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Southgate, City of

STATE OF MICHIGAN  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION  
STATUTORY ARBITRATION

In the Matter of

Southgate Fire Fighters Union,  
International Association of Fire Fighters,  
AFL-CIO, Local No. 1307

-and-

City of Southgate, Michigan

4/24/70

OPINION AND ORDER

APPEARANCES

For the Union:

Theodore Sachs, Esq.

For the City:

Richard S. Smiertka, Esq.

STATUTORY BACKGROUND

George T. Roumell, Jr., Panel Chairman: By enacting Act 379 of the Public Acts of 1965, the legislature of the State of Michigan established that it is the public policy of Michigan that public employees may engage in collective bargaining activity. For some time, by virtue of Public Act 336 of Public Acts of 1947 and as amended by Act 379 of Public Acts of 1965, there has been a prohibition against public employee strikes. The extent of this prohibition and its application has been the subject of at least two Michigan Supreme Court decisions. School District for the City of Holland v. Holland Education Association 380 Mich. 314(1968); Crestwood School District v. Crestwood Education Association 382 Mich. 577(1969).

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A problem in providing public employees with the right to engage in collective bargaining activity coupled with a statutory prohibition against public employee strikes is to devise a substitute for a possible strike in the collective bargaining process.

To this end, in the case of Fire Fighters and Police Officers, the Legislature of the State of Michigan enacted Act No. 312 of the Public Acts of 1969, which was approved by the Governor on August 14, 1969 and given immediate effect. Section I of the Act refers to itself as being "an alternate... for the resolution of disputes...." It provides for compulsory arbitration of fire fighter and police officer collective bargaining disputes when there is an impasse. This brief statutory background is set forth in the recognition by this panel that this is probably one of the early opinions and orders under the Act.

#### ARBITRATION BACKGROUND

The most recent collective bargaining agreement (Joint Exhibit 1) between the City of Southgate (hereinafter sometimes referred to as "City") and Southgate Fire Fighters Union, International Association of Fire Fighters, AFL-CIO, Local No. 1307 (sometimes hereinafter referred to as "Union") expired on December 31, 1969. Some time prior to the expiration of the agreement the parties did engage in collective bargaining and failed to reach agreement. As a result, on December 27, 1969, the Union, via its President, Thomas Fisher, by letter to Gerald Matson, City Manager of the City of Southgate, advised the City that it was initiating

arbitration proceedings "pursuant to Act No. 312, Public Acts of 1969".

The Union designated Virgil F. Robinson as its delegate to the panel. The City designated Gerald Matson as its delegate. These two delegates failed to designate as required by the Act "an impartial, competent and reputable person to act as arbitrator". Thus, a request was made to the Chairman of the State Labor Mediation Board (now known as Michigan Employment Relations Commission) to appoint a third impartial member of the panel. On January 30, 1970, within the time limit set by the Act, George T. Rounell, Jr. was so appointed to act as the "chairman of the panel of arbitration".

Within the time limits set by the Act, the parties agreed that the arbitration hearing should begin on March 3, 1970. On the first day of hearing, March 3, 1970, Mr. Matson raised the question as to whether he should serve because of the need of the City's counsel for his assistance during the presentation of the City's case. Mr. Matson did serve during the March 3, 1970, session of the panel which was devoted to a pre-trial conference and opening the record. No evidence or arguments were taken this day.

#### CONDUCT OF HEARINGS

As just mentioned, the panel conducted a pretrial conference on March 3, 1970. The panel conducted hearings on the following dates: March 9, 12, 20, 23, 24, 26, 27 and 28, 1970. The hearings were completed on March 28, 1970, within thirty days of their commencement as prescribed by Section Six of the Act. Approximately ninety exhibits were presented by the parties and an opportunity for examination, cross examination and redirect

examination was afforded both counsel. Opening statements were made as well as closing statements. It was further stipulated by both the City and the Union that the order could be retro-active to January 1, 1970.

#### ARBITRABILITY

By way of legal argument, the City has questioned the arbitrability of the issues here by claiming that the panel had no jurisdiction because Act No. 312 is unconstitutional. The City maintains that it is unconstitutional because the panel has no accountability to the electorate of the City of Southgate and the panel's order would be interfering with the right to govern. In support of these arguments the City maintains that Act 312 is in conflict with Act No. 279 of the Public Acts of 1909 (sometimes referred to as the "Home Rule Act") because of an alleged unlawful delegation of authority to the panel. The City also maintains that Act 312 is in conflict with the state constitution in that order of the panel could result in taxation without representation.

The constitutionality of Act No. 312 has not been tested in the Michigan courts. However, in states where legislatures have enacted compulsory binding arbitration statutes for unresolved collective bargaining disputes involving Fire Fighters and Police Officers, the courts have sustained the constitutionality of said legislation against similar constitutional attacks as are being made here by the City.

In Fire Fighters Local No. 946, et al v. City of Laramie, 437 P2d 295 (February 15, 1968), the Supreme Court of Wyoming upheld



the constitutionality of the Wyoming Fire Fighter and Police Officer compulsory arbitration act which is similar to Act no. 312. On June 27, 1969, the Supreme Court of Pennsylvania upheld the validity of Pennsylvania's Fire Fighter and Police Officer compulsory arbitration act which is likewise similar to Act No. 312 in Harney v. Russo, 435 Pa 183, 255 A2d 560. On July 30, 1969, the Rhode Island Supreme Court, and in so doing reversed a lower court decision to the contrary, upheld the constitutional validity of Rhode Island's compulsory Fire Fighter - Police Officer arbitration act. City of Warwick et. al. v. Warwick Assn. \_\_\_\_ R.I. \_\_\_\_, 256 A2d 206.

Admittedly, in State (VanRiper) v. Traffic Telephone Workers Federation 2 NJ 335, 66 A2d 616(1949), the New Jersey Supreme Court held that a compulsory binding arbitration act involving disputes concerning public utility workers was unconstitutional because the statute gave the arbitration panel no guide as to the factors to be considered. It is noted that section 9 of Act 312 sets forth specific factors to be considered by the panel in arriving at an order.

The New Jersey Act was subsequently amended setting up standards. As a result, the New Jersey Supreme Court subsequently upheld the constitutionality of the Act, N.J. Bell Telephone Co. v. Communication Workers of America, 5 NJ 354, 75 A2d 721(1950).

Likewise, in New York a statute compelling arbitration between a non-profit hospital and its maintenance employees was held to be constitutional and not an improper delegation of power to the state board because the legislation did set standards as a guide and the act was in lieu of the right to strike.

Long Island College Hospital v. Catherwood, 54 Misc. 2d 712, 283 NYS 2d 249 affd. 28 App. div. 2d 1092, 283 NYS 2d 1014 modified on other grounds 29 App. div 2d 642, 287 NYS 2d 313 (1967).

Those courts that have been faced with the precise question of the constitutionality of police and firemen compulsory binding arbitration acts and other similar acts involving other types of employees have recognized changing concepts in public employment collective bargaining and have upheld the constitutionality of those acts.

The point is made in the concurring opinion in State ex rel. Fire Fighters Local Number 946 v. City of Laramie, 437 P2d 295 at 305, wherein Justice Parker writes:

"... A City, being a creature of the legislature, has only such powers as have been granted to it by the State and it is in no position to object legally when the powers therefore granted are narrowed by the legislature, its remedy being to convince the legislature that the restriction is bad policy." (quoting from State ex rel. Fire Fighters Local 279 I.A.F.F. v. Kingham, WYO., 420 P. 254, at 257).

Specifically as to the rationale behind binding arbitration for Fire Fighter and Police Officer impasse disputes, the Supreme Court of Pennsylvania in Harney v. Russo, 435 Pa 564 said:

"...Likewise, in the case before us, there is obvious legislative policy to protect the public from strike by policemen and firemen, public employees who hold critical positions."

It is quite clear that the legislature of the State of Michigan in Section 1 of Act 312 stated that compulsory arbitration is "... to afford an alternate, expeditious, effective and binding procedure for the resolution of disputes....".

In view of the public policy in Michigan, in view of the recognition of similar public policy by other state supreme courts and in view of the fact that the legislature can limit the authority of cities, Act 312 is constitutional and this panel does have jurisdiction to hear the dispute before it. The dispute here between the City of Southgate and Southgate Fire Fighters Local No. 1307 arose because of the inability of the two parties to reach an agreement on a collective bargaining agreement.<sup>1</sup>

#### CURRENT BARGAINING HISTORY

The fiscal year of the City of Southgate coincides with the calendar year (January 1, through December 31).

Southgate Fire Fighters Association, Local 1307 and the City of Southgate have entered into a number of collective bargaining agreements in the past. The agreement just expired was effective January 1, 1968 and expired December 31, 1969 (Exhibit 1). Two year contracts have become the pattern between the Fire Fighters and the City. Negotiations for a new contract to replace the expiring contract began in the fall of 1969. The Fire Fighters presented nine so-called economic proposals and fifteen so-called non-economic proposals (Union Exhibits 2 and 3) to the City. For convenience as a reference point, Union Exhibits 2 and 3 are attached to this Opinion. The numerical references herein to issues in disputes will be the same as used in said Exhibits.

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<sup>1</sup>Two members of the Panel are non-lawyers. Because of this, panel member, Alfred Kowalski, takes no stand on the constitutionality of Act 312. Panel member, Virgil F. Robinson, relying on the views as to constitutionality expressed in the opinion by the chairman, a lawyer, concurs that Act 312 is constitutional and therefore that the panel does have jurisdiction of this dispute.

Though Exhibit 3 is designated non-economic proposals, such designation is a partial misnomer because many of the items suggested in Exhibit 3 have economic consequences to the City.

On first blush when presented with Union Exhibits 2 and 3, it would appear that the parties progressed very little in bargaining as many of the issues were still on the table and were presented to the arbitration panel. However, the parties did enter into agreement on certain items either orally or through letters of understanding which were introduced as a package as Union Exhibit 1.

