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STATE OF MICHIGAN

DEPARTMENT OF LABOR AND ECONOMIC GROWTH

EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF ACT 312 ARBITRATION BETWEEN

THE CHARTER TOWNSHIP OF VAN BUREN

Employer,

AND

MERC ACT 312
Case NO. D 05-J-1025
(Command Officers)

THE POLICE OFFICERS LABOR COUNCIL,

Union.

FINDINGS OF FACT, OPINION AND ORDER

ARBITRATION PANEL

Panel Chairperson:	Harry W. Bishop
Van Buren Township Delegate:	Allen J. Kovinsky
Police Officers Labor Council Delegate:	Chester Kulesza

FOR THE UNION

John A. Lyons, P.C.
By: Thomas R. Zulch
On behalf of the Police Officers Labor Council
667 East Big Beaver, Suite 207
Troy, MI 48083

FOR THE EMPLOYER

Charter Township of Van Buren
by: Sommers Schwartz, P.C.
by: Allen J. Kovinsky
2000 Town Center, Suite 900
Southfield, MI 48075

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INTRODUCTION

This is a statutory compulsory interest arbitration conducted pursuant to Act 312, Public Acts of 1969, as amended. The Union filed a petition on December 13, 2005 which was received by the Michigan Employment Relations Commission (MERC) on December 15, 2005. The impartial Arbitrator and Chairman was appointed via correspondence from the MERC dated June 14, 2006. On October 6, 2006, the arbitrator remanded the case back to the mediator for further mediation. All issues at this time were resolved except for wages.

A prehearing conference call was scheduled and held on April 5, 2007. Since the only issue in dispute scheduled to be heard were wages, the parties waved time limits and a hearing and agreed to an exchange of exhibits through this Arbitrator. Consequently, after the exchange of exhibits, the parties filed briefs of the single issue—wages. The panel was requested to proceed to issue a decision as soon as possible under these conditions.

STATUTORY SUMMARY

The legislation governing the procedural and substantive aspects of compulsory interest arbitration is Act 312 of the Public Acts of 1969, as amended. The Act outlines a list of factors upon which an Arbitration Panel is to base its Findings, Opinion and Orders. The factors, in part, are as follows:

- “(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 serviced and with other employees generally:
- (i) In Public employment on 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.”

STIPULATIONS

The parties have mutually agreed to waive the hearing. Consequently there is no transcript. The record is composed of the parties exhibits and briefs received by the panel Chairperson. The parties have mutually agreed upon the comparable units to be used in this decision. The parties have mutually agreed that this shall be a four-year contract beginning retroactively to January 1, 2006.

PREVIOUS WAGES AND POSITIONS OF THE PARTIES

In the previous contract wages for members of the bargaining unit were as follows:

- 1. Lieutenant \$30.38 per hour
- 2. Sergeant Probationary - \$25.33 per hour
12 months & 1 day - \$26.47 per hour
24 months & 1 day - \$ 27.94 per hour

Employer's Position and Offer

Historically, the Command Officers have received exactly the same percentage wage increases as given to the Patrol Officers who are in a separate bargaining unit. In the last round of negotiations with the Patrol Officers, the Township and the Police Officers Labor Council, on behalf of the Patrol Officers, reached an agreement with respect to wages. That agreement provided for a series of wage increases commencing on January 1, 2006, and terminating on December 31, 2009. The agreement provided for a retroactive wage increase to January 1, 2006 in the sum of 2.75%. It further provided for an additional 2.75% wage increase on January 1, 2007; an additional increase in the sum of 3% on January 1, 2008, and a final wage increase in the sum of 3.25% on January 1, 2009. The wage increase with respect to 2006 was retroactive. The Township has proposed to give the Command Officers the same series of wage increases that the patrolmen received with full retroactivity.

Union's Proposal

The Union's last offer agrees with the Employer's last offer of a percentage increase each year of the proposed four- year agreement with one notable exception. The Union proposes a differential based on rank. The Union's proposal is as follows: Establish contractual differentials between ranks as follows:.

