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STATE OF MICHIGAN
DEPARTMENT OF LABOR
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the Matter of Arbitration Under
Act 312 (Public Acts of 1969):

MERC Case No. G89 K-0758

COUNTY OF OCEANA

-and-

LABOR COUNCIL, MICHIGAN FRATERNAL
ORDER OF POLICE (FOP)

OPINION AND AWARD

Chairman of Arbitration Panel: Barry C. Brown

County Delegate: Gary Britton

Union Delegate: Fred LaMaire

Representing County: Gary Britton

Representing Union: David Sucher

Pre-hearing conference: June 29, 1990

Post-hearing conference: March 18, 1991

Hearing Held: November 19, 1990 in Hart, Michigan

Briefs Received: January 8, 1991

Opinion & Award Issued: March 18, 1991

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

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Oceana County
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I. Statement of the case:

The labor organization, Labor Council, Michigan Fraternal Order of Police, filed a petition for arbitration pursuant to Act 312, PA of 1969 as amended (MCLA 423.231, et seq.). The FOP asserted that it had engaged in good faith bargaining with the employer, the County of Oceana, on behalf of the County's deputy sheriffs and other sheriff department employees (total of 27) and that an impasse in negotiations had been reached. Subsequently, the employer filed its answer to the above described petition with the Michigan Employment Relations Commission. On February 2, 1990 MERC Commissioner Patton appointed Barry C. Brown as the impartial arbitrator and chairperson of the arbitration panel in this matter.

The parties established the unresolved issues and the hearing procedures to be followed in a pre-hearing conference conducted on June 29, 1990. A formal hearing was subsequently conducted by the panel on November 19, 1990 and the last offers of settlement were exchanged on November 30, 1990. The dispute between the parties pertains to a one year wage reopener which commences on January 1, 1990 and which will be effective through December 31, 1990.

The parties' last best offers are as follows:

"LAST BEST OFFER ON BEHALF OF UNION

WAGES: (Appendix A)

The Union is proposing the following wage increase for all classifications for the one year wage reopener effective January 1, 1990 through December 31, 1990:

Secretary	5% wage increase
Deputy Sheriff	5% wage increase
Detective	5% wage increase
Sergeant	5% wage increase
Dispatcher	5% wage increase
Corrections Sergeant	6% wage increase
Corrections Officer	6% wage increase"

"LAST BEST OFFER ON BEHALF OF THE EMPLOYER

Employer, County of Oceana, submits the following as its final offer:

Four per cent (4%) wage increase for all classifications except corrections officers and corrections sergeant.

Five per cent (5%) wage increase for corrections officers and corrections sergeant."

Pursuant to the Act, the Panel shall adopt the final offer of settlement by one or the other party for each economic issue. The parties have stipulated that this issue is economic. The parties have also stipulated and the panel agreed that all Act 312 statutory time limits are waived and that the panel had authority to resolve this dispute. Further, parties agreed that the new contract language for Schedule A would consist of the predecessor agreement terms as modified by the parties' settlements on various issues, and this panel's award on the issue still in dispute.

II. The standards for the panel's decision:

In pertinent part, Section 9 of Act 312 sets forth the following factors upon which the panel's decision must rest:

"[T]he 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 these 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."

III. Background

The County of Oceana has a population of 22,700 (1986) and it covers a land area of about 540 square miles. The land use in the county is primarily rural and resort and it is in the western part of the state on the U.S. 31 corridor. Hart is the county seat and

the largest city in the county. There are several small towns in the county but Muskegon and Grand Rapids are the major nearby large cities used by area residents. This makeup has an impact on the revenues received by the employer and on the duties of the county's sheriff department.

The area is a pleasant one for families to live, people to visit and for employees to work. There are still violent crimes, arrests, excessive traffic and citizen complaints which require police activity but the crimes per officer and the arrests per officer are less than in most comparable counties. The township is growing and in the last six years the population has increased by more than 3%. The number of police department staff has remained relatively stable during this same period.

