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ALB  
Ypsilanti, City of

S T A T E O F M I C H I G A N  
M I C H I G A N E M P L O Y M E N T R E L A T I O N S C O M M I S S I O N

In the matter of the statutory arbitration between:

CITY OF YPSILANTI

and

YPSILANTI FIRE FIGHTERS UNION,  
LOCAL 401, I.A.F.F., AFL-CIO /

Before: Jerold Lax, Chairman  
Walter K. Hamilton, city designee  
Ronald R. Helveston, union designee

Appearances:

For the City

Joseph A. Warren, City Manager  
Regina Williams, Administrative Assistant  
Ralph Crawford, Fire Chief

For the Union

William Strubank, Local President  
Greg Johnson  
Grant Davis

LABOR AND INDUSTRIAL  
RELATIONS LIBRARY  
Michigan State University

2/17/75  
OPINION AND AWARD

JUL 27 1976

Background

Upon the failure of the City of Ypsilanti and the Ypsilanti Fire Fighters Union to reach agreement on the terms of a new collective bargaining agreement to supersede their agreement expiring June 30, 1974, appropriate steps were taken to initiate arbitration pursuant to P.A. 1969, No. 312. Hearings in this matter were held on October 10, 11 and 29, 1974.

The governing statute requires that the arbitration panel determine which of the disputed issues are economic in nature, and that as to the issues so identified, the arbitration panel adopt the party's offer which most nearly complies with designated statutory criteria.\* With regard to the issues,

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\*Section 9. Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other

Lax, Jerold.

if any, which are non-economic, the panel has somewhat greater flexibility in fashioning an award which satisfies those statutory standards, and need not restrict itself precisely to the offer of one or the other party.

At the outset of these proceedings, the parties stipulated as to the issues which would be considered economic and those which would not; additionally the parties reached agreement as to the substance of appropriate contract provisions on certain other issues and requested that those provisions be incorporated as a part of this award.

The economic issues identified by the parties were the following:

- (1) Duration of contract
- (2) Wages
- (3) Cost of living allowance

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conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors as applicable:

- (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 private employment.

- (4) Food allowance
- (5) Holiday pay
- (6) Clothing allowance
- (7) Optical insurance
- (8) Dental insurance
- (9) Reduction of work week
- (10) Modifications of retirement system

The sole non-economic issue identified was the inclusion of arbitration as a step in the grievance procedure. The issues with regard to which the parties reached agreement were:

- (1) Call back pay
- (2) Voluntary duty pay
- (3) Personal leave

These issues will be considered in detail below; where appropriate, dissents of individual panel members will be noted.

#### Economic issues

##### (1) Duration of contract.

The Union urged that the contract be for a period of two years, commencing upon the expiration of the prior agreement on June 30, 1974, while the City favored a contract of one year's duration. Although the parties requested that a decision be rendered on the question of duration prior to submission of offers regarding the other disputed issues, the chairman deemed it appropriate that alternative offers be made, based on the assumption that the contract would be for one year and on the alternate assumption that the contract would be for two years. In this way, it would be possible for the panel to take into account the extent of the substantive disagreement, if any, between the parties as one of the factors in determining appropriate duration. Upon the submission of alternative offers, it became apparent that while the wage proposals of the parties were not widely divergent under a one-year contract or for the first year

of a 2-year contract, there was considerable disparity between the offers for the second year of a 2-year contract, with the Union's proposed percentage increase being nearly double that of the City.

Once alternative offers had been presented, the panel determined to resolve the duration question in advance of the submitting of briefs concerning the remaining issues.

The Union, in support of a 2-year award, placed heavy reliance on the contention that a 2-year contract would obviate the necessity of having to recommence bargaining very shortly after the award was rendered, and would enable the relatively small (33 member) bargaining unit to focus its efforts on fire fighting rather than contract negotiation. The Union also noted that multiyear contracts are not uncommon, even in the City of Ypsilanti itself, and are a recognized device for promoting stability in labor relations. The City, arguing for the shorter term, emphasized the disparity in the positions of the parties regarding the second year, and made procedural objections to raising the duration question at what it took to be a belated point in the proceedings--after formal efforts at mediation had ended.

