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1/8/75

ARB
Bay City, City of

In The Matter of the Statutory Arbitration Between

CITY OF BAY CITY

-and-

BAY CITY FIRE FIGHTERS UNION,
LOCAL 1435, I.A.F.F.

~~1/8/74~~

ARBITRATION PANEL

E. J. FORSYTHE, Impartial Chairman

RONALD R. HELVESTON, Union Designee

THOMAS A. BASIL, JR., City Designee

LABOR AND INDUSTRIAL
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Michigan State University
AUG 2 1976

This is a proceeding in arbitration pursuant to Act 312 of Public Acts of 1969, as amended. Thomas A. Basil, Jr., was named by the City as its designee to the panel. Ronald R. Helveston was appointed by the Union as its designee. On July 26, 1974, the undersigned was appointed as Impartial Chairman of the Arbitration Panel by mutual agreement between the parties.

Hearings were held in the Holiday Inn Motel in Bay City, Michigan on September 24 and 25, 1974. A verbatim record of the proceedings was made and a transcript delivered to the panel. Conferences between the members of the panel of arbitrators were held on December 13, 1974 and January 8, 1975.

Luce & Basil, Inc., Personnel Consultants, by Alan Luce represented the City of Saginaw.

Marston, Sachs, O'Connell, Nunn & Freid, Attorneys, by Lucian J. Henry appeared on behalf of Local 1435.

Testimony on behalf of the Union was presented by Jerome Marchlewicz, President of Local No. 1435, and Gary Fox, a Member of the Union. Jerry Trojan, Comptroller of the City of Bay City testified on behalf of the City. Full opportunity for examination, cross-examination and re-direct examination was offered by both parties. Two days were spent in the course of the hearings. The Union submitted 51 exhibits and the City submitted 10 exhibits.

No issue of arbitrability was raised. No question was raised as to the legality of the arbitration panel to determine the issues presented. Time limits were extended as required to meet the restructions of the statute.

Public Act 312, Section 9 of the Michigan State Acts of 1969 requires that the arbitration panel shall base its findings, opinions and order upon a number of factors. One of the factors set forth in the Act is:

> (d) Comparison of wages, hours, conditions or employment of 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.

The Union selected eleven (11) cities to compare with the City of Bay City, based upon their population and geographical location. They are, Lansing, East Lansing, Jackson, Pontiac, Southfield, Ann Arbor, Dearborn, Kalamazoo, Battle Creek, Midland and Saginaw. The City states that the Union restricted selections based on geography to approximately fifteen (15) miles of Bay City. The City notes that certain cities, Lansing and Saginaw have a population considerably greater than the 49,449 population of Bay City. The City does concede, however, that Saginaw in all probability was picked and is meaningful because of its close proximity to Bay City, and as a result of its recent 312 arbitration.

The City used as its comparables the cities which are found with Area Two of the area designations of the Michigan Municipal League having a population of between 25,000 to 50,000. The City notes that this provides for a comparison of nine (9) other cities to Bay City, four (4) of which are included in the Union exhibits as comparables. The nine (9) cities are Battle Creek, Burton, East Lansing, Holland, Jackson, Midland, Muskegon, Portage, and Port Huron.

ISSUE NO. 1 -- RETROACTIVITY

The panel unanimously agreed that the contract will be retroactive to July 1, 1974, unless specifically noted otherwise in the award. To assure full preparation and proper presentation of the issue in all respects the parties submitted offers upon a two-year basis.

ISSUE NO. 2 -- WAGES

The City proposes an across-the-board increase in wages of 2 1/2% each year. The Union's last offer of settlement is to modify Appendix A Salary Schedule as contained in the 1971-1973 contract to read as set forth below. These modifications will provide semi-annual wage increases of approximately 2% to be applied to the base rate of all ranks computed after semi-annual cost-of-living adjustments. The Union's last offer of settlement of the economic issue of wages is as follows:

> "Following is the salary schedule for members of the Bay City Fire Department represented by Local 1435, I.A.F.F., AFL-CIO.
>
> Effective July 4, 1974
>
> Assistant Chief (56 hour).....$14,759.80
> Fire Marshal (40 hour).....$14,368.00
> Fire Mechanic (40 hour).....$14,368.00
> Training Officer (40 hour).....$14,368.00
> Fire Inspector (40 hour).....$13,035.25
> Captain (56 hour).....$13,427.70
> Lieutenant (56 hour).....$13.200.25
> Clerk (40 hour).....$12,807.12
> Engineer (56 hour).....$12,968.30
> Dispatcher (40 hour swing shift).....$12,576.60
> First Class Fire Fighter (56 hour).....$12,680.00
> Second Year Fire Fighter (56 hour).....$12,313.85
> Fire Fighter Start (56 hour).....$11,949.70
>
> Effective January 2, 1975
>
> A 2% increase for all members of the bargaining unit to be applied on the base rate of all ranks computed after the cost-of-living has been adjusted on January 2, 1975, for the six-month period preceding.

Effective July 3, 1975

A 2% increase for all members of the bargaining unit to be applied on the base rate of all ranks computed after the cost-of-living has been adjusted on July 3, 1975, for the six-month period preceding.

Effective January 1, 1976

A 2% increase for all members of the bargaining unit to be applied on the base rate of all ranks computed after the cost-of-living has been adjusted on January 1, 1976, for the six-month period preceding."

It is the position of the Union that as of June 30, 1974, the Bay City fire fighter was paid $850 less per year than the average annual wage of the fire fighters in cities of comparable size. In addition the Union argues that fire fighting is the most dangerous of all occupations, requiring development and constant improvement of many skills, and despite that the fire fighters in Bay City receive one of the lowest wages in their profession in cities of comparable size in Michigan.

