

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF

ARBITRATION

BETWEEN

TOWNSHIP OF REDFORD

and

POLICE OFFICERS ASSOCIATION
OF MICHIGAN

Under Act No. 312

MICHIGAN PUBLIC ACTS OF 1969

COUNSEL

For the Employer

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For the Union

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ARBITRATION PANEL

JOSEPH BOMMARITO

GEORGE J. BRANNICK
Arbitrator
and
Impartial Chairman

MARVIN DUDZINSKI

This is an Arbitration held pursuant to Act 312 of the Public Acts of the State of Michigan, 1969, as amended, MCL 423.231 et. seq., (hereinafter Act 312) which is better known as the Police and Firemen's Compulsory Arbitration Act.

This matter was certified to Arbitration by the Michigan Employment Relations Commission. Hearings were held in the Township of Redford on June 10, 2002; November 11, 2002; November 12, 2002; and November 21, 2002. Final Briefs were filed on March 7, 2003.

At the opening of the initial hearing the parties determined that one issue had not been mediated and the same was mediated expeditiously by Mr. James Amar of the State Mediation Service, for which this Arbitrator gives thanks for his efficiency in doing so.

Subsequently thereto at the hearing held on November 11th the following items were determined to be at issue.

1. Wages
2. Longevity
3. Roll Call
4. Reduction of Sick Time and Disability Insurance
5. Medical Insurance
6. Overtime
7. Cadets, Dispatcher/Jailers and Lay-Offs
8. Pension
9. Bereavement

Of the stated issues all are determined to be Economic issues with the exception of Lay-Offs.

Section VIII of Act 312 requires, as to the Economic issues the Arbitration Panel shall adopt the Last Best Offer of settlement which in the opinion of the Arbitrator more nearly complies with the applicable factors described in Section 9.

Section 9 of Act 312 provides:

. . . the Arbitration Panel shall base its findings, opinions and order upon the following facts, 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 costs 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.
(Emphasis added)

We are, therefore, constrained by the statute to resolve the Economic issues by choice of the Last Best Offers measured against the foregoing Standards.

The parties during the hearing stipulated that the duration of the Contract would be for four (4) years from the expiration of the last Contract, and that is so ordered. Further, the parties stipulated that certain insurance benefits for the dispatchers would be increased, and that is so ordered.

Further the parties stipulated that the matter was properly before the Arbitration Panel. There were no further procedural questions with respect thereto. Further the parties submitted Waivers of the statutory time limitations.

The Township offered what is called an Economic package

covering all of the Economic issues and based its fundamental reasoning on criteria (c) above, i.e., the interests and welfare of the public and the financial ability of the unit of government to meet those costs, indicating that, although it was not bankrupt, that its ability to pay was severally endangered by the economic conditions of the State and the Nation. With witnesses and documents it attempted to demonstrate that the declining economy had severally impacted its ability to generate funds and that any items beyond its proposed package could have a devastating effect of Township employees. Great deference must be paid to a testimony of the witnesses on behalf of the Township with respect to the issue of ability to pay because certainly they have demonstrated by their past actions an ability to well manage the funds of the Community. They did so by building a substantial fund balance. They also testified that when times are better they are more generous.

The Union countered the Township's position by stating that they had a substantial fund balance and that that fund balance was set aside for "the rainy days" and the rainy days have now arrived. There is no question that the State has fallen upon bad times economically speaking and that, as a consequence, the subordinate units of government are suffering from a loss of major revenues.

However, the Township's argument overlooks two or three important concepts, (1) the Township appears to have a substantial

fund balance, and more importantly it has an outstanding management team which this Arbitrator believes can and will surmount the current problems and, (2) it appears that the interest and welfare of the public has been demonstrated in the somewhat recent past by the fact of a relatively new police station and the fact that a millage was passed regarding the police and fire pensions. It appears that the Public wants protection and is willing to pay for the same. Finally, it is difficult to take testimony of financial hardships during the day, and in the evening to hear news reports that the only solution to the economic problem is to put more money in the consumer's pocket, albeit through tax reduction.

Accordingly, this Arbitrator believes that the Township has the ability to pay the wages requested by the Union. It is also our opinion that this Township has the ability to meet the current crisis because its outstanding management team had the wisdom to prepare during the good times for the crisis now upon us.

Accordingly, as hopefully will be developed further in this Opinion the Last Best Offer of the Union regarding wages is accepted and so Ordered.