It is the understanding of the panel that agreements were reached either orally or by letter of understanding in regard to the subject matters encompassed in items 3, 4, 5, 7, 8, 9, 12 and 13 C in the so-called non-economic proposals (Union Exhibit 3). In addition, the panel understands that agreement was reached as to the subject matter of item 2 of the economic proposal (Union Exhibit 2). The agreement reached between the parties on the items set forth above narrows the issues somewhat before this Panel.<sup>2</sup>

Nevertheless, there are still a number of issues before the panel, particularly in the area of so-called direct economic proposals. For example, the Fire Fighters have demanded a \$3,500 annual increase in their wages for all members. Though the City has counter-offered with a \$1,000 increase, there has been no counter-offer from the Fire Fighters. On the other hand, the City has made offers (identical to insurance and hospitalization benefits given the Police in their new contract) to the

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<sup>2</sup>Without rendering an opinion as to the specific agreements, the panel will unanimously order that the items agreed upon either by letter of understanding or orally between the parties be automatically incorporated into the 1970-1971 agreement.

Fire Fighters concerning life insurance and hospitalization. The Fire Fighters did not accept this offer because, as testified to by Local President, Thomas Fisher, the offer was contingent on the Fire Fighters accepting the entire offer of the City as a package.

It is unfortunate that the panel is faced with so many issues. It is correct that Act 312 specifically says that it is an alternative "...for the resolution of disputes". Act 312 is only to be applied when there are impasses. This panel unanimously believes that Act 312 is not a substitute for collective bargaining. The entire panel further believes that the invoking of the procedures of Act 312 can be costly to both parties. It is the hope of the entire panel that employing governmental units and Fire Fighters-- Police Officers Unions consider this when engaging in collective bargaining and attempt to reach their own agreements without invoking compulsory arbitration.

The panel believes that in this case a greater effort at collective bargaining should have been exerted by both parties to avoid the multiplicity of issues before the panel.<sup>3</sup>

Underlying the failure of the Fire Fighters and the City to reach agreement is the fact that the Public Safety Commission, who did the bargaining for the City with the Fire Fighters, was also simultaneously bargaining with the Police whose then current contract was also expiring on December 31, 1969.

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<sup>3</sup>Since panel member, Virgil Robinson, participated in the negotiation, he finds it difficult to concede this point, but "reluctantly" does so.

The Police and the City did reach agreement in December, 1969, and their contract for the period from January 1, 1970 to December 31, 1971, (Union Exhibit 6) was ratified in January, 1970 by the parties. The police negotiations and the resulting contract have been a dominant factor in the Fire Fighters' City negotiation impasse. This point will be discussed further.

#### THE ISSUES

As explained above, the record establishes that a number of issues initially presented to the panel were actually settled by agreement between the parties reached through bargaining. Likewise, in the so-called non-economic proposals (Union Exhibit 3), Items 1, 3 and 14 have been withdrawn by the Union. The panel will honor the withdrawals by the Union.

Thus, in the so-called non-economic areas (Union Exhibit 3), Item 2, Agency Shop, 6 - Permission to take Personal Leave Days, 11 - Table of Organization; 13 A and B - Safety, 15 - pay for working out of classification, are still in dispute. All items listed in the Union's economic proposals (Union Exhibit 2) except Item 2 are still in dispute. In addition, the City's request for a management right clause is still open.

These are the issues to which the panel must now direct itself.

#### STANDARDS OF ACT

The basis for my order rendered by the panel as to the issues still in dispute is set forth in Section 9 of Act 312. Specifically, Section 9 provides:

- "(a) The lawful authority of the employer.
- (b) Stipulations of the parties.

(c) The interests and welfare of the public and financial ability of the unit of government to meet those costs.

(d) Comparison of 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."

These factors will be considered and reference will be made to them in this opinion.

#### FINANCES OF THE CITY

With economic items still in dispute, the City's financial ability to meet the cost of any settlement ordered by this panel becomes a key factor. This particularly follows in view of the mandate of Section 9(c) of Act 312 which provides that any order of this panel should be based upon, where applicable, various factors including: "The interest and welfare of the public and the financial ability of the unit of government to meet those costs."

The City of Southgate was incorporated in 1958. The geographical area was previously known as Ecorse Township.

Southgate is located in the Southwest corner of Wayne County known as the "downriver area" which is highly industrialized. Southgate is a city of residences, small business and light industry. It has no heavy industry.

Southgate is bordered by the cities of Allen Park, Lincoln Park, Taylor and Wyandotte, all suburbs of Detroit.

Southgate raises revenue from a millage levy on property, from rebates from the State of Michigan in the way of liquor licenses, income tax, intangible tax and sales tax, and from licenses and permits, court fines, special police services, accident reports, recreation programs, weed cutting programs, rentals, tree spraying and other miscellaneous services.

The revenue projections of the City officials have been based upon a population of approximately 29,000. However, there is an indication on the record that based upon the 1970 census, the population could be as high as 35,000 (City Exhibit 26). This is compared to the 1970 estimated population of Allen Park, 42,463; Lincoln Park, 59,000; Taylor, 70,000; Wyandotte, 45,000. (City Exhibit 26).

The significance of the population of the City is its influence on the rebates from the State of Michigan from income and sales tax, as the amount of those rebates are based primarily on population.

In 1969, the value of property on the tax rolls of the City of Southgate (based upon adjusted state equalized valuation) was \$106,953,250 (City Exhibit 26, Union Exhibit 21).



Allen Park's was \$162,441,580; Lincoln Park's, \$154,622,738; Taylor's, \$185,877,930; Wyandotte's, \$167,178,050. (City Exhibit 26, Union Exhibit 21).

Based upon both Union and City Exhibits, Southgate has the lowest property value on its tax rolls in the "down-river area" (using 1969 adjusted state equalized valuation).

Based upon City's Exhibit 26 (using the 1970 adjusted state equalized valuation), the value of the property on Southgate's tax roll is \$109,500,000 or an increase of \$2,000,000.

The significance of the adjusted state equalized valuation is the influence on the City of Southgate's ability to raise revenue.

Despite the various sources as set forth in City's Exhibit 1, the current approved budget, the major portion of the City's income is from millage levy, to-wit: \$1,460,700 out of revenues of \$2,319,800.

The Charter of the City of Southgate (Joint Exhibit 2) limits the City to a 12.5 mill levy.

Until 1970, the City has never levied the full 12.5 mills permitted by the Charter. In 1966 and 1967 the City levied 11.5 mills plus .4 for the People's Community Hospital Authority. In 1968, the City reduced the millage levy to 8.5 mills plus .4 mills for the People's Community Hospital Authority. In 1969 the mill levy was 7.6 plus .4 for the People's Community Hospital Authority, obviously a further reduction over the 1968 rate.

It is noted that these reductions in mill levy were made in a period of rising costs. At the same time that City of Southgate was reducing the mill levy, Allen Park's levy was 12 mills

as compared to 7.6 in Southgate; Lincoln Park was 17.08 as compared to Southgate's 7.6; Taylor was 9.50 as compared to Southgate's 7.6; Wyandotte's was 15.53 as compared to Southgate's 7.6 (City's Exhibit 23, Union Exhibit 21). As previously noted, the property on the tax assessment rolls in each of the above enumerated bordering communities has greater value than Southgate. Furthermore, other downriver communities have indeed higher mill levies than Southgate. For example River Rouge is 20.20; Ecorse, 22.15; Melvindale, 18.95; Wayne, 16.90. Based on City's Exhibit 23 and Union's Exhibit 21, not only does Southgate have a low tax assessment roll but it has the lowest millage levy in the "downriver area" and based on Union's Exhibit 21, with one exception, (Redford Township), in 1969 had the lowest or among the very lowest mill levies in the metropolitan Detroit area. Though unquestionably desirable in concept, the reduction of the mill levy (i.e. reduction of taxes) in Southgate in 1968 and in 1969 has had its effect on the City's finances.

According to City's Exhibit 7, the City had a surplus in 1965 of \$192,255. In 1966, the surplus was \$53,867. The total operating expenditures in 1965 was \$1,283,377. In 1966 the total operating expenditure was \$1,323,198, or about \$41,000 more than 1965. In 1967 the total operating expenditures jumped approximately

25 percent to \$1,689,060. Though the City mill levy remained at 11.5, the operating deficit in 1967 was \$206,721. In 1968, the City reduced the mill levy to 8.5. In 1968 the operating expenditures increased another 20 percent to \$2,007,316. The deficit in 1968 was \$321,699.

Despite this, the City in 1968 again reduced the mill levy to 7.6 mills. The operating costs were reduced by some \$58,000 to \$1,949,522. Yet, the deficit was \$350,945.

Though the 1967-1968 deficits were in most part financed by earlier surpluses, \$34,000 in deficit from 1968 was carried over to the 1969 budget. As a result, as the City enters the 1970 budget year, it has a deficit of \$384,000.

Insofar as the City of Southgate's finances are concerned, three significant events occurred in the fall of 1969. Gerald Matson was hired from industry, first as Assistant City Manager, then as City Manager bringing professional help to the management of the City's affairs. Shortly after Mr. Matson became City Manager, Roger B. Raupp, Jr., formerly on the staff of Hungerford, Cooper, Luxon and Company, Certified Public Accountants, the outside auditors for the City of Southgate, became the full time comptroller for the City. In addition, the City raised its mill levy for 1970 to 12.5 mills plus .4 for the people's community health authority.

In conjunction with Mr. Matson, Mr. Raupp, as an early task, based upon the projected 12.5 mill levy, began preparing the City's budget for 1970. As a result the City Council has approved a budget showing revenues of \$2,319,800 and expenditures in the same amount. (City Exhibits 1 and 12).

Supposedly a balanced budget, the City's adopted 1970 budget reveals some interesting facts concerning the City's finances and brings in the question of whether in fact it is a balanced budget. Both the police and fire department budgets have been increased for the 1970 year. Comptroller Raupp testified that the increases reflected provisions in the case of each department for two additional patrolmen and two additional Fire Fighters. However, in computing the budgetary figures, Mr. Raupp said that he did not reflect any increases in either department in any wages that may be gained through collective bargaining. He used the old rates and just included provisions for two additional men in the case of each department plus a minor amount for recognized increased insurance cost.

