

12/22/76
ARB

Pontiac, City of

IN THE MATTER OF THE STATUTORY ARBITRATION BETWEEN:

CITY OF PONTIAC,

-and-

LOCAL #376, PONTIAC FIRE FIGHTERS UNION
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
AFFILIATED WITH AFL-CIO.

George Bowles

OPINION EXPLAINING AWARD AND AWARD

On May 17, 1976, the undersigned received notification of appointment as Chairman of a Panel of arbitrators in a dispute involving contract negotiations between the parties by Robert Pisarski, then Acting Director, for the Michigan Employment Relations Commission. On May 20, 1976, the Arbitrator wrote counsel for the parties suggesting alternative dates for hearing. Through letter and telephone communications the dates of hearing were set, namely, August 26 and September 2, 1976, at the offices of the Michigan Employment Relations Commission, Executive Plaza Building, Detroit, Michigan. Prior to the hearings, in order to expedite proceedings, the Arbitrator held a pre-hearing conference to limit the issues and to work out some preliminary understanding on issues and exhibits at the Pontiac City Hall on June 29, 1976. At that time, the parties designated their respective delegates Gerald O'Dean for the Union and Samuel A. Baker for the City.

APPEARANCES

For the City

Douglas C. Dahn, Esq.

For the Union

Gordon A. Gregory, Esq.

The hearings were held on Thursday, August 26, and Thursday, September 2, 1976, at the offices of the Michigan Employment Relations Commission in Detroit, Michigan. At the outset, the

Bowles, George

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parties stipulated and agreed that all procedural aspects of the proceedings were regular and that they were prepared to present their cases on the merits. Accordingly, both parties were given a full opportunity to present their respective proofs which included both testimony and exhibits, and to make arguments. At the conclusion of the hearing, on September 2, 1976, on the record, the parties stated their last offers.

Following the hearings, in order to afford a full and complete exchange, an executive session with the delegates was called by the Chairman at his offices at 509 S. Main Street, Plymouth, Michigan on November 3, 1976. The delegates advised the Chairman of their thinking on the various issues and at the conclusion of the executive session, at the request of the Chairman, each indicated the order of preference or priorities as to the respective issues.

On December 3, 1976, the Chairman wrote the delegates advising of his tentative rulings on the issues raised and urging them to settle some issues between them. The delegates were also requested by the Chairman to prepare Awards on the issues on which the party on whose behalf they were acting as delegate, prevailed, in an attempt to get the exact wording of the Award on all issues, with a prospective deadline on their submissions back to the Chairman by Friday, December 10, 1976.

Accordingly, the delegates advised the Chairman and reported on his request to them on Friday, December 10, and Monday, December 13, 1976.

STATUTORY CRITERIA

The subject statute Act 312, Public Acts of 1969, as amended, provides as to criteria in the disposition of the issues:

"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."

The parties stipulated and agreed on the record that all preliminary procedures had been exhausted and the statutory preliminaries satisfied so that the dispute was ripe for disposition through Act 312 proceedings.

ISSUES

ISSUE 1 - GENERAL WAGE INCREASE - At the conclusion of the hearings in Detroit, Michigan, on September 2, 1976, the parties stated their last offers on all economic issues. The Union's last offer on wages was nine (9%) percent across the board. The Company's last offer on wages was seven (7%) percent. The Chairman has carefully considered and evaluated the several exhibits of the parties on the matter of a general wage increase. A showing was made as to population and housing characteristics of comparable

cities, tax bases, public protection fire ratings, training requirements and most notably, comparisons among the various cities as to compensation, noting the effective date of the last increases whether arrived at through collective bargaining or as a consequence of Act 312 proceedings. The exhibits showed a comparison between the Consumer Price Index and Fire Fighter's salaries, particularly in Union Exhibit #1, showed graphically the decrease in the purchasing power of the consumer dollar, bearing in mind that cost of living increases by the Union view, are after-the-fact, so that an employee is receiving dollars of decreasing value because of the time intervals. Testimony was also taken and searching examination and cross-examination made of the witnesses who were offered on this issue.