N.B. After the drafted Opinion was submitted to counsel the Township asked for an Executive Hearing which was held on May 8, 2003 at the Township of Redford. The Township indicated at that time that it could accept the Opinion with the exception of the

question of Longevity, which it said would cause great financial harm. Further inquiry indicated that the basis of the financial difficulty was not with the Patrol, but with the Command Contract which had been piggybacked to the Patrol Contract, that is whatever was given to Patrol with respect to Longevity would also be given to the Command section. Since that issue had not been raised at the Patrol hearing, and in fact, prior thereto the Arbitrator had been told that the parties agreed tentatively with respect to the Command.

During the course of the hearing it was determined with respect to Longevity, that it was part of the total package, but that it would not affect too many people on the Patrol, and now at the Executive Hearing it was determined that it would affect mostly those in the Command section.

The problem here obviously is that the hearing had been closed before that issue had been raised and the rules do not apply with respect to after discovered evidence. In fact, it was not after discovered, because it was known prior to the hearing that the Command had been piggybacked to the Patrol Opinion which all parties were aware of except the Arbitrator.

Accordingly, the Opinion at this time cannot be changed because of that fact since it was never raised at the hearing and to do so would necessitate reopening the hearing which we cannot

do.

Further, since to change now would be on the basis of mere speculation since the Union would have no opportunity to contest the same, it is this Arbitrator's opinion that having closed the hearing this evidence having never been heard prior to the hearing does not therefore change the before drafted Opinion and that the Last Best Offer with respect to Longevity is granted to the Union.

The next issue, Roll-Call Pay, seems to have been the subject of much discussion and dispute in the past and there is an indication that there has been a Federal Labor Standard Decision with respect thereto, or at least a complaint made thereunder. No such Decision was presented to this Arbitrator. However, it is a matter which ordinarily would be covered by Federal law and therefore under those circumstances the Last Best Offer of the Township with respect thereto is accepted by this Panel and so Ordered.

With respect to the next proposal, Sick Leave, the Township's Last Best Offer is accepted, subject however that it has no retroactive effect prior to the termination of the previous Contract, and that is so Ordered.

With respect to Hospitalization and Health Insurance, the last best offer of the Township is accepted and so Ordered.

With respect to Article 17, Overtime, on both sections, the Township's last best offer is accepted and so Ordered.

With respect to Lay-Off, the Union's Last Best Offer is accepted and so Ordered.

With respect to Bereavement, the Last Best Offer of the Township is accepted.

With respect to Pensions, the Last Best Offer of the Union is accepted and that is so Ordered.

This Arbitrator carefully reviewed the evidence submitted at the hearings and has attempted to apply them to the statutory criteria. However, in doing so, in these trying times it appears that criteria (h) is of critical importance. There is little or no question in anyone's mind that the interest of the public with respect to police authority has been greatly increased since the action of certain parties on September 11th, commonly known as 9-11. With that infamous date the police authorities of various governments have become critically important to the majority of the people of this Country. Terrorism is now probably the number one fear of the general public, and its prevention hopefully lies basically in the hands of the local police authorities. This will require much more additional training and much more additional activity on the part of the local police departments. This

Arbitrator believes that recruiting, training and sustaining good officers has and will become a major personnel problem in the very near future if not presently here at this time. Thus, I have tried to accommodate the interest of both parties, but above all the welfare of the public.

DISSENT

CONCUR

William Birdseye
WILLIAM BIRDSEYE

CONCLUSION

This Chairman would be remiss if he did not compliment all of the parties and, especially Counsel, for the excellent presentation of the evidence in this matter and the excellent preparation of Exhibits. Not only were the parties testifying clear, concise, and knowledgeable with respect to the testimony they gave, but their testimony was free from extraneous items which more frequently tend to confuse, rather than enlighten the Panel. The Exhibits were also clear and concise and, when laboring over Transcripts and Exhibits in late hours of the evening or early hours of the morning, it is a manifold blessing that the same be precise and to the point.

These Arbitrations are exceptionally difficult because the Panels are obligated not so much to decide, but rather to choose

with respect to the issues. This has been made substantially easier in this case because of the highly professional and competent work of Counsel representing the parties.

This Arbitrator will retain jurisdiction until such time as a Contract in fulfillment hereof has been duly executed.

Respectfully submitted,


GEORGE J. BRANNICK
Impartial Chairman

Dated: May 22, 2003