The Union submits that the City of Bay City has offered a very small economic offer of a wage increase of 2 1/2% per year. It says if this offer were awarded, the Bay City fire fighters' wage rate on July 1, 1974, would be but $12,146 and on July 4, 1974, $12,727.40 after the cost-of-living adjustment as requested by the Union. The Union says in July, 1975, the fire fighters' wage will be only $13,045 or but $23 more than the average wage paid during the prior 1974-75 fiscal year in the Union survey cities who have settled on a 1974-75 contract. In short, the Union argues that the last offer of settlement of the City of

Bay City will serve to keep the Bay City fire fighter at least one year behind the average compensation level in the comparison cities.

The Union maintains that its last offer of settlement is not excessive, as its last wage offer requests merely a 2% wage increase every six months or 4.53% over the course of a total year. It contends that the wage demand of the Union will, as of July 4, 1974, only raise the wage of the Bay City fire fighter to the average wage level paid by the other comparable cities in the prior fiscal year to a fire fighter. The Union says that under its last offer, the wage of the fire fighter in Bay City will not approach the 1974-75 average of settled cities, until January 1, 1975, six months into the fiscal year and as of July 1, 1975, will only be $100 per year more than that paid to fire fighters in the prior 1974-75 fiscal year in the comparable cities who have settled on new contracts.

The Union contends that its last offer of settlement on wages will serve only to raise the wage level of the Bay City fire fighter to an average wage level in the comparable cities, and will not provide compensation to the employee for the effects of inflation and price increase experienced in 1973-74 which were not ameliorated by existing cost-of-living adjustments.

The City contends that the Union has proposed a deceptively expensive wage package. The City summarized the Union's offer and its' argument is as summarized in the City's brief.

In its brief the City points out that at the present time, a fully paid Fire Fighter makes $11,849 a year for one hundred twenty-one (121)days worked. This translates into Ninety-seven Dollars and Ninety-two Cents ($97.92) per twenty-four (24) hour shift or Four Dollars and Eight Cents ($4.08) per hour. The Union's proposal would provide as follows:

> Retroactive to July 4, 1974, Twenty Cents (20¢) be added to the Four Dollars and Eight Cents ($4.08) yielding Four Dollars and Twenty-eight Cents ($4.28) an hour plus a 2% adjustment which would yield an additional Nine Cents (9¢) or Four Dollars and Thirty-seven Cents ($4.37) per hour as of July 4, 1974.
>
> Assuming an increase in the cost-of-living over the next twenty-four (24) months of 1% per month on January 2, 1975, an additional Fifteen Cents (15¢) would be added to the Four Dollars and Thirty-seven Cents ($4.37) and then a 2% adjustment made which would as of January 2, 1975, bring a fully paid Fire Fighter Four Dollars and Sixty-one Cents an hour. On July 1, 1975, an additional Fifteen Cents would be added to the base rate and that a 2% adjustment made bringing a fully paid Fire Fighter to Four Dollars and Eighty-Six Cents ($4.86) an hour. On January 1, 1976, an additional Fifteen Cents (15¢) would be added to the base rate and then a 2% adjustment made which would bring the fully paid Fire Fighter as of that date to Five Dollars and Eleven Cents($5.11) an hour. Therefore, between July 1, 1974, and January 1, 1976, the hourly rate for a fully paid Fire Fighter would increase by a total of One Dollar and Three Cents ($1.03) which would be in excess of a 25% increase per hour. The City's offer would be calculated in the following manner:
>
> On July 1, 1974, a 2 1/2% increase to the rate of Four Dollars and Eight Cents ($4.08) would be calculated which would bring the base salary rate to Four Dollars and Eighteen Cents ($4.18) per hour and a Twenty Cents (20¢) per hour cost-of-living adjustment for a total of Four Dollars and Thirty-eight ($4.38) per hour. On January 1, 1974, assuming the same increase in the cost-of-living in the City's offer as we calculated in the Fire Fighters offer an additional Seven Cents (7¢) would be added, increasing the per hour pay to Four Dollars and Forty-five Cents ($4.45) an hour. On July 1, 1975, an additional 2 1/2% increase

would be added to the base rate of Four Dollars and Eighteen Cents ($4.18) bringing the base rate to Four Dollars and Twenty-eight Cents ($4.28) per hour plus an additional Fifteen Cents (15¢) in the cost-of-living. Then on January 1, 1976, an additional Twelve Cents (12¢) added to the cost of living bringing the total per hour pay including cost-of-living to Four Dollars and Eighty-two Cents ($4.82) an hour, compared to the July 1, 1974, rate of Four Dollars and Eight Cents ($4.08) an hour. This Seventy-four Cents (74¢) increase amounts to an 18% increase to the Fire Fighters. Therefore, the City argues that the offer should be accepted because it is fair and provides a significant increase.

From the statistics, and the comparables introduced at the hearing, it appears to the Chairman that the Union's last offer of settlement on wages will serve only to raise the wage level of the Bay City Fire Fighters to an average wage level in the comparable cities, and with the runaway inflation plaguing this nation's economy, it makes it compelling that a fair and equitable wage proposal be adopted as asked by the Union. The comparables were brought out at the hearing as was the standing of Bay City Fire Fighters on economic matters will only raise the wage of the Bay City Fire Fighter to the average wage level paid by the other comparable cities in the prior fiscal year to a fire fighter.

In summary, the Chairman proposes that the Union's last offer of settlement on the economic issue of wages as contained in its last best offer must be awarded in order that the wage level of the Bay City Fire Fighters will not remain behind the average wage level afforded fire fighters in the comparison cities.

Mr. Helvesten concurs as to the wage increases for the fire fighters. Mr. Basil dissents.

ISSUE No. III -- COST OF LIVING

The Union's last offer of settlement on the economic issue of cost-of-living is to retain the freely negotiated cost-of-living provisions contained in the recently expired contract, as set forth in Article XV, Salary and Wages. The City proposes that for each year of the two-year contract that a maximum of 27¢ be put on the cost-of-living as a cap and that this be paid on only forty hours of work for all members of the Unit maintaining the same formula.

