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STATE OF MICHIGAN
EMPLOYEE RELATIONS COMMISSION
DETROIT OFFICE

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CITY OF MONROE (POLICE DEPARTMENT)

-and-

POLICE OFFICERS LABOR COUNCIL

Act 312 Arbitration No. D95 A-0114

Chairman and Arbitrator: Donald R. Burkholder

Union Delegate: Richard Ziegler

Employer Delegate: Joseph S. Lybik

Date: June 5, 1996

Monroe, City of

A Pre-Hearing was held on Tuesday, November 21, 1995, followed by the Arbitration Hearing on Friday, February 2, 1996. Both were held in a conference room at the Monroe City Hall.

The issues as specified in the Petition for Arbitration, D95 A-0114, dated June 22, 1995, were related to the pension plan, with the Union seeking the following:

- 1) a reduction in member contribution from 9% to 6%;
- 2) an increase in the multiplier from 2% to 3% with a maximum of 80%, and
- 3) an escalator or cost of living increase to 3% of a compounding basis.

The Employer position was the status quo on all three issues. It was agreed at the Pre-Hearing that Duration would be a fourth issue, in addition to those listed above, and that these four issues were the only issues in dispute. It was further agreed that the Delegates would be Richard Ziegler for the Union and Joseph S. Lybik for the Employer, and an "Agreement to Extension of Act 312 Mandatory Time Limits" was signed and forwarded by the Arbitrator to the Michigan Employment Relations Commission.

Those present for the Arbitration Hearing were as follows:

Union: Richard Ziegler, Delegate and POLC Field Representative; Barton J. Vincent, Attorney/Advocate; Nancy Ciccone, POLC Labor Research Analyst; John Michrina, President; Charles F. McCormick, Vice President; James L. Arnold, Negotiating Team Member; Thomas D. Jenkins, Treasurer.

Employer: Joseph S. Lybik, Personnel Director; Paul H. Townsend, Attorney/Advocate.

All findings and determinations in this case are based on consideration of Michigan Public Act 312, Section 9, the legal foundation of this process. Specific portions of Section 9 will be referred to as appropriate, i.e., determined to be applicable or not applicable to the decision reached. The issue and its sub-parts are economic, and each sub-issue is a separate item.

The following is Section 9 of Act 312 of 1969.

Sec. 9. Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment to the existing agreement, and wage rates or other conditions employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (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 the wages, hours and conditions of employment of the employees involved in the arbitration proceeding 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 the pendency 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.

Testimony and exhibits were primarily concerned with two matters, 1) the identification of comparable communities, and 2) an earlier settlement between the Employer and its firefighters unit on pension issues (Tr., pp. 65 and, substantially, the remainder of testimony). The Union sought introduction of the firefighters' recent agreement with the Employer on pension benefits, asserting that it is an "internal" comparable which had been requested by the Union but not provided by the Employer. The Arbitrator ruled that the firefighter unit's pension agreement with the City should be made available to the panel and submitted into evidence, noting the Employer's objection. The requested material was not available during the hearing but was forwarded to the Union and to the Arbitrator after the Hearing was concluded but before the submission of briefs; thus this material was not admitted as an Exhibit because it was not available, but it was marked "Joint 1" when received by the Arbitrator. Joint 1 is titled "Tentative Agreement for Settlement of Act 312 Arbitration Issues for City of Monroe Firefighters Unit."

There was considerable discussion on the record concerning appropriate comparable cities, with argumentation concerning State Equalized Value (SEV) divided by population, geographic proximity, and related characteristics. The comparables are as follows:

Adrian
Allen Park
Garden City
Harper Woods
Lincoln Park
Mt. Clemens
Romulus
Southgate
Trenton
Wayne
Wyandotte
Ypsilanti

There is indeed a wide variety of benefit formulae among the comparables, including a low member contribution rate of 2.5% with a correspondingly low benefit formula of 2% for **all** years of service in Romulus; a contribution rate of 7.5% and a benefit formula of 2.5% FAE x first 25 years of service plus 1% of FAE x years of service up to 25 years, with the FAE highest 3 of the last 10, in Southgate; a contribution rate of 10% and a benefit formula of 2.5% of FAE x 1st 25 years of service + 1% of FAE x years of service to 25.

