

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

BUREAU OF EMPLOYMENT RELATIONS

**PETITIONING PARTY:
POLICE OFFICERS LABOR COUNCIL**

and

**RESPONDING PARTY:
CITY OF ST. JOSEPH**

MERC CASE NO.: L15 A-0064

COMPULSORY ARBITRATION

Pursuant to Public Act 312 of 1969, as amended
[MCL 423.231, *et seq*]

Arbitration Panel

Chair: Barry Goldman
Employer Delegate: Peter Peterson
Union Delegate: Thomas Zulch

Advocates

Employer Advocate: Peter Peterson
Union Advocate: Thomas Zulch

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMM.
DETROIT OFFICE

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PETITION FILED:	December 22, 2015
PANEL CHAIR APPOINTED:	January 13, 2016
SCHEDULING CONFERENCE HELD:	January 22, 2016
FINAL OFFERS EXCHANGED:	May 17, 2016
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WITNESS LIST

1. City Manager John Hodgson
2. Deputy Director of Public Safety – Police, Steve Neubecker
3. Sgt. Robert Banasik

1. INTRODUCTION AND BACKGROUND

The parties to this 312 proceeding are the City of St. Joseph, Michigan and Police Officers Labor Council (St. Joseph Command Officers Association) which represents a bargaining unit composed of officers holding the rank of Sergeant. At the time of this proceeding there are four officers in the bargaining unit.

2. STATUTORY CRITERIA

The Act 312 statute as amended by Public Act 116 of 2011 requires that the panel “adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in section 9.” Those factors are:

- (a) The financial ability of the unit of government to pay. All of the following shall apply to the arbitration panel’s determination of the ability of the unit of government to pay:
 - (i) The financial impact on the community of any award made by the arbitration panel.
 - (ii) The interests and welfare of the public.
 - (iii) All liabilities, whether or not they appear on the balance sheet of the unit of government.
 - (iv) Any law of this state or any directive issued under the local government and school district fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, that places limitations on a unit of government’s expenditures or revenue collection.
- (b) The lawful authority of the employer.
- (c) Stipulations of the parties.
- (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 in both of the following:
 - (i) Public employment in comparable communities.
 - (ii) Private employment in comparable communities.
- (e) Comparison of the wages, hours, and conditions of employment of other employees of the unit of government outside of the bargaining unit in question.
- (f) The average consumer prices for goods and services, commonly known as the cost of living.
- (g) 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.
- (h) Changes in any of the foregoing circumstances while the arbitration proceedings are pending.
- (i) Other factors that 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.

The Act also requires that:

The arbitration panel shall give the financial ability of the unit of government to pay the most significance, if the determination is supported by competent, material, and substantial evidence.

3. STIPULATIONS AND PRELIMINARY RULINGS

The Union withdrew what had been identified as Issue #4 having to do with sick leave payout and Issue #5 having to do with call-in pay.

The parties Last Best Offers both proposed a 3-year contract term, so the issue of Duration has been resolved. The term of the CBA will be July 1, 2015 to June 30, 2018.

4. COMPARABLES

During the pre-hearing process the parties each submitted a list of proposed comparables and a brief in support. The Chair ruled on March 14, 2016 that the comparables would be the communities that appeared on both lists: Grand Haven and Greenville.

5. ISSUES BEFORE THE PANEL

The parties agreed that wages in each year of the CBA would be treated as a separate issue. Therefore there are 5 issues remaining before the panel: Wages Year 1, Wages Year 2, Wages Year 3, Sick Leave Accrual, and Vacation Pay Accumulation.

All issues have been deemed "economic."

1. Wages, Year 1

The Employer proposed a 1.5% increase.

The Union proposed a 3% increase.

2. Wages, Year 2

The Employer proposed a 1.5% increase.

The Union proposed a 3% increase.

3. Wages, Year 3

The Employer proposed a 1.5% increase.

The Union proposed a 3% increase.

Since the same considerations apply to each of the 3 years, they will be discussed together.