The Union contends that its cost-of-living adjustment represents an effort to ameliorate the effects of inflation and price increases on the wages of an employee. It maintains that the cost-of-living provision in the recently expired contract does not even maintain the real spendable earnings of a fire fighter at pre-inflationary levels; that it only keeps the employees wages from being eroded at a more rapid rate.

The language in the prior Agreement reads as follows:

> Article 15, Section 15:1
>
> Salary and wage rates shall be adjusted the first full pay after July 1, 1971, and January 1, 1972, and semi-annually thereafter to reflect the changes in the Consumer Price Index for all items as established by the U. S. Department of Labor, determined by one (1) cent per hour per year for each change of .4 in the Consumer Price Index for the six (6) month period ending with the preceding November or May as follows: Fifty-six (56) hour personnel would receive one (1) cent per hour per year based on 2912 hours, and forty (40) hour personnel one (1) cent per hour per year based on 2080 hours.

The City maintains that the evidence submitted by the Union has been "elaborate" comparisons between the City of Bay City and eleven (11) other municipalities, but on an item such as cost-of-living, which is significant in terms of increased money to the Union member, the Union did not submit a single document showing how many of its eleven (11) comparable cities have a cost-of-living formula or what that formula is. The City maintains that its presentation, specifically City Exhibit 6-A, it shows that of its eight (8) cities only two (2) have any form of a cost-of-living adjustment. The City maintains that the Union has taken the position that it wants to continue the cost-of-living without change during the life of the new Agreement, but does not support with any specific data why this should be done, whereas the City argues that it has asked for a slight modification of the cost-of-living from how it appeared in the previous Agreement.

The City notes its offer was that a cost-of-living allowance be paid to all employees on the same basis, that is to say on forty (40) hours of work for all members of the Unit.

The City contends that there should be no distinction between an employee who works forty (40) hours and an employee who works more or less hours than that, inasmuch as the number of hours worked by an employee has absolutely no bearing on his cost of living. The City points out that employees who work forty (40) hours a week have essentially the same cost-of-

living as employees who work thirty-six (36) or forty-eight (48) or fifty-six (56) hours a week. Also, the City requests that over the life of this Contract a cap of Twenty-seven (27¢) be placed on the cost-of-living for each year of a two (2) year Contract. Therefore, it says the cost-of-living clause could in effect yield up to Fifty-four Cents (54¢) per hour per employee. The City argues that one of the primary reasons for a cap on the cost-of-living is that it contains items that are not increases to the individual employee. The City says for example that the major increased cost items over the past few years has been medical expenses. Inasmuch as the City already pays a full hospitalization plan for the employee, the employee would not experience the increase in medical expenses set forth in the Cost-of-Living Index by the Bureau of Labor Statistics. One of the primary reasons why cost-of-living clauses are practically non-existent in the public sector is the budgetary problems that an unknown, such as the cost of living, would present. However, the City of Bay City feels that with a Twenty-seven Cents (27¢) cap each year on the cost of living it can lessen the unknown factor in its budget and more realistically and efficiently budget the expenditure of tax dollars. Finally, the City concludes that the absence or the control on a cost of living clause has much greater significance to the City than the existence one has for the Fire Fighters. It cites Fox's testimony on behalf of the

Union which indicated that he did not even request information from the cities selected by the Union whether or not they even had any kind of cost-of-living adjustment. Based on this argument the City beleives that its last offer on the slightly modified cost-of-living allowance should be adopted.

The Union maintains that the City's last offer on cost-of-living will increase the rate of erosion on the income of the Bay City Fire Fighters beyond the rate he now experiences. If the rate of the Consumer Price Index continues to rise at the rate of 11.6% per year, the proposition of a 27¢ cap will provide that the cost-of-living provision will become meaningless for price rises above 6.6% per year.

The Union argues that the City's last offer on cost-of-living will increase the rate of erosion on the income of the Bay City Fire Fighters beyond the rate he now experiences. If the rate of the Consumer Price Index continues to rise at the rate of 11.6% per year, the imposition of a 27¢ cap will provide that the cost-of-living provision will become meaningless for price rises above 6.6% per year.

The Union submits that if the City's last offer is granted, and if the rise in the consumer price index remains stable in terms of December-May, 1973, the wage of the Bay City Fire Fighter would be eroded by an even greater rate. The cost-of-living offer of the City would provide protection only

for the first 4.7% of price rises and will afford no protection against the remaining 7% rise in prices. It says that if this panel grants the City's last best offer, the Bay City Fire Fighters' increase will be eroded at the rate of 7% per year. The Union notes that the nation has seen an increase, not a decrease, in the rate at which the Consumer Price Index is rising, and thus, Bay City Fire Fighters' salary will be eroded at even greater rate if the City's last offer is granted.

The Union notes that by way of comparison, the absence of any cap in the Jackson fire fighting contract where for formula affords yet more protection to the employee by making cost-of-living adjustments directly proportional to rises in the Consumer Price Index. It also notes the absence of any cap in the UAW contract which provided a 45¢ cost-of-living adjustment over the course of a year or approximately 8.2% of salary or 1.6% more than that received by the Bay City Fire Fighters in cost-of-living adjustments during the last fiscal year.

In response to the City request that COLA be paid on only 40 hours of work for all members of the unit, the Union contends that this portion proposal would mean 56-hour personnel would receive their cost-of-living increase based only on 2080 hours rather than 2912 hours of work per year.

Here, with respect to cost-of-living, the Union says it is only asking

that the City maintain an existing freely negotiated benefit and that the arbitration panel carry over into the new collective bargaining agreement the identical cost-of-living provision obtained in the current collective bargaining agreement. It says that the City seeks to reduce benefits the Union and City have agreed to and "lived with" for years.

