

Ark. 11-17-89

STATE OF MICHIGAN
ARBITRATION PANEL UNDER PUBLIC ACT 312 PUBLIC ACTS OF 1969
IN THE MATTER OF STATUTORY ARBITRATION BETWEEN

CITY OF SAGINAW, MICHIGAN
AND
MICHIGAN FOP LABOR COUNCIL
ACT 312 - CASE NO. L88 K-915

OPINION AND AWARD

Chairman of Arbitration Panel: Dawson J. Lewis

City's Delegate: Robert Kendrick

FOP Delegate: James J. Quinn

Pre-Arbitration Conference-April 21: Conducted by a telephone conference call between the parties and the Chairman of the Panel.

Hearings-July 25: In the City Hall of the City of Saginaw.

Exchange of Final Offers: July 31, 1989

Briefs Received: September 13, 1989 and September 20, 1989.

Executive Meeting of Panel: October 23, 1989

INTRODUCTION

Pursuant to Section 3 of Public Act 312 a petition for arbitration was filed by the above named Union, dated February 21, 1989. In the petition, the Union stated they had engaged in good faith bargaining and mediation and the parties to the contract had not succeeded in resolving the one issue -- wages (the contract was only open for negotiations on an agreed upon wage reopener). Therefore this matter came before an arbitration panel, whose members were appointed pursuant to the terms of Act 312 P.A. 1969 as amended; for the purpose of hearing and deciding the unresolved issue between the parties shown above.

Pursuant to the statute, Dawson J. Lewis was appointed by the Michigan Employment Relations Commission to serve as Chairman of the Arbitration Panel. The two other members of the panel,

Saginaw, City of

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selected by the respective parties, were Mr. Robert Kendrick for the Employer, and Mr. James Quinn for the Union.

The pre-arbitration conference was held to acquaint the panel regarding the unresolved issue and to set the date for hearing(s) and the conduct of the hearing(s).

The parties stipulated that the issue before the panel was economic and therefore subject to the "last best offer" provisions, of Section 8 of the Act.

The issue in question is the wage rate to be paid all full time police officers above the rank of patrolman up to and including the rank of Lieutenant, excluding the ranks of Assistant Chief of Police and Chief of Police.

One hearing was held on the matter, July 25, 1989, in the offices of the City of Saginaw. The last best offers were to be exchanged through the Chairman of the Panel, postmarked no later than July 31, 1989.

On September 13 and September 20 the briefs were sent to the chairman who in turn forwarded them to the opposing counsel and to the other panel members.

On October 23, 1989, the panel met in executive session in Saginaw, Michigan to consider the evidence and arguments in support of the "last best offers" of the parties on the issue in dispute.

It should be emphasized that each of the panel members representing the City and the Police Officers Command Unit supported the last best offer of the party that appointed him to the panel. Accordingly, the signatures of the partisan panel members at the conclusion of this opinion and award does not represent a concurrence on the issue in dispute, but does constitute a recognition that there exists a majority vote in support of the item in the final award.

BACKGROUND

The City and FOP, representing the police officers, were signatory to a collective bargaining agreement effective January 1, 1987 and terminating December 31, 1989. The agreement contains a wage reopener effective January 1, 1989. The parties bargained to an impasse on this issue and the Union requested mediation.

Subsequently, on February 21, 1989, a demand was made for interest arbitration under Act 312. No issue with respect to the proper appointment or constitution of the arbitration panel was raised during the course of the proceedings. No question was raised about the arbitrability of the dispute raised by the parties.

The Arbitration Panel derives its authority from Act 312. Section 9 of Act 312 establishes the criteria to be applied, by the panel, in resolving the disputed issue and formulating its order.

- "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 good 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 evidence considered in this case consisted of testimony, taken under oath, and exhibits introduced by the parties in the course of the hearing. The Arbitration Panel has based its findings, opinions and awards solely upon the material evidence submitted by the parties guided by the specific statutory standards set forth above."

The City of Saginaw is a community with a population of approximately 72,470 (Source: County and City Data Book, 1988). While exhibits were submitted detailing the State Equalized Valuation (S.E.V.) and other financial data such as real and personal taxes, etc. The Employer did not argue "ability to pay" and therefore "The interests and welfare of the public and the financial ability of the unit of government to meet those costs" was not an issue.

The standards in Section 9 of Act 312 which were given the most weight in reaching the Arbitration Panel's findings opinions and awards were:

- "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."

The parties agreed that the following cities are comparable to Saginaw for the purposes of the Panel:

Battle Creek	Bay City
Flint	Jackson
Lansing	Midland
Muskegon	Pontiac
Southfield	

The parties elected not to present evidence and witnesses in support of their respective positions on the issue in dispute in the hearing on the matter, but elected to rely on the exhibits entered into the record and arguments submitted in the post hearing briefs.

