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STANLEY T. DOBRY

ARBITRATOR

SUITE 2201 CADILLAC TOWER
65 CADILLAC SQUARE
DETROIT, MICHIGAN 48226

**MICHIGAN EMPLOYMENT RELATIONS COMMISSION
STATUTORY LABOR ARBITRATION TRIBUNAL**

BY APPOINTMENT
(313) 961-4940

In the Matter of the Arbitration between:

CITY OF STERLING HEIGHTS,

-and-

Act 312 Case No. D86 F-1448

**POLICE OFFICERS' ASSOCIATION
OF MICHIGAN (DISPATCH)**

Dorby /

PANEL'S OPINION AND AWARD

I. APPEARANCES

For the City:

O'Reilly, Rancilio, Nitz, Andrews & Turnbull, P.C.
By: Michael J. Platek, Esq. Attorneys

James Hock

Administrative Coordin-
ator and Negotiator

Reuben Ricard

Delegate

For the Union:

William Birdseye

Advocate

Ann Maurer

Advocate and Delegate

Kenneth Grabowski

Business Agent

Elizabeth Bailey

Local President

II. PRELIMINARY STATEMENT

This panel is created under the authority of the Michigan Employment Relations Commission (hereinafter MERC) pursuant to the authority of Act 312 of Public Acts of 1969, as amended. That agency maintains a panel for the resolution of contractual impasses in the collective bargaining process between municipalities and police or fire personnel.

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Sterling Heights, City of

The chairman of this panel was appointed to this dispute by letter dated September 9, 1986.

The parties' designated delegates: Reuben Ricard, Commissioner of the Utica Police Department, for the City; and Ann Maurer, Labor Economist, for the Association.

The prior labor agreement, for the period July 1, 1984 to June 30, 1987, is still in force. It contained a reopener on the issue of the Dispatcher II position, and on third year wages. Notwithstanding the duration, at the Chairman's suggestion, the parties have stipulated to empower the panel to make an award through June 30, 1988.

A prearbitration meeting was held at the offices of the Michigan Employment Relations Commission on October 13, 1986. The tangible results were summarized in the Chairman's letter dated October 14, 1986.

The hearing was held on November 5, 1986, and a verbatim record made.

III. INTRODUCTION

The following statutory background is offered for those persons who have not previously participated in an Act 312 proceeding. It is not meant for the experts, and they may proceed to the next section. However, since this is a public tribunal with consequences for the general welfare, it is anticipated that a brief review may be helpful.

Standard grievance arbitration has the object of determining rights under a contract. By contrast, these

proceedings end with the creation of a contract. They are so-called "interests arbitration."

The purpose of an Act 312 Arbitration is the peaceful resolution of labor disputes in the public sector. To this end, the Act provides for "compulsory arbitration of labor disputes in municipal police and fire departments." The general statement of statutory policy is enlightening. Found at Michigan Compiled Laws Annotated (MCLA) 423.231, and Michigan Statutes Annotated (MSA) 17.455(31), it states:

Sec. 1. It is the public policy of this state that in public police and fire departments, where the right of employees to strike is by law prohibited, it is requisite to the high morale of such employees and the efficient operation of such departments to afford an alternate, expeditious, effective and binding procedure for the resolution of disputes, and to that end, the provision of this act, providing for compulsory arbitration shall be liberally construed."

As amended, the law further defines policemen and fire fighters and dispatchers (the latter added by a 1978 Amendment) [MCLA 423.232; MSA 17.455(32)]; establishes methods and times of initiating the proceedings [MCLA 423.233; MSA 17.455(33)]; provides for the selection of delegates [MCLA 423.234; MSA 17.455(34)]; and establishes the method for selection of the Arbitrator [MCLA 423.235; MSA 17.455(35)].

It also sets forth procedural timetables;¹ has a provision for the acceptance of evidence;² and allows the panel to issue subpoenas and administer oaths. [MCLA 423.237; MSA 17.455(37)]. The dispute can be remanded for further collective bargaining. [MCLA 423.237(a); MSA 17.455(37a)] [MCLA 423.239; MSA 17.455(3a)]. The law provides for enforcement, judicial review, and maintenance of conditions during the pendency of the proceedings. [MCLA 423.240 - 247; MSA 17.455(47)].

Finally, at or before the conclusion of the hearing, the panel is required to identify each issue as "economic" or noneconomic". The classification is critical. The panel may adopt either party's offer or its own position on a noneconomic issue. However, on an economic issue, the "arbitration panel shall adopt the last offer of settlement which, in the opinion of the panel, more nearly complies" with the factors set forth in the law. [MCLA 423.238; MSA 17.455(38)] [Emphasis added.] In other words, the panel must choose the more reasonable of the parties' two offers.

¹The Chairman is supposed to "call a hearing to begin within 15 days" of his appointment. The deadline seems virtually impossible, or at least severely impractical. Fortunately, these parties had the good sense to waive that time limit.

²"Any oral or documentary evidence and other data deemed relevant by the arbitration panel may be received in evidence. The proceedings shall be informal. Technical rules of evidence shall not apply and the competency of the evidence shall not thereby be deemed impaired." A verbatim record is required. The panel works by majority rule. MCLA 423.236.

Therefore, in a very real sense, Act 312 proceedings are not "won" by a party; they are "lost" by the party making unreasonable demands in light of the facts confronting them.

On contested issues, the panel must base its findings on the nine statutory criteria, as applicable:

- "(a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interest and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (i) In public employment in comparable communities.
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the 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."

IV. OPINION

Act 312 arbitration is an extension of the collective bargaining process. Ideally, the process should generate solutions that plausibly could have resulted from a voluntarily negotiated contract.

