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STATE OF MICHIGAN
BUREAU OF INDUSTRIAL RELATIONS
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IN THE MATTER
OF
ACT 312 ARBITRATION

TUSCOLA COUNTY SHERIFF EMPLOYEES
UNIT I and UNIT II, FRATERNAL
ORDER OF POLICE

and

TUSCOLA COUNTY BOARD OF
COMMISSIONERS

MERC Case No. L82 E-438

Tuscola, County of

DECISION

August 3, 1983

Bychinsky, S. Eugene

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APPEARANCES

For the Fraternal Order of Police:

Dan E. Hankins

Attorney at Law

For the County Board of Commissioners:

Thomas D. Abbey
Jackie Larson
Donna Rayl
Royce Russell
Paul Megge

Attorney at Law
Personnel Director
County Commissioner
County Commissioner
Undersheriff

Arbitration Panel

August 3, 1983

S. Eugene Bychinsky, Chairman
Jackie Larsen
Ray Harwood

DECISION

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This matter, an Act 312 Arbitration, arose because the parties were unable to resolve the issue of wages for the Bargaining Unit members.

Conditions precedent, including collective bargaining and mediation having been met, the Michigan Employment Relations Commission appointed S. Eugene Bychinsky to serve as Chairman of a panel of arbitrators. In conformance with the rules and regulations applicable to the procedures set forth by MERC, and following the taking of the oath of office by the Chairman, the parties were asked to jointly stipulate that except for the single issue of wages, and as contained in the petition that had been certified to the Arbitration Panel, all other issues were satisfactorily adjusted, settled, compromised or waived by the parties. The Labor Organization represented that, in addition to the issue of wages, there was an additional unresolved issue of Promotional Policy. While the Panel was agreeable to receiving testimony and evidence pertaining to

this additional issue, subject however to a ruling by MERC supportive of that action, it developed that a key witness for both sides had been hospitalized the night before the hearing. Ultimately, the matter of Promotional Policy was not heard at the hearing, and the parties were advised that, on certification by MERC, additional hearings, as appropriate, would be held on this issue.

Accordingly, this decision concerns itself only with the single issue that was certified for the hearing by MERC, namely, the issue of wages.

Following the receipt of the testimony and exhibits, the parties submitted "last best offers" as required by the applicable law and procedures. The "last best offer" of the Association was a seven percent (7%) across the board increase. The "last best offer" of the County was a three percent (3%) across the board increase.

It is to be noted that while the Panel was appointed by MERC on December 20, 1982, the parties to this matter requested postponements due to the absence of persons deemed by them to be essential to the issue, until May 20, 1983. Briefs were

filed on June 5, 1983. The question of whether or not the Panel should consider the issue of Promotional Policy was referred to MERC by letter from the Chairman, on July 18, 1983. On July 27, MERC determined that the issue of "promotional policy" could be included if the parties so stipulated. Subsequently, the parties attempted to reach agreement on this issue. Pending the outcome, the issue of Promotional Policy is not included in this decision.

At the hearing a further issue arose as to whether or not the Secretary to the Sheriff was properly included in Unit II. It appeared from the evidence submitted at the hearing that the County had petitioned MERC for a decision on this issue, prior to the hearing. The Chairman acknowledged the issue, but determined that the issue of composition of the Bargaining Unit was not an issue for the Panel, but an issue for MERC. Consequently this issue was not further considered by the Panel. Further, because of a prior ruling in the matter of the composition of Unit I, specifically excluding--full-time License Examiners, Records Clerks, Cooks and Clerk Matrons, it was deemed probable that MERC would, when it ruled on the petition of the County, rule to exclude the Secretary to the Sheriff. If, on the other

hand, that position is not excluded from the Bargaining Unit, the data supplied support the same increase for this position as for the other members of the Bargaining Unit.

The sole issue presented here is the question of whether the members of the Bargaining Unit should receive a 3% across the board increase, or a 7% across the board increase. In reaching this conclusion, Act 312 requires that the Arbitration Panel consider the following criteria:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:

- (i) In public employment in comparable communities.

(ii) In private employment in comparable communities.

(e) The average consumer prices for goods and services, commonly known as the 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.

In its brief, the Union pointed out a number of differences in what it regarded as significant data. These data related to property tax increases that the County had experienced. For the purposes of this decision, the Panel in each instance of any discrepancy of data, used the data that was most favorable to the Union. For example, it considered the percentage of increase of property tax for the 1981 to 1982 period to be 12.5%; and the increase of taxes going directly into County revenues from 1981 to 1982 to be 14.3%. With respect to the S.E.V. data that was supplied with the briefs, the differences in the data were considered by the Panel to be minor.