EXHIBITS

Submitted as joint exhibits:

Joint Exhibit #1:	The contract between the parties.
Joint Exhibit #2:	Contract - Bay City.
Joint Exhibit #3:	Contract - Battle Creek.
Joint Exhibit #4:	Contract - Flint, for the rank of Sergeant.
Joint Exhibit #5:	Contract - Flint, for the rank of Lieutenant.
Joint Exhibit #6:	Contract - Jackson.
Joint Exhibit #7:	Contract - Midland.
Joint Exhibit #8:	Contract - Muskegon.
Joint Exhibit #9:	Contract - Pontiac.
Joint Exhibit #10:	Contract - Southfield.
Joint Exhibit #11:	Contract - Southfield.
Joint Exhibit #12:	Contract - Lansing.
Union Exhibit #1:	Petition and proof of service.
Union Exhibit #2:	Correspondence regarding arbitration.
Union Exhibit #3:	List of comparables.
Union Exhibit #4:	Synopsis - wage and expenses.
Union Exhibit #5:	Contract duration.
Union Exhibit #6:	Cost of Living Index changes.
Union Exhibit #7:	Base wage top paid Sergeant.
Union Exhibit #8:	Base wage top paid Lieutenant.
Union Exhibit #9:	Total money comp. - Sergeants.
Union Exhibit #10:	Total money - Sergeants, 1988.
Union Exhibit #11:	Total money - Lieutenants, 1988.
Union Exhibit #12:	Total money - Lieutenants, 1988.
Union Exhibit #13:	Newspaper article.
City Exhibit #1:	City budget, 1990.
City Exhibit #2:	Sergeants total income.
City Exhibit #3:	Lieutenants total income.
City Exhibit #4:	Sergeants wage schedule.
City Exhibit #5:	Lieutenants wage schedule.
City exhibit #6:	Sergeants base wage - 1 year.
City Exhibit #7:	Lieutenants base wage - 1 year.
City Exhibit #8:	Internal comparison.

City Exhibit #9:	Percentage wage increase.
City Exhibit #10:	Populations of comparable cities.
City Exhibit #11:	State Equalized Valuation, 1988.
City Exhibit #12:	Property valuation.
City Exhibit #13:	Per capita income.
City Exhibit #14:	Educational bonus.

POSITION OF THE PARTIES RELATIVE TO THE ISSUE IN DISPUTE

Union

The Union is requesting a 4% wage increase across the board effective January 1, 1989.

The Union asserts that a review of Union Exhibit #7 reveals that for the year 1988 the top paid sergeant earned \$35,151.00. The average base wage paid a top ranked sergeant by the comparable communities was \$35,444.00 for the year 1988; the base wages paid by the City of Saginaw was \$293.00 below the average and ranked fifth among the cities. A 4% wage increase for 1989 would place the sergeants, in the Saginaw Police Department, near the top of the comparables among the cities that have negotiated the 1989 salary schedule.

The Union argues this comparison is misleading in that only five of the nine comparables established base wage rates for the full year, 1989-1990. The five are Battle Creek, Bay City, Midland, Muskegon and Flint. The remaining four comparables have contracts that expired June, 1989 or prior to that date, and are in negotiations.

The Union also contends that while the lieutenants top base wage exceeds the average of the wage paid by the comparables by \$3,253.00, the same factors noted in the case of the wages of the sergeants applies to the wages paid the lieutenants.

The Union argues that the Panel should also consider the following three points:

1. The cost of living index increased 4.9% from January, 1988 to January, 1989; the Union's last best offer of 4% increase does not meet the average change in the cost of living.
2. Other units of employees in the City's employment (management and AFSCME) have received wage increases of "at least" 5% for the year 1989.

3. City Exhibit #9 shows the Command Officers have received, on the average since 1979, wage increases of 4.62%.

The Union argues that based on the foregoing, their last best offer is reasonable and consistent with standards of comparability and should be adopted by the panel.

City

It is the position of the City that the members of the unit involved in this case are among the most highly compensated employees of the City.

The City points out that the base pay of the employees in the unit, coupled with the educational incentive and longevity compensation, substantially exceeds that paid to all City employees other than the upper management group composed of the City Manager, three assistant City Managers and top management staff.

The City asserts that not only has the police command unit personnel enjoyed very close to the highest base wages, but they have been given the highest wage increases among the City employees. Commencing with the year 1979, the City's last best offer of 3% effective January 1, 1989 would bring the total increases through December, 1989 to 50.05%.

According to the City, only the cumulative increases granted the police rank and file unit exceed this total; the last increase granted this unit was 2% effective July 1, 1989 and in effect until July 30, 1990.

The City contends the most "comparable" community is the City itself; the wage levels and increases granted other employees of the City are factors to be considered.