Sergeants

2006 - 13% above top patrol officer
2007 - 13.5 % above top patrol officer
2008 - 14% above top patrol officer
2009 - 14.5% above top patrol officer

Lieutenants

2006 - 9% above top sergeant
2007 - 9 % above top sergeant
2008 - 9 % above top sergeant
2009 - 9 % above top sergeant

Captains¹

2006 - 7.11% above top lieutenant
2007 - 7.11% above top lieutenant
2008 - 7.11% above top lieutenant
2009 - 7.11% above top lieutenant

FINANCIAL INFORMATION

The Union submitted a total of twenty exhibits dealing with wage comparisons with four other township governments. An analysis of these exhibits shows that the Employer ranked fourth or fifth from the top in the various comparisons. Some Union exhibits (Union Exhibits 12, 13, 18, and 19) were valuable only in comparing base wages. The columns which showed additional income became confusing and unreliable. For example, Northville Township Command Officers receive additional compensation of \$1050.00 under the heading of Uniform Cleaning. Although Van Buren Township Command Officers are provided free Uniforms and the cost of Uniform Cleaning, no monetary amount was shown. Because of these kinds of discrepancies only base wages on these exhibits were taken under consideration.

The Employer submitted fifteen exhibits for review and consideration. These exhibits show that the cost of police and other public safety considerations have risen dramatically since 2003. The township is operating at a general fund revenue loss. The exhibits show police and dispatch and other public safety expenditures are well in excess of twice the public safety millage. Fortunately Van

¹ The rank of Captain was first established in year 2006.

Buren Township has other sources of revenue that make up for the decline in shared state revenues and public safety millage—a Landfill. In short, township services are paid for by the Landfill fund. The shortfall in public safety expenditures is made up by transferring funds from the Landfill fund balance.

The Employer's exhibits also point out that they have never had a rank differential in the police department in the history of Van Buren Township. This may be a matter of semantics. It may be more correct to say there has never been a defined rank differential in the history of the township. A casual review of previous contracts clearly shows that sergeants are paid more than patrolmen, that lieutenants are paid more than sergeants and captains are paid more than lieutenants.

The Employer is correct when stating that defined rank differentials could cause a piggy back effect. Historically however, that piggy back has been in effect for some time. Both the Patrolmen's Union and the Command Union received similar percentage increases in the prior contracts. Indeed, experience shows that every union the Employer must deal with knows precisely where it stands in the pecking order.

Van Buren Township's annual budget for Police and Dispatch is in excess of \$5,000,000. The difference in the last best offers made by the parties show that the Union's position is about \$35,000 in excess of the Employer's position for the four year agreement.

AWARD

The Union's last offer of settlement effective January 1, 2006 shall be adopted.

Panel Chairperson: Harry W. Bishop

Harry W Bishop

Date: 8/16/07

Police Officers Labor Counsel Delegate: Chester Kulesza

Chester Kulesza

Date: 8-21-07

Van Buren Township Delegate: Allen J. Kovinsky

Allen Kovinsky

Date: 8/20/07

F. Disscott

INDEX OF EXHIBITS

Union exhibits are numbered as follows:

- Union Ex. 1 ISSUE: WAGES (Article XVI/Section 4)
- Union Ex. 2 Base Wage History (Sergeant)
- Union Ex. 3 Percentage Increase History (Sergeant)
- Union Ex. 4 Economic Compensation Comparison Effective 7/1/05 (Sergeant)
- Union Ex. 5 Economic Compensation Comparison Effective 7/1/06 (Sergeant)
- Union Ex. 6 Rank Differential Between Top Patrolman and Top Sergeant (7/1/05)
- Union Ex. 7 Rank Differential Between Top Patrolman and Top Sergeant (7/1/06)
- Union Ex. 8 Rank Differential Between Top Patrolman and Top Sergeant (7/1/07)
- Union Ex. 9 Rank Differential Between Top Patrolman and Top Sergeant (7/1/08)
- Union Ex. 10 Base Wage History (Lieutenant)
- Union Ex. 11 Percentage Increase History (Lieutenant)
- Union Ex. 12 Economic Compensation Comparison 7/1/05 (Lieutenant)
- Union Ex. 13 Economic Compensation Comparison 7/1/06 (Lieutenant)
- Union Ex. 14 Rank Differential Between Top Paid Sergeant and Top Paid Lieutenant (7/1/05)

Employer exhibits for Van Buren Township

- Ex. 1 Police & Dispatch Expenditures as a Percentage of General Fund Revenues
- Ex. 2 General Fund Operating Losses
- Ex. 3 Police & Dispatch Expenditure and Revenue History
- Ex. 4 History
- Ex. 5 Sergeants' Salary
- Ex. 6 Lieutenants' Salary
- Ex. 7 Captains' Salary
- Ex. 8 Effect Of Transfers on Landfill Fund Balance
- Ex. 9 State Shared Revenue Decline
- Ex. 10 Township Contract Comparison
- Ex. 11 Holiday Pay
- Ex. 12 Longevity Comparison
- Ex. 13 Insurance Comparison
- Ex. 14 Clothing Allowance Comparison
- Ex. 15 Shift Premium