

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION

Arb.
3/10/88

Arbitration under Act 312
Michigan Public acts of 1969 as Amended

In the Matter of an Arbitration between:

Township of Niles (Police Department)

and

Labor Council, Michigan Fraternal Order of Police

Act 312 Case No. G86 A-82

Arbitration Panel

Peter Sudnick, Delegate, Fraternal Order of Police
Jerome Sabbota, Substitute Delegate, Fraternal Order of Police
John Dewane, Delegate, Township of Niles
Benson S. Munger, Ph.D., Chairperson

Appearances

For the Township of Niles

John Dewane, Esq.
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St. Joseph, Michigan 44085

For the FOP

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Birmingham, Michigan 48010

Reporter

Susan Beale

LABOR AND INDUSTRIAL
RELATIONS COLLECTION
Michigan State University

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RECEIVED

Niles, Township of

This hearing was conducted under the provisions of Act 312, Public Acts of 1969, as amended and involved the Township of Niles and the Labor Council, Fraternal Order of Police representing the Niles Township Police Department.

HISTORY

The Fraternal Order of Police, representing the non-supervisors in the Niles Township Police Department and the Township of Niles commenced bargaining to replace a contract between the parties expiring March 31, 1986. The statutory conditions precedent to arbitration, namely, collective bargaining and mediation, have been fulfilled.

The letter of appointment was initiated by a request submitted on September 18, 1986 by Richard R. Weiler, Director of FOP Labor Services.

The original submission for arbitration was received by MERC on September 19, 1986. This submission referenced eight (8) outstanding issues.

The prehearing meeting was scheduled and held by telephone on December 15, 1986. The arbitrator and counsel representing both parties were involved.

At the request of the parties the hearing was originally scheduled for March 5, 1987. At the request of the parties the hearing was rescheduled for May 15, 1987. At the request of the parties the hearing was rescheduled for August 10, 1987 and was held on that date at the office of the Township of Niles, 320 Bell Rd., Niles, Michigan. At the hearing the issues were reduced to four (4) by agreement of the parties.

The last best offers of the parties were received by October 22, 1987.

A Panel Meeting was held on February 22, 1988 and a draft award was fashioned.

This opinion has been written by the Chairman of the Panel. Concurrence by any other member of the Panel in all or part of the Award should not or does not necessarily indicate agreement with the matters and opinions set forth in this award.

DURATION OF THE AWARD

The parties are in agreement that the duration of the agreement will be for two (2) years (April 1, 1986 through March 31, 1988)

SCOPE OF THE AWARD

The parties have agreed that the total award in this matter would be comprised of: the awards issued by the panel, all settlements and tentative agreements between the parties and all prior contract language which was not modified by the Panel's awards, tentative agreements and/or settlements by the parties.

ISSUES SUBMITTED TO ARBITRATION

1. Article XXI, Employee's Birthday
2. Article XXI, Sick Leave, Accumulation *
3. Article XXI, Uniforms
4. Article XVI, Temporary Transfers
5. Article XXI, Wages
6. Article XXI, Shift Differential *
7. New Language, Rules and Regulations *
8. Article XXI, Sick Leave, Utilization after accumulation *

*Issues resolved prior to final certification of offers.

GENERAL ISSUES

Ability to Pay

The Township has not argued against the ability to pay. The available financial figures demonstrate the Township's ability to reasonably meet either the FOP's or township's last best offers. The Township's fund balance (equity) has steadily increased and is more than adequate to pay the requested offers without jeopardizing their financial position.

The Township has suggested in testimony that other priority projects have a claim on their current equity. There was no specific evidence in testimony or exhibits that such projects currently exist or their priority if they do exist.

Comparables

This arbitrator did an independent analysis of the comparable governmental units presented by the parties. This analysis was primarily focused on the comparable units submitted by the FOP as the information was more complete and comprised the larger number of comparable units.