The comparables combination selected for this case demonstrates that external variables focused on one issue, in this case pensions, significant as they are, can not and do not "prove" anything in and of themselves. They are useful here only in determining relative benefit formulae and comparing them to existing circumstances as well as the parties' proposals in the present case. The comparables do not, in all cases, provide salary and other information which might help bring individual formulae into focus. In each case they are part of an overall package of compensation which needs to be examined in relation to the requirements of Act 312, Section 9 (g), as noted above, i.e., other factors not confined to those previously listed which are normally taken into consideration...

Monroe, with a 1990 population of 22,902 and a 1994 SEV/1990 population of 29,156, appears to be an economically healthy community by almost any standard. The Employer proposed two alternative sets of comparables, the first including all cities within Wayne, Lenawee and Washtenaw Counties whose population **and** per capita state equalized valuation are both within a range of +/- 50% of the City of Monroe. The second, or alternative set of comparables proposed by the Employer displayed all cities within the County of Monroe and the adjacent counties of Wayne,

Lenawee and Washtenaw, whose population or per capita state equalized valuation is within a range of +/-50% of the City of Monroe. Both of the proposed Employer lists of comparables indicated that the Employer is in a positive economic condition compared with the comparables suggested, with a 1994 SEV/1990 Population of 29,156, which is approached only by Trenton, Woodhaven, and, to a lesser extent, Romulus.

Discussion of Issues

The Employer and the firefighters' unit agreed some time ago, that for employees retiring on or after January 1, 1994, the following pension benefit adjustments would take place:

1. Amend the benefit formula to 2.5% of Final Average Compensation (FAC) for **all** years of service, from 2.5% of FAC for each of the first 25 years, plus 1% of FAC for each year in excess of 25.
2. Amend the escalator from 2% to 3% of the original retirement amount for each year after the first year of retirement, provided inflation (as measured by the Consumer Price Index [CPI]) has been at least that much.
3. Effective July 1, 1995, reduce employee's contribution rate from 9% to 6% of pay before taxes.

The Agreement between the Employer and the firefighters provided that retirement plan issues will become subject to renegotiation along with all other wage issues at the expiration of the new 1995 labor agreement, and that ratification of the then-tentative agreement would lead to cancellation of the Act 312 arbitration in that case, MERC D94 L-2072. The tentative agreement was ultimately ratified and agreed to by the parties.

The Employer asserted that the firefighter agreement had no bearing on the decision in the present arbitration involving the command officers unit. The Employer

advocate, in the process of questioning a Union witness and confirming that the Union had rejected the package accepted by the firefighters, noted that work schedules, lifestyles, opportunity for other employment, and length of active employment differed to such a substantial degree that the firefighter retirement agreement was not relevant. [Tr. pp. 73ff.] The Union advocate stated that the recent firefighters' pension agreement is "...an internal comparable. It's certainly relevant what they pay Union members or other units in the City." [Tr. pp. 64-65]. It should be noted that the Employer had initially made the same offer ultimately accepted by the firefighters to the Police Officers Labor Council (POLC), and that it was initially rejected. The Union asserted in testimony that firefighters tend to work longer in that capacity than police officers, that the POLC was willing to decrease the end result; a firefighter hypothetically could work to achieve 100 percent of their Final Average Compensation, but policemen do not work that long. Accordingly, the POLC was "...willing to reduce the 100 percent and take a cap to increase the first 25 years [Tr. pp. 71-72]. This testimony appeared to refer to the original Union position in its June 22, 1995 Petition for Arbitration, which called for an increase in the Pension Benefit Multiplier from 2.5% to 3% per year with a maximum of 80%. The Union's last best offer on Pension Benefit Multiplier, in comparison with the above, was 2.5% for all years of service.

Political opposition arose in Monroe after the firefighter agreement on pensions became public knowledge. The Mayor, Council, and a member of the Pension Board expressed opposition, with the end result that the Mayor and the City Council instructed the City Manager and the Personnel Director to take the same offer, to the POLC, off the table. [Tr., pp. 101 ff.]. This action, along with earlier rejection of the same package by the POLC, are major reasons for the present Arbitration hearing.

