

STATE OF MICHIGAN
COMPULSORY ARBITRATION

In the Matter of:

CITY OF ROMULUS

Public Employer,

-and-

POLICE OFFICERS ASSOCIATION
OF MICHIGAN,

Petitioner.

Arising pursuant to
Act 312, Public Acts
of 1969, as amended

Case NO.: D 89 G-1700

APPEARANCES:

FOR THE COMPULSORY ARBITRATION PANEL

PAUL JACOBS, Chairman
JAMIL AKHTAR, City Delegate
KENNETH GRABOWSKI, Union Delegate

JAMIL AKHTAR, ESQ.
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Michigan State University

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Romulus, City of

*arb. 10/25/90
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INTRODUCTION AND BACKGROUND:

The collective bargaining agreement between the City of Romulus (Employer) and the Police Officers Association of Michigan (POAM) contained a provision in Article XLVI "Wages" - "46.4: For the period of July 1, 1989 (sic) through June 30, 1990 (sic) the City and the Union agree to a total economic reopener."

Five Act 312 compulsory hearings were held, commencing April 19, 1990, and subsequent to the expiration date of the contract. Bargaining should now be underway for a new contract. It is hoped that the lengthy and costly proceedings held in accordance with Act 312 and arising out of Article XLVI - Wages 46.4, and the results contained in this award will aid the parties in speedily resolving their bargaining for a new contract.

Prior to the commencement of these proceedings, the parties were summoned by the impartial chairman, Paul Jacobs, to a pre-arbitration conference. The parties accepted the jurisdiction of the impartial arbitrator and agreed to waive the time limits as contained in Section 6 of Act 312. The parties each designated their delegates and agreed upon the issues to be addressed by the panel. Kenneth E. Grabowski was designated the Union delegate and Jamil Akhtar, the Employer delegate.

In addition to the pre-arbitration conference and hearings, there was the opportunity to meet in executive session.

The executive session bore fruit in that the delegates, having had time to review the lengthy transcripts, were able to agree on some issues.

Section 8 of 1969 PA 312 states that "...as to each economic issue, the arbitration panel 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." Those Section 9 factors are:

- (a) The lawful authority of the employer.
- (b) Stipulation 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 proceedings 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 the private employment.

The panel, in evaluating these Section 9 factors, is not required to give each of them equal weight, but rather must evaluate the relative importance of each and must consider them as interrelated parts. As the Supreme Court states in *City of Detroit v DPOA*, 408 Mich 410 (1980); 294 NW 2nd 68, 97:

The legislature has neither expressly nor implicitly evidenced any intention in Act 312 that each factor in Section 9 be accorded equal weight. Instead, the Legislature has made their treatment, where applicable, mandatory on the panel through the use of the word "shall" in Section 8 and 9. In effect, then, the Sec. 9 factors provide a compulsory checklist to ensure that the arbitrators render an award only after taking into consideration those factors deemed relevant by the Legislature and codified in Sec. 9. Since Sec. 9 factors are not intrinsically weighted, they cannot of themselves provide the arbiters with an answer. It is the panel which must make the difficult decision of determining which particular factors are most important in resolving a contested issue under the singular facts of a case, although, of course, all "applicable" factors must be considered.

The parties agreed as to comparable police departments and communities for purposes of comparison with the City of Romulus. The City is the home of the Detroit Metropolitan Airport, which is centrally situated, and as a result, is virtually two communities for the purpose of police services, because of the paucity of north-south roads.

PENSION BENEFITS:

This was one subject that was able to be resolved at the first executive session without the necessity of either party being forced to accept the other's last best offer.

The union asked for a Michigan Municipal Employees Retirement System (MERS) plan and the City opposed it. There was no statement in the Union's last best offer as to the disposition of funds already in the plan. The adoption by the panel of the Union's last best offer would have resulted in future litigation or arbitration without some provision as to the amounts currently on deposit without some direction as to their distribution. The panel believes that the following language protects and defines the rights of all parties.

ADOPTED:

1) Effective thirty (30) days from date of award, all bargaining unit members shall be covered by the Michigan Municipal Employees Retirement System (MERS) Plan B-2 with FSO (25). the City shall make full contribution for such plan.

2) All current employees who have made voluntary and/or forced contributions to the defined contribution pension plan, shall make arrangements with the City's pension committee, as to how their voluntary contributions are to be carried forward in the future. The employees' right to their voluntary contribution shall be regulated by the terms and conditions of the said plan as is now established and maintained by the trustees of said plan.