The City of St. Joseph has been spared the worst of the conditions that have affected other Michigan municipalities in recent years. Its property tax revenues have seen a slight increase (0.5% and 0.58% in the last two years), and its pension plans are well-funded. Like other cities, St. Joseph has unfunded OPEB liability that will present a challenge in the future, but it enjoys positive fund balances in both its General Fund and its Capital Improvement Fund. Relative to other Michigan cities, its ability to pay looks promising.

However, as the Employer points out:

The language of the statute makes it clear that “ability to pay” is not a simplistic, binary concept but instead a nuanced issue that must be analyzed in the context of the “big picture” – that is, the public employer’s numerous competing needs and priorities that must be balanced over the long term in order to best serve its citizens.

The Employer argues:

In managing its personnel costs, the City has attempted to keep wage and benefit changes as uniform as possible across all of its employee groups. The City walks a tightrope in negotiating and coordinating changes for its four bargaining units and its non-represented employees. It is critical that sacrifices by employees be equally shared to the greatest extent possible. If they are not, the resulting inequity will inevitably erode employee morale and make it more difficult in the future to obtain additional changes that may be needed.

The City cannot afford to deviate from the prudent and equitable approach it has used to navigate the perils of increased expenses, relatively flat revenues, and the other fiscal challenges that continue to confront it. The City’s broad strategy has been to use its limited resources as responsibly as possible, making measured changes to wages and benefits in order to strike a delicate balance between

controlling costs, trying to limit necessary workforce reductions, and continuing to provide quality services to the public.

In analyzing the big picture, the panel must be mindful of all the statutory criteria. In particular, we must consider internal and external comparables. Quoting from the Employer's post-hearing brief:

For the 2015 through 2017 time period in dispute in this case, although three of the City's four CBAs are still open, the City settled a CBA with the AFSCME group calling for annual wage increases of 1.5% for each of those years. In addition, the non-union group received a 1.5% wage increase on July 1, 2015, and received another 1.5% wage increase on July 1, 2016. (That group's wage increase for 2017 has not yet been determined.)

With regard to external comparables, the situation is slightly more complicated, but when the salary and benefit packages of the command officers in the comparable communities are compared side by side, "apples to apples," the advantage goes to the Employer's proposals.

Quoting again from the Employer's brief:

[W]hen compared with respect to adjusted base wage compensation (maximum annual base wage enhanced by longevity pay and reduced by the required employee pension contribution) against their peers at the external comparables, the City's Sergeants are *at a minimum* in a virtual tie with, and are most likely above, those at Grand Haven, while being far ahead of those at Greenville (by well over \$15,000). Beyond that, the City's Sergeants bear none of the future risk of their DB plan, while those at Grand Haven and Greenville are responsible for half or nearly all of the risk, respectively.

With regard to annual wage increases Grand Haven's Sergeants received a 2.5% increase in 2015 and Greenville's Sergeants received a 1% increase. The average of these increases was *1.75%*. This average is much closer to the City's proposed 1.5% for 2015 than the Union's proposed 3%. Beyond 2015 the external comparables provide no meaningful guidance as to wage increases. Only Grand Haven (2.5%) has an increase determined for 2016, and neither Grand Haven nor Greenville has an increase set for 2017, so no averages can be calculated for those years.

The Union argues that members of the bargaining unit are entitled to additional compensation in view of the fact that they took on additional duties when the Department became a combined public safety department and they were cross-trained to provide fire fighting services. The Union argues:

The bargaining unit sergeants are now subject to the dangers of fire fighting in addition to police work. The bargaining unit accepted the new additional work at the City's request. The fact remains, the new duties are dangerous and additional compensation to base wage is warranted for the new duties.

