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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION
ACT 312 LABOR ARBITRATION

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

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RECEIVED

IN THE MATTER OF:

CITY OF MUSKEGON HEIGHTS,

Employer,

AND

REF: G89-D-0380

TEAMSTERS LOCAL 214,

Union.

The Hearing was held at the City Hall from approximately 10:00 a.m. to 11:30 a.m. on Thursday, September 27, 1990. Official record of the hearing was made by Raymond Marcoux, Supervisor, Court Reporting Section of the Michigan Department of Labor. All witnesses were sworn. All other evidence was presented in documentation form through exhibits offered by the Union and the Employer. At the conclusion of the hearing, all parties were given the final opportunity to add anything further verbally for this Arbitrator's consideration. The Parties agreed that post-hearing briefs were not necessary and the hearing was closed at approximately 11:30 a.m. on September 27, 1990.

ARBITRATOR: David L. Poindexter, chosen as chairman of the Arbitration Panel through the Act 312 procedures of the Michigan Employment Relations Commission.

APPEARANCES FOR THE PARTIES:

Employers:

Ted Williams
Attorney at Law
120 West Ethel Street
P.O. Box 599,
Muskegon, Michigan, 498443

Union:

F.W. Bennett
Business Rep.
2825 Trumble Avenue
Detroit, Michigan 48216

Muskegon Heights, City of

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102 West Washington
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LABOR AND INDUSTRIAL
RELATIONS COLLECTION
Michigan State University

PRESENT FOR THE PARTIES:

Employer:

Joseph Charlton,
City Manager and
Employer Delegate.

Union:

Phillip Pitman,
Union Steward Local 214;
George Hubbard,
Union Steward Local 214;
Joe Valenti,
Business Rep. and Union
Delegate

STATEMENT OF THE PETITION

On January 12, 1990, the Union, Teamsters Local 214, which represents the full-time police patrolmen for the City of Muskegon Heights filed a petition for Arbitration. The petition was filed on January 12, 1990 and lists five issues which were remaining after six mediation sessions which occurred on June 3, September 12, October 25, November 6, 1989, January 11 and June 15, 1990. The unresolved issues remaining were:

1. Wages for the three year period
2. Holiday pay
3. Eye and dental insurance
4. Work schedule
5. Part-time officers

The last best offer in regard to each of the above issues are as follows:

WAGES

Employer:

First year of the contract, the Employer offers a one-time only bonus payment equal to five percent (5%) of the Employees top wage. Years two and three the Employer is offering an increase of four percent (4%) per year of the base wage.

Union: The Union is requesting a five percent (5%) increase on the base rate at all steps and all classifications for the first year. The Union is also requesting a four percent (4%) wage increase added to the base for the second and third year.

HOLIDAY PAY

Employer: Offering double-time and a half if an Employee works the holiday and straight time if the Holiday falls on a regular scheduled day off.

Union: The Union is requesting double-time and one half if the holiday is worked and straight time if the holiday isn't worked. This is, in fact, the same for both and it was stipulated at the Act 312 hearing that the Parties will settle on double-time and a half if the holiday is being worked and straight time if the holiday is not being worked.

DENTAL AND OPTICAL

Employer: Has offered, for the three years, a reimbursement of \$400.00 per year on the deductible.

Union: The Union requests that the reimbursement plans be expanded to cover optical costs and that the time period for the first year be extended until June 31, 1990. The amount is agreeable to the Union. The Parties have agreed at the Act 312 hearing and have stipulated that the proposal of the Employer for \$400.00 reimbursement plan will be accepted.

PART-TIME OFFICERS

Employer: To maintain that the current number of full-time employees (i.e., 14), shall not be reduced below fourteen, prior to hiring part-time employees.

Union: That the number of full-time employees should increase to twenty full-time employees prior to hiring part-time employees.

WORK SCHEDULE

Employer: That the current contract language shall remain the same.

Union: That the Union wishes to insert the following language under the work schedule language:

The Employer shall adhere to the following guidelines in regards to scheduling officers assigned to the patrol and detective units: 1. Patrol: Officers shall have permanent shifts that are bid on a quarterly basis and shall be awarded strictly on a seniority basis. 2. Patrol: Days off shall be on a rotating basis and shall commence at the time that this agreement is signed. 3. Patrol: Normal shifts shall consist of the following: First shift-6:00 a.m. to 2:00 p.m. Second shift-2:00 p.m. to 10:00 p.m. Third shift-10:00 p.m. to 6:00 a.m. 4. Detective: Detectives shall have a normal work week of Monday through Friday with the hours flexible.

These guidelines may be adjusted by mutual agreement between the Parties and the Employer in a written letter of understanding at any time during the life of this agreement.

OPINION

In writing this decision, the Chairman of the Arbitration Panel is well aware of the statutory criteria upon which an Act 312 Arbitration Award must be based. In the instant matter the most pertinent factors to consider are:

"(d) Comparison of 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:

(1) In public employment in comparable communities.

(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.

(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." (MCLA 423.239)

The factors of (a) lawful authority the Employer and (c) the Employer's financial ability to pay were not disputed at the hearing, in the final offers or in the briefs submitted in support of the final offers.

The factors (c) interest and welfare of the public, (e) the average consumer prices for goods and services commonly known as the cost of living, and (g) changes in any of the foregoing circumstances during the pendency of the arbitration proceedings were duly noted and given what this Arbitrator believes is their proper weight.

With regard to factor (b) stipulation of the Parties; the Parties have stipulated that the above stated issues remain to be addressed and settled by the panel.

