6/19/96
MSU
(includes
Interim award
dated 2/21/96)

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

CITY OF BIG RAPIDS

-and-

POLICE OFFICERS LABOR
COUNCIL

MERC Case No: G94 A-3015
(ACT 312)

Big Rapids, City of

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ARBITRATION OPINION AND AWARD

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ARBITRATION PANEL

Mark J. Glazer - Impartial Chairperson
Jack R. Clary - Employer Delegate
Fred LaMaire - Union Delegate

APPEARANCES

FOR THE EMPLOYER:

Peter H. Peterson
MILLER, JOHNSON, SNELL &
CUMMISKEY, P.L.C.

FOR THE UNION:

Kenneth W. Zatkoff
JOHN A. LYONS, P.C.

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, continuity and stability of employment, and all other benefits received;

g. Changes in any of the foregoing circumstances presented 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 determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact findings, arbitration or otherwise between the parties, in the public service or in private employment.

It is unnecessary for the panel pursuant to City of Detroit v DPOA, 408 Mich 410 (1980) to provide equal weight to all of the Section 9 factors.

ISSUES

UNION ISSUE I:

LIFE & A.D.& D INSURANCE

The expired contract provides for $10,000 of life insurance and $15,000 of accidental death and dismemberment insurance. Both the Employer and the Union agree in their last best offers to increase the A.D.& D insurance to $20,000, which leaves only the question of life insurance for this proceeding. The Union seeks

$15,000 of life insurance; the Employer wants the status quo to remain.

A review of the comparables reveals that the following communities have $10,000 of life insurance or less:

Menominee
Traverse City
Mecosta County
Muskegon Heights (per 1995-1996 contract)

The following communities have $15,000 or more of life insurance:

Coldwater
Mt. Pleasant
Ferris State University
Cadillac

Therefore, external comparability neither favors nor supports either side.

In regard to internal comparability, all three units in Big Rapids currently receive $10,000 in life insurance. Because the external comparables are in equipoise, and the internal comparables support the Employer, the Employer's last best offer best meets the Section 9(d) criteria on comparability.

Additionally, the other Section 9 factors have been considered, and it is concluded that the Employer's last best offer on Life/AD&D should be awarded.

AWARD ON LIFE & AD & D INSURANCE

The Employer's last best offer on Life/AD&D is awarded.

DATED: 6/19/96 _____
MARK J. GLAZER, Impartial Chairperson

DATED: 6/18/96 _____
JACK CLARY, Employer Delegate

DATED: 6/14/96 _____ (Dissent)
FRED LAMAIRE, Union Delegate

UNION ISSUE II:

RESIDENCY

The expired contract permits officers to live within a ten mile radius of downtown Big Rapids. The Employer's last best offer would increase that radius to fifteen miles; the Union's last best offer would increase the radius to twenty miles.

The external comparables reflect that the following communities have residency restrictions of fifteen miles or less:

Cadillac
Coldwater
Mt. Pleasant
Muskegon Heights
Traverse City

Mecosta County permits an approximately twenty-five mile radius and Ferris State has no residency requirement.

Internally, firefighters hired after July 1, 1975 are required to live within five miles of the City limits or approximately 8.4 miles from downtown Big Rapids.

The Union argues that its members will benefit from lower housing costs pursuant to its offer, without a similar gain for the Employer if its last best offer is accepted. Therefore, in the absence of a benefit to the Employer, the Union strongly argues that its last best offer should be accepted.

Both internal and external comparability under Section 9(d) favor the Employer. Arguably, the interest and welfare of the public are enhanced under 9(c) if the officers' morale is increased with the opportunity for lower housing costs. However, comparability is the more compelling Section 9 factor under the circumstances of this issue, particularly since the parties are so close in their offers and the Bargaining Unit has gained an additional 5 miles in the Employer's last best offer.

After careful consideration of the Section 9 factors, it is concluded that the Employer's last best offer on residency should be awarded.

AWARD ON RESIDENCY

The Employer's last best offer on residency is awarded.

DATED: 6/19/96

MARK J. GLAZER, Impartial Chairperson

DATED: 6/18/96 JACK CLARY, Employer Delegate

DATED: 6/14/96 Fred LaMaire (Dissent) FRED LAMAIRE, Union Delegate

UNION ISSUE III:

COLLEGE TUITION REIMBURSEMENT

The parties are in agreement that college tuition reimbursement should increase from $600 to $900. The Employer suggests that its language more clearly evidences the intent of the parties to apply a contract year versus a calendar year. As a result, the Employer's language should be adopted.