The Union submits that the probative and persuasive value of past practice and the status quo has been an issue in other Act 312 arbitrations, where the City proposed a change in the status quo without presenting convicing and compelling evidence to support a change nor evidence of a drastic change in circumstances, the arbitrators and courts have held that the City has not met its burden and the status quo must continue, and cites Arbitrator Killingsworth City of Detroit and Detroit Fire Fighters Association; Arbitrator George Roumell in City of Southgate, 54 LA 901, 912; Oscoda Area Schools, 55 LA 568, 572; Judge Roland Olzark in City of Detroit v Killingsworth, Mich Cir Ct. 1972, 80 LRRM 2752, 2755.

The Union submits that the City has not presented any evidence, documentary or oral to justify or substantiate a change in the current practice with respect to cost-of-living.

The Union maintains that not only has there been a total absence of justification to reduce the existing freely negotiated cost-of-living provision,

but each and every factor established in Section 9 of Action 312 compels the award of the Union's.

That being the case, and since the Chairman has carefully weighed this with a very modest request for a wage increase, the award will be to grant the Union's request as to cost of living.

The Union's request to retain the negotiation cost-of-living provisions contained in the recently expired contract, as set forth in Article XV, Salary and Wages.

The Chairman can say that Mr. Helveston concurs and Mr. Basil dissents.

ISSUE NO. IV -- LONGEVITY

The City believes that longevity pay should be maintained at the current level as set forth in Article XXI. The Union's last offer of settlement on the economic issue of longevity provides that longevity pay will be based on the pay of a First Class Fire Fighter rather than on $9,000. The Union's last offer of settlement modifying Article 21, Longevity Pay, of the 1971-73 Contract is as follows:

> All of the members of the Bay City Fire Department, represented by Local 1435, I.A.F.F., AFL-CIO shall be paid longevity pay in the following manner:
>
> After completing 5 years, 2% of the base wage of a First Class Fire Fighter as of July 1, 1974;
>
> After completing 10 years, 4% of the base wage of a First Class Fire Fighter as of July 1, 1974; after completing 15 years, 6% of the base wage of a First Class Fire Fighter as of July 1, 1974; and after completing 20 years, 8% of the base wage of a First Class Fire Fighter as of July 1, 1974.

The Union states that at present the longevity pay afforded the Fire Fighters is based on a base of $9,000 per year. It cities Union Exhibit #6 as revealing that this base is totally artifical and has no relevance even to the salaries paid to the Bay City Fire Fighters as of July, 1971, some three years ago. It maintains that as a result the longevity pay of the unit constituents falls below the average longevity pay paid in the comparison cities.

The Union says their demand is simple, to base longevity pay on a rational basis, that is the salary of the First Class Fire Fighter as of July 1, 1974. The Union says that the appropriateness of this demand is made clear by the recognition of the City that longevity, to accomplish its purpose must be based on a percentage formula. The Union argues that the percentage formula is rendered devoid of meaning when the percentage factor is applied to a fixed dollar amount which has not had relevance to the Fire Fighters salary for over three years. The Union submits that most of the survey cities which properly base longevity on a percentage formula, half do not have an artificial base, and even of those with an artificial base, the longevity paid the Bay City Fire Fighters falls well below the average.

The Union offers the following chart which reveals disparity for comparison cities on a percentage longevity formula, for higher ranks.

The Union maintains that it is at the higher ranks where experience is all the more necessary and that Bay City's present longevity scale is wanting. The Union says that the chart below reveals this disparity for comparison cities on a percentage longevity formula.

POSITION	AVERAGE SURVEY CITIES WITH PERCENTAGE LONGEVITY	BAY CITY PRESENT	DIFFERENCE
Lieutenant	$905	$720	-$185
Captain	$942	$720	-$223
Assistant Chief	$996	$720	-$276

The Union points out that longevity pay is designed to afford proper recompense for experience gained over the years of service, and past faithful service especially for the ranks where experience is most needed and necessary, the Union submits that the grant of the Union's last offer on the economic issue of longevity will cure the glaring present disparity suffered in longevity pay by those very Fire Fighters who have given and now give of the experience derived over the years to the benefit of the citizens of this community. The Union urges the award of its last best offer on longevity as set forth in Appendix A.

The City responds that the Union's last offer on longevity pay is to raise the base on which the percentages are computed by $3,680.00. The City maintains that by increasing the base by the $3,680.00, the cost to the City of longevity pay over the two (2) year period would be in excess of $40,000. The City notes that an examination of Union Exhibit No. 33 shows that Bay City's payment of a maximum of $720 worth of longevity pay exceeds that of Midland and Battle Creek which are comparable cities and is less than two (2) other comparable cities, Jackson and East Lansing. However, the Union has failed to submit data to indicate whether or not any other city on the chart, even the non-comparable cities, pay longevity pay after five (5) years, ten (10) years or fifteen (15) years.

The City says that inasmuch as longevity pay is another form of compensation to be considered along with cleaning allowance, food allowance, holiday pay and another form of compensation, there is no compelling reason to increase longevity pay. The City asserts that what should occur is an examination of the total pay that a Fire Fighter receives. Therefore, the City submits that longevity pay should be maintained at the current level as set forth in Article 21 and the Union's demand rejected.

Based on the survey results submitted by the Union and the fact that longevity pay is designed to afford proper recompense for long service and experience, the Chairman is of the opinion that the Union's last best offer based on the pay of a First Class Fire Fighter should be granted. Mr. Helveston concurs, Mr. Basil dissents.