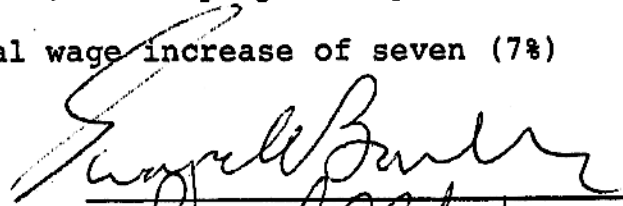
It had been the position of the City that its offer of 5.5% across the board to all members of the bargaining unit would place Pontiac fourth , the highest paid in the 16 city survey, being topped only by Detroit, Dearborn Heights and Royal Oak. It was the City position that Pontiac previously was in a ninth-ranked position. The City analysis also showed the relationship between Fire Fighters and other city employees particularly police officers. The ten (10%) percent Union demand, according to the City survey, would have placed Pontiac at \$18,132 as compared to Detroit with a salary median of \$18,629. The Pontiac Fire Fighters salary at \$16,484 as of January 1, 1975, placed Pontiac Fire Fighters below Dearborn City and Berkley as well as six other cities.

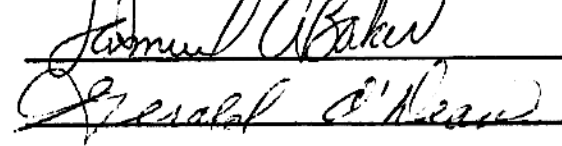
Evaluating the respective proofs carefully, the Chairman is of the opinion that the City offer more closely meets the objective criteria of the statute as enumerated above. He, therefore, accepts the City's final offer of seven (7%) percent across the board. The seven (7%) percent salary adjustment as of January 1, 1976, would place Pontiac in second rank to Detroit with a salary of

\$17,638, as compared to Detroit's \$18,629. Third is Dearborn Heights with a salary of \$17,610.35 and Royal Oak fourth at \$17,558. The Arbitrator, in so ruling, is giving due consideration to the persuasive Union presentations as to the effect of the paramedic program resulting in some 58% increase in runs or a total of some 4,200 runs. It is also in recognition of the fine rank that the Pontiac Fire Department enjoys under objective, independent rating standards, and its paramedic program.

In accepting the final offer of the City, the Chairman is also giving due recognition to negotiations by the City of seven (7%) percent increases with certain other Union-represented employee groups. Finally, the Chairman gives, too, consideration to the overall compensation of Fire Fighters as compared both with other city employees and with Fire Fighters in comparable communities.

AWARD - Effective January 1, 1976, all employees represented by the Union will receive a general wage increase of seven (7%) percent.



Samuel Baker


Gerald O'Hearn

ISSUE 2 - DENTAL PLAN - The Union requests the approval of a dental plan. Plan A calls for payment of \$14.36 per month per member, \$172.32 per year per member or a total cost of \$22,401.60 per year for the Fire Department. Plan A has a \$600 maximum; orthodontic work is excluded. \$14.36 per month per member constitutes family coverage, and the rate is guaranteed for two years. The family coverage includes husband and wife and the children of that marriage or those legally adopted. Of course, if the guarantee is changed, the rate would be different. Plan A calls for 50% of Class I and 50% of Class II coverage, meaning that the employee would pay 50% of the coverage.

The City expresses an understandable concern about health care costs. The present program costs \$11.58 per employee. There was an increase in cost for the present health program this year of \$41,000 which is not a reflection of the 38% increase that Blue Cross-Blue Shield was permitted. It does not apply to Pontiac, but may be applied in the coming years. It would mean an additional \$57,000 in costs. The Union survey showed dental plans in Ann Arbor, Dearborn Heights, Dearborn, Hamtramack, Highland Park, Livonia, Roseville, Royal Oak, Southfield and Sterling Heights, of course, with considerable variation and benefits and costs.

Dental plans are becoming more common throughout both the private and public sectors. The Chairman is of the opinion that is is a worthy benefit that goes to the protection of not only the employees, the Fire Fighters, but also the families. There is the protection of a guaranteed cost for two years. If the plan either proves unworkable or unrealistic from the standpoint of costs, it can be discontinued or another plan negotiated. Viewing the whole of the record on this issue and applying the statutory criteria, the Chairman adopts the Union proposal on a dental plan, specifically, Plan A.