Employer's Exhibit G was objected to in the Union brief, as not "--comporting to the Employers request---." This objection was noted by the Panel, and the data contained in this exhibit disregarded, because this data was not essential to a decision.

Other discrepancies that were pointed out by the Union in its brief were likewise considered as either being insignificant or not essential to the Panel's decision.

ABILITY TO PAY

At the hearing, the Employer contended that its defense against the Union's "last best offer" in its demand, was both, that the County did not have the ability to pay, and that the County should not pay, the increase demanded by the Union.

Inasmuch as it was the Panel's determination that the Employer, when all other elements were considered, did not have to pay the increase demanded by the Union, but that the Employer's "last best offer" was to be adopted by the Panel, that data that dealt solely with ability to pay was not considered further.

COMPARABLE COMMUNITIES

In arriving at comparable communities data, the Panel gave very little attention to the salaries of the Michigan State Police. While certain of the State Police complement are located

in Caro, Michigan, the schedule for the State Police, having statewide application, effectively diminishes its comparability to the community involved in this case. Further, the mission and conditions of employment of the State Police, while admittedly law enforcement, are quite dissimilar to the Sheriff mission. For example, State Police officers are subject to assignment anywhere in the State, while Tuscola County officers are not subject to permanent assignment outside of their current locations. Other differences in conditions of employment could also be recited to support the difference in salary schedule, but suffice it to say that there is lacking a substantial degree of comparability as to render the State Police schedule of little value in determining the Tuscola County Salary Schedule for its deputies and command officers.

The Panel fully recognized the need to maintain the morale of the officers of both units involved in this matter. However, it gave considerable attention to both the effect on morale of the officers involved and also, the effect on the morale of the rest of the employees of this County. Of particular note was the increase in the unemployment rate, the median family income for the County, and the fact that 11 of the top 18 employers

of the County were governmental units.

Also of particular significance is the fact that tax rates are significantly affected by governmental costs. The figures that were corrected by the union, showing a tax increase of 12.5% for the year of 1982 over the year of 1981 indicate that this factor is of great significance, not in the ability to pay concern, but in the concern for maintaining comparability with other governmental units of this County and the relationship of the effect on taxes if costs of government get out of line. Also of significance is the fact that the complement of the Units I and II have not been reduced.

In selecting comparable counties for wage comparison purposes, the Panel, out of necessity, had to recognize that certain of the counties that were proposed by the Union were, indeed, larger than Tuscola County. Also, Newaygo County, being around 3/5ths the size of Tuscola County, was afforded little weight. While no specific weighting process was used, suffice it to say that the comparables offered by the County were given more weight than those offered by the Union.

The same considerations were afforded the per capita

income comparison data.

In considering those comparables, the Panel was faced with another consideration; namely, the only issue in this case was the issue of wages. Fringe benefits of the Union, or of other employer groups, were not considered because no data on this comparable was offered. In reaching its conclusion, the Panel had to assume that the total compensation package, with respect to other than wages, but affecting the total compensation package, was comparable to the non-wage compensation already agreed upon by the County and the two units involved in this proceeding.

As mentioned earlier, the fact that other governmental units of Tuscola County did not receive any pay increase in 1982, including the Sheriff and Undersheriff, weighed heavily with the Panel.

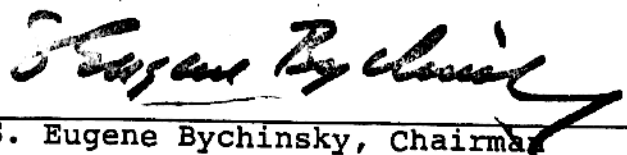
In considering the cost of living index, a factor that must be considered by the Panel, it was noted that the cost of living for comparable areas was under 5%.

Accordingly, it is the judgment of this Panel that the Last Best Offer of the County; namely, a three percent (3%) increase for all affected employees of the two Bargaining Units,

represents a figure that is more applicable to the fact situation involved herein, than does the Union Last Best Offer of seven percent (7%).

Consequently, a three percent (3%) across the board award is ordered, effective July 1, 1982.

Jurisdiction on the issue of Promotional Policy is maintained, and appropriate hearing will be held if requested by either party, unless the parties stipulate this matter to the satisfaction of both parties.


S. Eugene Bychinsky, Chairman

Jackie Larsen, for the County

Ray Harwood, for the Association