ISSUE NO. V -- SALARY DIFFERENTIALS

The City states that salary differentials should be maintained at their current level. The Union submits its last offer of settlement of the economic issue involving salary differentials between rank. The Union says its last best offer of settlement will serve to increase the percentage salary differential between ranks and is as follows:

"Effective October 1, 1974, the base wage rates of the following ranks shall be increased by the sums set opposite:

Engineers and Dispatchers	$150
Lieutenants and Clerks	$200
Captains and Fire Inspectors	$250
Assistant Chiefs, Fire Marshals, Fire Mechanics and Training Officers	$300

"Effective October 1, 1975, the base wage rates of the following ranks shall be increased by the sums set opposite:

Engineers and Dispatchers	$150
Lieutenants and Clerks	$225
Captains and Fire Inspectors	$300
Assistant Chiefs, Fire Marshals, Fire Mechanics and Training Officers	$375

"Effective March 1, 1976, the base wage rates of the following ranks shall be increased by the sums set opposite:

Engineers and Dispatchers	$150
Lieutenants and Clerks	$250
Captains and Fire Inspectors	$350
Assistant Chiefs, Fire Marshals, Fire Mechanics, and Training Officers	$450

The Union argues that if their salary differential offer is not awarded, the disparity between average 1973-74 and June 30, 1975, Bay City wage levels will remain unremedied even if the Union's wage offer is granted. The Union submits the evidence reveals the following which indicates Bay City Fire Fighters are still behind:

POSITION	AVERAGE 1973-74	JUNE 30, 1975 BAY CITY	DIFFERENCE
Engineer	$13,696	$13,227	$ - 468
Lieutenant	$14,333	$13,464	$ - 869
Captain	$15,367	$13,695	$- 1,672
Assistant Chief	$17,138	$15,054	$ -2,084

The Union says its last offer of settlement on salary differential will only reduce, not eliminate, the disparity for the higher ranks. It says if its last offer is granted, this salary disparity will be gradually reduced over the term of the collective bargaining agreement to more manageable proportions.

The City submits that without a precise job description specifying the duties and the differences in those duties between each classification in the City of Bay City and each classification in every city, the entire prospect of

dealing with differentials appears to be "futile". The City says that an examination of the various documents submitted by both the City and the Union shows that the general pattern in Bay City and among the other cities is in effect three (3) levels of compensation, the initial level or the fully paid Fire Fighter level and then add to that about 4% for the middle group and for the top group, for example, the Bay City Captain, 6% over the fully paid Fire Fighter. The City states that based on all the data submitted, it is impossible to determine comparable jobs and, therefore, what specific differential there should be at each level. The City contends that the last offer made by the Union would cost the City over a two (2) year period in excess of $49,000. The City says this should be contrasted to their demands during negotiations which simply called for a flat increase of Fifty Dollars ($50.00) for drivers, One Hundred Dollars ($100) for Lieutenants and One Hundred Fifty ($150) for Captains, or a total of $8,000 for two (2) years. For these reasons the City says the Union's demand to expand these differentials should be denied and the City's proposal that the salary differentials be maintained at their current level be accepted.

The Chairman is of the opinion that the differentials as currently set forth are appropriate as based on three (3) levels of compensation which indicates the general trend in Bay City and elsewhere, so the City's request

that the salary differentials should be maintained at their current level is granted. Mr. Basil concurs and Mr. Helveston dissents.

ISSUE NO. VI -- FOOD ALLOWANCE

The City is willing to increase its food allowance to $1.00 per day for each day of actual work. This excludes paid days such as vacations, holidays, sick days on which the employee gets paid, but does not work.

The Union's last offer of settlement is based upon the cost of food purchased by unit employees on duty and upon anticipated cost increases and modifies Article 16 Food Allowance of the 1971-1973 contract as follows:

> A food allowance of Two Hundred Fifty Dollars ($250) per year shall be paid to all fifty-six (56) hour personnel. The following is our mutual understanding:
>
> The sum of Two Hundred Fifty Dollars ($250) shall be paid on or about the first week in October of the fiscal year. This sum shall be pro-rated for personnel having worked a fifty-six (56) hour week during the fiscal year and have retired or deceased. The benefit is to be paid to the retiree or beneficiary.

The Union argues that the City seeks to modify the present food allowance and to pay but $1.00 per day worked or in other words, to reduce the present inadequate benefit by paying the Fire Fighter no more than $96 per year.

The Union maintains that not only is the food allowance paid the Bay City Fire Fighter the lowest paid in the survey cities, but the average food allowance paid during the prior fiscal year by the Union in its last best offer of settlement. Further the Union says the testimony of Gary Fox reveals that as of the present time the present food allowance compensates, and the City's last offer will compensate, the Bay City Fire

Fighter for only 45% of the food he must purchase and consume while on duty.

The Union urges the panel to award the Union's last best offer involving the economic issue of food allowance as contained in Appendix A in order that the twenty-four hour shift employees of the Bay City Fire Department may receive that which the average comparable cities paid during the prior, much less current and future fiscal years, and that which will recompense the Fire Fighter for the actual costs of food incurred by him during the year.

The City maintains that the Union's last offer on the Food Allowance is a demand to increase by 150% the current amount or to a total of more than 24,000 or Two Hundred Fifty Dollars ($250) per year per eligible employee. The City invites attention to City Exhibit #6F, and observes that three (3) of the comparable cities give absolutely nothing for food allowance. It notes one (1) city Holland, gives One Hundred Dollars ($100) the same as Bay City. It notes Battle Creek and Muckegon give slightly more than Bay City, and Jackson gives Three Hundred Dollars ($300). It says if all seven (7) cities that are comparable were averaged, the average food allowance would be approximately One Hundred Dollars ($100), the same as Bay City. The City says that with these facters in mind, the arbitration panel should have no problem selecting the City's last offer on food allowance, which was to pay One Dollar ($1.00) for each day of actual work, excluding paid days such as vacations, holidays, etc.

In order that the twenty-four hour shift employees of the Bay City

Fire Department may receive that which the average comparable cities paid during the prior years as well as the current year, so that the Fire Fighter will be recompensed for the actual costs of food incurred by him during the year, the food allowance of $250.00 as requested by the Union is granted. Mr. Helvesten concurs, Mr. Basil dissents.

ISSUE NO. VII -- CLEANING ALLOWANCE

The City is willing to increase the current cleaning allowance by 25%. It is currently at $8 per month. The proposed increase would make it $10 per month.