AWARD - Effective January 1, 1976,* the City will provide a Delta Dental Plan of Michigan - Proposal A for full time Fire Fighters, spouses and dependent children under 19 years of age. The coverage of such Plan shall be as set forth in Union Exhibit No. 14

Samuel B. Baker, dissenting
Harold O'Dear

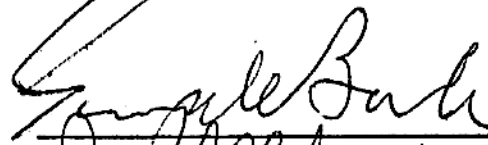
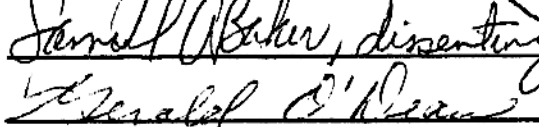
ISSUE 3 - LONGEVITY - The present longevity provisions are 2% at 6 years, 4% at 12 years, 6% at 18 years and 8% at 24 years; Union requests 2% at 5 years, 4% at 10 years, 6% at 15 years, 8% at 20

*The Chairman is of the opinion that he has no power or jurisdiction under Act 312 to change a last offer effective date.

years and 10% at 25 years. The Union proposal reduces the number of years at which eligible employees are entitled to a stated percentage payment; in addition, a step is added for the compensation of employees of long service.

Union Exhibit No. 17 shows the following cities with 2% at 5 years by way of comparison: Berkley, Dearborn Heights, Ferndale, Roseville, Royal, Warren, Southfield and Sterling Heights at 2 1/2% at 5 years. Pontiac rates favorably in the metropolitan Detroit area so far as comparisons on both salaries and fringes. The metropolitan comparisons, of course, are more persuasive than those out-state and on longevity, it would appear that the Union demand is in line with the longevity payment in the most closely and fairly comparable cities. The Union last offer is accepted.

AWARD - Effective January 1, 1976, longevity pay shall be as follows: 2% at 5 years; 4% at 10 years; 6% at 15 years; 8% at 20 years and 10% at 25 years.


Samuel P. Baker, dissenting


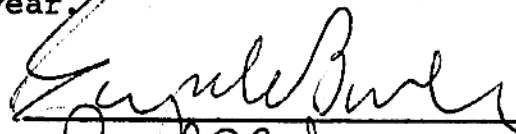
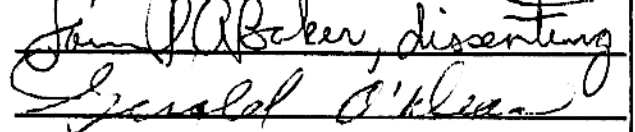
ISSUE 4 - FOOD ALLOWANCE - The present provision is for \$330 a year and the Union wishes to increase it to \$468.60 a year;* the most persuasive comparison is with the Consumer Price Index on a 1967 base with comparisons from January, 1973, to December, 1975. In January, 1973, the food at home index was 127.2 and in December, 1975, was 180.9 or a difference of 53.7 index points or presenting a percentage increase of 42%. The Union, therefore, is asking for a 42% increase or \$138.60 per man per year or a total of \$468.60 per man per year. The total projected cost is \$17,870.40.

Resisting the change, the City points out that the Union survey shows the present allowance is better than 10 of the 16 cities included; this finding, of course, is undeniable but in the judg-

*amended to \$440 a year

ment of the Chairman, the Union rationalization is the more persuasive and compelling; statutory criteria recognize the factor of "the average consumer prices for goods and services commonly known as the cost of living". All the Union is requesting is a maintenance of the cost of living position of its members as to the future. The members should not be prejudiced because the present allowance is comparably higher than that for a majority of the cities compared. It hardly need be said that a food allowance is at first instance required for Fire Fighters because they must eat on premises while on duty; as a result, they finance two meal arrangements, one for themselves and one for their families. Again, we adopt the Union proposal. Fundamentally, we believe it to be only economic fair play and common sense to maintain the same economic position.

AWARD - Effective January 1, 1976, the food allowance shall be increased to \$440.00 per man per year.