AWARD ON COLLEGE TUITION REIMBURSEMENT

Pursuant to the stipulation of the parties, Section 25.7(5) of the contract should be modified to reflect $900 per the Employer's language.

DATED: MARK J. GLAZER, Impartial Chairperson

DATED: 6/18/96 JACK CLARY, Employer Delegate

DATED: 6/14/96 Fred LaMaire (Concur) FRED LAMAIRE, Union Delegate

UNION ISSUE IV:

WAGES

The parties have agreed to 4% increases for 7/1/94 and 7/1/95.

AWARD ON WAGES

Pursuant to the stipulation of the parties, either the language of the Employer or the Union concerning wages shall be adopted.

DATED: 6/19/96

MARK J. GLAZER, Inpartial Chairperson

DATED: 6/13/96

JACK CLARY, Employer Delegate

DATED: 6/14/96

FRED LAMAIRE, Union Delegate

Union Issue V:

Pension Credit for Military Service

The parties are in agreement as to the substance of the pension credit language; however, the Employer argues that its implementation date of 30 days from the Act 312 award is more favorable to the Employees. Accordingly, the Employer's language should be awarded.

AWARD FOR PENSION CREDIT FOR MILITARY SERVICE

Pursuant to the stipulation of the parties, the Employer's language on pension credit for military service is awarded.

DATED: 6/19/96

MARK J. GLAZER, Inpartial Chairperson

DATED: 6/18/96

JACK CLARY, Employer Delegate

DATED: 6/14/96

FRED LAMAIRE, Union Delegate

EMPLOYER ISSUE I:

HEALTH INSURANCE

The Union seeks the continuation of the status quo, wherein the Employer pays the entire cost of health care premiums. The Employer seeks new language, which requires a sharing of premium costs for premiums that exceed 110% of the June 30, 1994 premium; that is, the City will absorb the first 10% of premium increases, and the Union will share further increases on a 50/50 basis.

In 1994 health care premiums dropped 1% from the previous year and premiums dropped 15% in 1995. Previously, however, there was a 11% increase in 1993, an 8% increase in 1992, a 5% increase in 1991, a 17% increase in 1990, a 26% increase in 1989, and a 19% increase in 1988.

The Employer is concerned that premiums may surge again after a two year reversal of an upward spiral in health care costs. Presently, five of the external comparables provide fully paid health insurance by the Employer without a sharing of premiums by the Union. The Employer, however, notes that Traverse City requires a sharing of premiums over a cap that is lower than the Big Rapids' premium, and that that is also true for Mecosta County. Additionally, it is pointed out that Ferris State has a premium cap that is higher than Big Rapids' coverage, but requires full payment by the Employees if the cap is exceeded.

It is also noted by the Employer that the AFSCME unit in Big Rapids has adopted the Employer's proposal in this proceeding and that for the non-unionized Big Rapids employees, the Employer pays up to a 10% yearly increase in premiums, with additional premiums being split by the Employer and the Employees. The IAFF contract is currently in Act 312; the Employer co-pay issue found in this proceeding is also an issue in that one.

The Employer believes that the record in this arbitration plus a trend toward employee co-pays, requires that its last best offer be awarded.

The Union argues that the preponderance of comparables do not require cost sharing for premiums. It is further asserted that there is no evidence that the Employer is suffering a financial hardship under the present system.

It is also noted by the Union that the Employer was able to forfeit $170,000 in rate stability reserves by changing carriers,

notwithstanding being advised by the current carrier that it would experience an 11% premium decline for 1995-1996. Therefore, it is argued by the Union that there isn't a basis for adopting the Employer's proposal since premiums are headed downwards.

DISCUSSION

At the present time external comparability under Section 9(d) favors the Union, with five of the eight comparables lacking employee participation in their health care premiums. Further, internal comparability doesn't favor either side at the present time, absent an award from arbitrator Sugarman in the Big Rapids-IAFF Firefighter 312 case. Clearly, if arbitrator Sugarman rules for the City, this will be a relevant factor insofar as the firefighters are the only other 312 qualified bargaining unit in Big Rapids. Similarly, if arbitrator Sugarman rules for the Union, this too will be relevant. However, without a definitive decision from the important firefighter internal comparability unit, it can't be said that internal comparability favors either side.