Comptroller Raupp also testified that in preparing the department of public works budget, he provided for no increase in pay to those employees, though in fact their collective bargaining contract was expiring.

The 1970 budget provides \$390,250 or about 15 percent for capital outlay. Mr. Raupp admitted that in the \$390,250 figure for capital outlay, there were certain provisions for possible wage increases as a result of collective bargaining. Reference is made to activity No. 970 which provides \$150,000 under a caption of payment and interest construction debt. \$90,000 of this amount was for a proposed drainage lake. The budget also showed in this \$150,000 figure \$90,000 for construction costs for the drain lake. As originally proposed, the budget showed \$90,000 of income coming from flowage rights. As the drain lake program has been temporarily stopped due to the failure to receive the approval of the Wayne County Drain Commissioner, the City's council modified the budget by removing the expected flowage right revenue of \$90,000 and deleting the expenditure of \$90,000. As Item 970 now stands, it is

a \$60,000 figure which Mr. Raupp suggested was actually reserved for employee wage increases.

Mr. Raupp also testified that in the budget as adopted, there were no provisions to reduce the \$384,000 deficit. The City introduced Exhibit 6, an order from the Michigan Municipal Finance Commission, approving the City's request to borrow \$400,000 by way of tax anticipation notes so that the City could raise cash prior to collecting taxes in order to operate. In the finance commission's order, the City pointed out that paragraph 4 provides:

"The City shall provide in the budget, an appropriation, for the reduction of prior years accumulated deficit and nothing herein contained shall be interpreted as consent by the municipal finance commission to the retirement of that deficit subsequent to the current year."

Mr. Raupp maintained that by virtue of Exhibit 6 and particularly the above-quoted portion, the City actually needed in 1970 \$384,000 more in order to retire the deficit. He maintained that the deficit had to be paid completely in the year 1970.

Underlying the above financial picture is the fact that simultaneously with the Fire Fighters - City negotiations, the City was negotiating a contract with the Police Officers which resulted in a signed collective bargaining agreement for the year commencing January 1, 1970 and expiring December 31, 1971. The City admits that the increased costs of the police contract over its 1969 Police cost is \$94,309.38 (City Exhibit 15). Comparing this with the so-called reserve of \$60,000 in activity number 969 set forth in the budget (City Exhibit 12), it is obvious that the \$60,000 reserved for wages will be used in the Police contract with approximately another \$34,000 needed to fulfill the City's obligations under that contract. And this

need is without any provisions for any wage and benefit increases in the 1970-1971 Fire Fighters' contract let alone provisions for the 1970 DPW contract.

The City's financial situation is indeed serious.

In response, the Union introduced Exhibit 57 which was the proposed budget presented on October 8, 1969 to the City Council listing the actual revenue for 1968, the projected revenue for 1969 and the recommended revenue for 1970. The Union pointed out that both in the area of income and sales tax rebates from the State of Michigan, the City may receive more than projected in 1970 because the 1970 census would show an increase in Southgate's population. Both rebates are based primarily on population. It is very difficult to appraise this argument for though it seems clear that Southgate's population has increased, so has the population generally in the State of Michigan. The 1970 census may only result in Southgate maintaining its relative position rather than gaining. If this is the case, then the City's projections may be more correct than the suggestions made by the Union as to this revenue source. Yet it must be recognized that possible increased state tax rebates could mean additional revenues for the City.

The Union argued that as the City had increased its fees for various licenses and permits there would be increased revenues from this source. (Union Exhibits 51, 52, 53, 54, 55 and 56). The City in 1968 received \$78,418 from licenses and permits. In 1969 it received \$74,441 as projected. The 1970 budget provides income of \$78,500 from this source. Although the City countered by suggesting that building permits may be down because of lack of financing, it would seem that there is a possibility of increased revenue from permit and license fees.

The City also received income from Court fees and fines. The Union introduced Exhibit 50 indicating that traffic violation fees had been increased and thus suggested that more revenue from fines may be realized than the City has projected. Certainly, with fines being increased, there will be an increase in revenue. The City budget does provide for an increase to \$85,000 from \$73,356 in 1969. But again, how much additional revenue will be realized from the higher fine is problematical.

In addition, the Union points out that there has been at least one new auto dealership building added to the tax rolls in 1970. Some time in 1970 or perhaps 1971, the new fourteenstory Security National Bank Building to be built in Southgate will be added to the tax rolls thereby producing more income.

The position taken by the City and the Union concerning prospective revenues in 1970 only serves to illustrate again that budgeting is not an exact science. The recent financial history of Southgate illustrates this point clearly. 1965 and 1966 produced surpluses. 1967, 1968 and 1969 produced deficits. Yet, in each year, presumably, the City did have a budget that was initially a balanced budget.

There is also a bright side to the picture in Southgate. The City is promoting an industrial park which, though requiring some capital outlay in terms of paving streets and other items, could bring additional monies, although perhaps not in 1970 to the City's treasury. In addition, though it is beyond the province of this panel to suggest any change in the tax structure, it should be noted that even at 12.5 mills, the citizens of Southgate are not by any means being over taxed as compared to

Wyandotte with 15.53 mills and Lincoln Park with 17.8. It is true that Taylor has 9.90 mills and Allen Park has 12. mills. But each of those cities has 1/3 or more property valuation on its respective tax assessment rolls over and above that of Southgate and thus each has more ability to raise more revenue. It is noted that River Rouge levies 20 mills and Ecorse levies 22.15 mills (Union Exhibit 21).

If the panel were to rely on the presentation of the City, it would be faced with a decision that the City did not have the ability to pay any increases to the Fire Fighters or to any other employees including the Police Officers. If the panel relies on the presentation of the Union, it would conclude that though the financial situation may be serious, there is room to predict more revenues, and actually, the City has the ability via charter amendment to raise additional revenues when compared with other surrounding communities.

But there are other factors besides purely the "financial ability" of the unit which reflect upon that financial ability and also have to be considered.

Section 9 of Act 312 which spells out the "financial ability" factor also precedes the factor with the statement "The interest and welfare of the public". Police Officers are concerned with public safety. But so are Fire Fighters. Fire Fighters are essential to the operation of any modern community (Union Exhibits 25 - 31). Fire Fighters form the other side of the coin when one is speaking of public safety in modern society. It is as important to a citizen to be free to walk the streets of his community without fear for his safety as it is to feel that he can turn in for the evening and sleep knowing that in the event of a fire, the City in which he lives (in this case Southgate) will provide him with adequate fire protection for both his



property and his life.

The City of Southgate believed this when it established the Fire Department. Now it is faced with the task of being able to pay the cost of Fire Fighting.

If the citizens of Southgate are willing to provide wage and benefits increases for the Police in 1970-1971, then it should also follow that the other side of public safety, fire fighting, should also be recognized in the City's budgetary priorities and provisions should be made for Fire Fighter wage and benefits increases in 1970-1971. This particularly follows when one applies another factor set forth in section 9, to-wit: subparagraph E known as the cost of living factor. As Union Exhibit 40 illustrates, the average cost of living in the United States for 1969 rose 5.4 percent and is rising.

Section 9(h) provides that the panel may consider "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, and the public service, or in private employment". The past and current collective bargaining history of the governmental unit can be such a factor.

The Public Safety Commission in negotiating with the Police apparently believed strongly in providing adequate compensation for the Police. As a result, the Commission negotiated on behalf of the City a \$94,000 increase for the Police. Police Officers, for example, in 1970 received annual wage increases from \$8,650.00 to \$10,669.00 plus \$150.00 in a gun allowance,

plus other increased fringe benefits. Apparently, the Public Safety Commission ignored the financial situation as presented in the proposed budget in negotiating such a contract. City Manager, Gerald Matson testified that he recommended against the Police contract because of the City's financial situation. Nevertheless, the Public Safety Commission, whose actions were subsequently ratified by the City Council, disregarded the professional advice and gave the raises even though the \$94,000 cost was more than the \$34,000 that had been reserved for all employee wage increases.

This history and attitude indicates the emphasis on public safety in Southgate.

Another factor that would fall under the Section 9 (h) is the attitude of the City toward capital outlays. In the current budget it is proposed that the capital outlays would cost \$377,155.00. In regard to the Fire Department, the City has purchased a new ladder truck having a value of some \$61,000, and in addition, in the current budget the City has appropriated \$21,000 for an addition to the fire hall. Admittedly the fire truck was purchased previous to the current budget and is being paid for at the rate of about \$17,000 per year. Nevertheless, the question is, "Are the Fire Fighters who were offered by the City a \$1,000 annual increase in 1970 as compared to \$2,019 for the Police Officers being asked to subsidize the taxpayers of the City of Southgate in buying equipment and making building additions particularly when Police Officers are not being asked to do so?"

This point has been made before. Thus, In Matter of City of Grand Rapids, S.L.M.B. Case No G 63, K-515 (June 19, 1964), Hyman Parker, now Director of the Michigan Employment Relations Commission, said:

"The PAS report and the City's position clearly establish that the employees involved are properly entitled to wage increase. Since the City recognizes that such increases are legitimate and justified, it is the opinion of the Hearings Officer that the City, accordingly, has the responsibility and obligation to implement such wage increases; and that such responsibility to its employees is of equal importance to the City's responsibility to provide municipal services and capital improvements. It is as much a part of the City's responsibility to pay reasonable and fair wages as it is to provide reasonable and fair service and capital improvements.

The employees should not be required to bear a disproportionate burden of the City's present inability to secure additional sources of revenue.

The evidence does not justify a finding that the wage increases which are acknowledged by the City to be fair and reasonable, should be given the lowest priority of all other City expenditures. The current budget, by failing to provide for wage adjustments, has relegated the needs of employees to a position which is completely subordinate to all other municipal expenditures. This imbalance in the distribution of available funds should be promptly corrected by re-allocating funds budgeted for

other purposes. Whatever methods the City, in its judgment, feels are appropriate to secure additional sources of revenue should, of course, be utilized, but pending the receipt of such additional revenue, it is recommended that the present funds available for municipal expenditures be reallocated so as to afford the employees fair and reasonable wage increases."