The Union's last offer of settlement is based upon the cost of cleaning purchased by unit employees on duty and upon anticipated cost increases and modifies Article 20 Cleaning Allowance of the 1971-1973 Contract as follows:

> "A cleaning allowance of Twenty Dollars ($20) per month shall be paid to all forty (40) hour personnel on the Department and shall be paid on the third payroll of the month."

The Union submits that the record shows that the monthly cost to the eight-hour shift Fire Department personnel is in excess of $20 per month presently (Union Exhibit #39). The Union says the City refuses to recognize the fact that its last offer represents an assumption by the City of only 10 percent more of the costs actually incurred by the employee in cleaning and maintaining his uniform which he must wear on duty.

In addition, the Union says the panel should consider the proper image which the Fire Fighters and Fire Marshals and Fire Inspectors should present to the public.

The City contends that the Union's last best offer on the cleaning allowance of Twenty Dollars ($20) per month more than indicates that few if any of their members actually follow the schedule set forth in Union Exhibit #39.

The City maintains that it submitted to the arbitration panel a comparison (City Exhibit #6F) which showed that the Ninety-Six Dollars ($96) paid was in fact lower than three (3) other cities that had comparable data. The City says that based on that comparison, its last best offer was to increase the cleaning allowance for forty (40) hour personnel to Ten Dollars ($10) per month. It says this is equal to an increase of 25% and would yield One Hundred Twenty Dollars ($120) per year to eligible employees. The City says that based on the information contained in the City's Exhibit only one (1) other city would be paying more money for cleaning allowance than the City of Bay City. Therefore, the City feels its last offer on this issue should be accepted. It maintains that if the Union's last offer were accepted, Bay City would be paying 60% more than any other city on the Exhibit.

The Chairman feels that in light of increased costs and the fact that at least one other city pays more than the proposal for Bay City, the Union's request of a cleaning allowance of Twenty Dollars ($20) per month is granted. Mr. Helveston concurs, Mr. Basil dissents.

ISSUE NO. VIII -- LIFE INSURANCE

The City believes that life insurance now in effect should continue in effect. It says this would keep the policemen and firemen's life insurance equal.

The Union's last offer of settlement modifies Article 17 Life Insurance of the 1971-1973 Contract and is as follows:

> Effective January 1, 1975, the City shall provide each member of the Bargaining Unit a Ten Thousand Dollar ($10,000) life insurance policy with the City paying full premiums.
>
> The City shall also provide (effective January 1, 1975)a Ten Thousand Dollar ($10,000) accidental death and dismemberment insurance for each member of the Bargaining Unit with the City paying full premiums.

The Union maintains that the average basic death benefit in the survey cites is approximately $12,000 or $9,000 above that offered by Bay City and some $2,000 above that sought by the Union in this arbitration. The Union says that what the City ignores is that no parity exists now nor has parity existed before and moreover, the police tee are in Act 312 arbitration because of the inadequacy of the City's collective bargaining proposals.

The Union says that because the fire fighters' life insurance benefits lag far behind what is presently provided in other comparable communities, and that a fire fighter's widow and children are left with less than $300 per year income protection against death and less than $500 per year income protection against accidental death, the panel is urged to award

the Union's last offer of settlement on life insurance as set forth in Appendix A.

The City maintains that its offer to maintain the current level of life insurance should be accepted because the City has made a realistic financial offer and has put the majority of its increase in the area of wages. It says the Union's request is unrealistic in seeking a 100% increase from $5,000 to $10,000 on the accidental death and dismemberment portion of the insurance and that the increase from $3,000 to $10,000 is a 233% increase on that life insurance.

The City says that the Policemen have the same life insurance as the Firemen, and to give this particular demand to the Firemen would almost guarantee a requirement on the part of the City to award the same to Policemen, who are still in negotiations.

In light of the documents presented in regard to life insurance and accidental death and dismemberment insurance and Chairman is inclined to grant the Union's request. The very nature of a fire fighter's work necessitates proper coverage for his family and himself.

The insurance shall go into effect within thirty (30) days of the date of the Award. Mr. Helveston concurs, Mr. Basil dissents.

ISSUE NO. IX -- HOLIDAY PAY

The City believes that holiday pay should be maintained at the current level as set forth in Article V, including the $200 cash bonus. The Union's last offer of settlement modifies Article V, Section 5:2, Holidays, of the 1971-1973 Contract and is as follows:

> A cash bonus of Four Hundred Dollars ($400) in lieu of actual paid holidays is hereby granted, and is to be paid on December 1 of each year.

The Union says that the holiday pay received by the Bay City Fire Fighter is between $253 and $337 below the average holiday pay received by comparable ranks in other cities. The Union says that even with the Award of the Union's last offer the Bay City Fire Fighter will receive in 1974-1976 some $40 to $137 less than the holiday pay received in the comparable cities in 1973-1974 depending on rank.

The Union says if the City argues against improvements in vacation because there are six vacation days in lieu of holidays, then the City cannot argue that the same six vacation days are a relevant basis to deny a remedy for the present holiday reimbursement.

The City in its brief concludes that the twenty-four (24) hour personnel in the Fire Department receive more paid hours than any other employee in any bargaining unit in the City. It says the next closest to them would be the Policemen who get thirty-five (35) eight (8) hour days or Two Hundred Eighty (280) hours. It notes that the twenty-four (24) hour personnel in the Fire Department receive in fact two and one-half

(2 1/2) days or twenty (20) hours pay more than the Policemen.

The City says the Union's offer then should be rejected for four (4) reasons:

First, the twenty-four (24) hour personnel in the Fire Department already get more than any other group of employees in the entire City;

Secondly, the excessive costs involved;

Third, the manner in which the Union presented it inasmuch as something as important as the twenty-four (24) hour day as opposed to every other employee's vacation day being an eight (8) hour day, and

Fourth, it should be noted that the twenty-four (24) hour personnel have a twelve (12) hour day as opposed to every other employee's eight-hour day.

