

3/22/84
ARB

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

BEFORE

A COMPULSORY ARBITRATION BOARD

THE CITY OF WYANDOTTE,

Employer,

and

MERC Case No. D82 C-1554

FRATERNAL ORDER OF POLICE,
LODGE 111,

Union.

DECISION AND AWARD

These proceedings were commenced pursuant to the provisions of the Act entitled "Compulsory Arbitration of Labor Disputes, Policemen and Firemen," being Act 312 of the Public Acts of 1969, as amended, of the State of Michigan. This decision and award are made and entered pursuant to the provisions of said Act 312, as amended.

This decision and award is adopted as the decision and award of the arbitration panel hearing this matter by those members who signed this decision and award.

PRELIMINARY STATEMENT

In these proceedings, the Collective Bargaining Agreement (Joint Exhibit No. 1) expired on October 5, 1981. Thereafter, the parties negotiated, but could not resolve all aspects of their dispute, with the result that on December 15, 1982, the Union petitioned the Michigan Employment Relations

Dance, William H.

Wyandotte, City of

Commission (MERC) for arbitration pursuant to Act 312 of the Public Acts of 1969, as amended. The petition was received at MERC on December 17, 1982.

Thereafter, the parties continued to negotiate, but without success.

Notice of the compulsory arbitration was given to the Chairperson of the Arbitration Panel dated February 10, 1983, and signed by Barry T. Hawthorne, Acting Director, Bureau of Employment Relations at MERC.

Thereafter, the parties again continued to negotiate and the Chairperson was notified by letter dated April 11, 1983, from the attorney for the Union, John A. Lyons, Esq., to the effect that the parties have not been able to reach agreement on the issues and, therefore, it was requested that a pre-arbitration meeting was set. After numerous attempts to work out dates for a pre-arbitration meeting, a date was finally arrived at which was mutually agreeable to all parties concerned, and a pre-arbitration meeting was set for August 15, 1983, at the Detroit office of MERC commencing at 9:30 AM. This meeting was held as scheduled and a number of issues were settled, namely:

- a) Term of Contract - two years, October 1981 through October 1983.
- b) Freeze on general wages for first year.
- c) 2.5 % wage increase effective October 3, 1982, and a 3 % wage increase effective April 4, 1983.
- d) Pension program modified as set forth in attached Exhibit 1, to correspond with Police Command Officers Agreement.
- e) Sick leave payout modified, effective October 4, 1982, by increasing maximum payout from one-half of 150 days to one half of 166 total accumulated days.

These resolved issues constitute part of the Panel's Award, and are incorporated therein by this reference thereto.

The following issues noticed in the Petition for Arbitration were withdrawn:

- a) Clothing Allowance.
- b) Optical Benefit.
- c) Blue Cross - Blue Shield Student Rider.

A) As a result of negotiations mentioned above, which were carried on prior to and at the Pre-Arbitration Hearing, the number of issues before the Arbitration Panel was reduced to five, namely:

- a) Detective Pay, (Union).
- b) Shift Premium, (Union).
- c) Holiday Pay, (Union).
- d) Personal Leave Days, (Union).
- e) Limit on Sick Leave for Duty Related Injury, (City).

B) On these various issues, the parties presented documentary evidence and testimony in support of their positions and demands. In addition, considerable evidence was presented relative to the financial ability of the City, which is one of the factors mandated for consideration in such proceedings. In considering its award on the various issues, the Panel has given due weight to the financial ability factor, as well as all other mandated factors. Ability to pay pervades every aspect of bargaining, when economic issues are before the Panel. In this case, the financial condition of Wyandotte was presented through City Exhibits 1-9 and the testimony of Ralph E. Lesko, Financial Director of the City of Wyandotte.