It becomes incredible to the majority of this panel that this City can afford a substantial capital outlay in the Fire Department and, yet, particularly when there has been a history of parity, to be discussed later, to refuse to offer the Fire Fighters wage and benefits comparable to that agreed to with the Police Officers. All recognize that it is essential to have manpower adequately paid in order to have an adequate Fire Department.

In a final analysis, applying the various factors outlined above as taken from Section 9 of Act 312 the majority of the panel believes that it becomes a question of priority, and that indeed, though the financial situation in Southgate is difficult, it is far from hopeless. The order that will be entered here by the majority of this panel may require a re-evaluation of budgetary priorities.

As pointed out in the proposed budget (Union Exhibit 57) in account No. 969, there is \$48,000 reserved for a sidewalk program and the obtaining of Northline easements. It may be that the City may have to curtail this program for the current year until it rehabilitates its finances.

It may be that the City may have to attempt to raise more revenues through the various avenues open to it. In regard to the order of the Municipal Finance Commission (City Exhibit 6), the majority of the panel is confident that the City can negotiate with the Commission for repayment of the deficit over a period of time.

The panel is confident that the financial picture, particularly under the leadership of the City's professional staff, Mr. Matson and Mr. Raupp, can improve if the elected public officials follow their advice. The only basic difference between the panel's majority and the dissent is how far the order should go financially considering all factors.

The majority of the panel recognizes the financial situation of the City of Southgate. The financial situation of Southgate has caused the majority to temper its order even though panel member, Robinson, in some areas, "reluctantly" does so. But the majority of the panel believes Section 9 of Act 312 permits many factors to be considered in evaluating the entire situation in arriving at an order. Among these factors is that the Fire Fighters should not bear the brunt of a financial situation that they did not cause, particularly when the Police Officers in Southgate are not being asked to sacrifice because of the City's financial situation.

### PARITY

In addition to the City's finances, a major cause of the impasse between the Southgate Fire Fighters and the City has been the issue of parity with Police Officers. This issue of parity was accentuated by the fact, as already noted in this Opinion, that simultaneously with the Fire Fighters' negotiations, the City and Police Officers were negotiating a contract. The contract which was concluded added about \$94,000 to the cost of operating the police department for the year 1970 over the year 1969, plus an additional cost in 1971 of \$41,954. It granted patrolmen an increase of \$2,019 including a gun allowance in 1970, and \$1,054 including a gun allowance in 1971 (City Exhibit 15, Union Exhibit 6).

In support of its position, the Union introduced Exhibit 15, which was a survey of 33 communities in the metropolitan Detroit area revealing that 22 had parity with the Police and 11 did not. Union witness, Thomas Fisher, testified that the tendency in the Metropolitan Detroit area is to establish parity between Fire Fighters and Police Officers.

The Union also introduced a number of Fact Finding reports in the State of Michigan, plus several arbitration awards from outside the State of Michigan which favored parity between Fire Fighters and Police Officers (Union Exhibits 25, 27, 29, 31 and 44).<sup>4</sup>

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<sup>4</sup>It should, however, be noted that in Union Exhibit 27, Hearing Officer David Heilburn, though maintaining parity in Grosse Pointe Park, wrote (in 1967) at page 4: "The Michigan Municipal League also has reported a general indication that of the 98 Michigan cities having fully paid Police and Fire Departments, 54 now pay patrolman a higher annual salary than Fire Fighters."

The issue of parity between Fire Fighters and Police Officers is perhaps one that can be best decided on a case basis with the pros and cons of Fire Fighters - Police Officers' parity being analyzed as relevant to the given bargaining situation. This is the approach used by the Chairman here and concurred in by panel member, Robinson.

It is unnecessary to consider the general pros and cons of parity in this situation. As already suggested in this Opinion, within the purview of the factors to be considered by this panel as set forth in Section 9 Sub-paragraph (h) of Act 312 is the past collective bargaining history. Based upon past collective bargaining history, the issue of parity has in fact already been decided for the panel by the parties themselves.

Throughout the years, the Fire Fighters and the Police Officers in Southgate through their respective collective bargaining contracts have basically achieved parity between themselves. However, in the 1966-1967 Fire Fighters' and Police Officers' collective bargaining agreements, this parity was broken in favor of the Police Officers. Union witness, Thomas Fisher testified that this deviation came about by the fact that the Fire Fighters entered into their collective agreement with the City before the Police Officers did and thereafter the Police were able to bargain and receive more remuneration. The Union, through witness Thomas Fisher, then established that in negotiating the Fire Fighter 1968-1969 agreement, the issue of parity came up again and the City in free and open negotiations reestablished parity between Fire Fighters and Police Officers.

The collective bargaining history thus reveals that in free and collective bargaining the parties deviated from parity. Subsequently, when the City was faced with the issue of parity

in a subsequent negotiation, the City in free collective bargaining preestablished parity. Since this panel must examine what the parties have done between themselves in the past without the intervention of an Arbitration panel, it is clear from the above-recited history that parity at this point is a recognized factor of life in the City of Southgate.<sup>5</sup>

Not only does the past history establish parity, but the current collective bargaining history indicates that to some extent the City still thinks in terms of parity, for it did offer the Fire Fighters the same insurance, hospitalization and medical and longevity programs as were negotiated with the Police. Though the current collective bargaining history is far from conclusive, it does give some indication of the City's thinking.

Witness Fisher would define parity as used in Southgate to mean equality between Fire Fighters and Police Officers in regard to all economic issues including wages and fringe benefits. It is not difficult to accept this definition when applied to wages, hospitalization, insurance, and longevity pay. Beyond this point it becomes more difficult to accomplish because there are certain differences between the two groups, such as the Fire Fighters receive a food allowance, the Police do not. The Fire Fighters' holiday pay is based upon a 24 hour day, whereas the Police Officers' holiday pay is based upon an 8 hour day. The Police Officers apparently have different uniform requirements than the Fire Fighters.

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<sup>5</sup>By making this point as to the Southgate situation, the chairman is not suggesting that parity may not be bargained in or out of a contract or that circumstances do not change. This opinion is limited solely to the Southgate situation.



City Exhibit 11 illustrates that at least in the last four years, there has been some variation in the personnel cost paid per member of the bargaining unit as between Fire Fighters and Police Officers. In 1966 and 1968, the Fire Fighters actually received more than the Police Officers. In 1967 and 1969, the Police Officers received more than the Fire Fighters. It should be pointed out that in 1967 parity was broken and in 1968 parity favored the Fire Fighters to correct the 1967 deviation from parity.

City's Exhibits 17 and 18 suggest that the adjusted costs of the economic proposals by the Union made at the bargaining table, exclusive of the manpower demands, would be approximately \$100,158 in 1970 over the 1969 contract, and an additional \$101,442 in 1971.

Union Exhibit 10 suggests that the cost (not including the Union's minimum manpower demands) to maintain parity with the Police contract in the first year is \$47,890.41 and in the second year an additional \$16,697.11, or a total over two years of \$64,587.53. The Union also points out that based upon the City's offer of a raise of \$1,000 a man plus life insurance, hospitalization, longevity pay and other fringes, the City's offer would amount to \$34,904.82 over a two year period as contrasted with the cost to maintain parity of \$64,587.53 or a difference of \$29,682.71. Certainly the cost to maintain parity as known in Southgate puts less strain on the City's finances than the higher costing Union demands.

Though the majority of the panel has suggested that they will be guided by the financial situation that the City

finds itself in and so tempered their order, the majority of the panel will be influenced in their order by their obvious conclusion that parity in Southgate should be maintained.<sup>6</sup>

#### INSURANCE AND LONGEVITY PAY

Because of the City's apparent willingness to offer the same life insurance, hospitalization and medical insurance, and sickness and accident insurance as well as longevity pay to the Fire Fighters as provided in the Police Officers' 1970-1971 contract, and because of the views of the panel's majority as to parity in Southgate, the panel will unanimously order that language be inserted in the 1970-1971 Fire Fighters' contract which is similar or identical to the insurance - longevity language in the Police Officers' 1970-1971 contract.<sup>7</sup>

#### WAGES

The majority's view on parity dictates its order herein as to wages. Though there may be some dissimilarities between Southgate Fire Fighters and Police Officers in some items of benefits or compensation, such as food allowances, clothing allowances and holiday pay, there is no question.

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<sup>6</sup> Panel member Alfred S. Kowalski has filed a dissent in which he challenged the concept of parity. Panel member Virgil Robinson disagrees with the reasoning in this portion of the Opinion dealing with parity because he believes that as a general principle there should always be parity between Fire Fighters and Police Officers. However, since the result of the chairman's discussion of parity is to maintain parity in Southgate, panel member Robinson concurs in the result, and thus agrees that the chairman's discussion of parity should be construed as the panel's majority view on this subject in the Southgate situation.

Though panel member Alfred S. Kowalski dissents from the majority view of the panel as to parity, he, nevertheless, concurs in the order herein in so far as insurance benefits and longevity pay is concerned.

of dissimilarity when comparing Fire Fighter and Police Officer base wages. Either there is wage parity or there is not.

The majority does recognize the financial situation of Southgate and is not unmindful of it. But the panel's majority has already pointed out that parity is not as expensive as the City would lead the panel to believe, particularly when compared with the cost of the City's own offer. Furthermore, as we have emphasized, the majority is persuaded by what the parties themselves have done previously in free collective bargaining.

Therefore, the majority of the panel is ordering that language be inserted in the 1970-1971 Fire Fighters' contract which reflects the wages obtained by the Police Officers in their 1970-1971 contract as transposed to Fire Fighters.

The salary schedule ordered is higher than that in the Police 1970-1971 contract by \$150 in 1970, and by \$200 in 1971, for Fire Fighters with one year or more experience. This difference reflects the provision in the Police contract for a \$150 gun allowance in 1970 which in 1971 becomes \$200. The majority of the panel was impressed by argument of the Fire Fighters' counsel that in effect the Police gun allowance is another method of adding to the base wage. For this reason, the majority has taken the view that the gun allowance should be included in establishing parity between the wages of the two departments.