HOSPITALIZATION FOR RETIREES:

The panel, at its executive session, was able to adjust the last best offer of each of the parties as follows:

ADOPTED:

All employees who retire under the MERS Pension System or leave service with a duty disability pension under the disability provisions of the MERS Pension Plan shall receive full hospitalization coverage for the retiree, his or her dependents, and spouse. Said hospitalization insurance will be the same plan(s) then offered to current employees.

LONGEVITY PAYMENTS:

The Union requested longevity payments beginning with the fifth year of service. There are many departments with a history of longevity pay in their contracts. They are primarily older departments or City/County units, which used longevity pay issue as a method of playing catch-up with inflation.

Romulus is a new department, relatively speaking. The ranking police officer has nine years seniority. The Union accepted the City's wage package at the beginning of these proceedings. At this time, the majority of the panel believes that since the parties are in agreement on wages, there is no reason to award any further monetary compensation.

GUN ALLOWANCE:

Most police officers desire to purchase a gun of their own choosing so long as it is approved by the department. In this respect, the Romulus police officers are not unlike the majority, and have proposed an annual gun allowance of \$365. This seems practical and reasonable enough on the surface.

It appears that for many police officers, the gun of choice is the Belgian-made lightweight 9 mm Glacko. There is no reason to deny them this weapon; however, since the City has already purchased \$75,000 worth of these weapons for distribution to its officers and wishes to provide the necessary range training, it would not be reasonable to adopt the Union's last best offer. Accordingly, the majority of the panel rejects the Union's last best offer as being without merit at this time.

COURT TIME:

The heading "Court Time" includes the following: District Court within the City of Romulus, Liquor License Control Board hearings, Lincoln Park (LCC), Drivers License Appeal Board in Oak Park, (Appeal Board), and Wayne County Circuit Court (Circuit).

Currently, the collective bargaining agreement provides for a guarantee of four hours overtime for appearance before the appeal board and courts outside the City; two hours of overtime

for the district court within the City of Romulus, and appeal board.

It is the City's position that the guarantee, in all instances, should not exceed a two-hour minimum, or the actual time, if greater. The Union requested four hours for all such appearances.

The majority of the Romulus Police Force resides outside the City, but primarily within some close proximity to the City. The departmental rules are quite clear as to what is required of an officer when he is required to make a court appearance when not on duty. The officer, regardless of where he lives, even though it may be closer to the court than the City, is required to first come to the station, sign in, and take a City car if he desires to use one. Upon conclusion of the hearing, he must then return to the City and sign out.

The City urges, in support of its position, that even though the appeal board is in Oak Park, the hearings rarely exceed 30 minutes, and that two hours is ample time to complete the assignment.

The Union urges that no one really wants to give up a pass day for two hours of overtime.

The Union's position is eminently reasonable. Their position is further supported by the long-time past practice in both the private and public sector as it relates to call-in pay.

When a person is called in to work and then sent home early for any reason, that person is generally assured of four hours pay. For that reason, the majority adopts the Union's last best offer as follows:

ARTICLE 18, SECTION 18.2

18.2 Employees who are required to be in court inside the City limits of Romulus, including LCC hearings, during non-working hours, shall be guaranteed a minimum of four (4) hours court time at one and one-half (1½) times the employee's normal rate of pay.

Article 18, Section 18.2 to be retroactive to July 1, 1989.

OVERTIME:

There has been what the Union believes to be an inequitable distribution of overtime in the past. The parties met long before this Act 312 proceeding and resolved their differences with regard to overtime by a letter of understanding. As a result, overtime had been virtually equalized so that no one officer receives considerably more overtime than another. This resolution of the problem seems to have worked to everyone's satisfaction.

The City, however, feels that there should be an exception for the particular officer who may be the only person qualified by training or experience to perform the work.

The award shall provide that there shall be no change in the present contract Article XVII. Further, that PR 4.07 shall contain the proviso that any employee assigned to a special unit shall be allowed to work the extra overtime assignment, if he or she is the only employee qualified to perform the work based upon training and/or experience. The inclusion of this modification to PR 4.07 shall not be used to circumvent the intent of the parties as reflected in their memorandum of agreement and modifications to PR 4.07. Anything contained herein to the contrary notwithstanding, there shall not be any unusual amount or imbalance in the overtime of one officer as compared to another and when that occurs, the imbalance shall be substantially corrected.