This analysis used the information presented on each unit to determine the outlier units on each variable presented (e.g. S.E.V. or Size of Department). After identifying those disparate units the lists were scanned to identify those governmental units that would maintain a reasonable comparison over the full range of variables submitted by the FOP. This process produced a list of comparable units that was similar to those submitted by the Township. (Berrien Springs/Oronoko Twp, Emmett Twp., Muskegon Twp. and Niles Twp.)

Cost of Living

The last best offers of both parties are such that the cost-of-living has relatively little impact on the decision.

UNRESOLVED ISSUES

Article XXI. Wages

Given the increases provided by the comparable governmental units, the cost-of-living increases and the internal unit increases provided by the Township, the most persuasive position is that of the Township.

AWARD

The Township best last offer is awarded.

\$750 increase at each step of the salary schedule as of April 1, 1986.

\$750 increase at each step of the salary schedule as of April 1, 1987.

The above award is retroactive to the initiation date of the current contract (April 1, 1986).

Article XXI. Holidays

Both the Township and the FOP agree that the comparable units demonstrate a strong argument for eleven holidays. The Township has raised the issue of cost which is not persuasive given their current economic position.

The issue of retroactive is particularly difficult with this type of issue. Holidays are intended to provide additional time away from the job in addition to being a true economic cost to the employer. For the initial year of the present agreement the employees option to use this time is gone. For the second and current year it is nearly gone.

AWARD

The FOP last best offer is awarded.

The current language under Section 1, Article XXI, Uniforms, be modified by the addition of the employee's birthday to the list of holidays.

This award is retroactive to the initiation date of the contract's second year (April 1, 1987). For the current year (1987-88) unit members should be given the choice of a leave day if their birthday falls within the remaining days of the agreement or one (1) day's pay as normally determined by the contract.

Article XXI. Uniforms

The uncontradicted testimony presented by the FOP suggests that the actual cost of a reasonable cleaning schedule exceeds the current allowance. The data from comparable units also supports this conclusion. In addition several comparable units provide direct reimbursement for such costs.

AWARD

The FOP last best offer is awarded.

The current language under Section 4, Article XXI, Uniforms, be modified by increasing the equipment maintenance payment to \$350.

This award is retroactive to the initiation date of the current agreement (April 1, 1986).

Article XVI. Temporary Transfers.

The issue presented as one of temporary transfer is actually much more complicated and involves such issues as fair hiring practices and access to promotions.

The FOP has made no attempt to resolve these issues using the current dispute resolution provisions of the contract. if such as effort had been made the FOP position would be enhanced.

There is also the concern that such issues are complex and do not lend themselves to solution by an outside party, not privy to the details of the relationship.

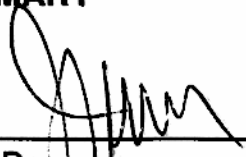
The FOP solution as proposed is weak as it is essentially a system to rotate benefits, not solve the issue presented.

AWARD

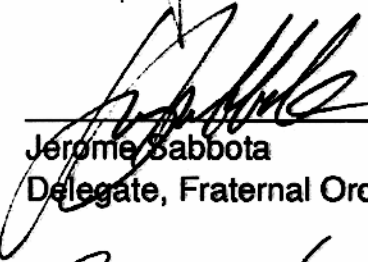
The Township's last best offer is awarded.

No change in Article XVI, Temporary Transfers.

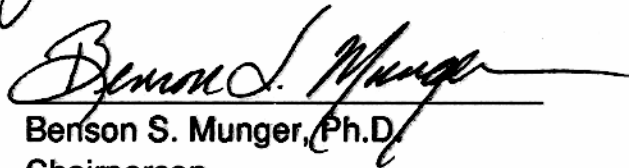
SUMMARY



John Dewane
Delegate, Township of Niles



Jerome Sabbota
Delegate, Fraternal Order of Police



Benson S. Munger, Ph.D.
Chairperson

March 10, 1988

Signatures do not indicate agreement with the award but signify that the above is the award of the ACT 312 Panel.