Further, non-union employees appear to have a better plan than the one offered by the Employer to the police officers, insofar as they are protected against 10% yearly increases and not just 10% increases from June 30,1994.

Because external comparability favors the Union, and internal comparability is uncertain at this time, Section 9(d) slightly favors the Union. Section 9(c) on the interest and welfare of the public and the financial ability of the unit of government to meet

costs wouldn't require a different result at this time, insofar as there is no indication on the record that either the bargaining unit or the City would be affected by the premium co-pay plan during the life of the contract at issue. This is, of course, an important issue for the future. However, on the present record, Section 9(c) doesn't compel a ruling for the Employer.

After a review of the relevant Section 9 factors, it is concluded that the Union's last best offer on health care should be awarded.

AWARD AS TO HEALTH INSURANCE

The Union's last best offer on health insurance is awarded.

DATED: 6/19/96

MARK J. GLAZER, Impartial Chairperson

DATED: 6/18/96

JACK CLARY, Employer Delegate

DATED: 6/14/96

FRED LAMAIRE, Union Delegate

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
DEPARTMENT OF LABOR

CITY OF BIG RAPIDS

-and-

POLICE OFFICERS LABOR COUNCIL

MERC Case No. G94 A-3015
(ACT 312)

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INTERIM AWARD ON COMPARABILITY AND DURATION

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APPEARANCES

For the Employer:

Peter H. Peterson
Clary, Nantz, Wood
Rankin & Cooper

For the Union:

Kenneth W. Zatkoff
John A. Lyons, P.C.

INTERIM ARBITRATION OPINION AND AWARD

On January 3, 1996 an arbitration hearing was held in Big Rapids. At that time it was decided that the panel chairman would issue an interim award on comparability and duration.

COMPARABILITY

The Union seeks the following comparables:

Cadillac
Coldwater
Menominee
Mt. Pleasant
Muskegon Heights
Traverse City

These comparables were awarded by Arbitrator Donald Sugerman in a pending Firefighter Act 312 case in Big Rapids. Arbitrator Sugerman did not issue an opinion in support of his selection of the comparables.

The City agrees with Menominee as a comparable, but further offers:

Albion
Alma
Escanaba
Niles
Reed City
Mecosta County
Ferris State University

The Union asserts that Arbitrator Sugerman made his comparability decision based upon factors that are applicable to police officers as well as firefighters. It therefore contends that no additional communities should be added in this proceeding.

The City argues that Albion, Alma, Escanaba, Menominee and

Niles are statistically similar to Big Rapids in population, budget, income and crime rate. The departments in Reed City, Mecosta County and Ferris State University are argued to be comparable because they are geographically proximate and represent the same labor market as Big Rapids.

The City also contends that in the Sugerman award it was unable to offer Alma, Reed City, Mecosta County and Ferris State because these jurisdictions lack a fire department.

DISCUSSION OF COMPARABILITY

Pursuant to Section 9 (h) concerning the application of collective bargaining principles and Section 9 (c) concerning the interest and welfare of the public, stability in labor relations is an appropriate goal under Act 312. Those provisions state:

> Section 9. If there is not a collective bargaining agreement between the parties, or if there is an agreement but the parties have begun negotiations or discussions looking into a new agreement, or to an amendment of the existing agreement, and wage rates or other terms and conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinion, and order upon the following factors, as applicable:
>
> ...
>
> (c) The interests and welfare of the public and the financial ability of the state to meet those costs.
>
> (h) Other factors, not confined to those listed in this section, that normally or traditionally are taken into consideration in the determination of wages, hours, and terms and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or other-

> wise between the parties, in the public service or in private employment.

It would not be expected that the City would use one group of comparables with one bargaining unit, and another group of comparables with a different bargaining unit, absent a compelling reason based upon bargaining history or differing circumstances.

When Arbitrator Sugerman issued his list of comparables for the firefighters, that became a standard for major bargaining units within the City. Unless it were shown in this proceeding that Arbitrator Sugerman was clearly erroneous, or there were changed or differing circumstances for the police, it would be expected that the Sugerman comparables would be followed in this Act 312 case.

There is no indication that Arbitrator Sugerman's decision was clearly erroneous. The City suggests that there are differing circumstances between the police and fire cases, and that it was precluded from offering certain comparables to Arbitrator Sugerman because they didn't have a fire department.