There are other groups of county employees who are not in collective bargaining units and these employees are unrepresented. All county employees received a 3% across the board pay raise in the calendar year 1990, except the deputy sheriffs. There was a similar 3% general wage increase for the other county employees in 1991. The employees of the sheriffs department got an improved pension plan in 1990. While there was not a similar change for the other county employees. Deputies can retire five years earlier on full benefits.

IV. Comparables:

The county proposed the following comparables:

1. Gladwin
2. Wexford
3. Clare
4. Manistee
5. Cheboygan

They asserted that SEV, population and tax rate justified the selection of counties as distant from Oceana as Gladwin and Cheboygan.

The union proposed the following comparables:

1. Clare
2. Gratiot
3. Manistee
4. Mason
5. Mecosta
6. Newaygo
7. Osceola
8. Wexford

The panel notes that both parties have proposed Clare, Wexford and Manistee counties as comparable employers and so those three will be used by the panel. Additionally, the panel notes that Gratiot County is distant from Oceana County and it has a much larger population. There is no basis to use this county as one sufficiently similar for comparison purposes. In the same sense the counties of Gladwin and Cheboygan are both in a different part of the state with smaller populations and non-comparable SEV. It seems that both parties reached outside of the Oceana County local labor market to attempt to compare to employers which served their purposes.

The panel will use the following seven counties for comparisons because they are in the same area as Oceana County and of a like size, composition and economic setting to fully evaluate the last best offers of the parties:

<u>Population & SEV</u>				
<u>County</u>	<u>1980</u>	<u>1986</u>	<u>% Change</u>	<u>1990 SEV (M)</u>
Clare	23,822	25,000	4.9	372
Manistee	23,109	22,200	(3.5)	382
Mason	26,365	26,400	.1	646
Mecosta	36,961	38,200	3.3	463
Newaygo	34,917	37,700	8.0	520
Osceola	18,928	20,400	7.8	286
Wexford	25,102	26,700	6.4	320
Average	28,695	29,487	3.0	436
Oceana	22,002	22,700	3.2	327

The department composition of the comparable communities is shown below:

DEPARTMENT COMPOSITION

<u>County</u>	<u>Police Employees</u>	<u>Sworn Officers</u>	<u>Sworn Officers Per Sq Mi</u>	<u>Sworn Officers Per Capita</u>	<u>Offenses per Sworn Officer</u>
Clare	23	18	.03	1 to 1,389	87
Manistee	25	16	.03	1 to 1,387	33
Mason	29	29	.06	1 to 910	37
Mecosta	34	21	.04	1 to 1,819	46
Newaygo	23	19	.02	1 to 1,984	58
Osceola	22	10	.02	1 to 2,040	55
Wexford	35	11	.02	1 to 2,427	49
Average	28	18	.03	1,783	52
Oceana	30	15	.03	1 to 1,513	41

The taxes levied by the comparable counties is as follows:

TAXES

<u>County</u>	<u>Total Taxes Levied</u>	<u>State Equalized Average</u>
Clare	16,711,945	47.13
Manistee	17,062,447	48.29
Mason	24,764,591	39.79
Mecosta	20,892,059	47.96
Newaygo	25,301,145	52.86
Osceola	13,074,908	47.00
Wexford	16,137,177	53.91
Average	19,266,586	48.67
Oceana	14,851,517	48.72

The total money compensation paid to a deputy sheriff at the top rate and with 10 years seniority in 1989 is shown on the following chart:

TOTAL MONEY COMPENSATION
TOP PAID DEPUTY/10 YEAR OFFICER
(1989)