Obviously, the majority of the panel in arriving at this order on wages and benefits has emphasized the factor of past collective bargaining history. Even considering the comparison of wages, hours and conditions with other fire departments as permitted in Section 9(d) of Act 312, the order of the panel's majority would meet the test of this factor.

Union Exhibit 11 is a survey of 33 communities in the metropolitan Detroit area. Under the collective bargaining agreement expiring December 31, 1969 (Joint Exhibit 1), a Southgate Fire Department Fire Fighter with one year of experience would be receiving a base annual wage of \$8,800. For the last six months of the period covered in 1969 by said contract, none of the 33 communities surveyed were paying this low of a wage. The lowest wage was in Grosse Pointe Park which began paying on July 1, 1969 a \$9,700 annual wage. This observation is based on the fact that Exhibit 11 also sets forth the expiration dates of said collective bargaining agreements which were all in effect during the last six months of the 1968-1969 Southgate Fire Department contract. It should also be noted that during the last six months of 1969, when the Southgate Fire Fighters were receiving an \$8,800 annual wage, Fire Fighters in 25 of the 33 communities surveyed were receiving annual wages of \$10,000 or more. The Fire Fighters in two communities, Detroit and Highland Park, are receiving \$10,800 which is approximately the base wage scale that is being ordered herein for Southgate Fire Fighters with one year experience. With the order herein being retroactive to January 1, 1970 it is true that for the first six month period of 1970, Southgate Fire Fighters who had been among the lowest paid in the metropolitan area will be among the highest paid. But this result follows because of the differing contractual expiration dates among the various communities and what might be true during the first half of a year may not necessarily be true during the second half of a year.

Three communities in the Exhibit 11 survey, Harper Woods, St. Clair Shores and Lincoln Park, have two year contracts expiring July, 1971. It is noted that both Harper Woods and St. Clair Shores will raise their Fire Fighters' base annual rate to \$11,000 in July, 1970. Also significant is that in a bordering community to Southgate, Lincoln Park, the Fire Fighters' base wage will be raised in July, 1970 to \$11,000 annually. Thus, these three communities will be paying more in the last six months of 1970 than the order herein provides.

In regard to the second year wages set forth in the order herein, it is suggested that the order of \$11,723 in 1971 will not be out of line with Fire Fighter wages in at least some communities in the Detroit area. For example, Harper Woods will go from \$10,500 to \$11,000 in July, 1970. It may be a fair assumption that the contract to be negotiated in Harper Woods beginning July, 1971 (which is the period that this contract in Southgate will be in effect) may, based upon history, go to \$11,500. The same can be said about Lincoln Park which will go from \$10,400 to \$11,000 July, 1970, thus indicating a possible increase in July, 1971 to \$11,600. On the same theory it could be predicted that the St. Clair Shores contract might possibly go to \$11,700 in 1971. The majority of the panel emphasizes, however, that this panel by the above observation is not ordering or suggesting what other communities may do in the future as to Fire Fighters' wages.

Our dissenting colleague is concerned about the effect of taking a Fire Department that was among the lowest paid in the area to among the highest paid and its effect on

other surrounding communities particularly when the City of Southgate is in a serious financial situation. But each community must bargain its own contract. What happens in one community is not necessarily going to follow in another community. It depends on many circumstances. Wages are only one part of bargaining. There may be fringe benefits. Certainly, the financial situation varies from community to community and should be considered in each instance. There may be a question of working conditions. It is noted for example that in Southgate, as will be discussed later in this opinion, the working conditions do leave something to be desired because the department is undermanned causing a potential safety hazard. This may not be the situation in other communities. Such a situation may justify more of an increase than normally.

In the final analysis, having satisfied themselves that their order is within the realm of comparisons with other metropolitan Detroit communities, the majority of the panel, when ordering the amount of wages to be in the 1970-71 Southgate Fire Fighters' contract, were persuaded by the actions of the Public Safety Commission in negotiating with the Police. It was the Public Safety Commission who, in negotiating with the Police Officers, established the wage rates ordered herein. The Commission was certainly aware of the City's collective bargaining history as to parity. Whether the majority of the panel would have recommended the same wage increases set forth in the order herein absent the police settlement is problematical considering Southgate's financial situation.

## SHIFT DIFFERENTIAL

The Fire Fighters have asked for a shift differential for the so-called midnight shift. In support of this demand, the Fire Fighters point out that in Article XIII, Section 3 of the 1970-71 Police Officer contract, the Police Officers did receive shift differential pay for the 8:00 p.m. to 4:00 a.m. shift. It is also noted that in the 1968-1969 Police contract, (Union Exhibit 4), the Police also received in Article XIII, Section 3 shift differential pay for the same 8:00 p.m. to 4:00 a.m. shift. Yet, in the 1968-1969 Fire Fighters contract (Joint Exhibit 1) there was no such provision for shift differential pay. Union Exhibit 11, the comparison of Fire Fighter's pay scale in the Detroit metropolitan area, lists only two out of 33 communities exclusive of Southgate which paid Fire Fighters a night shift differential.

Following the past bargaining history factor, as well as the comparison factor, it is clear that this panel cannot order a night shift differential for Fire Fighters.<sup>8</sup>

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<sup>8</sup> Panel member Robinson does not necessarily agree with the reasoning of the chairman as to shift differential pay but he does concur in the result solely for the reason of the necessity to reach a majority decision on all issues as required by Section 10 of Act 312 so as to make the entire order "final and binding" upon the parties. For the same reason, though not agreeing with the panel chairman, panel member Robinson will concur in the results reached by the chairman and sign the majority order as to holiday pay, food allowances and uniform allowances.

### HOLIDAY PAY

In the 1968-1969 contract, the Fire Fighter division received pay for four holidays whereas the Fire Prevention Bureau received eight paid holidays.

In 1969, the Police received 8 paid holidays. The Union has now asked for 12 holidays for the Fire Fighter Division and 14 days for the Fire Prevention Bureau. In their 1970-1971 contract, the Police received 9 paid holidays for 1970 and 10 paid holidays for 1971.

In the area of holidays, it is difficult to apply parity in Southgate because of the different method of compensating for holidays. A Fire Fighter is paid 24 hours pay for a given holiday. A Police Officer is paid 8 hours pay for a given holiday. Thus, when one speaks of 1 paid holiday for each group, the Fire Fighter obviously would be receiving more since he would be getting 24 hours pay. The best way to analyze the point is in terms of hours paid rather than days.

The Fire Fighter actually works 56 hours a week. A Police Officer works 40 hours a week. On this basis even though getting the same (including gun allowance) annual salary in the year 1970, the hourly rate of pay for the Fire Fighters is approximately \$3.71, while for Police Officers, it is approximately \$5.20. The Police Officers in 1970 did receive an increase in holiday pay of 1 day, or in other words, now receive 72 hours holiday pay or \$374.40 a year for holiday pay. The Fire Fighters on the other-hand will now receive 96 hours holiday pay at \$3.71 an hour. This



amounts to an annual holiday pay of \$358.26. If in 1970 the Fire Fighters received one additional day, they would be getting more holiday pay than the Police are receiving. Because of this there will be no order increasing holiday pay for Fire Fighters in 1970.

In 1971, the Police are receiving 10 paid holidays for a total of 80 hours, which based on their 1971 hourly rate of \$5.63, means an annual holiday pay of \$450.40.

In view of the tendency in private industry to increase the number of paid holidays and the fact that during the two-year period, the Police are actually receiving two more holidays; the panel believes that the Fire Fighters should receive one additional 24 hour paid holiday in 1971.

The Fire Prevention Bureau is paid on an 8 hour day, 40 hour week. Therefore, that Bureau's work day is identical to the Police Officer's work day. In view of the fact that the Police Officers are receiving 9 paid holidays in 1970 and 10 in 1971, the same should be ordered for the Fire Prevention Bureau.

Therefore, the panel will order 5 paid 24 hour day holidays in 1971 for the Fire Fighters and 9 eight hour paid holidays for the Fire Prevention Bureau in 1970 and 10 eight hour paid holidays in 1971.

#### FOOD ALLOWANCE

The Police do not have a food allowance. It has been necessary in Southgate to give a food allowance to Fire Fighters because Fire Fighters are expected to eat more meals on the job than if in fact they were Police Officers because their duty is on a 24 hour shift basis.

Traditionally, the City of Southgate has paid a food allowance to Fire Fighters in the Fire Fighting Division. In the 1968-1969 contract the food allowance was \$150. Considering that there has been an increase in the cost of living (Union Exhibit 40) and food prices have increased, the panel is ordering a food allowance of \$225 for each of the two years of the contract.

### UNIFORM ALLOWANCE

The City of Southgate has provided a uniform allowance for both its Police Officers and Fire Fighters. The Union had requested a \$300 uniform allowance for Fire Fighters and \$350 for the Fire Prevention Bureau. The City's counter-offer was \$200 for Fire Fighters and \$250 for the Fire Prevention Bureau. The 1968 - 1969 contract provided \$150 for Fire Fighters and \$200 for the Fire Prevention Bureau.

Parity in the area of uniform allowance is somewhat difficult to apply because of the bargaining history of the parties. In the 1968-1969 Police contract at the time the Fire Fighters were receiving \$150, the Police Officers were receiving \$250 plus a cleaning allowance of \$75. This difference was as a result of free collective bargaining for the 1968-1969 contract between the Fire Fighters and the City. It would indicate that the Fire Fighters have recognized that there are more demands on Police to wear uniforms at more times than on the Fire Fighters. It is true that the Fire Marshal does wear a uniform continuously. However, the dress uniform in the Fire Fighters division is only worn to and from work, whereas, the Fire Fighters' work uniform is actually "fatigues" needing little or no dry cleaning.

In view of this difference in the use of uniforms between the departments and the bargaining history as reflected in the 1968-1969 contracts of the two departments with the City, this panel will, following the last offer of the City in regard to uniform allowance, order an annual

uniform allowance of \$200 for the Fire Fighters and \$250 for the Fire Marshall with half being paid the first pay period in February and half being paid the first pay period in August. In view of the fact that February, 1970 has come and gone, the first 1970 installment will be payable the first pay period in June, 1970.

