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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

CITY OF ALPENA,

Employer,

MERC Act 312

and

Case No. L92-B-0036

**POLICE OFFICERS LABOR COUNCIL,
(Command Officers),**

Union.

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EMPLOYMENT RELATIONS COMMISSION
CIVIL RIGHTS DIVISION

Kathleen R. Opperswall, Chairperson
Joseph W. Fremont, Employer Delegate
Thomas Kreis, Union Delegate

ACT 312 ARBITRATION DECISION

A hearing was held in the above Act 312 arbitration case on February 17, 1994 in Alpena, Michigan. The Employer was represented by attorney Dennis B. DuBay, and the Union was represented by attorney Kenneth W. Zatkoff. The parties submitted their Final Offers of Settlement on March 7, 1994, and submitted their Post-Hearing Briefs on April 12, 1994. The arbitration panel members held a panel meeting on May 9, 1994. The parties granted an extension until June 24, 1994 for the issuance of the decision in this case.

The Petition for Arbitration was filed on January 13, 1993, after the parties reached an impasse in their negotiations for a new contract. The petition listed the following unresolved issues:
UNION ISSUES

1. Article VI Holidays
2. Article XIII (Section 4 & 5) Retirement
3. Article XIV Insurance
4. Article XV Conditions
5. Article XVII Duration

EMPLOYER ISSUES

1. Article I Recognition & Job Titles
2. Article V Sect. 4 Call-in Pay
3. Article X Sect. 4 Hours of Employment
4. Article XIII Sect. 4 Retirement
5. Article XIV Sect. 1. Insurance
6. Article XIV Sect. 2. Insurance
7. Article XIV Sect. 3. Insurance
8. Schedule C - Insurance

The parties resolved Union Issue 5, by stipulating that the new contract would have a three-year duration, from July 1, 1992 through June 30, 1995 (Tr 26). The Union in its Final Offer of Settlement accepted the Employer's proposals for Employer Issues 3, 4, and 5, above. The remaining issues were submitted for arbitration under Act 312. The parties agreed that all the remaining issues were economic except for Employer Issue 1.

The parties agreed to use the following communities as comparables:

Big Rapids
Cadillac
Iron Mountain
Ludington
Manistee
Menominee
Petoskey

These are the same communities which were used as comparables in the Act 312 proceeding for the patrol unit.

STATUTORY AUTHORITY

Act 312 of 1969 provides for compulsory arbitration of labor disputes in municipal police and fire departments. Section 8 of the Act provides that the arbitration panel shall adopt the last offer of settlement on each economic issue which most nearly complies with the factors prescribed in Section 9 of the Act. Section 9 of the Act reads as follows:

"Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.

(c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.

(d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:

(i) In public employment in comparable communities.

(ii) In private employment in comparable communities.

(e) The average consumer prices for goods and services, commonly known as the cost of living.

(f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment." [MCLA 423.239]

GENERAL FINDINGS

The City of Alpena had a population of 11,354 as of the 1990 census. This is a decline of approximately 7% from its 1980 population of 12,214. The comparable communities had an average 1990 population of 8,847, and their population had declined an average of 5% since 1980. (Union Exhibit B-3)

The state equalized valuation (S.E.V.) for the City of Alpena in 1993 was \$141,699,300. This S.E.V. had increased 9.9% from the City's S.E.V. in 1992. The City's 1992 S.E.V. had actually been slightly lower than its 1991 S.E.V., a fact which was noted by the arbitrator for the patrol unit Act 312 proceeding. The 1993 increase in S.E.V. is a factor which makes the City's financial picture look somewhat more positive than it looked at the time of the patrol unit Act 312 proceeding.

Nonetheless, the City's financial health is not robust. The City has experienced a decline in its general fund balance from \$3,141,834 at the end of fiscal year 1991 to \$2,516,844 at the end

of 1992, \$2,110,820 at the end of 1993, and a projected balance of \$619,195 at the end of fiscal year 1994 (Employer Exhibit 19). This projected 1994 balance is only about 8.7% of the City's 1993-1994 budget of approximately \$7,000,000. It is generally recommended that a fund balance of at least 10% be maintained in order to provide needed cash flow for expenses (Tr. 79).