The record, however, doesn't reveal how Arbitrator Sugerman made his decision on comparability: he may very well have considered factors that are relevant to this police proceeding, and it is likely that he did so, insofar as such statistical measures as budget, population and SEV would apply to both police and fire cases. Also it should be noted that several of the comparables offered by the City in the Sugerman firefighter case were adopted by the Arbitrator.

Further, it should be noted that the City's proposed comparable of Niles presents a similar problem that the City finds for Muskegon Heights: both cities are adjacent to large urban centers. In the case of Niles, it is just north of South Bend on a major highway.

In the interest of promoting stability in labor relations, and in the absence of sufficient proof of differing circumstances, the Sugerman comparables should be awarded pursuant to Sections 9(h) and 9(c) of Act 312.

Additionally, a separate review should be made of the proposed comparables that were ineligible for the Sugerman group because they lacked a police department. Alma doesn't add anything unique to the Sugerman comparables, insofar as it lacks particular geographic proximity to Big Rapids. Reed City, while closer than other proposed comparables, is in a different county and has 7 officers versus 18 for Big Rapids, and roughly 2,000 in population versus 12,000 for Big Rapids. Accordingly, Reed City does not offer anything to comparability over the communities chosen by Arbitrator Sugerman.

There are two departments, however, which should be added to the list of comparables. They are the Mecosta County Sheriff Department and the Ferris State University Police Department.

Both of these departments are headquartered in Big Rapids, and therefore hire from the same labor pool as Big Rapids. The number of sworn personnel in each of the departments is comparable to Big Rapids, and officers in each of the departments presumably face similar living conditions and crime rates as Big

Rapids' officers. As a result, the Mecosta County Sheriff Department and the Ferris State University Police Department should be added to the list of comparables.

INTERIM AWARD ON COMPARABILITY

The following communities are awarded as comparables:

Cadillac
Coldwater
Menominee
Mt. Pleasant
Muskegon Heights
Traverse City
Mecosta County
Ferris State University

Mark J. Glazer, Chairperson

Dated: February 21, 1996

DURATION

The Employer seeks a three year contract; the Union asserts that a two year contract is appropriate.

It is the Union's position that contract duration was never negotiated, and was never the subject of mediation. The Union maintains that pursuant to Section 3 of Act 312, all issues must be mediated before they can be considered by the panel. The Union emphasizes that the only City issue is health insurance,

and that the City never sought a three year contract.

The City denies that there has ever been an agreement on a two year contract, and it suggests that a three year contract is supported by the comparables and the purpose of Act 312. It is emphasized by the City that contract duration must be decided by the panel, even if it isn't on the petition. The City points out that if a two year contract is awarded, it will expire on June 30, 1996, forcing the parties immediately back into contract negotiations.

DISCUSSION OF DURATION

In its petition for arbitration dated August 15, 1994, the Union asks for five percent increases in wages for July 1, 1994 and July 1, 1995; therefore, the Union has, in effect, sought a two year contract.

As a result, duration is an issue that is properly before the panel insofar as there apparently was mediation concerning the two year offer by the Union. The Union argues that a three year contract can't be considered because it hasn't been mediated; however, since duration in the form of a two year contract offer was apparently previously mediated, the amount of the duration is something that is properly considered by the panel.

The City argues that as a policy matter under Act 312 it would make little sense to award a two year contract; further, it points out that the potential comparables for the most part provide for three year contracts. This position is persuasive.

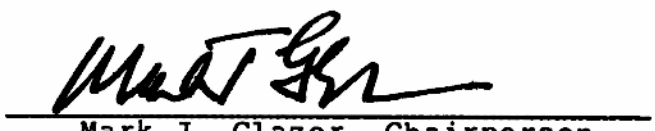
However, paragraph (h) of Section 9 of Act 312 requires the

panel to consider traditional factors in collective bargaining. That Section says:

> (h) Other factors, not confined to those listed in this section, that normally or traditionally are taken into consideration in the determination of wages, hours, and terms 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 last contract between the parties was for two years, from July 1, 1992 until June 30, 1994. There is nothing on the record to support that the parties have engaged in three year contracts as opposed to two year contracts; neither is there support on the record that other bargaining units in the City engage in three year contracts as opposed to two year contracts.

I am hesitant to break the pattern of collective bargaining merely because the parties are in a lengthy Act 312 proceeding; according, it would not be appropriate under paragraph (h) to make three years the standard when the parties have engaged in two year contracts. Accordingly, a two year contract should be awarded on duration.



Mark J. Glazer, Chairperson

Dated: February 21, 1996