The Employer responds that compensation for the transition to a public safety model was awarded to members of this bargaining unit at the time of the transition. It argues:

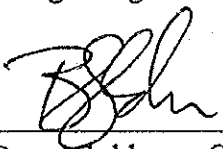
The negotiated additional compensation is substantial. Using the Sergeants' 2014 maximum hourly rate of \$31.04 for purposes of illustration, working the old regular schedule would have resulted in an annual base wage of \$64,563 (2,080 x \$31.04). Working the new regular schedule (which includes 104 hours of automatic overtime) results in an annual base wage of \$69,405. This amount equals \$67,791 (2,184 x \$31.04) plus \$1,614 (104 x (\$31.04/2)). It represents an overall increase of 7.5% in maximum annual base wage due to the transition to the public safety model. Factoring out the straight-time amount received for the additional hours worked, the automatic overtime by itself constitutes a 2.4% increase over what Sergeants would make without it.

Finally, the Union argues that the amount of money represented by its LBO is modest since the bargaining unit is so small.

It's true that the difference between the parties' respective LBOs is only a few thousand dollars, a small fraction of the Employer's total budget. But an increase for this bargaining unit must be considered in context. The record before the panel does not justify unique treatment for this bargaining unit

In light of the above, the panel finds in favor of the Employer's LBO on wages.

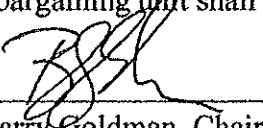
The wages for members of the bargaining unit shall be increased by 1.5% in year 1 of the CBA.


Barry Goldman, Chair

Peter Peterson, concurring

Thomas Zulch, dissenting

The wages for members of the bargaining unit shall be increased by 1.5% in year 2 of the CBA.



Barry Goldman, Chair

Peter Peterson, concurring

Thomas Zulch, dissenting

The wages for members of the bargaining unit shall be increased by 1.5% in year 3 of the CBA.



Barry Goldman, Chair

Peter Peterson, concurring

Thomas Zulch, dissenting

4. Sick Leave Accrual

In 2012 when the Department made the transition to a combined Public Safety department, bargaining unit members went from working 8-hour shifts to working 12-hour shifts. Sick leave, however, continues to be credited in 8-hour increments. The Union's proposal is to increase that to 12-hour increments to match the shift actually worked. The Employer's proposal is to retain the status quo.

While the Union's proposal appears fair and sensible on its face, a few moments reflection shows it to be an overreach. The workload for members of the bargaining unit

has gone up by 5% with the change from 8-hour shifts to 12-hour shifts. They work a longer shift, but they work fewer of them. Members are compensated for that change by being paid for 104 hours of "built-in overtime."

A change in sick leave accrual from 8 hours per month to 12 hours per month would be an increase of 50%. There is no justification for an increase of that magnitude in either internal comparables or external comparables. Upon examination, that proposal is neither fair nor sensible.

With regard to sick leave accrual the panel adopts the Employer's LBO.

Sick leave accrual shall remain 8 hours per month.



Barry Goldman, Chair

Peter Peterson, concurring

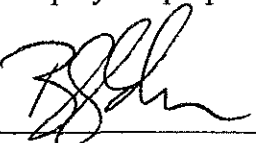
Thomas Zulch, dissenting

5. Vacation Pay Accumulation

The parties' respective proposals for Vacation Pay are similar to their proposals for Sick Leave. The Union proposes to increase Vacation Pay accumulation to 12-hour increments to match the members' 12-hour shifts. The Employer proposes the status quo.

Again, the Union's proposal is appealing on its face, but it does not withstand scrutiny. In effect, the Union is proposing a 50% increase in Vacation Accrual. A change of that magnitude cannot be justified on this record.

The panel finds in favor of the Employer's proposal.



Barry Goldman, Chair

Peter Peterson, concurring

Thomas Zulch, dissenting

6. SUMMARY OF AWARD

ISSUE	AWARD
Wages Year 1	The Panel adopts the City's LBO: 1.5%
Wages Year 2	The Panel adopts the City's LBO: 1.5%
Wages Year 3	The Panel adopts the City's LBO: 1.5%
Sick Leave	The Panel adopts the City's LBO: status quo
Vacation	The Panel adopts the City's LBO: status quo