While the majority of the panel acknowledges the force of the Union's contention that contracts of longer duration may contribute to stability in a given employment situation and would also have the effect of freeing manpower from the task of bargaining, it is nonetheless the conclusion of the majority that a one-year contract is appropriate under the present circumstances. Because of the disparity in the positions of the parties for the second year, a decision in favor of a two-year contract would require that one or the other party live with a situation that it presently has reason to think would be most difficult. Moreover, the fact that the parties are far apart would suggest that it is both in the public interest and in the spirit of Act 312

to encourage the parties to resolve such differences through the bargaining process and to base such resolution on facts which will become better known as the contract period progresses, rather than to have an arbitration attempt to resolve the differences at the present time based on what must in large part be speculation as to developing economic trends. Often an arbitration panel has no choice but to decide between widely divergent final offers; in the instant case, the panel can opt for a one-year contract and urge the parties to make full use of the process of collective bargaining to bring their positions into greater agreement.

Award: The contract will be for a one-year period.  
Member Helveston dissents.

(2) Wages.

The wage offers of the parties under a one-year contract do not differ markedly in terms of the total amount which would be required to be expended, but there are differences in the manner in which salary increases would be distributed. The Union offer contemplates a \$1400 increase for each step and rank other than that of starting firefighter, while the City would grant a 10% increase at each step and rank. The effect of the Union offer is to provide proportionately greater increases for firefighters at the lower ranks.

The City contends in support of its offer that its percentage formula provides appropriate rewards for employees who give long years of service to the City, and reduces the effects of inflation on such employees. The Union argues that the bargaining unit consists mainly of younger employees, and that its offer best meets the needs of the majority of the unit and brings the pay of Ypsilanti firefighters into closer harmony with the pay of firefighters in comparable communities.

Both parties are in agreement that a substantial increase in wages for Ypsilanti firefighters is appropriate, given their present comparative rate of pay and prevailing conditions

in the economy. Absent any demonstration in the record that morale or level of service to the public would suffer significantly without greater increases to employees in the higher ranks, the majority of the panel is of the view that the Union's proposal best serves the interests of those affected by the contract.

Award: The Union's offer is adopted. Member Hamilton dissents.

(3) Cost of Living Allowance.

Unlike the wage offers of the parties, which are not dissimilar from the standpoint of total cost, the proposals of the parties regarding a cost of living allowance would have significantly different economic consequences. The Union offers a formula which would, as of January, 1975, provide a 1¢ hourly increase for every .3 increase in the Detroit area consumer price index, based upon changes in the index during the 6-month period prior to January, 1975; the maximum hourly increase, as proposed by the Union, would be 24¢. The City offers an hourly wage adjustment, as of February 1, 1975, of 1¢ for every 1% change in the index during the period July-December, 1974; it also places a 10¢ per hour maximum on any such adjustment.

It is the contention of the City that a portion of the contract period has already expired, and that what is being discussed is therefore in practical effect an ascertainable additional wage increase rather than a cost of living adjustment. The City further argues that since it has already acceded to a substantial wage increase, any significant additional increase by way of cost of living allowance is unjustified.

While the majority of the panel acknowledges that the City evidenced a willingness to offer a significant wage increase, and that the effect of a cost of living allowance in the present context is a further readily-determinable

increase, it is nonetheless the majority's conclusion that adoption of the Union's offer is appropriate.

The wage increase awarded previously serves the statutory purposes of putting the Ypsilanti department somewhat more in line with comparable departments and providing to some extent for cost of living increases. It does not, however, fully take into account the excessive rise in cost of living in recent months, nor does it provide a flexible device for taking such increases into account in the future. The Union's cost of living formula provides an approach which--in light of recent economic trends--seems far more realistic in dealing with cost of living increases than does the City's formula. In deciding upon a cost of living formula for the present contract, the panel is aware that there is likely to be some precedential effect on future contracts, and this factor, as well as the effect of the formula in the present contract year, lends support to the Union's position.

Award: The offer of the Union is adopted. Member Hamilton dissents.

(4) Food allowance.