The fact of the matter is that a substantial retirement package has been provided for one unit, the firefighters, and could well be in place now for a sister unit, the POLC, except for the political embarrassment and turmoil that has taken place. Although the retirement package now sought by the POLC and already won by the firefighters is undoubtedly a costly package and is generous even in view of comparable data, it should be emphasized that this Arbitration proceeding is a one issue hearing, i.e., it is limited to the matter of pensions. This same issue, pensions, along with any other issues the parties wish to bargain, may be up for negotiation in a separate future procedure.

The issue of ability to pay was a concern but not a major issue in this arbitration. For this among other reasons, it is apparent that the public outcry, undoubtedly based on a real concern about cost, should be addressed by considering the cost of pensions as a major factor in determining the Employer positions on other upcoming economic issues in the next negotiation, perhaps arbitration, regardless of the findings of this Executive Committee.

The panel notes that the parties stipulated, on the record, that two officers who have retired since January 1, 1994 will receive benefits as defined by the outcome of this arbitration proceeding. The two officers are Sergeants Beauford Campbell and Sergeant Roy Parent [Tr. p. 75].

FINDINGS/DETERMINATIONS

1. The panel has determined that that the City position shall prevail on the question of Pension Benefit Multiplier, i.e., the Pension Benefit Multiplier should remain at 2.5% for each of the first 25 years of service plus 1% of Final Annual Compensation for each year in excess of 25 years.

2. The panel has determined that the Union position shall prevail on the Employee Contribution issue, i.e., the Employee Contribution shall be reduced from 9% to 6%.

3. The panel has determined that the Union position shall prevail on the Post-Retirement Escalator issue, i.e., the Post-Retirement Escalator shall be increased from 2% per year to 3% per year, non-compounding.

4. The effective date of benefits is retroactive to January 1, 1994, with the exception of the employee contribution reduction, which will become effective the first payroll period after July 1, 1995. The parties will address future changes in pension in conjunction with the contract negotiations for the successor agreement to the contract which expired June 30, 1995.

The portions of Act 312 Section 9 which apply are: (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 hours, wages and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally: (i) in public employees 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 the pendency 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.....arbitration or otherwise between the parties, in the public sector or in private employment.

The following portion of the Act does not apply: (a) The lawful authority of the employer.

The clear fact that the firefighters in Monroe negotiated an improved pension package which differs substantially from the present POLC retirement package must be dealt with. It is, on its face, an internal comparable. This circumstance does not automatically require parity. It is clear on the record that the Monroe firefighters continue their employment with the City over a longer period of time than the POLC unit members. Nevertheless, Section 9 (g) of Act 312 seems to require that similarities and dissimilarities between the benefits of public safety units in the same municipality be taken into consideration. Common sense, high morale, a positive workplace environment, and good labor relations over the long run require some attention to "internal" as well as external

comparables, i.e., comparisons with other communities. The Arbitrator notes that "ability to pay" as a specific factor was not argued during the hearing, but was dealt with in terms of appropriate external variables, the State Equalized Valuation per Population, etc.

It is also clear that the citizens of Monroe, through their elected and appointed leadership, have grave concern over the long-range costs of the retirement packages. Thus, it is in the best interest of the City and its citizens to exercise some moderation, especially on an issue for which it is next to impossible to determine the long-range cost. Certainly, the Pension Benefit Multiplier is an issue which can be negotiated between the Union and the Employer as part of an overall cost package. It would be irresponsible in this one-issue arbitration to impose the the same pension benefit program for command officers when, 1) as previously noted, there is some difference between years of active employment for the two groups, and 2) the entire contract is up for negotiation as soon as this Arbitration proceeding is concluded.

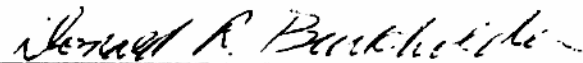
The Employer's prevailing position on the Pension Benefit Multiplier issue is at least in part in recognition the fact that history indicates that police personnel choose to work for a longer period of time than their firefighter counterparts. The Union's changing positions on the retirement issues, especially a statement in the Petition for 312 Arbitration which would have imposed a cap, indicates some sense of responsibility in negotiating. Subsequently, and understandably, the Union position demanded the same package as the firefighters.

The Arbitrator encourages the parties to negotiate an agreement which takes the above-noted concerns into account. Wages, along with other benefits, including some form of tax-sheltered benefits or annuity program, appear to be creative possibilities which ought to be considered in the upcoming negotiations.