The formal hearing was held at the MERC offices, in Detroit, Michigan, on Tuesday, September 27, 1983. The parties, through their respective counsel, at the request of the Chairperson, stipulated that a period of ten days might be allowed to see if the parties can work out their differences short of a decision on the issues by the Panel. It was agreed that the Last Best Offers be dated no later than October 11, unless some one has a problem. Following that, the Position Statements (briefs) are to be furnished no later than October 31. This was all done through the agreement of the parties. Subsequent thereto, the Chairperson did receive the City's Last Best Offer, on time, and the Last Best Offer of the Fraternal Order of Police, also on time, and the Chairperson then forwarded copies of each of such Last Best Offers to the opposite party. Subsequent thereto, the Chairperson received from the City a copy of the City's Last Offer on Personal Leave Days, which was mistakenly not included in the package originally submitted. The Chairperson then forwarded this additional material to the Fraternal Order of Police. The Union had already notified the Chairperson that this did not in any way cause a problem. Thereafter, the attorney for the Union requested an extension for the filing of his brief, due to other scheduled matters and the Chairperson extended this time, and notified the attorney for the City that the same extension was granted to him. On November 17, the Chairperson received the Union's brief in support of its Last Best Offer, and the brief of the City in support of its Last Best Offer, and the Chairperson, on November 17, forwarded the briefs to each party.

Aside from the Exhibits and briefs of the parties, the transcription of oral testimony taken at the formal hearing comprises 247 pages of testimony. The testimony of records and the exhibits have been studied, as well as the excellent briefs

submitted in support of each position, and on Friday, February 3, 1984, the Panel members met at the office of the Chairperson to consider the decision.

There can be no question but that the case for both the Fraternal Order of Police and the City were ably conducted and presented with carefully prepared exhibits and with explanation of position through thorough and explicit questioning and cross-examination of witnesses by counsel. The Chairperson wishes to extend remarks of appreciation to both counsel not only for the able manner and professional way in which the cases were presented, but for the courtesy each counsel showed to the Panel and the spirit of cooperation in which the parties attempted to solve their differences.

STATUTORY MANDATE

In accordance with the mandate of section eight of Act 312, Public Acts of 1969, as amended, the arbitration panel identifies the issues of Detective Pay, Shift Premium, Holiday Pay, Personal Leave Days, Limit on Sick Leave for Duty Related Injury as the economic issues in dispute, and the parties, during the proceedings, did each submit its Last Best Offer of Settlement on said economic issues.

The statute mandates that the arbitration panel shall adopt the Last Best Offer of Settlement re each issue which, in the opinion of the Panel, most closely complies with the applicable factors prescribed in Section Nine (the mandate is set forth below).

In accordance with this section, the Panel must adopt either the Last Best Offer of the Union, or the Last Best Offer of the City and is not permitted to engage in any further mediation or negotiations.

The mandate is contained in Michigan Statute Act 312, Public Acts of 1969 as amended, Paragraph 423.239, Section 9, and it was upon this mandate and following these directives, that the Arbitration Panel must make its findings, opinions and order. Those factors are the following:

- (a) The lawful authority of the employer.
- (b) Stipulation 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 proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally.
 - (i) In public employment in comparable communities.
 - (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 pension, 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 fore-

going, 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.

We will now proceed to the issues and our decision.

PARTIES' LAST BEST OFFER POSITION AND AWARD OF
ARBITRATION PANEL

The Panel will now present the position of the parties and the Panel's Award on each issue respectively:

ISSUE # 1 - DETECTIVE PAY

CITY'S LAST BEST OFFER:

Maintain current differential between the Patrolman and Detective classification of approximately 5 %.

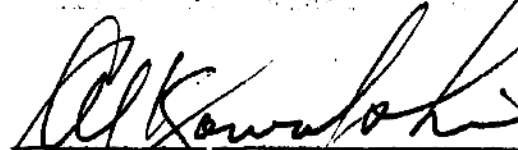
UNION'S LAST BEST OFFER:

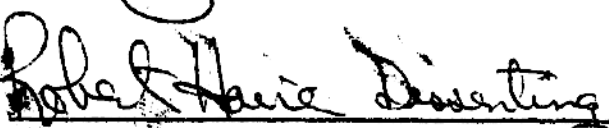
Increase detective pay to \$26,195.00 effective for contract year 1982-83.

THE PANEL'S AWARD:

The Panel adopts the City's Position as its Award.


William H. Dance, Panel Chairperson


Al Kowalski, City Delegate


Robert Haire, Union Delegate

ISSUE # 2 - SHIFT PREMIUM

CITY'S LAST BEST OFFER:


For the October 1981 - October 1983 contract , there shall be no shift premium and the rotation of shifts shall be maintained.