The issue of a food allowance, like the issue of wages, produced offers which differed little in total cost to the City, but which contained divergent distribution formulas. Both parties agree that because firefighters are required to be on duty during ordinary meal times and are expected to provide their food, it is appropriate that a food allowance be granted. The Union offers a flat sum of \$300 per year for each firefighter, while the City offers \$3 per day for each day actually worked by a firefighter. In individual cases, the City's offer may in fact produce higher benefits than the Union offer.

The majority of the panel concludes that the City's offer is more precisely designed to serve the interests making a food allowance necessary. Under the City's offer,

a firefighter will receive compensation for those periods where there is a genuine necessity to provide food.

Award: The City's offer is adopted. Member Helveston dissents.

(5) Holiday pay.

Because firefighters are often obligated to work on holidays when other municipal employees are not similarly required to work, it is common to provide them with extra days' pay to compensate for this necessity. Ypsilanti firefighters currently receive the equivalent of 2 24-hour days' pay. The City's offer is to make no change in this provision while the Union requests the equivalent of 2 additional days' pay.

While there is evidence in the record to suggest that the holiday pay of Ypsilanti firefighters is less than that in some comparable municipalities, the majority of the panel is of the view that in light of substantial pay increases granted to the Union by other portions of this decision, and in light of the statutory directive that financial ability of the municipality is one of the factors which must be considered in rendering an award of this sort, adoption of the City's position is appropriate.

Award: The offer of the City is adopted. Member Helveston dissents.

(6) Clothing allowance.

Ypsilanti firefighters are presently provided by the City with their work uniforms, but are required to provide their own protective gear and dress uniforms; they are paid \$150 per year to defray the costs of maintaining the clothing which they provide. The City offers to supply the protective gear along with the work clothes, and further offers that dress uniforms no longer be required and that the clothing allowance be eliminated. The Union agrees that it is



appropriate for the City to provide the protective gear, but requests that dress uniforms continue to be utilized and that the \$150 allowance continue to be paid.

While the Union has expressed the view that the dress uniform is important in preserving the appearance and dignity of the firefighters, the record suggests that the City is willing to supply items--such as special jackets--which will assure the firefighters of being suitably dressed for all occasions. The majority of the panel has concluded that the offer of the City is eminently reasonable both in providing for employee needs and in conserving the City's limited financial resources for other vital matters, many of which are in fact dealt with elsewhere in this decision.

Award: The offer of the City is adopted. Member Helveston dissents.

(7) Optical Insurance, and

(8) Dental Insurance.

The Union requests that the contract include dental coverage under the Delta Dental Program, Classes I, II, and III, as well as optical care under the program known as Vision Care H.S.I. The City offers neither optical nor dental care.

It is the finding of a majority of the panel that the coverage requested by the Union is an important benefit to the members of the bargaining unit, and that the public interest will be served by including these benefits in the contract. It is noteworthy that similar benefits have been included in the most recent collective bargaining agreement between the City of Ypsilanti and the Ypsilanti Police Officers Association; while this fact is not necessarily decisive, it has some importance because of the statutory directive that the working conditions of other public employees be considered in reaching an award. While the panel

has, at various points, adopted the position of the City where additional costs which would result from the Union's proposals were not justified by a clearly-defined need of the bargaining unit or the public, the costs involved in providing dental and optical care appear entirely appropriate.

Award: The Union's offer is adopted. Member Hamilton dissents.

(9) Reduction in work week.

The Union requests that beginning July 1, 1975, the average work week for a Ypsilanti firefighter be reduced from its present level of 56 hours to 50.4 hours, while the City offers no change from the present level.

While the decision of Arbitrator Killingsworth in City of Detroit and Detroit Firefighters Association, Local 344 (December 1, 1971) suggests that there may be ways to bring about such a reduction without quite the catastrophic cost consequences which the City contemplates, it nevertheless must be acknowledged that significant costs would be involved. Moreover, it appears clear from the record that there is no widespread trend toward such reduction in cities comparable to Ypsilanti. The majority of the panel, particularly in light of other aspects of this decision which grant substantial economic benefits to the Union, are of the view that the reduction proposed by the Union is not appropriate at the present time.

Award: The offer of the City is adopted. Member Helveston dissents.