Sam P. Baker, dissenting


ISSUE 5 - SERVICE AND NON-SERVICE CONNECTED DISABILITY - The Union has proposed certain amendments to the Firemen's Retirement System.

The threshold question is whether a ruling should be made on this issue, because, as the City urges, the language providing the benefit is found in the City Charter, and, therefore, should be changed only by a vote of the people.

In all candor, the Chairman was first intrigued by this argument but upon further reflection, we must reject it.

The Michigan Supreme Court now on two occasions has made definitive

rulings on so-called charter issues. The first related to the residency requirement. We will not recite the lengthy legal history before the Courts on this issue, but the pivotal rulings might be summarized as follows: (1) Through a charter, the people may require residency for employees or a group of employees. (2) Residency is a mandatory subject of collectively bargaining under PERA. (3) The parties failing to agree after attempting to negotiate on the subject of residency, the issue may be heard and finally determined through Act 312 arbitration. See *Detroit Police Officers Association v Detroit* 391 Mich 44. On November 23, 1976, the Michigan Supreme Court in *Pontiac Police Officers Association v City of Pontiac* held that grievance and other disciplinary procedures are "other terms and conditions of employment" within the meaning of the PERA, and that there is a duty to bargain collectively on such issues.

What is explicitly clear, then, and binding upon this Panel of arbitrators, is that an employer must bargain on an issue covered by Charter; ^{is} that the judicial policy of the State of Michigan which this Panel cannot alter. Further, the legislature has determined another policy matter for the Panel in setting forth certain statutory criteria.

In brief, the policy argument must fall, because a Panel of arbitrators has no jurisdiction or authority to declare public policy on which both the Michigan Supreme Court and the legislature have spoken. Therefore, we must address the merits of the issues.

66 2/3% or 50% of the salary cannot sustain a disabled Fire Fighter and his family nor can the amounts generated meet present costs. The parties, in Article VI, Section 6, on Injury Compensation, have recognized limited supplementation. It is patently unfair in considering retirement benefits to reduce them because there is an independent right or rights to other benefits. For

example, the collateral source rule is recognized by virtually all Courts; in a tort action, damages cannot be reduced because of receipt of funds or benefits from other sources. Further, the private or statutory limitations and conditions on other benefits are uncertain and of varied characteristics, a veritable thicket. The Union proposal requires a cap on total public compensation in that the disabled employee cannot earn more public compensation than that derived from public employment.

The City relies solely on the policy argument. The Union presentation on the merits, therefore, is much more persuasive and in the judgment of the Chairman meets the statutory criteria. Accordingly, it is accepted.

AWARD - Effective January 1, 1976, the following provisions shall be adopted in the collective bargaining Agreement.

A. Any salary or other form of compensation received by the member during disability from public funds, or any payments under workmen's compensation laws of the State of Michigan or Ordinances of the City shall not be applied to reduce the amounts accruing on the annuity to which the employee is entitled pursuant to Section 8 of the Firemen's Retirement System.

B. The non-service connected disability of an employee pursuant to Section 9 of the Firemen's Retirement System shall not be reduced by any amounts received by the employee from public funds as salary or other form of compensation during disability.

C. No employee on disability pursuant to Sections 8 and 9 of the Firemen's Retirement System shall receive compensation from public funds in an amount greater than the base salary of an actively employed Fire Fighter of the employees same rank or classification.

ISSUE 6 - 2% ESCALATOR CLAUSE - Presently Fire Fighters retiring on and after January 1, 1972, receive each year a sum equal to two (2%) percent of the respective annual retirement non-accumulative for a period of 10 years. The total costs in 1975 were \$4,395.23. It is proposed that employees retiring after January 1, 1972, shall receive annually two (2%) percent of their base retirement rate, cumulative for a maximum of 10 years. The maximum escalator total after 10 years would be twenty (20%) percent of the retiree's original base rate. For example, the first year it would be 2%; the fourth year, 8%; the tenth year, 20%; and the fifteenth year, 20%. Of course, the increase in costs would be accumulative. For example, after the fifth year, it would be \$17,580.92 and after the tenth year it would be \$39,557.07. Exhibit No. 23 showed the total costs per month of \$16,814.96 or total per year \$201,779.52 and 2% cost at \$4,035.59 as applied to retired Fire Fighters since January 1, 1972, through July 1, 1976.

