

2413

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
ACT 312 ARBITRATION

MICHIGAN COUNCIL 25, AFSCME,

Petitioner

-and-

MERC Case No. L10 H-5011

LUCE COUNTY BD OF COMMISSIONERS
LUCE COUNTY SHERIFF

Respondent

Thomas L. Gravelle, Chairperson

KEVIN ERICKSON
For the Respondent

PETER J. DOMPIERRE
For the Petitioner

OPINION AND AWARD

WAGES - 2011
COLLECTIVE BARGAINING AGREEMENT

INTRODUCTION

The hearing of this matter was held by telephonic conference on June 11, 2012.

Prior to the hearing, the parties submitted an exhibit book containing 13 exhibits. Also prior to the hearing the Respondent submitted its written position statement. On July 18, 2012, the Union submitted its post-hearing written argument.

The parties' 2010-2012 collective bargaining agreement ("CBA") (J-1) includes a wage reopener for calendar year 2011. That is the sole issue before me.

Under Act 312, the Panel is required to accept the final offer of settlement made by one or the other party for this economic issue. Section 9 of Act 312 PA 1969 includes the following factors:

(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.

ISSUE : 2011 HOURLY WAGE RATE

Union's Final Offer. The Union's final offer of settlement is that for calendar year 2011 the undersheriff and deputy classifications receive a wage increase of \$1.00 per hour.

Respondent's Final Offer. The Respondent's final offer of settlement is that for calendar year 2011 the undersheriff and deputy classifications receive a wage increase of \$0.40 per hour.

POSITIONS OF THE PARTIES

The Union argues that the wages paid to Act 312-eligible sheriff's employees in the external comparable counties of Alger, Keweenaw, Baraga and Schoolcraft support the Union's final offer of raises of \$1.00 per hour for 2011. The Union then argues that as a result the issue becomes Respondent's ability to pay. On this issue, the Union explains:

The review of the financial information, of the employer, indicates a healthy general fund balance for fiscal year ending 2010. According to the employer's auditor the county ended the fiscal year with a fund balance in excess of \$200,000.00 and an increase in revenue of \$210,000 (See J-3 page 3). The union in this matter is seeking an increase of \$1.00 per hour. This increase affects three (3) employees of the Sheriff's Department. In the event that all three employees were full time the total cost of the Union's wage proposal would only amount to \$6,240.00 even if the fringe benefit factor was 100% the total cost of this economic package proposed by the Union would result in the reduction of the total fund balance of \$12,480.00 or 6.24% of the available fund balance.

The Respondent argues that it can only prudently afford at this time to pay raises for 2011 to the Act 312-eligible sheriff's employees of \$0.40 per hour. The Respondent's position statement includes the following:

Analysis of ability pay is contained in Exhibits J-2 and J-3. Exhibit J-2 is the approved budget for 2011. The expenses exceed the revenues by the amount of \$45,822 without allowing for any pay raises. In October the Board of Commissioners authorized amendments to the budget in the amount of \$141,880 to both the revenue and expense sides of the budget (Exhibit E.4). The additional revenue was transferred out of the DTR fund (Delinquent Tax Revolving Fund). In speaking with our auditors, this is not a good practice and should not be repeated to balance the budget. Exhibit J-11 is our

anticipated revenues for 2012. The anticipated revenues for 2012 are worse than they were last year. All of our departments have been cut by 4.5%. If we had the money to give the proposed pay increase, we would not be able to sustain it in 2012.

Our 2010 Audit (Exhibit J-3) is included to give a general idea of our fund balances. The fund balance beginning 2011 was \$584,271.35, which included a restricted account for Capital Improvements of \$181,126.00, leaving us with an operating Fund Balance of \$403,145.35.

FINDINGS AND OPINION

Luce County is located in Michigan's Upper Peninsula. It has about 7,024 residents. (J-3, p. 18). In addition:

Luce County is the 14th largest county in Michigan in total acreage but 2nd to the last in taxable value due to the fact that well over 50% of the land is State owned, Commercial Forest property, or tax exempt. The County still has to provide law enforcement and rescue services to the entire county which presents quite a challenge to the Board of Commissioners.

Id p. 3.

The parties' CBA includes in the bargaining unit the classifications of "all regular full time Deputies [and] Undersheriffs." The staff of the Luce County Sheriff currently includes one undersheriff and one deputy (a second deputy being on layoff).