#### PARITY REVISITED

The majority of this panel has already stated their views as to parity in the Southgate situation. Parity is not difficult to apply when dealing with base wages, insurance benefits and longevity pay. As already intimated in this opinion, parity becomes somewhat more difficult to apply in relating the economic value of holiday pay, food allowances and uniform allowances as between the two departments because of certain dissimilarities as already noted. The chairman recognizes that the resulting order may not mean complete economic parity between Fire Fighters and Police Officers but the results are indeed close. It is again noted that based upon the history of bargaining in Southgate (City Exhibit 11), even when the parties have agreed to parity, the economic relationship between a Fire Fighter and a Police Officer has varied slightly one way or the other because of the dissimilarities mentioned herein.<sup>9</sup>

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<sup>9</sup>For the reason stated in footnote 8 panel member Robinson is concurring in the order herein "reluctantly" because of his view as to parity and because he believes in complete economic parity.

### MANPOWER AND ORGANIZATION

Union Exhibit 3 sets forth so-called non-economic proposals. Particular reference is made to items 11 and 13 A and B therein.

Item 11 refers to a table of organization, namely, officer strength. The Union is asking for the promotion of certain of its members to officers claiming that this is needed in order to assist in Fire Fighting work. The Union points out that there are occasions when the person in command at a fire is actually a pipeman (non-officer Fire Fighter) rather than an officer.

Item 13A is a request for an increase in manpower by providing that there be a minimum of six men on duty in 1970 and eight men on duty in 1971. Item 13B provides minimum manpower in operating trucks, the number of men that should be required to respond to a fire, and provides that there be an officer in charge of all emergency runs.

Though called non-economic, these items have economic implications because their implementation would mean additional costs to the City.

In support of its position concerning these items, the Union points out that these demands represent working conditions. The Union argues that the Southgate Fire Department with 17 men is now and has been undermanned. Witness Thomas Fisher testified that normally there are four Fire Fighters on duty. Sometimes there are only three and other times there are as high as five Fire Fighters on duty. Mr. Fisher testified that in responding to a fire with only three men, the equipment cannot be operated

safely for if Fire Fighters are required to go into a burning structure to save human lives there is a safety element in having only one Fire Fighter at the truck overseeing the pumper operation and only two in a given burning structure because of the hazards involved requiring immediate additional help.

Though the city is objecting to the inclusion of the provisions of Item 13A and B and an increase in officer strength, the City's own witness, Fire Chief Elmer Schultz, admitted that the department was under-manned. There is no question that more manpower is needed in the City of Southgate Fire Department.

The City does argue the point that the injection of manpower requirements and minimum requirements into a collective bargaining agreement imposes on its management rights, and claims that a demand such as made by the Fire Fighters is not proper in collective bargaining.

However, the City's argument has been undermined by its own actions. In the Police contract for 1968-1969 (Union Exhibit 4), the City in free negotiations, without an arbitration panel agreed to Article XII therein, which does provide for minimum manpower on duty at all times. Incidentally, said Article XII is entitled "Safety, Health, Welfare and Education". Likewise, in the 1970-1971 Police contract the City agreed to a similar Article XII entitled "Safety, Health, Welfare and Education" which again provided for minimum employees on duty at any one time plus the following additional requirement not in the 1968-1969 contract: "Officers on their regular tour of duty shall be assigned two (2) to each vehicle after darkness .....". (Article XII, Section 2(5)). The City by its own actions has recognized

that minimum manpower requirements are a subject of collective bargaining.

However, the issue is not whether there is a need for additional manpower or whether such a need is a proper subject for bargaining. Instead, the issue is whether the City can financially afford a minimum requirement in the Fire Department.

The Fire Fighter's minimum manpower will demand the hiring of additional manpower. The problem is not solved by just hiring one Fire Fighter because of the platoon system used in scheduling manpower in the Fire Department. If the minimums as requested by the Fire Fighters are met, it would mean hiring at least two men.

This panel is very much aware of the City of Southgate's financial situation. Our dissenting colleague has been critical of the base wage and other benefits ordered by the majority of this panel on the grounds that we have ignored the City's financial situation. But he cannot be critical in view of the position of the majority of the panel in the area of manpower.<sup>10</sup>

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<sup>10</sup>As a Fire Fighter in the Southgate Fire Department, panel member Robinson is reluctant to even concur in the result of this opinion as far as manpower and officer strength is concerned. But panel member Robinson will so concur because of the necessity to make Act 312 workable by arriving at "a majority decision of the arbitration panel" particularly in view of the fact that panel member Alfred S. Kowalski dissents, even from the manpower portion of this opinion. With this recognition, panel member Robinson permitted the Chairman to refer to the manpower-officer discussion as the majority view.

The majority believes that in view of Southgate's financial situation, they will not order the City to add more manpower even though in fact it is critically needed. Exhibit 21 presented by the City indicates that the cost of adding the manpower and meeting the schedule required by the Fire Fighters would indeed be substantial. The City is going to be faced with negotiations two years from now, and by that time the City must work itself out of its financial situation. To add substantial costs over what has already been added by the order herein to the City's budget would put Southgate in a very difficult financial position.

Though the majority is tempering their order in the area of manpower because of the City's finances, the majority cannot ignore the need. The record would indicate that a requirement of a minimum of four men on duty at all times, though adding some costs, would not be a great cost to the City. At the most it requires some additional overtime which could be met by the City. Such an order would at least recognize the problem and indicate to the parties that at least in the next negotiations they should make an effort to solve what all admit is a serious problem.

There is also merit to what the Fire Fighters suggest in Item 13 B of Union Exhibit 3.

However, the implementation of the Item 13 B could possibly be an additional cost to the City. In view of this possible cost, and recognizing that the four Fire Fighters on duty minimum requirement ordered herein will probably aid in meeting the requests contained in 13 B, the panel has not ordered implementation of Item 13 B.



The question of command officer strength again means cost to the City. Actually this Item 3 really dovetails with Item 15 of Union Exhibit 3, referring to Article VII, Section 5 of the 1968-1969 contract, which provides pay for working out of classification. The Fire Fighters point out that many of their members do work out of classification because of the absence of officers. Under the present contract a Fire Fighter must work a full twenty-four hour day out of classification before being paid additional pay, if applicable. Part of this problem could be alleviated if the hour requirement was reduced. The Union suggests that if Fire Fighters worked four hours out of classification, he should receive pay. Witness Fisher admitted that if pay were provided for twelve hours or more worked out of classification, at least half or more of the time worked out of classification would result in extra compensation for Fire Fighters. On this basis the panel will order Article VII, Section 5 to be amended to provide extra pay where applicable to all work out of classification for twelve hours or more in any one 24 hour day.

PERSONAL LEAVE, AGENCY SHOP AND MANAGEMENT RIGHTS

There are three areas which do not necessarily involve economics that are in dispute, namely, agency shop, management rights, and the right to take a personal leave day.

In regard to the personal leave day, Article XI, Section 1(b)(2) of the Fire Fighter 1968-1969 contract provides that the right to take a personal leave day is "subject to the approval of its department head". The Fire Fighters would remove this approval provision from the 1970-1971 contract.

However, there is no evidence that the present Fire Chief has been unreasonable in granting permission. Under these circumstances, there is little need for any change in the contract language.<sup>11</sup>

As to an Agency Shop clause and a Management Right's clause, the real issue is that the City will give an Agency Shop clause providing it receives in return a Management Right's clause. There is no question that the City does have management rights. There is no question that agency shop clauses are becoming more common among Michigan Fire Fighters, (Union Exhibit 33). Thus, the panel will order both an Agency Shop clause and a Management Right's clause.

#### DURATION AND RETROACTIVITY

The Opinion has been directed toward a two year contract and the panel will order a two year contract. The reason for two years is that traditionally the contracts between the Southgate Fire Fighters and the City have been for two years and the current negotiations were based upon a two year contract.

The fiscal year of the City of Southgate for 1970 began January 1, 1970 and ends December 31, 1970. Likewise the fiscal year for the City for 1971 is from January 1, 1971 to December 31, 1971. The parties stipulated on the record that any order of the panel including

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<sup>11</sup> Panel member Robinson does not agree as to the chairman's position on personal leave days, but in the interest of having the same majority decision on all issues before the panel he will "reluctantly" concur in the result.

increases in rates of compensation could be retroactive to January 1, 1970. Furthermore, a letter dated December 27, 1969, and confirmed by the City by City Administrator Gerald K. Matson dated January 7, 1970 did "initiate arbitration proceedings pursuant to Public Act No. 312 of 1969" (quoting Mr. Matson's January 7, 1970 letter). Therefore under Section 10 of Act 312 of 1969, this panel does have the authority to make an order as to increases in rates of compensation retroactive to the beginning of the current fiscal year, namely, January 1, 1970. For these reasons, except as otherwise provided in its order, the panel's order will be retroactive to January 1, 1970.

UNANIMOUS PANEL ORDER

Though panel member Alfred S. Kowalski has dissented as to certain issues covered by the majority of the panel's order, he nevertheless concurs in the result as to certain issues in the majority's order and for this reason part of this order will be unanimous.

IT IS HEREBY ORDERED BY ALL THREE MEMBERS OF THIS ARBITRATION PANEL AS FOLLOWS:

1. That the City of Southgate, Michigan, a municipal corporation, by its duly authorized representatives, and Local No. 1307 of the International Association of Fire Fighters, also known as Southgate Fire Fighters Association, AFL-CIO, by its duly authorized representatives, enter into a signed collective bargaining agreement for a period of two years from January 1, 1970 to and including December 31, 1971.

2. THAT said Agreement include all provisions agreed to in collective bargaining between the parties before the issues herein were submitted to this arbitration panel, including the provisions agreed to as Items 3, 4, 5, 7, 8, 9 and 13 C set forth in Union's Exhibit 3 (Appendix B herein), and Item 2 set forth in Union's Exhibit 2 (Appendix C herein).

3. THAT Items 1, 3 and 4 in Union's Exhibit 3 (Appendix B herein) shall be considered withdrawn by the Union and not included in said contract.