The comparison shows that the 3% increase offered the command unit is a greater increase than the increases negotiated for the other two public safety units for fiscal 1989, i.e. Police Department patrol unit, 2%, and Fire Department, 1%. In addition, the established hourly employees unit received a 2% increase and the salary unit a 2% increase; both of these units have been traditionally below the police command unit and the other public safety units.

According to the City, the newly organized AFSCME supervisory unit, in the first contract, was given a higher percentage increase for fiscal 1989, however, the average wages of the members of the command unit at 25% higher than those of the supervisory unit.

The City's position relative to the wage comparison of the comparable communities is that the City's offer of a 3% increase would place it among the upper half of the ten comparable cities in terms of monetary compensation.

The City contends that the Panel should consider the basic data submitted regarding the comparables, City Exhibit #10-1986 population, City Exhibit #11-State Equalized Valuation, City Exhibit #12-property valuation per capita, and City Exhibit #13-per capita income.

These comparisons show the City of Saginaw ranks in the upper half of the comparables only in terms of population. The comparable data shows the City ranks near the bottom of comparables in terms of the wealth of the City, the long term resources to pay public employees and the effect on the citizens of paying high wages and benefits.

Saginaw is seventh in total state equalized valuation, ninth in terms of property valuation per capita, ninth in terms of per capita income.

The City claims the last best offer in regards to the wage issue would place the City in the upper half of the comparable cities in terms of wages and the value of the total contractual benefits.

According to the City, the cost of living increase is not material to the issue before the Panel as no City unit employee receives a cost of living adjustment nor does any of the police command units of the comparable cities.

The City argues that there is concern that the welfare of the public is not well served by the rapidly escalating wages and points out that the City's tax base has been subject to considerable erosion as the City's property valuation has declined since 1983.

To meet this problem, the City has reduced the number of City employees from in excess of 950 in 1980 to less than 600 employees at the beginning of fiscal year 1989. As a result, there has been a decrease in services provided.

The City contends an award in excess of the City's last best offer would not be in order when an examination is made of the internal City comparisons and the compensation of command police officers in the other comparable cities.

The City asserts that police protection constitutes significant expenditures; fiscal 1989 constituting 30% of the total general fund budget.

The City contends that application of the factors in Section 9 of Act 312 indicates that the City's last best offer errs on the side of generosity and there is no basis for adoption of the Union's last best offer.

The City argues that the Panel must consider the following factors in making its decision:

1. Saginaw property tax base, both in gross amount and per capita, ranks in ninth place among the ten comparable cities.
2. The total contractual compensation of the police command unit ranks in the upper half of the compensation paid to the personnel in the comparable cities.
3. The state equalized valuation of property in the City has declined since 1980, ranking ninth in the list of ten comparable cities.

The Panel of Arbitrators met in executive session in the offices of the delegate representing the City, in Saginaw, Michigan, on October 24, 1989. The positions of the parties relative to the issue before the Panel were carefully reviewed.

DISCUSSION

An analysis of the positions of the parties relative to the wage increase shows:

1. A 4% increase for lieutenants on the annual base salary equals \$1,589.00.
2. A 3% increase for lieutenants on the annual base salary equals \$1,192.00.

3. A 4% increase for sergeant on the annual base salary equals \$1,406.00.
4. A 3% increase for sergeant on the annual base salary equals \$1,054.00.

After reviewing the positions taken by the parties relative to the nine communities that were selected as comparable, it was shown that only five had negotiated increases during 1989: Battle Creek-4.0%; Jackson-2.0%; Midland-4.8%; Flint-4.0%; and Muskegon-3.5%. The average of highest four is 4.07%.

Another significant factor was the internal comparison of the other units of employees of the City among which was the rank and file police unit. Over the period from 1979 through 1989, the rank and file police unit had percentage increases in annual salary totaling 51.25%; whereas the police command unit percentage increase in annual salary through 1988 totaled 47.05% showing that the command unit was 4.20% behind the rank and file unit.

While it was shown that the other units of employees received less in percentage increases with the exception of I.A.F.F., in the opinion of the Chairman, the relationship of the rank and file unit and the command unit was the most important and the one most directly related to the police command unit.

Another important factor, in the opinion of the Chairman, was the increase in cost of living; the index increased 4.9% from January 1, 1988 to January 1, 1989. While the police command unit does not receive cost of living increases, the increase in the cost of living cannot be ignored. Section 8 of Act 312 of 1989 states in relation to economic issues that:

"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 prescribed in Section 9. The findings, opinions and orders as to all other issues shall be based upon the applicable factors prescribed in Section 9."

In as much as the only issue before the Panel was wages, the two most important factors in Section 9 to be considered by the Panel were:

- d. A comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of

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employment of other employees performing similar services within other communities, 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.