BLUE CROSS/BLUE SHIELD INSURANCE COVERAGE:

The Union proposed the status quo and the City requested a \$3.00 co-pay and a second opinion when surgery was involved and, in addition, offered the Blue Cross/Blue Shield Vision Plan. The Blue Cross/Blue Shield representative testified that the cost of the second opinion cancelled any possible rate saving that the City may have anticipated. He also testified that the \$3.00 co-pay would save very little in the way of premium because currently, there was not a great deal of usage.

During the course of the executive session, the parties agreed to make a tradeoff whereby the Union would amend its last best offer to accept the \$3.00 co-pay, provided the Blue Cross/Blue Shield Vision Rider was added.

The language adopted is as follows:

There shall be no changes to the current Blue Cross/Blue Shield Hospital-Medical Coverage, except as set forth in A and B below.

- A. The inclusion of the Blue Cross/Blue Shield Vision Plan for the employee, employee's spouse, and dependent children, and;
- B. The inclusion of a three dollar (\$3.00) co-pay for all prescriptions provided for under the terms of the insurance contract.

TWELVE-HOUR SHIFTS:

The Union proposed 12-hour shifts in its last best offer and the City has rejected the proposal. There was a very lengthy hearing replete with numerous witnesses and exhibits, during which time both parties expressed their viewpoint.

The impartial arbitrator has participated in several 312 arbitrations where the 12-hour shift was requested by the police officers and there was always acceptance by the governmental unit. Frankly, I was surprised that there was so little opposition, but, apparently, both sides saw merits to the proposal.

For the police officer it means seven working days every two weeks and four hours more pay, albeit at straight time. The officers appear to have no difficulty in performing their duties even though the workday is extended and they like the idea of a long weekend every two weeks.

The employer gains the benefit of the extra manpower without the cost of adding additional employees to the payroll, and except for the City of Novi, the additional hours are paid for at straight time.

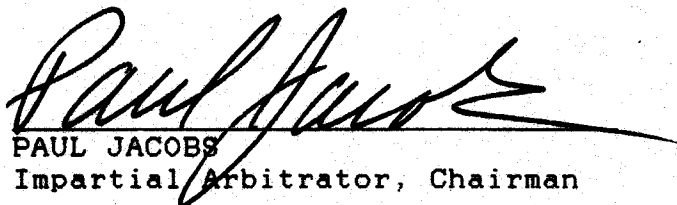
Usually, the proposal for a 12-hour shift includes an escape clause should either party find it unworkable. In this instance, the Union's last best offer did not contain an escape clause and is, to a large extent, one of the major factors for my decision that the status quo ought to remain.

The City, for its part, was able to demonstrate that because of contractual requirements for two-man cars at certain times of the day, two 12-hour shifts per day plus one overlapping shift were not workable. The Union, as a result of this argument, has offered to amend its last best offer. This offer has not been accepted by the City and the arbitrator cannot now accept an amendment.

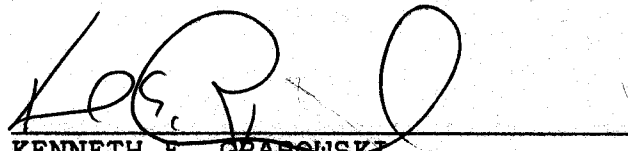
It is my opinion, however, that all is not lost, since this was only a wage reopener in the last year of a four-year

contract. The parties have had the opportunity to listen to the concerns of each other during the course of these proceedings. Taking the concerns of each other into consideration, they should be able to fashion a 12-hour shift into their new collective bargaining agreement which can alleviate any fears the City may have

The Union's last best offer for a 12-hour shift is denied.


PAUL JACOBS
Impartial Arbitrator, Chairman

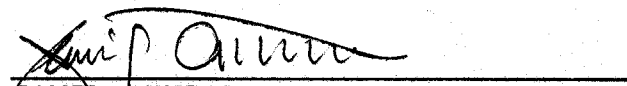
October 25, 1990


KENNETH E. GRABOWSKI
Panel Member for the Union
Police Officers Association of Michigan

October 25, 1990

Concurs to all but:

CONCORTY, GONALC, 12hr SHIFTS


JAMIL AKHTAR
Panel Member for the Employer
City of Romulus

October 25, 1990

Concurs to all but:

Pension Benefits and Count Time