County	Base Wage	COLA	Longevity	Holidays	Shift Premium	Gun Allowance	Uniform/Cleaning Allowance	Vacations	Sick Days	Personal Days	Other	Total
Clare	22,880	No	1,716	1,056	No	565	500+250 p/c	1,584	1,056	264	No	29,621
Manistee	22,950	No	No	1,236	No	No	300	1,765	1,059	No	No	27,310
Mason	23,121	No	600	1,067	139	No	350 p/c	1,779	1,067	No	No	27,773
Mecosta	22,939	No	650	1,015	277	200	250 p/c	1,765	1,059	No	No	27,905
Newaygo	26,146	No	300	1,257	312	No	425 p/c	2,011	1,207	No	784 ^{1/}	32,017
Osceola	21,710	No	380	918	312	No	500 p/c	1,670	501 + S&A ins	334	No	25,825
Wexford	23,600	No	300	1,089	416	No	No	1,361	635 + S&A ins	272	No	27,673
Oceana (current)	23,525	No	300	452	69	No	400 p/c	1,810	1,086	271	No	27,513

Source: Collective Bargaining Agreements

1/ 3% of base for Bachelor's Degree

V. Other Relevant Factors:

The county did not assert that there was a financial inability on its part to meet the costs resutling from the higher wage demands of the FOP. However, it did argue that it has the legal duty to balance its budget and it maintained that its funding sources were limited to a combination of taxing avenues and federal and state grants. A budget surplus of about \$54,000 existed after the 1989 fiscal year and about \$35,000 had been projected by the county administrator for the fiscal year 1990. It was said that the county should keep a reserve of 10% of the total budget or approximately \$360,000 and so its reserves are already totally inadequate. The county argued that any unforeseen cost contingency could put the county in a deficit situation. The employer also noted that past attempts to secure additional tax receipts by a millage election have failed. They claimed that the pay increase now sought by the FOP could possible cause service reductions or reductions in personnel and both of these results would negatively affect the interests and welfare of the public.

The employer also noted that Oceana County is growing more slowly than some of its neighbors. They also maintained that it is less densely populated, poorer and higher in number of peace officers per capita. They said, therefore, its projected salaries were just and appropriate when all these factors were considered.

The union contended that while Oceana County's financial position is by no means solid, it has yet to hit the critical point. They noted that most communities do not operate with a 10% fund balance but here the employer still has a surplus which could cover the difference in cost of the union's demand. The FOP asserted that the employer was confusing its ability to pay with its administrator's discretion concerning their view of how funds should be allocated. The union claims that its wage demands are modest and that if it is granted the employer will still be paying its sheriff department less than do neighboring and comparable counties.

VI. Discussion:

Both parties have bifurcated their last best offers. That is in both cases the corrections officers are to receive a 1% greater wage increase than will the other department employees. Both parties have accepted the wisdom of this split and the panel agrees. The panel must now consider if the one percent higher salary increase sought by the FOP is justified.

The panel's acceptance of the union's list of comparable counties (less Gratiot County) shows the sheriff's department in Oceana county does pay very low wages by comparison to the other similar employers in the same area and labor market. The wage increase sought by the union will not alter the counties low standing in this regard. If the employer's last best offer is adopted the Oceana County's wage scale will drop further below that of its counterparts. In some

instances Oceana county's sheriff department employees are paid more than \$1500 less than employees holding similar jobs in nearby counties. In some other classifications, like deputy sheriff, Oceana County has paid its deputies at the average salary for the comparable counties in the area but the union's demands will not substantially change that position.

The employer has not shown that Oceana County has such a significantly poorer financial condition to justify its lower wage offer. There is a prospect for greater receipts from the use by others of the new jail. Finally, the county has seen fit to seek millage increases in the past and the citizens may now see a need to support police patrols or the maintenance of the jail. These are options open to the county and if all fail a reduction in force may be required. However, based on all the criteria set forth in Public Act 312 the union's last best offer must be adopted by the panel.

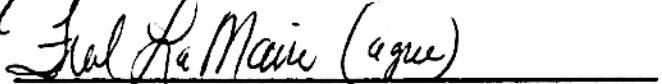
AWARD:

The union's last best offer is adopted.

Dated: February 27, 1991


Chairman Barry C. Brown


County Panel Member Gary Britton


Union Panel Member Fred LaMaire