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**STATE OF MICHIGAN  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

In the matter of Act 312 Arbitration between:

CITY OF PLAINWELL,

Case No. L99 D-9007

Employer,

Arbitration Panel:

and

Jerold Lax, Chairperson

TEAMSTERS LOCAL 214,

Michael Fayette, Union Delegate

John Patrick White, Employer Delegate

Union.

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**Appearances:**

For the Employer:

For the Union:

John Patrick White  
Richard Fries  
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P.O. Box 352  
Grand Rapids, MI 49501

Michael L. Fayette  
Pinsky, Smith, Fayette & Hulswit  
1515 McKay Tower  
146 Monroe Center, N.W.  
Grand Rapids, MI 49503

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**OPINION AND AWARD**

**I. Factual background**

This arbitration proceeding under Public Act 312 of 1969 (MCLA 423.231 et seq) involves the City of Plainwell (hereinafter "City") and Teamsters Local 214 (hereinafter "Union"), which represents City employees in a unit defined in the Act 312 petition as "all regular full time patrolmen and Public Safety Officers with law enforcement certification at the Plainwell Police Department."

The last collective bargaining agreement between the parties expired June 30, 1999. After failing to reach agreement on a new contract, the Union filed its petition for arbitration on March 8, 2000. Jerold Lax was appointed impartial chairperson of the arbitration panel on April 5, 2000. An initial prehearing conference was held by telephone on April 14, 2000, at which time it was determined that further negotiations between the parties might be productive in resolving outstanding issues. After a subsequent report by the parties that no agreement had been reached, the parties agreed to submit briefs concerning the issue of comparables. These briefs were submitted in June, 2001, and upon review of these materials, it was determined on June 29, 2001 that the appropriate comparables for purposes of any further hearings would be the cities of Allegan, Essexville, Ionia, Otsego, and Springfield.

A formal hearing was held at the City's offices on November 1, 2001 at which time the outstanding issues were determined to be: (1) duration of the contract, (2) wages, (3) pension, (4) longevity, (5) prescription co-pay, and (5) shift bids. The first four issues were agreed to be economic.

The following summarizes the conclusions of the panel, with concurrences and dissents appropriately noted. All panel members are in agreement that this award shall be regarded as timely under Act 312. In rendering this award, the panel has adhered to the directive of Section 9 of Act 312 that it base its findings, opinion and order upon the following factors, as applicable.

- (1) The lawful authority of the employer;
- (2) Stipulations of the parties;
- (3) The interest and welfare of the public and the financial ability of the unit of government to meet those costs;
- (4) 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.

- (5) The average consumer prices for goods and services, commonly known as the cost of living;
- (6) 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;
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings;
- (8) 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 sector or in private employment.

Further, the panel has adhered to the directive of Section 8 of the statute that it adopt the best offer of settlement which, in the opinion of the panel, more nearly complies with the applicable factors prescribed in Section 9. The panel notes, however, that with regard to any particular issue, each Section 9 factor need not be accorded equal weight. *City of Detroit v Detroit Police Officers Association*, 408 Mich 410 (1980).

## II. Resolution of disputed issues

### (1) Duration of contract

The City proposes that the agreement be for four years, expiring June 30, 2003, while the Union proposes that the agreement be for three years, expiring June 30, 2002. The City argues that a 3-year agreement will have expired before the conclusion of these proceedings, and will therefore defeat the statutory objective of providing efficient resolution of disputes in public employment. The City further notes that its recent agreement with the Services Employees International Union, which represents a number of non-public safety employees, provides for a 4-year contract. The Union contends that a 3-year agreement would

better accommodate what both parties acknowledge to be the financial uncertainty facing the employer as a result of the closing of a major local industry, and would also decrease the likelihood that an organizing drive by any potential rival union might interfere with an ongoing contract.

It is the view of a majority of the panel that a 4-year contract will best promote the objectives of Act 312, and this conclusion finds further support from the relevant internal comparable. The panel therefore determines that the contract shall be four years in duration. Panel member Fayette dissents.

