provided on how many people have retired since that time and indeed, there was no information provided on the total impact of this proposal by either the union or the city. The chair is also concerned that the language of the proposal may open the city to claims for medical costs incurred by those who retired since 1991.

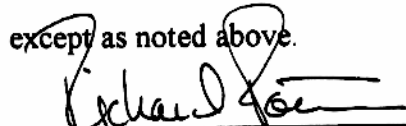
**AWARD:**

The city position: No city-paid health insurance for retirees or their dependents.

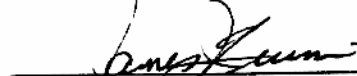
(James Quinn, Union Designee, Dissenting.)

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

1/12/95  
Date