4. THAT said contract shall contain the following Article known as Article XV:

"ARTICLE XV  
INSURANCE

"Sec. 1.

The City shall obtain for each employee, life insurance of \$10,000 and sickness and accident insurance of \$50.00 per week for twenty-six (26) weeks, the premium of which one-half (1/2) is to be paid by the employee. The employee shall be authorized to provide, at his own expense, additional coverage or benefits for himself or his dependents.

"Sec. 2.

Michigan Blue Cross and Blue Shield Hospitalization and Medical Insurance coverage and benefits shall be continued for all employees at not less than the existing levels. Benefits of the coverage will include the Master Plan of which the employee's share will be paid by the City and the family share will be paid by the employee.

" Sec. 3.

Sections 1 and 2 above shall be paid in full by the City to all retirees and their spouses.

" Sec. 4

All employees covered under this contract shall receive copies of policies for amounts specified in contract or riders."

5. THAT said contract contain the following section which shall be known as Section 2, Article VII:

"Sec. 2 Longevity Pay

In addition to the salary set forth above, employees shall receive longevity pay as follows:

Five (5) years of service.....\$100.00

For each additional year of service, an additional \$25.00 to a maximum of \$500.00.

(a) Employees shall become eligible to earn their first longevity step upon completion of five (5) years of service.

(b) Employees who become eligible to receive longevity pay, shall receive such longevity increment on the first pay period next following the anniversary date in which the said employee became eligible and on the first pay period next following the anniversary date of each year thereafter."

6. THAT said contract contain the following Article captioned "Management Rights."

" MANAGEMENT RIGHTS

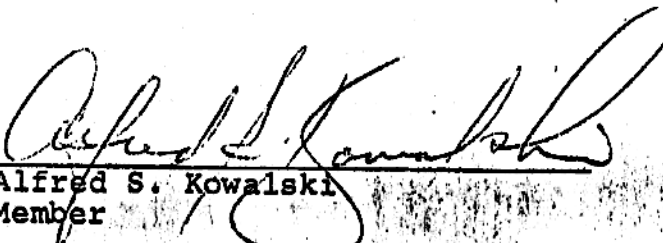
"(a) The Council on its own behalf and on behalf of the electors of the City hereby retains and reserves unto itself all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws and Constitution

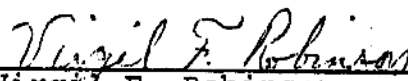
of the State of Michigan and/or United States.

" (b) The exercise of these powers, rights, authority, duties and responsibilities by the Council and the adoption of such Rules and Regulations and Policies as the council may deem necessary shall be limited only by the specific and express terms of this agreement."

7. THAT all issues in dispute and other items not ordered by this unanimous order or the order of the majority of the panel shall be deemed not to be part of the ordered contract.

  
George T. Roumell, Jr.  
Chairman

  
Alfred S. Kowalski  
Member

  
Virgil F. Robinson  
Member

Dated: April 24, 1970

ORDER OF MAJORITY OF PANEL

As to certain issues, panel member Alfred S. Kowalski has dissented. The chairman and panel member Virgil Robinson have joined with panel member Kowalski in issuing the above

unanimous order. In addition, the chairman and panel member Robinson have joined together to issue a majority order on the remaining issues in dispute and also to incorporate by reference their participation in the unanimous order set forth above.

IT IS HEREBY ORDERED BY CHAIRMAN ROUMELL AND PANEL MEMBER ROBINSON AS FOLLOWS:

1. THAT the unanimous order as set forth above be incorporated in this majority order by reference.
2. THAT said contract contain the following Article as to wages known as Article VII, Section 1:

"ARTICLE VII

WAGES

"Sec. 1. General

The salary schedule following shall be in effect for the term of this agreement:

"EFFECTIVE JANUARY 1, 1970

FireFighters...Starting	\$9,457	6 months...	\$10,064	1 year..	\$10,819
Sergeant.....	\$11,387				
Lieutenant.....	\$12,207				
Fire Marshall.....	\$13,807				

EFFECTIVE JANUARY 1, 1971

Fire Fighter...Starting	\$10,214	6 months..	\$10,869	1 year..	\$11,723
Sergeant.....	\$12,246				
Lieutenant.....	\$13,222				
Fire Marshall.....	\$14,822"				

3. THAT said contract shall contain the following section known as Section 6, Article VII:

"(a) Each employee of the Fire-Fighting Division shall receive holiday pay for four (4) holidays (New Year's Day, July 4, Thanksgiving and Christmas) in the sum of four twenty-four hour (4 x 24) days' prevailing pay, in addition to his regular pay.

"(b) Effective January 1, 1971, each employee of the Fire-Fighting Division shall receive holiday pay for five (5) holidays, (New Year's Day, Memorial Day, July 4, Thanksgiving and Christmas) in the sum of five twenty-four hour (5 x 24) days' prevailing pay, in addition to his regular pay.

"(c) Each employee of the Fire Prevention Division shall receive holiday pay for nine (9) holidays (New Year's Day, Good Friday, Washington's Birthday, Memorial Day, July 4, Labor Day, Veteran's Day, Thanksgiving and Christmas) in the sum of nine eight-hour (9 x 8) days' prevailing pay, in addition to his regular pay.

"(d) In 1971, the employees of the Fire Prevention Division shall receive an additional 8 hours holiday pay (employee's birthday).

"(e) Holiday pay shall be made in one lump sum the first pay period in November of each year.

"(f) New employees shall be paid for those holidays occurring subsequent to their appointment, payable in one lump sum the first pay period of November (or, if such employee is appointed subsequent to the first pay period of November, within 30 days following Christmas)."



4. THAT said contract shall contain the following  
Article XIII:

"ARTICLE XIII

FOOD ALLOWANCE

"Sec. 1. The City shall pay each employee of the Fire Fighting Division \$225.00 annual food allowance, payable in advance in the first pay period of January.

"Sec. 2. New employees of the Fire Fighting Division commencing employment after January 1 of any year shall receive food allowance pro-rated for the unexpired portion of the calendar year, rounded to the nearest bi-weekly pay period, such sum to be payable in advance within 30 days after appointment."

5. THAT said contract shall contain the following  
Article XVI:

"ARTICLE XVI

UNIFORM ALLOWANCE

"Sec. 1.

The City shall furnish all rubber goods required by employees.

"Sec. 2.

The City shall, in addition thereto, pay each employee of the Fire Fighting Division after one (1) year of service in the Department, as uniform allowance, \$200 per year, payable \$100 the first pay period in February, and \$100 the first pay period in August; and \$250 to each employee of the Fire Prevention Division, as uniform allowance, payable \$125 the first pay period in February, and \$125 the first pay period in August."

"Sec. 3.

The City shall, in addition thereto, furnish all original dress and work uniforms for Fire Fighters and Officers, as set forth in Exhibit "B" of this Agreement."

7. THAT because February, 1970 has past, the parties shall enter into a letter of understanding that the first installment due under the provision of the aforesaid Article XVI in February, 1970 shall become due and payable the first pay period in June, 1970.

8. THAT said contract shall contain the following Article which shall be entitled "Safety".

"ARTICLE

SAFETY

"There shall, at all time, be a minimum of four Fire Fighter employees on duty during any normal twenty-four hour shift for the duration of this agreement effective May 1, 1970."

9. THAT said contract shall contain in place of the previous Section 5, Article 7, the following Section to be known as Article VII, Section 5:

"Sec. 5. Work out of classification.

In the event an employee shall temporarily be assigned to another classification, or to the work thereof, for a period of twelve hours or more in any given twenty-four hour work day, he shall receive the rate of pay applicable to such other classification, if greater than his own regular classification."

10. THAT said contract in place of Article IV in the 1968-1969 contract will contain the following Article IV:

"ARTICLE IV

UNION SECURITY

Sec. 1.

It shall be a continuing condition of employment that all employees who are presently members of the union shall maintain such membership and pay the Union's uniform dues, fees and assessments. It shall be a continuing condition of employment that all employees who are not members of the union and who do not become and remain members of the Union and pay its uniform dues, fees and assessments, shall alternatively pay a bargaining service fee (hereinafter referred to as agency shop service fee) in an amount equivalent to such uniform dues, fees and assessments. Employees who fail to comply with this requirement within thirty (30) days shall be discharged by the employer.

Sec. 2.

Each employee in the bargaining unit shall execute an authorization for the deduction of union dues, fees and assessments or equivalent agency shop service fees.

Sec. 3.

The City shall deduct from the pay of each employee from whom it receives an authorization to do so, the required amount for the payment of union dues, fees and assessments or agency shop service fees. Such sums, accompanied by a list of employees from whose pay they have been deducted and the amount deducted from each, and by a list of employees who had authorized such deductions and

from whom no deductions were made and the reasons therefor, shall be forwarded to the Union office within 30 days after such collections have been made."

11. THAT the order herein shall be retroactive to January 1, 1970 except as otherwise noted and except that the increased insurance coverage over and above the 1968-69 contract provided in Section 1, Article XV shall be effective June 1, 1970.

George T. Roumell, Jr.  
George T. Roumell, Jr.  
Chairman

Virgil F. Robinson  
Virgil F. Robinson  
Panel Member

Dated: April 24, 1970

CONCURRING OPINION

Panel Member  
Virgil F. Robinson  
(concurring)

As already set forth in several footnotes, I am not in agreement with some of the points made by the chairman in the opinion as applied to the Southgate situation, particularly in the area of man power. However, I have "reluctantly", again particularly in the area of manpower, concurred in the results only because I believe that Act 312 of Public Act 1969 has a purpose in the event Fire Fighters and local governments reach bargaining impasses. Therefore, I believe that Act 312 should be upheld and should be made to work. Therefore, I have concurred in the results of the opinion and the order flowing therefrom because Section 10 of Act 312 requires "a majority decision of the arbitration panel" if the decision is to be enforceable. My concurrence, therefore, is for the purpose of meeting this requirement of Section 10.