The City, in opposing the Union demand, points out that no other employee group in the City of Pontiac has the benefit, and no other employee group in the State of Michigan so far as can be determined.

The proposal has economic appeal, but the weight of the evidence is strongly in favor of the City when one examines what other cities are doing.

We also must consider that if this benefit is granted, it will have an effect on other City-Union relationships. Hence the relationships internally within the City must be considered and evaluated. On the record and using the statutory criteria, the Chairman accepts the last offer of the City, the continuance of the present provisions.

AWARD - The previous contract provision is awarded in its entirety.

James O'Brien
Samuel O'Brien
Harold O'Brien

ISSUE 7 - PENSION AND RETIREMENT - The Union requests that the retirement age of 55 be reduced to 50. It is also requested that the pension be increased to three (3%) percent for the first 20 years of service or 60%; two (2%) percent per year for the next five (5) years of service or 10% and one (1%) percent per year for the next five (5) years of service or five (5%) percent, or 75% of salary after 30 years of service.

The City estimates that the cost of lowering the retirement age to 50 as \$32,650 a year, and the cost of a change in the formula as \$98,449. The City also opposes any changes on the policy basis in that such changes should be sought from the electorate.

The Chairman has already ruled on the policy question and adopts that which has already been written.

As to economics, an analysis of Union Exhibit No. 33 does not show that age 50 is presently the dominant or prevailing age of retirement and measured by the statutory criteria a case is not made out for such change, keeping in mind, of course, the total economic package or liability of the City. Further, the Union submission on the change in the formula finally culminating in 75% of the salary in pension benefits after 30 years of service is not convincing. As the City notes, the cost of the two proposals would be considerable. Accordingly, both the Union proposals fail and the Chairman adopts the present contract language.

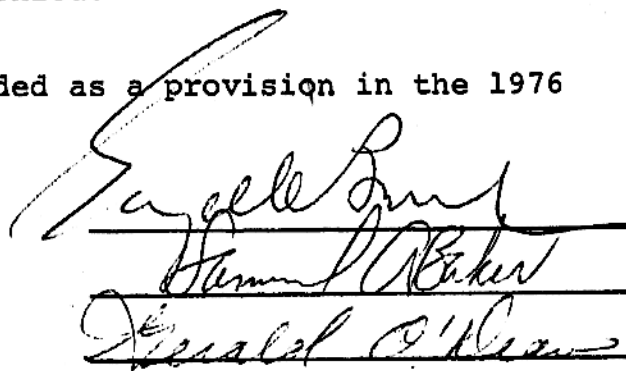
AWARD - The present provision with respect to age retirement and pension formula will be continued without change.

James O'Brien
Samuel O'Brien
Harold O'Brien

ISSUE 8 - COLA - The Union requests a COLA formula be adopted which is set forth at length in Union Exhibit No. 28. It would be geared to the quarterly Consumer Price Index with adjustment dates on May 1, August 1, November 1 and February 1. The explanatory note attached to Union Exhibit No. 28 shows a breakdown from the January 1, 1975 base. From December, 1974, a formula would have yielded approximately \$250 to \$300 a quarter through November 1, 1975.

Increases in the cost of living are undeniable. However, COLA is not common in one year contracts for obvious reasons. For example, the percentage total adjustments by the Union computation in 1975 come to 6.83%. A seven (7%) percent increase is being recommended. It is true that one gets salary dollars after-the-fact with decreased purchasing power, but at least on a one year contract approach there is the opportunity to recoup one's purchasing power as opposed to being locked in for two or three years. COLA is not shown to be prevailing in one year contracts. The Union request, therefore, is denied.

AWARD - COLA will not be included as a provision in the 1976 contract between the parties.