In February of 1992, the last time the City had any municipal bonds issued, its bonds were rated as BBB+ by Standard and Poors, and as Baal by Moody's. (Employer Exhibits 22 and 23). These ratings are on the lower end of investment quality municipal bonds (Tr 82-83).

At 19.21 mills the property tax rate for the City of Alpena is slightly above the average for the comparable communities, which is 18.08 mills (Union Exhibit B-7). At \$11,451, the per capita income for the City of Alpena residents is also slightly above the average for the comparable communities, which is \$11,405 (Union Exhibit B-8).

During the fiscal year 1992-1993, 19.58% of the City's general fund expenditures were spent on its police services budget. This is an increase from 1988-1989 when the police services budget accounted for 15.32% of the general fund expenditures. (Employer Exhibit 20).

In summary, the City of Alpena is not in immediate financial distress. However, the City has been declining in population, has not experienced significant growth in tax base, and therefore has a limited ability to take on additional financial obligations.

There are seven command officers in the supervisory unit. This includes one detective-lieutenant, and six sergeants. Of the six sergeants, four are assigned to road patrol, one is a detective, and one is a DARE officer (Tr. 116). There are eight officers in the Alpena patrol unit. This ratio of seven command officers to eight patrol officers is a higher ratio of command officers than exists with any of the comparable communities (Union Exhibit B-2).

Wages themselves are not an issue in this arbitration, because the command officers have agreed to a set differential above the patrol officers (Tr 21). A previous Act 312 arbitration decision issued on November 3, 1993, with Gordon F. Knight as Panel Chair, awarded the patrol unit a 3% increase effective July 1, 1992, a 4.5% increase effective July 1, 1993, and a 4.5% increase effective July 1, 1994 (Employer Exhibit 6). The command officers also receive these percentage wage increases.

Nonetheless, it is necessary to analyze how the wages for the Alpena command officers compare to the wages for the comparable communities, in order to evaluate the fringe benefit proposals.

The parties basically agreed on the figures for wages in the comparable communities. The following analysis is based primarily on Union Exhibits E-7 and E-8, and Employer Exhibits 36 and 52.

	<u>Alpena Command</u>	<u>Comparables</u>
<u>Fiscal year 93-94</u>		
Base pay 23-year sergeant	\$28,131	\$30,182
Plus longevity, shift premium, uniform cleaning and educational incentive	<u>+ 2,401</u>	<u>+ 1,210</u>
	\$30,532	\$31,392
Minus employee pension contribution	<u>- 886</u>	<u>- 1,423</u>
	\$29,646	\$29,969
Plus deferred comp. (1 1/2%)	<u>+ 422</u>	<u>+ 0</u>
TOTAL:	\$30,068	\$29,969

This analysis shows that the wages in Alpena are competitive with the comparable communities. The value of paid holidays, vacation days, and sick days has not been added to these figures. Union Exhibit E-9 and Employer Exhibit 47 show that the Alpena command and the comparable communities are fairly equivalent, except that the Alpena command officers receive approximately eight more vacation days per year than the average of the comparables. This does not result in additional pay, because the Alpena command officers are required to actually take the vacation time off (Article VII, Section 7). Nonetheless, this is an additional fringe benefit. At an estimated value of an eight hour day of \$111, this would amount to a fringe benefit of \$888.

The Alpena command officers all have considerable time with the City of Alpena, ranging from between 18 years and 28 years, with an average of 23 years (Employer Ex. 8).

DECISION ON ISSUES PRESENTED

Union Issue 1: Article VI, Section 1, Holidays.

The Union's last offer was to add one additional floating holiday, for a total of two. The Employer's last offer was to continue the status quo, which provides for one floating holiday.

Award: The Employer's proposal is adopted.

Reason: Union Exhibit D-2 shows that Alpena is currently at the average for the comparable communities for holidays. The Alpena command unit also has the same number of holidays as the Alpena patrol unit, which is the strongest comparable for the Alpena command officers. In addition, the Alpena command officers have more vacation days than the comparable communities.

Union Issue 2: Article XIII, Sections 4 and 5, Retirement.