Virgil F. Robinson  
Virgil F. Robinson

Dated: April 24, 1970

APPENDIX A

Union Exhibit 2

Economic Proposals for 1970-1971

1. Article VII. Section 2. Change in section.  
Increase longevity pay from \$100.00 after 5 years to \$150.00 after 5 years, and from \$20.00 per year thereafter to \$30.00 per year with a maximum of \$600.00.
2. Article VII. Section 4. Change in section.  
Increase minimum call-in pay from 2 to 4 hours in 1970, and from 4 to 6 hours in 1971.
3. Article VII. Section 6. Change in section.  
Increase number of holidays in fire fighting division from 4 to 12 days, and in fire prevention division from 8 to 14 days.
4. New Article.  
Shift differential.
5. Article XIII.. Section 1. Change in section.  
Increase food allowance from \$150.00 to \$350.00 per year.
6. Article XV. Section 1. Change in section.  
Increase insurance from \$8,000 to \$10,000 with city paying full premium costs.
7. Article XV. Section 2. Change in section.  
Add Master medical plan and riders to Blue Cross plan.
8. Article XVI. Section 2. Change in section.  
Increase clothing allowance in fire fighting division from \$150.00 to \$300.00 per year, and in fire prevention from \$200.00 to \$350.00 per year.
9. Article VII. Exhibit A. Change.  
A \$3,500.00 increase for all members.

APPENDIX B

Union Exhibit 3

Non-Economic Proposals for 1970-1971

1. Article IV. Change in article.  
Delete the words "from whom it receives an authorization to do so" from the first sentence. Also delete from the second sentence the words "and by a list of employees who had authorized such deductions and from whom no deductions were made and the reasons therefor".
2. New Article. Agency Shop Clause.
3. Article VII. Section 4. Addition to section.  
Insert words after call-in-pay "at time and one half".  
New sentence to read, "An employee shall be given a grace period of one hour from the time of call in, for any work in excess of 12 hours.
4. Article IX. Addition to section 1, A & B.  
Fire Fighting division. Additional 1 work day per year after ten years of service.  
Fire prevention division. Additional 2 work days per year after ten years of service.
5. Article XI. Section 1. Sub-section A-3. Change.  
Increase sick leave from 10 days per year to 18 days per year.
6. Article XI. Section 1-B2. Change in section.  
Strike out words "subject to the approval of his department head".
7. Article XI. Section 4. Change in section.  
Delete the last six words from both first and last sentences.
8. Article XI. Section 2. Change in section.  
Increase sick days from 12 days per year to 20 days per year.
9. Article XII. Section 2. Change in section.  
Increase funeral leave from 3 to 4 days.
10. Article XVIII. Delete Article.
11. New article. Table of organization. Officer strength.
  - 1 - Assistant Chief
  - 2 - Captains
  - 2 - Lieutenants
  - 6 - Sergeants

12. Article VII. Exhibit A.

Officers to receive full pay upon appointment.

13. New article. Safety clause.

A. Company manpower.

Department shall not operate with less than 6 men on duty for the year 1970, and 8 men on duty for the year 1971.

When manpower falls below this, the man in charge shall call men from the overtime list.

B. Vehicle manpower.

1. At no time shall first pumper responding to alarm leave station with less than 4 men.

2. At no time shall any man on duty in the fire fighting division be left alone at the station.

3. All vehicles shall be operated with a minimum of 2 men.

4. No vehicle to operate with less than a sergeant in charge for any emergency run of a fire or rescue nature.

C. Safety tools.

1. Each man shall be maintained with flash light furnished by the city.

2. Each man shall be maintained with a folding line-men's knife with hook type blade.

14. New Article. Work rules.

All existing and future work rules shall be subject to mutual agreement before becoming effective.

Establishings: The employer agrees to negotiate changes in existing work rules or the establishment of new work rules with the union.

Revising: Changes in existing work rules shall not become effective until they have been agreed upon by the employer and union.

In addition, when existing rules are changed or new rules are established, they shall be posted prominently on all bulletin boards for a period of 10 consecutive work days before.

Any unresolved complaint as to the reasonableness of any new or existing rule, or any complaint involving discrimination in the application of new or existing rules shall be resolved through the grievance procedure.

15. Article VII. Section 5. Change in article.

Strike out the words "one full work day" and insert "4 hours".

DISSENTING OPINION

Panel Member  
Alfred S. Kowalski  
(dissenting in part):

While I cannot argue from a legal viewpoint as to the constitutionality of Act 312, I can see the misguided values attached to this Act in the rendering of the majority decision of this panel.

This Act, intended to eliminate work stoppages by Police and Fire Departments, will not accomplish the end it so dramatically seeks when the intervention of third parties are evident.

As is quoted in the narrative of the panel's decision it is true, in my view, that cities are indeed creatures of the legislature and have only such powers as granted to it by the State. Here, we are witnessing discriminatory legislation for two municipal departments. Let's assume that arbitration panel decisions are made in favor of Police and Fire units which could (certainly in this decision) use or go beyond the limits of using all existing funds. Where then, is there recourse for the remaining city employees, union as well as non-union, for their wage requests? To whom does this creature now turn for succor? I can only assume it would be treated as the leper of old being shunned by everyone with the only offer of help being advised to go heal thyself and when you are cured, return to me and I will give you new laws by which to be governed.

The bargaining history of the City of Southgate does indeed prove the fact that dollars in the same amount have been paid to the employees in the Police and Fire Departments. This, apparently in the mind of the majority of this panel, is the foundation for continuing what is determined as "parity". The reference to Section 9, Para. (h) of Act 312 is determined to mean: "other factors...traditionally taken into



consideration..." means (for the majority decision) that the Act determines that parity should continue. In this decision, it appears to me that if parity, as described above had ever existed it must be continued. Apparently the panel ignores the fact that changes do occur with respect to Police as well as Fire Department operations.

In my view "parity" in the City of Southgate exists as follows:

1. Members of both departments are male.
2. Members of both departments receive, or have received the same:
  - a) Life insurance benefits.
  - b) Hospitalization benefits.
  - c) Longevity benefits.

As a matter of fact, the parity items described in paragraph (2) exist among all city employees--not only Police and Fire.

The following are some, but not all, proofs of disparity.

1. Hours of work.
2. Number of days per week on duty.
3. Carrying a side arm.
4. Participating in a food allowance program.
5. Both departments do wear a uniform - one department a so-called dress uniform and the other department a "fatigue" uniform similar to those worn by DPW employees.
6. Holidays and holiday pay.
7. Vacation days.
8. Sick leave.
9. Exposure to hazards -- one department seeking out and sometimes unexpectedly being confronted with an unknown hazard and the other department responding to a probable hazard at the sound of an alarm. In my view either hazard could outweigh the other -- I'm only referring to the exposure.

10. Recreation, sleep and duty hours.
11. Overtime and frequency of same.
12. And many others which would simply overburden the proof that obviously exists.

The dissimilarity of the Police and Fire Departments by far moves the scale away from parity.

It is apparent from the decision of the majority of this panel that the city should negotiate with one bargaining unit representing the Police and Fire Departments because of the way the parity issue has been handled.

The following facts and evidence have been presented to this panel:

1. The financial strain (deficit) of the city at the beginning of fiscal year 1970.
2. The completed negotiations between the Police Department and the City as being unsound - (as testified).
3. The demands of the Firefighters not being able to be met.
4. Parity, in this writer's view, not being logically proven, other than an historical event - be it bad, good or indifferent.

In implementing the majority decision of this panel, justice is supposedly being served because one department should not subsidize another. The financial condition of the City of Southgate will be in the area of one-half million dollars in deficit (as testified) at the end of this fiscal year (1970) and further in deficit at the end of the next fiscal year. At, or near the end of 1971 negotiations will again be entered into to arrive at a new contract. I do not see the City of Southgate being out of deficit at that time. In the meantime, this landmark decision serves as a beacon to other Police and Fire Departments in the State indicating that no matter what the community's

financial condition is, wage disputes should be taken to compulsory arbitration and if the facts are similar (as in Southgate's case), a decision for higher wages will be awarded. Now, let's assume that in 1970 the City of Southgate is at the negotiating table and reaches an impasse on wages and enters into compulsory arbitration - and, let's assume that Sect. 9, Paragraph (i) -- "(Comparison of wages of other employees) in public employment in comparable communities" -- is followed. Here, regardless of the City's financial condition, the decision of the panel (following the rationale of this panel's decision) could be rendered wherein Southgate should meet the wages of comparable communities as indicated in paragraph (i) above. I dare say that Section 9 of Act 312 could thoroughly be danced through, however, the first waltz should be with Paragraph (c) which reads..."the interests and welfare of the public AND THE FINANCIAL ABILITY OF THE UNIT OF GOVERNMENT TO MEET THESE COSTS."

I find it extremely difficult to agree with the reasoning and order given in the majority decision of this panel. The wisdom of this decision certainly may be attacked now, but, its alleged proof or worth will be evident as time progresses. I shudder to think of the far-reaching effects this panel's decision will bring about in the State of Michigan. This too, will be evident as time progresses.

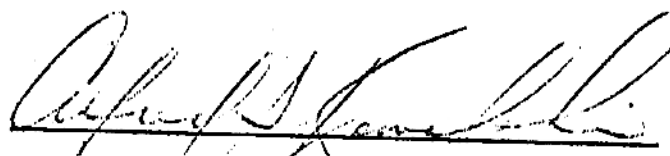
In offering this dissenting opinion I would be remiss in not suggesting a solution relevant to those areas which I have tried to constructively criticize. My solution would be to render an order in favor of the Fire Department encompassing those items agreed to and made in the final offer by the City. I feel that the city representatives, Councilmen and Mayor are in the best position, as well as being charged with the responsibility, of knowing and administering the various departments under their jurisdiction.

In the final analysis it is the public who is being served and it is the public who is paying to be served. To be in a position to

serve adequately it is imperative that both, City Administration and Bargaining Units be reasonable, fair and recognize their responsibilities so that collectively they can serve in the best interests of the taxpayer.

Towards this end, good faith bargaining and thorough negotiations should be exhausted before even thinking of submitting to compulsory arbitration so as to bring as few unresolved items as possible to lay before an arbitration panel.

Dated: April 24, 1970

  
Alfred S. Kowalski