(2) Wages

Assuming a 4-year agreement, the City proposes the following wage increases, each increase to take effect as of the indicated date:

7/1/99	3%
7/1/00	3%
7/1/01	3%
7/1/02	3%

The Union proposes the following increases for the comparable periods:

7/1/99	3.5%
7/1/00	3.5%
7/1/01	3.5%
7/1/02	3.5%

In support of its offer, the City argues that the pay of the City public safety employees is substantially higher than that of similar employees in the comparable communities, that the City employees have fully-paid insurance, and that the City's SEIU-represented employees have negotiated a 4-year contract containing the same wage increases as proposed by the City in the present case. The Union argues that certain of the comparable communities have granted wage increases of 3.5% for the periods in question, and that the unique responsibilities of the City's

public safety employees, which involve both police and fire functions, would justify higher wages than are found in most of the comparable communities.

It is the conclusion of the majority of the panel that the data concerning wage levels in the comparable communities, as well as the other benefits received by employees in the City's public safety unit and the wage increases negotiated by City employees in the internally-comparable unit, support the City's offer. The panel therefore awards an increase of 3% per year for the four years of the contract. Panel member Fayette dissents.

(3) Pension

As of the expiration date of the most recent collective bargaining agreement, the City's defined contribution plan provided for an annual City payment equivalent to 8% of wages.

The City proposes the following modification, as of the dates noted:

- 7/1/99 - contribution increased to 9%
- 7/1/02 - match employee contributions to 401(a) plan up to 2%
- 7/1/03 - contribution increased to 10%

The Union offers the following:

- 7/1/99 - contribution increased to 11%
- 7/1/00 - contribution increased to 13%
- 7/1/01 - contribution increased to 14%; match employee contributions to 401(a) plan up to 2%
- 7/1/02 - contribution increased to 16%
- 7/1/03 - contribution increased to 18%

The City contends that its proposal is justified by the fact that Otsego, the only other comparable community with a defined contribution plan, contributes at the 10% level, that a 10% contribution is made for the internally-comparable SEIU unit, and that the City's problematic

economic condition militates against contributions at the levels proposed by the Union. The Union relies on the fact that most of the other comparable communities utilize defined benefit plans rather than defined contribution plans, which are likely to result in higher pension benefits over time than will result from the City's defined contribution plan. It should be noted that both parties agree in concept to the introduction of a 401(a) employer match program, with the parties differing only as to the commencement date for such a program.

It is the view of a majority of the panel, taking into account the relevant statutory factors, that the City's offer as to periodic increases to the pension plan should be adopted; panel member Fayette dissents from this aspect of the pension award. It is further the view of a majority of the panel, panel member White dissenting, that the 401(a) match should commence 7/1/02, as proposed by the Union, taking into account the overall pension benefit resulting from the panel award. The panel further notes that while the offers of both parties proposed that the final pension increase commence on 7/1/03, this award should be construed to provide that the increase in question commence 6/30/03 so as to be consistent with the term of the 4-year contract which has been awarded.

(4) Longevity

The City proposes that no longevity payment be added to the basic wage benefits of employees in the unit. The Union proposes that for any employee who has completed five years of continuous service with the City, the following annual longevity payments be made:

5 years	-	\$250
6 years and thereafter	-	\$250, plus an additional \$50 for each year over 5

The Union contends that all comparable communities provide longevity payments albeit certain of those communities limit such payments to employees hired before a specified date. The Union further argues that the City had provided longevity payments to its non-union employees until recently. The City contends that the purpose of longevity pay is to enable an employer to retain employees, and since the City's employees earn more than similar employees in comparable communities, this justification is not applicable to the present case. The City further notes that in some of the comparable communities, longevity is being phased out. Moreover, the City suggests that the Union had previously bargained away longevity benefits in exchange for other benefits and should not now be allowed to reinstate those benefits.

The panel finds the evidence inconclusive as to whether the Union had in fact earlier relinquished longevity benefits in exchange for other benefits, but the majority of the panel nonetheless concludes, based in large part on the overall compensation received by unit employees, that the City's proposal regarding longevity should be awarded. Panel member Fayette dissents.