UNION'S LAST BEST OFFER:

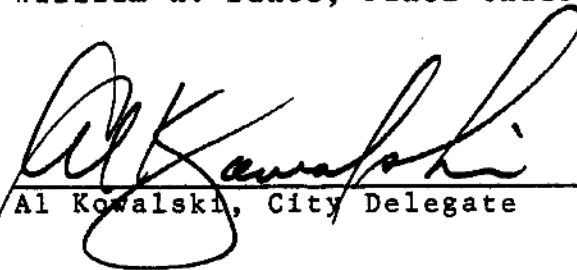
Union requests \$.20 shift differential for afternoon shift and \$.30 for midnight for the contract year 1982-83 for all members subject to shift work.

THE PANEL'S AWARD:

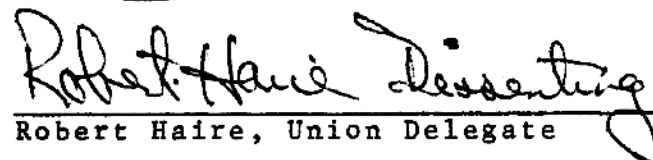
The Panel adopts the City's position as its Award.



William H. Dance, Panel Chairperson



Al Kowalski, City Delegate



Robert Haire, Union Delegate

ISSUE # 3 - HOLIDAY PAY

CITY'S LAST BEST OFFER:

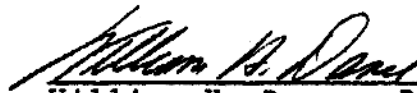
For the October 1981 - October 1983 contract, Holiday Pay is to be computed as provided in the current provisions, 5% of employee's base wage.

UNION'S LAST BEST OFFER:

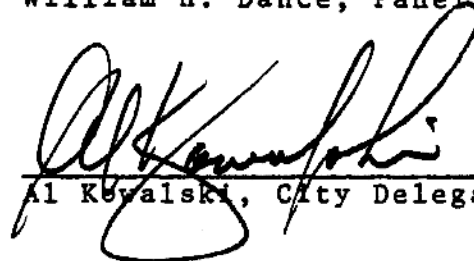
When a member works the holiday, the payment shall include time and one half for all hours worked on said holiday. This benefit to be effective in the 1982-83 contract year.

THE PANEL'S AWARD:

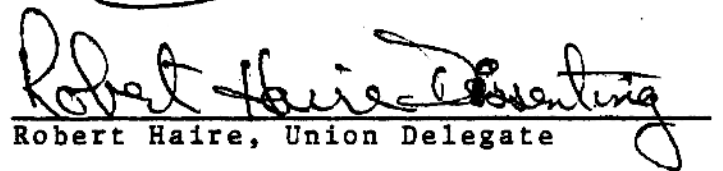
The Panel adopts the City's position as its Award.



William H. Dance, Panel Chairperson



Al Kowalski, City Delegate



Robert Haire, Union Delegate

ISSUE # 4 - PERSONAL LEAVE DAYS

CITY'S LAST BEST OFFER:

For the October 1981 - October 1983 contract, personal leave days to be charged to accumulated vacation as provided in the current provisions; no other changes to be made from the current provision.

UNION'S LAST BEST OFFER:

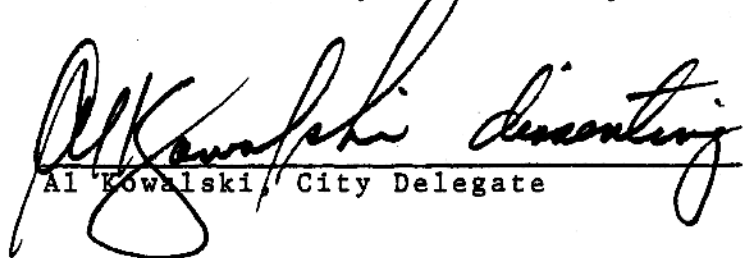
Union requests that in the 1982 - 83 contract year, three (3) personal leave days shall be granted which are not chargeable to any bank time.

THE PANEL'S AWARD:

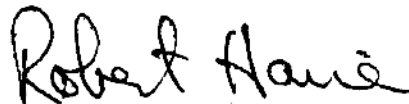
The Panel adopts the Union's position as its Award.