The Arbitrator takes special note of professionalism and the businesslike demeanor exhibited by both parties and in particular, the Delegates, in this hearing. It is hoped that this sort of approach will continue in the upcoming negotiations. The determination in this proceeding, a first of its kind for this Arbitrator because of the one-issue nature of this arbitration, should provide a fruitful point of departure for future bargaining, strengthen the relationship between Monroe's public safety forces, and enhance the atmosphere for continuing improvement in labor-management relations.

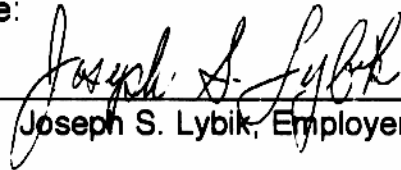
Act 312 Determination

Duration: The effective date of benefits is retroactive to January 1, 1994, with the exception of the employee contribution reduction, which will become effective the first payroll period after July 1, 1995. The parties will address future changes in pension in conjunction with the contract negotiations for the successor agreement to the contract which expired June 30, 1995.



Donald R. Burkholder, Chairman and
Arbitrator

Agree:



Joseph S. Lybik, Employer Delegate

Disagree:

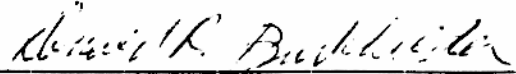


Richard Ziegler, Union Delegate

Date: June 5, 1996

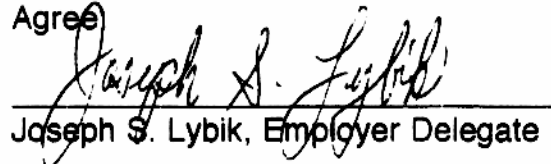
312 Determination

There shall be no change in the pension benefit formula, i.e., it shall remain at 2.5% of final annual compensation for each of the first 25 years, plus 1% of final annual compensation for each year in excess of 25.



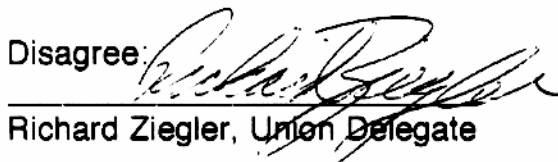
Donald R. Burkholder, 312 Chair
and Arbitrator

Agree



Joseph S. Lybik, Employer Delegate

Disagree



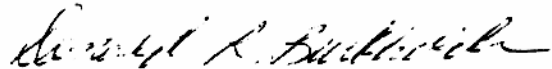
Richard Ziegler, Union Delegate

Date: Wednesday, May 29, 1996

June 5, 1996 LFB

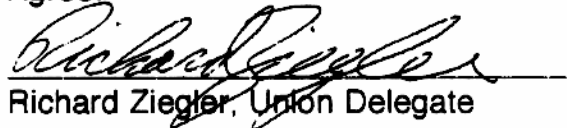
312 Determination

Effective July 1, 1995, amend the escalator from 2% to 3% of the original retirement amount for each year after the first year of retirement, provided inflation (as measured by CPI) has been at least that much.



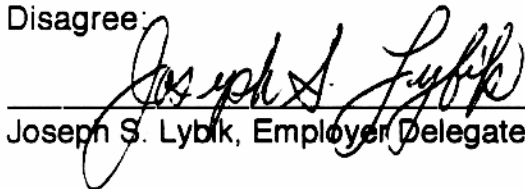
Donald R. Burkholder, 312 Chair and
Arbitrator

Agree:



Richard Ziegler, Union Delegate

Disagree:



Joseph S. Lybik, Employer Delegate

Date:

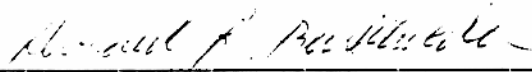
Wednesday, May 29, 1996

June 8, 1996 JLB

312 Determination

Effective July 1, 1995, reduce employees' contributions from 9% to 6% of pay before taxes.

Agree:

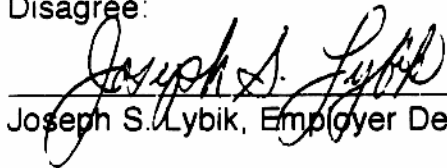


Donald R. Burkholder, Chair and
312 Arbitrator



Richard Ziegler, Union Delegate

Disagree:



Joseph S. Lybik, Employer Delegate

Date: Wednesday, May 29, 1996

June 5 1996 S/B