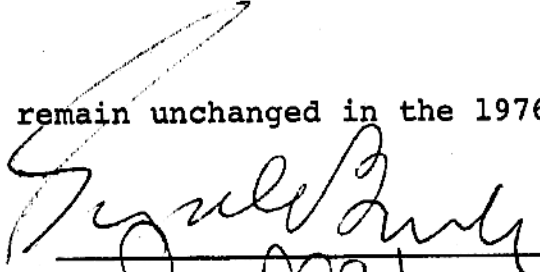
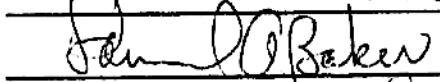
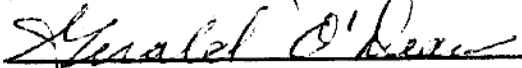

The first signature is "Eugene L. Smith".
The second signature is "Harold A. Baker".
The third signature is "Rosalind O'Hara".

ISSUE 9 - SHORTER HOURS - The present basic work week is 56 hours. The Union proposes a basic work week effective January 1, 1976, of 50.4 hours per week. Union Exhibit No. 24 suggests the actual scheduling with three platoons, 10 Kellys and four men per Kelly. The City estimates that the cost of the shorter hours provision would be \$296,028. This projection is on the basis that the City would be required to hire 12 additional Fire Fighters at \$24,669 cost each.

Union Exhibit No. 25 shows that the 56 hour work week prevails in most comparable cities. The only exception is Ann Arbor at 50.4 hours and Detroit at 50.4 hours.

The clear weight of the evidence here is in favor of the City position, and it is adopted.

AWARD - A 56 hour work week will remain unchanged in the 1976 contract.


Gerald O'Brien

Sam O'Brien

Gerald O'Brien

ISSUE 10 - EASTER AS A HOLIDAY - The Union requests the addition of Easter as a paid holiday at a cost on 1975 wages of \$8,703.17. Union Exhibit No. 27 is a study of comparables. Either on the basis of total dollar value of the holidays per year or the number of days, Pontiac presently has 11 days per year. Dearborn has 11 days per year, Dearborn Heights, 12; Detroit, 12; Roseville, 11; with two extras if worked; Warren, 13; and the others in the exhibit list the actual days as less than 11.

The City asks the retention of the present holiday program. Employees get an average of 11 holidays per year, 10 holidays one year and 11 1/2 days during the year of a national election. 56 hour employees do not receive the holiday off with pay but are paid an additional days' pay in addition to being paid for working the holiday which is, in effect, equal to 1/10th their bi-weekly salary so that a top paid Fire Fighter receives \$697 in holiday pay. The City claims that according to the Union survey, the monetary pay-out on the Union proposal would be within \$35 of the highest paid City.

Under the proofs and applying the statutory criteria, the City's last offer is accepted on this issue.

AWARD - The present holiday provisions will continue in the 1976 contract.

Ernest B. Buler
Samuel A. Baker
Ronald O'Leary

ISSUE 11 - NEW CONTRACT LANGUAGE - UNION ISSUE 7C - The Union proposed the amendment of Article III, Section 1 (E) to read:
"Failure of the Union to appeal the grievance to the next highest step shall constitute acceptance of the City's last response while failure by the City to act upon a grievance within the specified contract time shall result in a grant of the relief requested in the grievance."

The City urges the continuance of the present language. The Union proposal strikes at delay in the disposition of grievances. Presently, if the Union fails to meet the contractual time limits, the grievance dies. It seeks the same sanction against the City if it defaults.

Delay in processing grievances is not healthy for the relationship; furthermore, it exposes both parties to the rancor that comes from interminable dispute. The Union proposal strikes at this weakness and constitutes an improvement. It is adopted by the Chairman.

AWARD - Article III, Section 1 (E) of the grievance procedure shall be amended to read: "Failure of the Union to appeal the grievance to the next highest step shall constitute acceptance of the City's last response while failure by the City to act upon a grievance within the specified contract time shall result in a grant of the relief requested in the grievance."

Ernest B. Buler
Samuel A. Baker, dissenting
Ronald O'Leary

CITY ISSUE 1 - MAINTAINING APPROPRIATE CLASSIFICATIONS - The City proposes the deletion of (A) reading: "Positions of responsibility

calling for a certain rank and/or grade of pay will be filled by that rank and/or grade of pay on every normal duty day." The Union opposes the deletion. If this language were deleted, it would open the door to the filling of positions other than at the rank and/or grade of pay, prevailing in that position. It would be a revenue-saving deletion but would weaken the classification structure and in the judgment of the Chairman, lead to constant disputation. It is rejected by the Chairman.