(10) Modification of retirement system.

The present contract between the City and the Union provides as follows with regard to the firefighters' retirement system:

Hereto after [sic] all improvements in Act 345 of the Public Acts of 1937, as amended, shall become automatically granted to the employees of the Ypsilanti Fire Department.

As interpreted by the parties, the import of this provision is that any modification of Act 345 by the Legislature which would result in increased pension benefits would apply to Ypsilanti firefighters even under circumstances where the Legislature has made the improvement optional. The record suggests that this provision was incorporated into the contract as a quid pro quo for the Union's agreement to the utilization of a 2.25% rather than a 2.5% factor for determining the magnitude of an employee's pension benefits (the annual pension being, in general terms, the product of the percentage factor x years of service x average annual wage).

The City, as its final offer, requests that optional legislative changes in Act 345 remain optional as applied to Ypsilanti firefighters, with their adoption being a proper subject for action by the municipal legislative body, the city electorate, or the collective bargaining process; the City's offer contemplates no change in the 2.25% factor. The Union requests that optional changes in the Act automatically apply to the firefighters unless, within 30 days of the effective date of the legislation, the City submits the proposed improvement to binding arbitration, with the arbitrator to decide the question of the applicability of the improvement relying on standards similar to those used in proceedings under Act 312 of 1969 (see footnote on page 1 of this Opinion). Additionally, the Union's offer includes a change from the 2.25% factor to a factor of 2.5%.

While understandably the Union would desire the retention of a provision making all improvements mandatory, it seems clear from the offers that both parties recognize the existing contract provision as somewhat bizarre, and that each would be willing to accept some modification. It is the view of a majority of the panel that the City's proposal represents the more reasonable approach to the question of optional changes in Act 345. The Union's offer would necessitate arbitration in all cases where

the City was unwilling to accept a legislative change; the City's proposal, on the other hand, would permit arbitration as the final step in the collective bargaining process, but would not make arbitration an immediate necessity.

With regard to the percentage factor, on the other hand, a majority of the panel is of the opinion that the Union's proposal should be accepted. The percentage increase requested by the Union would be a significant benefit to retired workers on fixed incomes in a time of rapid inflation.

What evidence there is in the record concerning the potential cost of such an increase suggests that this would not be as expensive an item for the City as certain of the Union proposals which the panel has rejected. Further, it is permissible under Act 312 to consider bargaining history in reaching a conclusion, and the bargaining history of the instant parties suggests that the questions of Act 345 changes and of percentage factor have been closely tied. Because the contract will reflect an approach to Act 345 somewhat less favorable to the Union than has heretofore been the case, it is appropriate to consider granting an increase in the percentage factor.

Award: The offer of the City is adopted with regard to changes in Act 345, member Helveston dissenting; the offer of the Union is adopted with regard to the appropriate percentage factor, member Hamilton dissenting.

#### Non-economic Issue

As indicated previously, the sole issue identified by the parties as non-economic was the question of whether the contract should substitute arbitration as the final step in the grievance procedure, in place of the present appeal to the city council. The Union's offer provides for arbitration, while the City's offer contemplates no change in the existing procedure.

The Union bases its position both on the widespread use of arbitration in grievance matters and on its suspicion that the present city administration will be inordinately hostile to employee appeals. While the panel acknowledges that arbitration has been widely used and well received, the majority finds insufficient basis in the record for concluding that the existing procedure will lead to injustice. This is not to say that experience will not demonstrate the Union's fears to be entirely justified, but only to say that those fears presently involve a high degree of speculation. Although the panel will not order a modification of the existing procedure, the parties may wish to give serious thought to adopting arbitration voluntarily when the succeeding contract is negotiated.

Award: The offer of the City is adopted. Member Helveston dissents.

Stipulations

In addition to the above issues which were submitted to the panel for determination, the parties, during the course of the hearings, reached agreement on the matters of call back pay, voluntary duty pay, and personal leave. The terms of these agreements are contained in Joint Exhibit 2A, which is incorporated in this award by reference.

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Jerold Lax, Chairman

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Walter K. Hamilton, City Designee

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Ronald R. Helveston, Union Designee

Date: 2-17-75