William H. Dance, Panel Chairperson



Al Kowalski, City Delegate



Robert Haire, Union Delegate

ISSUE # 5 - SICK LEAVE IN LINE OF DUTY

CITY'S LAST BEST OFFER:

In cases where an employee has been disabled as a result of an accidental injury or an acquired occupational disease arising out of and in the course of his employment, and if it is determined that such injury and disease is not the result of the employee's culpable misconduct, such employee shall be paid for time lost while he is disabled for a period of 90 calendar days and such additional days as said employee may have to his credit as sick leave or vacation leave, in that order. Such pay, when added to his worker's compensation benefits, shall be equal to his net base wages at the time of his injury.

When all such leave shall be exhausted, the City shall pay the employee a salary equivalent to his net base wages and the City Council shall, at that time, in conjunction with the City Physician and the Department Head, review the case under the provisions of Article XII. Disability cases considered likely to be permanent by the City Council, City Physician and Department Head shall be referred to the Retirement Commission for consideration and appropriate action. If the City Council, City Physician and Department Head, or the Retirement Commission after a matter has been referred to it, determines that the disability is not likely to be permanent, the employee shall be placed on non-paid leave of absence, and if eligible, shall receive worker's compensation benefits.

The employee shall be notified of the leave of absence provisions in writing by certified mail with a copy to the Union during the above referred to 90

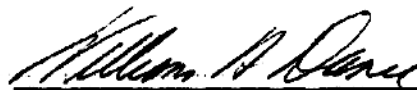
calendar day period in which the employee is receiving compensation from the City without charge to his accumulated vacation and sick leave. An employee who is placed on an unpaid leave under this Section shall be eligible for Health Insurance under Article XX and Life Insurance under Article XXI, but during an unpaid leave, shall not accrue or receive any other fringe benefits provided under this agreement.

UNION'S LAST BEST OFFER:

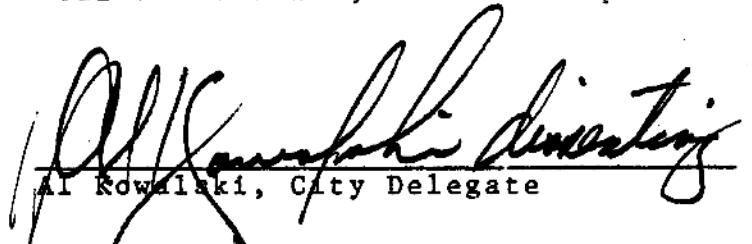
Union requests status quo on this issue - maintain current language of Article XII, Section 2 of the contract.

THE PANEL'S AWARD:

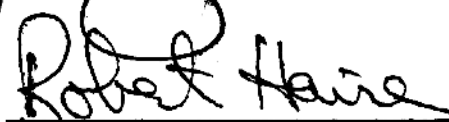
The Panel adopts the Union's position as its Award.



William H. Dance, Panel Chairperson



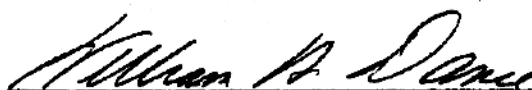
Al Kowalski, City Delegate



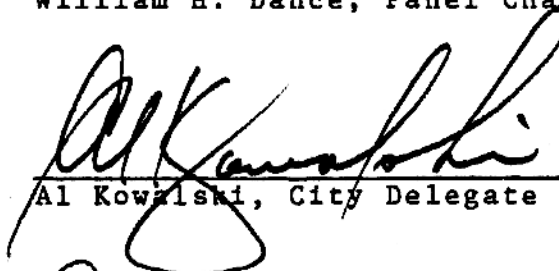
Robert Haire, Union Delegate

The remaining parts of the contract between the parties which were resolved by the parties as set forth on page 2 above, and any other temporary agreements and/or other understandings, effected between the parties, prior to the official effort and involvement of the Arbitration Panel, shall be and the same are incorporated by reference into this Award and considered part of this Award.

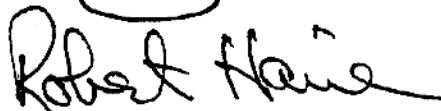
Respectfully submitted,



William H. Dance, Panel Chairperson



Al Kowalski, City Delegate



Robert Haire, Union Delegate

March 22, 1984

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