AWARD - Article V, Section 3 (A) will remain unchanged in the 1976 contract.

Frank Bule
General Baker, dissenting
General Col. O'Brien

CITY ISSUE 2 - CLASSIFICATION OF EMPLOYEES - The City proposes the deletion of the following language in present paragraph (D): "Senior employee in that station that day may fill the out-of-classification position if he is qualified. An employee who does not wish to work out of classification in a particular position will submit his name to the Chief's Office. Submitting of an individual's name will cause his removal from out of classification work in that position until a new eligibility list is in effect."

The Union opposes the changeⁱⁿ that older men would be denied the opportunity to decline assignments and that departmental seniority would be violated.

In the judgment of the Chairman, the present provision insures an orderly filling^{of} a vacancy and gives an older employee the right of declination. The City has shown no particular operational problem with this language and has not made a case out for the change. The City request is rejected.

AWARD - Article V, Section 7 (D) will remain unchanged in the 1976 contract.

[Signature]
Samuel A. Baker, dissenting
Gerald O'Dean

CITY ISSUE 3 - INJURY COMPENSATION - The City proposes a change in Article VI, Section 6 (C) to read: "An employee who is on duty incurred injury leave shall accumulate time toward seniority. A probationary employee on duty incurred injury leave shall be required to complete the probationary period upon return from such leave. When granted, pay increments will be retroactive to the time the probation period would have ended had there been no injury leave." The Union opposes the change, urging it would penalize probationary employees and would limit accrual of benefits to on-duty injuries. The probationary employees would not accrue time for pay, sick leave and vacations.

The Chairman cannot see the justice or fairness of the proposal since off-duty injuries are beyond the control of off-duty employees. Nor has the City made out a case for the change on the basis of excessive costs or abuse. The present language does have some economic control in that the time for pay, sick leave and vacation purposes while earned during injury leave do not actually accrue until the probationary period is completed. The City request is denied.

AWARD - Article VI, Section 6 (C) will remain unchanged in the 1976 contract.

[Signature]
Samuel A. Baker, dissenting
Gerald O'Dean

CITY ISSUE 4 - HOUSEKEEPING DUTIES - The City proposes a substan-

tial change in Article VI, Section 17: "Employees shall be required to wash all walls once per calendar year. Employees may be required to shovel snow, maintain the grounds, and perform carpentry, plumbing and electrical tasks which are not of a heavy maintenance nature and which would normally require the services of a journeyman carpenter, plumber, or electrician. Employees may be required to perform inside or outside painting duties. Employees may, also, be required to water the grass, clean up the grounds, and remove snow left on the driveways by the snow removal trucks and remove snow in emergencies. Fire Fighters shall be required to wash all fire station windows once a month, provided that only inside windows shall be washed from January through March of each year. Housekeeping chore will not be assigned as a means to punish or discipline employees." The City has added such duties as shoveling snow and maintaining the grounds. Affirmatively they have added the duties to perform carpentry, plumbing and electrical tasks which are not of a heavy maintenance nature. Inside and outside painting duties are added. Snow removal is extended beyond emergencies and on the driveways.

The changed duties represent a change in a previous arbitration award. The language here raises a specter of jurisdictional disputes with skilled tradesmen.

Admittedly, this provision is a raw nerve in the relationship. The City has not made out a case of a necessity or even a desirability for change. It is noted that with the paramedic responsibilities, the runs have increased materially. On the whole, the Chairman is not convinced that the proposed change is warranted or would serve the best interests of the parties.

AWARD - Article VI, Section 17 shall remain unchanged in the 1976 contract.

Rayall Bunker
Samuel Baker, dissenting
Michael O'Heare

CITY ISSUE 5 - MAINTENANCE OF CONDITIONS - The City proposes the following language: "Wages, hours and conditions of employment in effect at the execution of this Agreement, shall, except as modified herein, be maintained during the term of this Agreement."

The Union opposes the change partly on the basis that it would undermine the stability of the bargaining relationship.