The Union's last offer proposed two changes: (1) increasing the City's contribution to the deferred compensation plans to 2% from the existing 1.5%; and (2) adding a new Section 5 to provide that employees who retire on or after July 1, 1992, would receive an annual cost of living increase to their pension benefit of up to 1 1/2% based upon the consumer price index for each year.

The Employer proposed no change on either of the above items.

Award: The Union's proposal on sub-issue (1) is adopted; and the Employer's proposal on sub-issue (2) is adopted.

Reason: On sub-issue (1), the external comparables do not have this type of benefit. For the internal comparables, only the non-union employees are already at the 2% level proposed by the Union (Employer Exhibit 65). Nonetheless, this improvement in the deferred compensation benefit is reasonable for this unit. The command officers do not receive Social Security coverage through their employment with the City of Alpena (Tr. 126). In contrast, for the internal comparables, the Steelworkers DPS and clerical units and the non-union employees are covered by Social Security (Employer Exhibit 61). Those patrol officers hired after 1986 receive Medicare coverage under Social Security. For the comparable communities, three of the seven provide social security coverage to their command officers (Union Exhibit E-2). Increasing the percentage going into the deferred compensation plan is a way to offset some of the difference in Social Security coverage, and provide some additional funds toward retirement.

On sub-issue (2), none of the comparable communities has a post-retirement escalator (Union Exhibit E-3). Nor do any of the internal City of Alpena comparables have an escalator (Employer Exhibit 61). The retirement annuity provided to the Alpena command officers is competitive with the comparable communities. The retirement annuity for the Alpena command officers is calculated as 2.25% times the years of service times the final average compensation (highest three of last five years). The resulting annuity after 30 years of service is 67.5% of FAC, versus an average for the comparables of 69.28%. After 35 years, the Alpena retirement annuity is at 78.75%, versus an average for the comparables of 78.03% (Employer Exhibit 57, as completed using data

from Union Exhibit E-2). The escalator would be an expensive improvement in benefits. Exact figures for the 1.5% escalator were not provided. However, the cost would not be a one-time cost, but would be a continuing cost over a period of 20 or 30 years, depending upon the funding method selected (Union Exhibit E-6).

The Employer objected to the Union splitting Union issues 2 and 3 into sub-issues in its final offer. The panel concluded that the issues had been separated into sub-issues from the beginning, and that this did not appear to have caused any prejudice or confusion.

Union Issue 3: Article XIV, Sections 2 and 3, Health Insurance.

The Union's last offer proposed two changes: (1) increasing the city contribution toward retiree health insurance from 50% of the cost for the retiree to 50% of the cost for the retiree and spouse with a maximum of \$200 per month; and (2) increasing the amount paid to employees who are not covered by health insurance from \$800 per year to \$1,800 per year. The Employer's last offer was to maintain the status quo. (Note: Employer Issue 6 is related, in requesting a \$100 per month cap on the Employer's contribution to retiree health insurance.)

Award: The Employer's proposal is adopted.

Reason: On sub-issue (1), the Act 312 arbitration for the patrol unit resulted in a \$100 per month cap being set on retiree health benefits. Among the other internal comparables, the Steelworkers DPS and Clerical Units have a \$35 per month cap, as do the non-union employees (Employer Exhibit 67). The external comparables are a mixture, with Petoskey, Menominee, and Big Rapids not providing for retiree health coverage; Ludington providing 50% with a \$100 per month cap; Manistee providing 50% for retiree and dependents up to age 62, and 100% between ages 62 and 65; and Cadillac and Iron Mountain providing coverage for retiree and spouse up to age 65. In other words, Alpena is presently about in the middle of the comparable communities.

There is one significant difference between the command officers and the patrol officers, in that most of the patrol officers were hired after 1986 and will be covered by Medicare under Social Security. This is a sound reason for not imposing a \$100 per month cap on the command officers. Without the cap, the value of the retiree health benefit will increase as the cost of the coverage increases. The decision on this issue is to maintain the status quo, and not either grant the increase proposed by the Union or the cap proposed by the Employer.

On sub-issue (2), none of the internal or external comparables offered a payment as generous as that requested by the Union.

Union Issue 4: Article XV, Section 15, Dry cleaning Allowance.

The Union's last offer was for a \$50 increase in the dry cleaning allowance for uniformed officers only. The Employer's last offer was to maintain the status quo.