The City says that its last offer on the vacation days should be accepted because an examination of the facts show that no increase would be in order, as twenty-four (24) hour personnel in the Fire Department already receive more paid hours off than any other employee.

The Union says that its last offer seeks only to give the long seniority Fire Fighter, but three additional days of vacation. It notes that no increase in vacation time is sought for employees of lesser seniority, the increase is sought only for those with twenty years service -- in effect the same longevity vacation presently afforded employees of Bay City in the Utility Workers bargaining unit (Union Exhibit #42) who now receive 33 days of vacation alone.

The Union says the twenty-four hour Fire Fighter only seeks the same

personal days off that are now given to the City Employees Association Unit, the Utility Workers Unit, and the 4-hour Fire Fighters in his own Bargaining Unit, in order that necessary personal business might be conducted on a duty day where it cannot otherwise be conducted on day off.

In light of the payments to other city employees and elsewhere, the City's request that holiday pay be maintained at the current level as set forth in Article V, including the Two Hundred ($200) cash bonus, is granted.

The Chairman can say that Mr. Basil concurs and Mr. Helveston dissents.

ISSUE NO. X -- MANPOWER

The City proposes that the entire Article XIX be deleted from the contract. The Union's last offer of settlement is as follows:

"In the event that the manpower situation in the Bay City Fire Department due to vacations, extra vacations, resignations, illness, etc., at any time reaches the point where there will be less than 25 men available to man the fire apparatus, then it shall become necessary to call back off-duty personnel to bring the compliment of fire suppression personnel on duty to 25 men.

"With the intent of equally distributing Minimum Manpower Overtime List call-back, the first personnel called to work the Minimum Manpower Overtime List shall be the shift that has had the least overtime callback from the Minimum Manpower Overtime List and who will be off duty the day to be worked. Progression to the other shift that will be off duty the day to be worked may be made after an effort to contract the shift with the least call-back has been made.

"When it is apparent that the fire suppression personnel for the following work day will go below 25 men, the hiring officer shall attempt to contact the employee eligible for call-back until 3 p.m., after which time the employees next in line on the Minimum Manpower Overtime List shall be called. The first employee contacted shall be hired.

"If an emergency arises when the working shift on duty goes below the 25 men required because of illness or injury, the off-duty shift with the least call-back time from the Minimum Manpower Overtime List shall be called. The first man that is contacted will be hired. Personnel refusing to work when his name comes up on the Minimum Manpower Overtime List shall be excused from working but shall forfeit that turn and will not be called again until his name normally comes up again on the Minimum Manpower Overtime List.

"In the event of illness, vacations or inability of the hiring officer to contact the prospective worker, he shall be passed by but will be called at the next overtime opening for which he is eligible.

"There shall be no trading of positions on the list.

"New employees shall be placed on the Minimum Manpower Overtime List when they are qualified to transfer."

The Union argues that a contractual provision to provide minimum manpower is needed where delay in response time increases the hazards to the fire fighter and especially in Bay City where the incompatibility of equipment forces initial response companies to enter burning buildings without the benefit of air masks or other protected equipment.

In fact the Union says that all it seeks to be awarded is the subminimal manpower protection which at one point in negotiations in March of 1974 it says the City agreed to afford as part of the contract.

The City maintains that the Union did not present any data comparing Bay City manpower requirements and any of its comparable cities. The City says that in its exhibits, in City Exhibit 6H it pointed out that Battle Creek has absolutely no manpower requirements, Muskegon has no manpower requirements, Midland and Port Huron have no manpower requirements.

The City concurs that it has the primary concern as to what is a safe number and the responsibility to make sure enough Fire Fighters are on duty. It argues that based on the management rights prerogotive that the number should not be negotiable.

The Chairman recognizes that this is a highly emotional and understandable concern on the part of the Fire Fighters. On the other hand the Chairman is presented with comparables in a number of cities where

such a requirement does not prevail. Based in part upon the City's statement agreeing that it is their responsibility to make sure that there is a safe number of Fire Fighters on duty the City's request is granted. Mr. Basil concurs, Mr. Helveston dissents.

ISSUE NO. XI -- SICK LEAVE

In the event the panel awards the Union's last offer on manpower, there is no disagreement on the issue of sick leave. It says, however, if the City is relieved of its responsibility and obligation to protect the health and safety of the Bay City Fire Fighters with respect to manpower as agreed to in bargaining then, we submit, there is no basis in the record which would support the modification of the sick leave provisions as contained in the prior contract.

The City maintains that the Union has not abided by the statute as its offer contains two (2) proposals on Sick Leave, which amounts to permitting the parties to make contingency offers on all economic issues.

The City says its Exhibit #7 sets forth its proposal on sick leave. It increases from 200 to 250, the potential accumulated maximum number of sick days.

The City maintains that the Union has failed to abide by the statutory requirement to make a last offer as it maintains that the Union's last offer document contains two (2) proposals on Sick Leave, with conditions attached thereto.

The Chairman, however, interprets the Union's statement in its belief

and in the last best offer document as a request for the retention of the sick leave provision as contained in the most recent contract and suggests this to the panel.

In fact, there is no basis on the record which would support modification of the sick leave provisions as contained in the prior contract. That being the case the Union's request for retention of the sick leave provision as contained in the most recent contract is granted. Mr. Helveston concurs, and Mr. Basil dissents.