As a legal proposition, of course, the parties by mutual agreement can modify any provisions of a contract during its term. We do not see what benefit, then, is achieved by the language "except as modified herein". The provision as presently written does give an important contract protection. The Chairman does not see any need for change and believes the change, again, would be productive of dispute.

AWARD - Article VII, Section 7 (A) shall remain unchanged in the 1976 contract.

Rayall Bunker
Samuel Baker, dissenting
Michael O'Heare

CITY ISSUE 6 - LEAVES OF ABSENCE - The parties have advised the Chairman that they had agreed on Leaves of Absence and this issue is, therefore, referred back to the parties for the drafting of appropriate language in the 1976 contract.

CITY ISSUE 7 and 8 - INSURANCE - The City proposes the amendment of Article VI, Section 16, (A) and (B) to read: "The City shall provide to all Fire Fighters full paid M.V.F. 1 Master Medical Blue Cross-Blue Shield health insurance including the two (2) dollar deductible prescription drug rider or other carrier with comparable

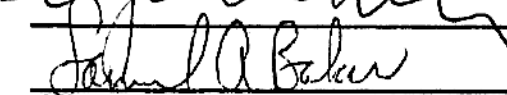
coverage. (1) Any dispute involving the question of comparability of coverage will be subject to immediate arbitration by an Arbitrator who is an Insurance Actuary, mutually selected." (B) "The City shall provide to all Fire Fighters full paid double indemnity Aetna Life Insurance, or other carrier with comparable coverage, the amount of which will be determined by salary levels in accordance with published insurance schedules. (1) Any dispute involving the question of comparability of coverage will be subject to immediate arbitration by an Arbitrator who is an Insurance Actuary, mutually selected."

The Union requests an amendment to provide for appointment by the Federal Mediation and Conciliation Service or the Michigan Employment Relations Commission.

The parties are justifiably concerned about the cost of health care. No person or institution seems to have a handle on the almost outrageous increase in such costs. Both parties have a direct economic interest and responsibility to control costs. We do discern a particular advantage in the Union suggestion as to the appointing agency in the event of a dispute between the parties and the necessity of third party resolution. Therefore, we adopt the City language in both instances, with the one addition.

AWARD - Article VI, Section 16 (A) and (B) in the new contract shall read: (A) "The City shall provide to all Fire Fighters full paid M.V.F. 1 Master Medical Blue Cross-Blue Shield health insurance including the two (2) dollar deductible prescription drug rider or other carrier with comparable coverage. (1) Any dispute involving the question of comparability of coverage will be subject to immediate arbitration by an Arbitrator who is an Insurance Actuary, mutually selected." (B) "The City shall provide to all Fire Fighters full paid double indemnity Aetna Life Insurance, or

other carrier with comparable coverage, the amount of which will be determined by salary levels in accordance with published insurance schedules. (1) Any dispute involving the question of comparability of coverage will be subject to immediate arbitration by an Arbitrator who is an Insurance Actuary, mutually selected. In the event that the parties are unable to select an Insurance Actuary, either party may apply to the American Arbitration Association for a list of seven (7) arbitrators. The parties will alternately strike names from such list and the remaining person on the list shall serve as the arbitrator. The fees and expenses of the Insurance Actuary or Arbitrator shall be paid equally by the parties."


Royce B. Baker


Gerald O'Brien

CITY ISSUE 9 and 10 - HOUSEKEEPING DUTIES - The City has made two additional proposals on housekeeping duties which read: (A) "Employees may be required to inspect and maintain hydrants in the City's water system." (B) "Employees may be required to perform fire extinguisher repair and maintenance for all City departments and facilities."

While the Chairman has no predilection generally against such proposals, the two proposals as framed are inadequate as to language. Most certainly under proposal #9 there would have to be some definition and delineation as to what "inspect" means and "maintain" means. Similarly, as to proposal #10, the words "repair and maintenance" are words pregnant with meaning and in a way, words of work art; here again, precise delineation would be requisite. Without precise language, the proposals inevitably would be productive of constant debate and contention. The Chairman rejects both.

AWARD - The City proposals #9 and #10 with respect to housekeeping duties are rejected and the new contract will not contain such language.

[Signature]

Samuel A. Baker, dissenting

Gerald O'Keefe

Dated: December 22, 1976
Plymouth, Michigan 48170