The major disputed issue is the employer's ability to pay. On this issue, the December 31, 2010 certified audit of Luce County (J-3) includes the following observations:

The County as a Whole

The 2010 General Fund revenues increased by \$214,542 from 2009 mainly due to an increase in taxes, other revenue, and interest and rentals.

p. 3.

The General Fund supports most of the County's government services. The costliest are the police, court, and law enforcement functions.

p. 5.

Economic Factors and Next Year's Budgets and Rates

The County is in a budget battle from year to year. The cap on the growth rate under the Headlee Amendment, the voters reluctance to adjust or augment taxes for general operation, and the corresponding double digit growth rates in health and liability insurance as well as increased fuel costs, have put significant limitations on budget flexibility. There are looming indications from the State that further cuts will occur in other State funded areas. This could put increased pressure on already tight budget projections. We are pleased to end the current year with healthy fund balances in all major funds, but are realistic in projecting revenue from fines and fees for current and future budgets in order that revenue expectations and corresponding expenses are not inflated.

The local economy is heavily dependent on the Newberry Correctional Facility which employs 300 workers in Luce County. If the facility was to close, it would have a tremendous negative impact on the local economy.

p. 6.

Required Supplementary Information

[GENERAL] FUND BALANCE JANUARY 1 [2010] 692,077

[GENERAL] FUND BALANCE JANUARY 1 [2010] 584,281

p. 52.

For calendar year 2010, actual general fund expenditures were \$2,335,288. *Id.*

A March 1, 2011 financial analysis prepared by AFSCME labor economist Christina Kaoh (U-7), while cautionary, concludes:

Luce County appears to be in good financial health for the time being, but the occurrence of deficits in recent years is somewhat troubling. Its former net surpluses are now net deficits. Its unreserved fund balance has remained high, which indicates financial flexibility; however, continued net

deficits will erode that cushion. Finally, the county's *final* budget remains a clear indicator of *actual* performance as historically it has performed very closely to its *final* budget expectations.

Barring a financial meltdown, a prudent undesignated unreserved general fund balance should be at least 10% of general fund expenditures. Employer Exhibit 4 shows for 2011 a "Current Uncommitted Fund Balance" of 14.7%. This is down from 17.8% for 2010, but is still decent for the year 2011 (the only year before the Panel). Therefore, for this one year period – and given the small number of Act 312 employees in issue – the Respondent has the ability to meet the Union's final offer of settlement for 2011.

In support of its final offer, the Union relies on the Act 312 factor of compensation of "employees performing similar services" in "comparable communities." Here, the Petitioner has cited sheriff's departments in the following upper peninsula counties: Alger, Keweenaw, Baraga and Schoolcraft.

Of these Counties, only Alger includes the classification of "undersheriff." Alger's Undersheriff was paid \$19.31 per hour in 2011, whereas the Luce Undersheriff has been paid \$16.56 per hour. The average of these two for 2011 is \$17.94 per hour.

As to deputies, in 2011 the Luce deputy classification paid \$14.29 per hour, whereas the average hour rate for deputies in the comparable communities together with Luce was over one dollar per hour higher: For the classification of deputy, the average was \$15.92 per hour; and for the classification of certified deputy, the average was \$17.10 per hour.

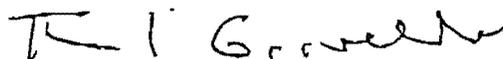
For deputies, the cited external comparables support the Union's final offer of settlement.

For the parties' bargaining unit position of "regular full time ... Undersheriffs," the external comparables show only one undersheriff classification (which, however, does support the Union's final offer of settlement). Why a tiny sheriff's department would maintain a regular full time undersheriff is not an issue before the panel. Because (a) the external comparable of Alger County supports the Union's final offer of settlement and (b) the Panel is limited to choosing a final offer of settlement, the cited external comparable of Alger County supports the Union's final offer of settlement.

AWARD

The Union-Petitioner's final offer on wages is adopted.

Dated: August 16, 2012



Thomas L. Gravelle, Chairperson

Dated: August 17, 2012



Peter J. Dompierre, Concurs with Award

Dated: August , 2012

Kevin Erikson, Dissents from Award

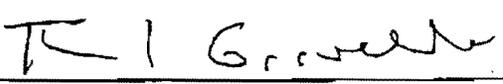
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AWARD

The Union-Petitioner's final offer on wages is adopted.

Dated: August 16, 2012



Thomas L. Gravelle, Chairperson

Dated: August , 2012

Peter J. Dompierre, Concurs with Award

Dated: August 20, 2012



Kevin Erikson, Dissents from Award