WAGES

The primary issue in the current contract negotiations was that of wages. There is no disagreement on the second and third years of the contract. The Union is requesting a 4.0% increase added to the base wage on each of the two

years and the Employer is offering a 4.0% increase in each of the last two years, therefore, the last two years are not an issue since the offers are the same. The issue is whether a five percent bonus of the top wage should be given to the Employees the first year of the contract or should an increase of five percent be given on the base rate at all steps and all classifications in the first year of the contract. Reviewing the financial data of the City, it is obvious that during the first year of the contract the Employer was running in a deficit. The Employer has offered this five percent bonus to its other collective bargaining units and to the other non-bargaining unit employees. After reviewing the comparable communities and the contracts of the comparable communities, this Arbitrator is of the belief that the Employer's offer of the five percent bonus for the first year will keep the patrol officers of Muskegon Heights in their relative positions with communities of a comparable nature. Taking into account the deficit of the Employer and the proposals for wage increases for the last two years being the same, it is this Arbitrator's belief that the Employer's offer of a five percent bonus for the first year is the best of the two offers.

HOLIDAY PAY

As stated above, the Parties have stipulated as to holidays and holiday pay. The Employer has agreed to the Union's proposal that the Employer will pay eight hours pay

if a patrol officer is not scheduled to work that day, therefore, that officer will receive a normal eight hours pay. If the officer is scheduled to work, the officer will receive 250% or 2.5 times the normal pay.

DENTAL AND OPTICAL

As stated above, the Parties also stipulated to the dental and optical issue. The Parties have stipulated that the Employer's proposal of \$400.00 reimbursement for the each of the three years, would be accepted by the Union.

WORK SCHEDULE

The Employer requests that the current contract language be maintained and the Union requests that the Union's language as outlined above be used. This Arbitrator is of the opinion that the current contract language should be maintained. There was no testimony at the hearing suggesting that there is a need for a change in the language. The current language seems to be working sufficiently. The normal rule in interest arbitration is that the language of the contract should not change unless there is a compelling interest shown to change such language. In the instant matter, the Union has not shown a compelling interest to change such language. The current scheduling of the work force seems to be working, there was no testimony which indicated that there was any difficulty or any problems with the current method of scheduling work.

5. PART-TIME EMPLOYEES: This Arbitrator is in agreement with the position of the Employer on part-time employees. During the hearing, there was no substantial evidence to suggest a change in the fourteen full-time employee minimum requirement. At the hearing, it was suggested that the Employer, due to the tax increase, has agreed to hire more full-time employees. The number currently suggests that a minimum of twenty full-time employees will be hired. This suggests that during the term of this contract it is highly unlikely that the reduction to fourteen minimum full-time police officers will occur. The Union's proposal that the Employer should have the minimum number of police officers equal to the minimum number of full-time officers currently on staff was not supported by any documentation nor was the reasoning behind the increase supported. Therefore, it is this Arbitrator's opinion that the Employer's last offer is the best offer of the two and therefore, the Employer should maintain the current number of fourteen full-time employees prior to going to part-time employees.

CONCLUSION

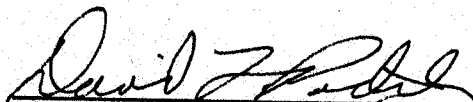
Considering all the statutory criteria of Section 9 of Act 312, MCLA 423.238 and in particular 9(d), 9(f), and 9(h), it is the opinion of the Chairman that the following

shall be incorporated into the collective bargaining agreement of the City Of Muskegon Heights and the Teamsters Local 214.

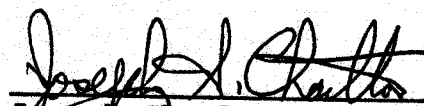
- I) Dental and Optical: The Employer's proposal of \$400.00 reimbursement for each of the three years should be incorporated into the contract.
- II) Holiday and Holiday Pay: The Union's proposal that the Employer will pay eight (8) hours pay if the patrol officer is not scheduled to work on the day of the holiday should be accepted and the Union's proposal that the officer scheduled to work shall receive 250% or 2.5 times the normal pay should be incorporated into the contract.
- III) Wages: With regard to the first year of the contract the Employer's proposal of a 5% bonus should be incorporated into the contract. The Employer and the Union's second two years are identical in their last offers of a 4% wage increase and that should be incorporated into the contract.
- IV) Work Schedule: The current language should be maintained since no substantial reason for change in the contract language was presented at the hearing.
- V) Part-time Employees: The current contract language should be maintained in the contract.

The Chairman is well aware that the above is not the optimum agreement. However, as both Parties are well aware, the Arbitrator "shall adopt the last offer of settlement which in the opinion of the arbitration panel, more nearly complies with the applicable factors described in Section 9." Since no compromise can be made, the final contract is probably not the best product of the arbitration process or indeed the collective bargaining process. To this end, this Chairman would suggest that with the above knowledge in hand, the Parties may wish to reevaluate their positions prior to the final award being entered. However, if the parties cannot reach agreement, the above represents this Arbitrator's opinions.

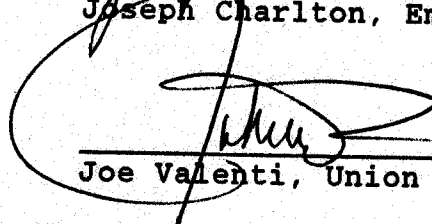
Date: 11/16/90


David L. Poindexter, Chairman

Date: 11-8-90


Joseph Charlton, Employer Delegate

Date: 11/9/90


Joe Valenti, Union Delegate