Although the following determinations are not necessarily the only solutions to the problems confronting the parties, the panel is convinced they are closest in

conformity with the terms of the statute. The panel has reviewed each of the statutory criteria as they apply to the respective issues, and concludes that those criteria, upon this record, virtually command these determinations.

Wages require a balance between the needs of the City for fiscal responsibility, and the employees requirement of economic security. The panel has not looked at wages in isolation, but has considered also the total economic package, and attendant costs, involved in employing the current work force. Moreover, while many comparisons are possible, the first line of comparability must be internal, that is, comparisons between similarly situated employees working for the same employer. Indeed, it is predictable that wage increases for this specific bargaining unit will create an expectation of similar increases in other bargaining units. Thus, wage increases within the city ordinarily ought to be kept in step, and a particular bargaining unit cannot be viewed in isolation. Conversely, wage increases should reflect the relative worth of a given position in the local labor market. Therefore, the panel has given consideration to the pattern of settlements in comparable communities. Here, the wage increase will maintain the historical pattern and relationship these parties have freely bargained for in the past, reflecting thereby the parties' clear consensus of their relative worth.

As a personal note, the Chairman was greatly aided by the quality and sophistication of the advocates, and the wise counsel of both delegates. This proceeding is a classic example of the way Act 312 was meant to work.

V. DETERMINATIONS

Based upon a full and careful review of the exhibits and stipulations, the Panel unanimously makes the following determinations:

1. These provisions shall be considered an addendum to the collective bargaining agreement for the period July 1, 1984, through June 30, 1987, and shall add one additional year through June 30, 1988.

2. Except as specifically modified hereby, all other provisions, language, terms and conditions in the parties' labor agreement aforesaid shall remain unchanged.

3. Article XXXVIII, "Wages", shall be supplemented by the following language:

Effective July 1, 1986

POLICE DISPATCHER 1
ANNUAL SALARY

START	6 months	1 year	1½ years	2 years
\$18,280	\$18,701	\$19,130	\$19,571	\$20,020

2½ years	3 years	3½ years	4 years
\$20,482	\$20,952	\$21,410	\$21,902

Wage increases shall be retroactive to July 1, 1986, and shall be paid as soon as possible after issuance of the arbitration award.

Further, employees on the payroll as of July 1, 1986, who have not separated or terminated from the City as of the date of this award, shall receive a one-time lump sum payment in the amount of Two Hundred Fifty (\$250.00) Dollars to be paid as soon as possible after issuance of the arbitration award.

Further, employees hired after July 1, 1986, who have not separated or terminated from the City as of the date of this award, shall receive a one-time lump sum payment in the amount of One Hundred Fifty (\$150.00) Dollars to be paid as soon as possible after issuance of the arbitration award.

The Dispatcher II position shall remain status quo.

Effective January 1, 1987

**POLICE DISPATCHER I
ANNUAL SALARY**

START	6 months	1 year	1½ years	2 years
\$18,646	\$19,075	\$19,513	\$19,962	\$20,420

2½ years	3 years	3½ years	4 years
\$20,892	\$20,371	\$21,838	\$22,340

4. Article XLI, "Duration", shall be amended as follows:

"41.1: THIS AGREEMENT shall be in full force and effect from July 1, 1985 to and including June 30, 1988 and shall continue in full force and effect from year to year thereafter unless written notice of desire to cancel or terminate the Agreement is served by either party upon the other, at least sixty (60) days prior to the date of expiration.

41.2: It is further provided that where no such cancellation or termination notice is served and the parties desire to continue said Agreement, either party may serve upon the other notice, at least sixty (60) days prior to July 1, 1988, or any period of any subsequent contract year, advising that such party desires to continue this Agreement, but also desires to revise or change terms or conditions of such Agreement.

41.3: Should either party to this Agreement serve such notice upon the other party, a joint conference of the Employer and the Union shall commence not later than forty five (45) days before the expiration date or amendment date of this Agreement.

41.4: For the period July 1, 1987 through June 30, 1988, the highest wage and fringe benefit package of improvements afforded to any other single City of Sterling Heights organized employee group, with the exception of the groups represented by the United Automobile Workers of America, will be extended to the employees under this contract. This shall not be construed so as to provide to members of this employee group benefits previously afforded said other group and merely improved upon. For example, a percentage or dollar increase in the amount of longevity paid to police officers, or any

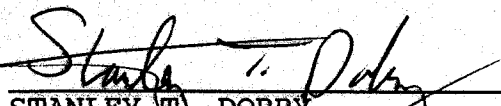
other group receiving longevity, shall not require the City to provide longevity; rather, the percentage cost of the additional longevity shall be afforded to employees in this group by way of other wage or fringe benefit improvements. Provided further, if the settlement by the other group contains as a new benefit a benefit already contained in this agreement, an equivalent percentage cost in either wages or fringe benefits shall be extended to this group.

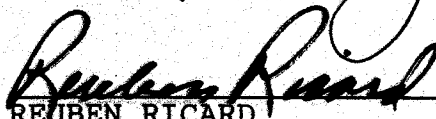
41.5: Additionally, all noneconomic issues shall be reopened for negotiations for the period July 1, 1987 through June 30, 1988."


5. The panel expressly determines that any and all other requests for changes in the current collective bargaining agreement are not supported by competent and substantial evidence, and therefore, those requests are denied.

VI. CONCLUSION AND AWARD

For all the foregoing reasons, the Panel hereby awards the provisions aforesaid, adopts this statement as its complete award, and remands this matter to the parties for the drafting of a collective bargaining agreement in accordance with the determinations set forth above. The Arbitration Panel retains no further jurisdiction.


STANLEY T. DOBRY
Impartial Chairman


REUBEN RICARD
City Delegate


ANN MAURER
Union Delegate

Dated: December 5, 1986