ARBITRATION PANEL
FINDINGS AND CONCLUSIONS

After careful analysis and review of the positions of the parties on the issue of wages presented to the Panel for an opinion and award, the majority of the Panel is persuaded that the "last best offer" of the Union to apply a four percent (4%) across the board increase for all ranks and classifications in the police command unit effective January 1, 1989 is acceptable.

The City argues that the comparison of the nine comparable communities shows that the officers base wages, in the command unit of the police department, ranks above the average base wages for comparable officers of the nine other communities, and the base wage for the sergeants and lieutenants before any increase is applied ranked each group (sergeants and lieutenants) among the highest paid of the ten (10) communities, i.e. the sergeants base wage as of January 1, 1989 ranked fourth highest (City Exhibit #6) and the lieutenants base wage ranked fourth highest.

The City contends recognition must be given to the fact that the S.E.V. of the City ranks seventh, the per capita income of the citizens has dropped and the tax base has eroded. As the exhibits show, Saginaw ranks in the upper half of the comparable cities only in terms of population.

The City contends the officers in the command unit already are among the highest paid employees of the City and among the highest paid in the comparable cities; and the welfare of the public will not be well served by increasing the compensation of these already well paid employees. Further, the City's resources and the resources of the citizens are limited and should not be used to enrich already well paid employees.

As Panel Chairman, I am fully aware of the burden placed on the taxpayers of all communities who want a well trained and professional police force. Evidence has shown, however, that the

professional police force. Evidence has shown, however, that the general public demands police protection and is willing to pay for it. As the exhibits show, the City of Saginaw has maintained a high ranking police force for a number of years.

The Panel majority is well aware of the burden placed on the taxpayers if any increase is granted, but when forced to choose between the "last best offer" of the City of 3% across the board increase and the Union's "last best offer" of a 4% across the board increase, the weight of the evidence favors the Union's position, particularly when it is noted that the ten year comparison of the wage rankings of the police rank and file unit and the police command unit shows that the pattern over the ten year period was to keep the positions of the base wages relatively even. However, the increase of 2% in base wages for the police rank and file in 1989 makes the total percentage increase for the rank and file 51.25%; whereas the percentage increase for the police command unit, up to 1989, totals 47.05%, a difference of 4.20%. An increase of 4% will reduce the difference to .20%.

As was stated before the cost of living factor has increased 4.89% in the year 1988 and while the cost of living is not paid, as such by Saginaw or any of the comparable communities, it must be taken into consideration.

Additionally, an examination of the increases granted by five of the nine comparable communities shows that three of the comparables granted increases ranging from 4.0% to 4.8% and one granted an increase of 3.5% (Battle Creek-4.0%; Flint-4.0%, just settled; Midland-4.8%). The smallest increase was that granted by Jackson, 2%. Further, it must be recognized that two of the comparable communities, Pontiac and Southfield, are presently in negotiations and in each case the base wage paid the police command unit personnel is considerably higher than the base wage paid by Saginaw; and undoubtedly will be increased as the result of the contract settlements.

In conclusion, the majority of the Panel are of the opinion that the Union's "last best offer" of 4.0% across the board increase for the police command unit personnel more closely approximates the criteria established by Section 9 of Act 312:

- d. A 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 within other communities, 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.

Item (f) of Section 9 provides as one of the basis for findings:

"The overall compensation presently received by the employees etc."

Both parties submitted detailed comparisons of the factors that are considered in the overall compensation, however, the Chairman of the Panel found it difficult to make an objective comparison of these factors as the nine communities and Saginaw had several differences in the application of revenues toward the different benefits and these differences could not be reconciled so the criteria established by Section 9 (f) was not considered.

AWARD

The wage schedule for all full time police officers above the rank of patrolman, up to and including the rank of lieutenant and excluding the ranks of Assistant Chief of Police and Chief of Police, shall be increased by 4% effective January 1, 1989.

City's Panel Member - Robert Kendrick

Union's Panel Member - James Quinn

Concurs	_____
Dissents	_____
Concurs	_____
Dissents	_____

CITY OF SAGINAW, MICHIGAN
AND
MICHIGAN FOP LABOR COUNCIL

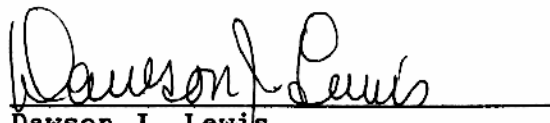
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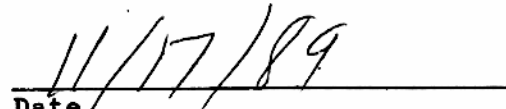
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Panel of Arbitrators:


Robert Kendrick
City Delegate


James Quinn
Union Delegate


Dawson J. Lewis
Panel Chairman


Date