ISSUE NO. XII -- VACATIONS

The City believes that the vacation section as set forth in Article IV should be maintained as in the prior Agreement. The Union's last offer of settlement is to modify Article 4, Vacations, Section 4:1(c), 24-hour Personnel Longevity Vacations to read as follows:

> "c. Personal leave and longevity vacation:
>
> After an employee has completed one full year of regular City employment, beginning on his anniversary date, he shall be entitled to four personal leave days. Only two men may be off duty in a 24-hour period for the purpose of personal leave, subject to manpower requirements.
>
> After an employee has completed 10 full years of regular City employment, but less than 20 full years of City employment, beginning on his anniversary date he shall be entitled to one (1) additional day of vacation and an additional day for each additional year of employment in excess of ten (10) years, not to exceed five (5) days. After an employee has completed 20 full years of regular City employment, beginning on his anniversary date, he shall be entitled to 3 additional days of vacation or a total of 8 longevity vacation days per year. Each employee shall be entitled to carry two longevity vacation days from year to year."

The Union submits that in its last offer, it seeks only to give the long seniority fire fighter but three additional days of vacation. It maintains this in effect would give the fire fighter the same longevity vacation presently afforded employees of Bay City in the Utility Workers Bargaining Unit who now receive 33 days of vacation alone. The Union states that with

respect to the vacation days, the twenty-four hour fire fighter only seeks the same personal days off that are now given to the City Employees Association Unit, the Utility Workers Unit, and the 40-hour fire fighters in his own bargaining unit.

In response the City says that the Union failed to point out that all other employees, including the forty (40)-hour personnel in the Fire Fighters Union receive their paid vacation days as eight (8) paid hours. The Twenty-Four (24)-hour personnel in the Fire Department, however, have their vacation days defined as a twelve (12)-hour tour of duty as mentioned above in Article 4, Sub Section 4:1. Therefore, the members of the City Employees Association, who have a maximum of twenty-nine and one-half (29 1/2) eight (8) hour days, receive 236 paid hours. The Utility Workers, with a maximum of thirty-three (33) eight (8) hour days, receive two hundred sixty-four (264) paid hours. The Police, who receive thirty-five (35) eight (8) hour days, receive two hundred eighty (280) paid hours. The forty (40) hour personnel of the Fire Fighters with thirty-four and one-half (34 1/2) eight (8) hour days receive two hundred eighty-six (286) paid hours. The twenty-four (24) hour personnel in the Fire Department shown on Union Exhibit No. 42 having only twenty-four (24) paid days actually receive three hundred (300) paid hours because, as mentioned above, their days, all twenty-five (25) of them, are twelve (12) hour days. Therefore,

the twenty-four (24) hour personnel in the Fire Department already receive more paid hours than any other employee in any bargaining unit in the city. The next closest to them would be the Policemen who get thirty-five (35) eight (8) hour days or two hundred eighty (280) hours. The twenty-four (24) hour personnel in the Fire Department receive in fact two and one-half (2 1/2) days or twenty (20) hours pay more than the Policemen. Therefore, it is totally unnecessary to increase the number of paid days of vacation for the twenty-four (24) hour personnel of the Fire Department. Finally, the cost of this particular demand is extremely high. The benefits to the employee, excluding any overtime that may be required by the person filling in for the employee with the extra vacation time, would cost the City $58,287. Put another way, the seven (7) days more of vacation granted over the two (2) year period would be the equivalent of granting on the average each employee a 5% increase in pay. The Union's offer then should be rejected for four (4) reasons:

First, the twenty-four (24) hour personnel in the Fire Department already get more than any other group of employees in the entire City;

Second, the excessive costs involved;

Third, the manner in which the Union presented it inasmuch as something as important as the twenty-four (24) hour Fire Fighters personnel day

being a twelve (12) hour day as opposed to every other employee's vacation day being an eight (8) hour day; and

Fourth, if the Union was unaware of that difference, then it should be denied simply because of the complete lack of preparation, inasmuch as anyone reading the Article would immediately discover that the twenty-four (24) hour personnel have a twelve (12) hour day as opposed to every other employee's eight (8) hour day.

The City argues that its last offer on the vacation days should be accepted because of an examination of the facts show that no increase would be in order, as twenty-four (24) hour personnel in the Fire Department already receive more paid hours off than any other employee.

In light of the comparisons with other city employees and elsewhere, the Chairman proposes that the current Article, Vacations, Article 4, Section 4:1(c) Twenty-Four (24) Hour Personnel Longevity Vacations be continued into the new Agreement. Mr. Basil concurs, and Mr. Helveston dissents.

SUMMARY OF AWARD

Issue No. I -- The Collective Bargaining Agreement is retroactive to July 1, 1974, unless noted in the award otherwise.

Issue No. II -- Wages shall be increased as requested by the Union as set forth in Appendix A.

Issue No. III -- The Union's request that the cost of living allowance as contained in the recent collective bargaining agreement is granted.

Issue No. IV -- The longevity pay as requested by the Union is granted.

Issue No. V -- The City's request that the salary differentials be maintained at their current level is granted.

Issue No. VI -- The Union's request for a food allowance of Two Hundred Fifty Dollars ($250) per year is granted.

Issue No. VII -- The Union's request of a cleaning allowance of Twenty Dollars ($20) per month to be paid to all forty (40) hour personnel is granted.

Issue No. VIII -- The Union's request for modification of the Life Insurance and Accidental Death and Dismemberment Insurance is granted, but is not to be retroactive. However, it must be implemented within thirty (30) days of the date of the award.

Issue No. IX -- The City's request that holiday pay be maintained at the current level as set forth in Article V, including the Two Hundred Dollar ($200) cash bonus, is granted.

Issue No. X -- The City's request for the deletion of Article XIX, Manpower is granted.

Issue No. XI -- The Union's request for the retention of the sick leave provision as contained in the most recent collective bargaining agreement is granted.

Issue No. XII -- The City's request that the vacation section as contained in the most recent collective bargaining agreement is granted.

E. J. FORSYTHE, Impartial Chairman

RONALD R. HELVESTON, Union Member,
Concurs as Indicated in the Opinion

THOMAS A. BASIL, City Member,
Concurs as Indicated in the Opinion

DATED: January 8, 1974. (Sic)

Should be 1975
R.R.H. 3-26-1975