(5) Prescription co-pay


The City proposes that drug cards be maintained at the current co-pay rates of \$10 for generic drugs and \$20 for brand-name drugs. The Union proposed a \$5 co-pay in all instances, which is equivalent to the co-pay which had been available under an HMO plan which was one of the insurance plans available to unit employees. It appears that only a limited number of employees in fact participated in this plan. It is the conclusion of the majority of the panel, taking into account general trends in this benefit area and the fact that insurance is a benefit financed entirely by the City, that the City's proposal should be adopted. Panel member Fayette dissents.

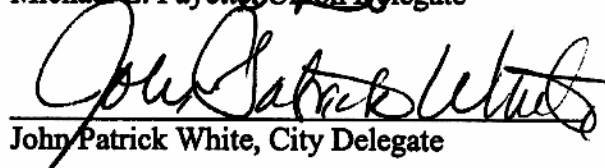
(6) Shift bid

Further negotiation by the parties has resulted in agreed-upon contract language regarding the issue of shift bid, and the language is attached to this award as Exhibit A. The panel adopts the stipulated provisions.

This award is issued August 26, 2002

  
Jerold Lax, Chairperson

  
Michael L. Fayette, Union Delegate

  
John Patrick White, City Delegate



**ARTICLE IX, SECTION 5 – WORK SCHEDULES**

**SUBJECT TO THE PROVISIONS OF SECTION 9, all work schedules for employees in the Unit will be prepared by the Director or his designated representative on a monthly basis and each schedule shall be posted at least fifteen (15) days prior to its effective date. The Employer will, to the extent possible, schedule employees to provide for one (1) three (3) day weekend per month. Two (2) days of the three (3) days shall be Saturday and Sunday. Each such schedule may be changed by the Director or his designated representative after posting, as the need thereafter occurs.**

**An employee may be scheduled to work with only an either (8) hour break between shifts once a month during the term hereof. If during such month an employee, after working one (1) shift with only an eight (8) hour break between shifts, is thereafter required to work any additional shifts with only an eight (8) hour break between shifts, he shall be paid for all hours worked during such additional shifts at the overtime rate specified in Section 3 of this Article IX.**

**The parties hereto expressly agree that the foregoing provisions of this Section 5 shall not apply to those instances when an employee is called into work before or after his regularly scheduled work shift and that in such instances, the provisions of Section 2 of Article IX shall apply.**

**ARTICLE IX, SECTION 9 (NEW SECTION)**

**THE WORK SCHEDULE WILL BE POSTED FOR AN 84-DAY PERIOD (3 – 28 DAY CYCLES).**

**OFFICERS IN THEIR PROBATIONARY PERIOD MAY BE ASSIGNED BY THE DIRECTOR OF PUBLIC SAFETY TO ANY SHIFT FOR TRAINING PURPOSES. HOWEVER, THESE OFFICERS SHALL NOT BE ASSIGNED TO THE SAME SHIFT FOR MORE THAN ONE 84-DAY PERIOD. IF THE DIRECTOR DETERMINES NOT TO MAKE AN ASSIGNMENT, THESE OFFICERS SHALL BID FOR SHIFTS WITH THE OTHER OFFICERS BASED ON SENIORITY.**

**OFFICERS BEYOND THEIR PROBATIONARY PERIOD WILL BID ON ANY OPEN SHIFT BASED ON THEIR SENIORITY.**

**EACH THREE YEARS, THE OFFICERS MUST HAVE WORKED ONE 84-DAY PERIOD ON THREE DIFFERENT SHIFTS.**

**THE SCHOOL LIAISON OFFICER SHALL BE ALLOWED TO BID ON THE SUMMER WORK CYCLE.**

**THE BID WILL BE COMPLETED AND POSTED AT LEAST 14 (FOURTEEN) DAYS PRIOR TO THE START OF EACH NEW 84-DAY PERIOD.**