Award: The Employer's proposal is adopted.

Reason: Union Exhibit G-2 shows that two of the comparable communities have no current dry cleaning allowance, three provide for cleaning furnished by the Employer, and the other two have benefits of \$375 and \$200 annually. The Alpena patrol unit currently has the same \$150 annual allowance for uniformed officers. The current benefit is in the mid range for the comparables. No evidence was presented showing that the current dry cleaning allowance is inadequate to cover actual costs.

Employer Issue 1: Job Title Change (Non-Economic)

The City proposed a change of job titles to replace "patrol" with "public safety." The Union proposed maintaining the status quo.

Award: The Employer's proposal is adopted.

Reason: Arbitrator Gordon Knight permitted this change of job titles for the patrol unit. In the interest of consistency, the change should also be permitted for the command officers. The term "public safety" is generally understood to refer to police officers.

Employer Issue 2: Article V, Section 4, Call-In Pay.

The Employer's last offer was to change the call-in pay provision to provide a minimum of two hours' pay at time and one-half, instead of the current four hours' pay at straight time. The Union's last offer was to maintain the status quo.

Award: The Employer's proposal is adopted.

Reason: Union Exhibit J-2 shows that most of the comparables have the two hours at time and one-half which the Employer is proposing. In addition, Arbitrator Gordon Knight approved the change to two hours at time and one-half for the Alpena patrol unit, which is the strongest comparable for this unit.

Employer Issue 3: Article X, Section 4.

The Union agreed to the Employer's proposal.

Employer Issue 4: Article XIII, Section 4, Retirement (Non-Economic).

The union agreed to the Employer's proposal concerning the language change. (Note: The Union did not agree to the percentage rate, see Union Issue 2 above).

Employer Issue 5: Article XIV, Section 1, Deletion of Second Paragraph.

The Union agreed to the Employer's proposal to delete the second paragraph of Article XIV, Section 1. (Note: This issue is numbered as Employer Issue 6 in the Employer's closing brief).

Employer Issue 6: Article XIV, Section 2, Cap of \$100 on Retiree Health Insurance.

The Employer proposed setting a \$100 per month cap on the city's contribution to the cost of retiree health insurance. The Union proposed maintaining the status quo.

Award: The Union's proposal is adopted, for the reasons given at Union Issue 3 above.

Employer Issue 7: Article XIV, New Section 3 - 10% Cap on Medical Insurance Increases.

The Employer proposed adding a new Section 3 to Article XIV, which would limit the Employer's increases in contributions for medical insurance to 10% per year, effective beginning with the date of this Act 312 award. The Union proposed maintaining the status quo.

Award: The Union's proposal is adopted.

Reason: This proposal was rejected by the Act 312 arbitrator

for the Alpena patrol unit. None of the comparable communities have a provision of this type (Union Exhibit L-2).

Employer issue 8: Schedule C Revisions.

The Employer proposed making three revisions in the insurance coverage under Schedule C, to (1) change the current Master Medical IV to Master Medical III; (2) eliminate the prescription drug rider; and (3) change the dental insurance coverage to 50% for Types I and II expenses (from the 100% and 85% coverage, respectively) and change the annual per person maximum from \$1,000 to \$800. The Union proposed maintaining the status quo.

Award: The Union proposal is adopted.

Reason: The Alpena patrol unit, which is the strongest comparable, does not have provisions of the type proposed by the Employer. All the internal Alpena comparables have the same dental coverage as the command officers currently have (Employer Exhibit 84).

CONCLUSION

The specific language from the parties' proposals has not been quoted in this decision, in the interest of saving space. However, in adopting the proposal of one party or the other, it is intended that the exact language proposed by that party in its last offer is adopted.

DATED: June 24, 1994

Kathleen R. Oppewall
Kathleen R. Oppewall, Chairperson

I concur with the issues awarded in favor of the Employer, and dissent on those issues awarded in favor of the Union.

DATED: June 17, 1994

Joseph W. Fremont
Joseph W. Fremont

I concur on the issues awarded in favor of the Union, and dissent on those issues awarded in favor of the Employer.

DATED: 6/23/94, 1994

Thomas Kreis
Thomas Kreis, Union Delegate