

2112

Act 312 Proceeding
Between the Township of Muskegon
and International Association of Fire-Fighters, Local 4132
MERC Case No. L01- L9008

Act 312 Chair, Dr. Benjamin Wolkinson

Township Delegate: Don Aley

Union Delegate: Ronald Helveston

Employer Representative
Donald Veldman, Attorney

Union Representative
Ronald Helveston, Attorney

Background

This is a statutory compulsory arbitration conducted pursuant to Act 312, Public Acts of 1969 as amended. The Union filed a petition for Act 312 arbitration with MERC on February 26, 2002. The Chairperson was appointed via correspondence from the Employment Relations Commission dated May 16, 2002. The Panel held hearings on August 19, 2002 and on August 20, 2002 between 9:00 AM and 8:30 PM. The parties exchanged last best offers of settlement on August 25, 2002 and submitted briefs in support of their final offers on October 25, 2002. The Panel held an executive session on January 9, 2003.

Statutory Criteria

Section 9 outlines the list the factors on which the Panel should base its findings, opinions and award. These include:

- (a) Lawful authority of the employer.
- (b) Stipulation of the parties
- (c) The interest and welfare of the public and the financial ability of the unit of government to meet these 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 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 off, insurance and medical 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 proceeding.

(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, or arbitration between the parties in the public service or in private employment.

During the course of this proceeding the parties settled many issues. The agreements reached by the parties and the provisions in the prior contract, which have not been deleted or altered form part of this award. Additionally, following receipt of the parties' final offers, the Panel met and resolved the issue of work rules. Prior to the hearing, the parties agreed that the following communities should be considered comparable: Muskegon Heights, Muskegon, South Haven, Fruitport Township, and Norton Shores.

Before examining the issues in dispute, some general background information on the Township of Muskegon is appropriate. The Township covers approximately 24 square miles and currently has a population of approximately 18,000 residents. Between 1990 and 2000 the Township experienced significant economic growth. Its population during this period grew by approximately 16 percent. This increase in population has resulted in a substantial increase in its tax base. Between 1995 and 2001 Muskegon Township's

state equalized valuation rose from approximately \$185,000,00 million to \$329,000,000, a 77.7 percent increase.

As might be expected from these economic trends, the Township is in a strong financial situation. In December of 1998 it had a general fund balance of approximately \$900,000. In 1999 the general fund balance was close to \$950,000 while in 2000 it was \$992,000.(Union Ex. 46) In December of 2001, the Township had a fund balance of approximately \$1,400,000. This substantial increase was in part the result of the Township's receipt in 2001 of state revenue sharing funds that reflected its designated allotment not only for that year but for the prior year as well.

The Township has noted that it maintains a very substantial general fund balance because it does not have a capital improvement account. Capital improvements reserves are contained in the general fund balance. The Township's capital improvement plans include replacing a fire station, improvements to an industrial park, and the purchase of equipment. At the same time these capital improvements are being funded over an extended time period. For example, the public safety fund debt will be paid over a five-year period while the fire equipment debt schedule extends over a period of nine years. Consequently, even with the funding for these capital improvements, the Township should continue to operate with healthy fund balances. Thus even with its debt repayments, the general fund balance of \$1.4 million for the fiscal year ending December 31, 2001 represents over 30 percent of its proposed general budget for fiscal year 2002 of \$4,154,000, well in excess of the 10 percent general fund balance minimum that most prudent governmental units will maintain. It is against this background that the

Township, in responding to the Union's economic demands, has acknowledged not raising ability to pay considerations.

Wages

The Union has proposed a 4 percent wage increase for each year of the collective bargaining agreement. The increases proposed are to become effective January 1 2002, January 1, 2003, January 1, 2004, and January 1, 2005.

The Employer has proposed a 3 percent wage increase for each year of the contract. The increases are to become effective January 1, 2002, January 1, 2003, January 1, 2004 and January 1, 2005. Both parties have agreed that wages for each year of the collective bargaining agreement will be viewed as a separate economic issue.

Parties' Arguments in Support of Final Offers

The Union maintains that currently firefighters rank third out of the six comparables. However by the time that employees reach the rank of Lieutenant and Captain their base wage is significantly behind the average found in the comparable communities. In support of its position it notes the substantial wage disparity between what firefighters receive in Muskegon Township and wages provided firefighters in places such as Muskegon and Norton Shores. It maintains that its request for a four percent wage increases is also consistent with increases firefighters received in Fruitport Township for the years 2002, 2003, 2004, and 2005. Furthermore, while in other municipalities firefighters received increases closer to the Employer's three percent proposal, these municipalities do not require employees to pay for the health insurance premiums and which policy in Muskegon Township effectively lowers the wages received by its firefighters. Considering both the total cash compensation received by

Township firefighters as well as the value of their total leave hours, the Union argues that the Township firefighters receive fewer economic benefits than firefighters in nearly every other comparable community. Finally, the Union contends that the CPI or cost of living considerations do not support the granting of lower wage increases, as the Employer historically has granted its employees wage increases in excess of the CPI and has continuously done so for employees in other units as well.

The Employer maintains that the reasonableness of its wage proposal must be understood in the context of the full wage increases that it is intending to provide firefighters. In this regard, its proposal to provide three percent wage increases annually must be juxtaposed against the two percent rank differential that it intends to provide lieutenants and captains within the bargaining unit. When taking into consideration these increases, the wages that firefighters will receive will be comparable to the wages received in other communities. Moreover its proposal is fully consistent with the wage increases offered other employees and more than generous when juxtaposed against changes in the cost of living experienced by employees.

Discussion

At the outset the Panel believes that in evaluating the statutory criteria of comparability, it is necessary to compare wage rates in the context of the total cash compensation employees receive. Thus whether employees receive payments by virtue of a negotiated hourly wage or as a result of a uniform allowance, holiday pay, longevity increment, or food allowance, each of these payments results in monies directly received by the employee and determines his/her economic well-being and purchasing power. On the other hand, as leave hours (sick, annual, or compensatory) do not generate increased

earnings for employees, the Panel does not find it appropriate to consider the theoretical monetary equivalent of such leave when evaluating the earnings of Muskegon Township firefighters and firefighters in other comparable communities.

Additionally, the Panel recognizes that wages and rank differential are separate issues and accordingly the Panel will reach separate findings on each of them. At the same time it is unrealistic to ignore the inherent linkage between the two. The Employer's willingness to agree to a rank differential for the position of Lieutenant Captain and Inspector will translate immediately into higher base wage for each of these classifications. These higher base wages will then have an immediate and positive effect on the annual earnings of employees in these classifications. Given these considerations, the Panel in determining the merits of the Union's and Township's wage proposals will consider the impact of the rank differentials offered by the Township.

These considerations are integrated in the following table which reflects for 2002 the current total cash compensation for firefighters (24 months), a five-year Lieutenant and a ten-year Captain. Specifically it considers for each of these classifications the impact of a three percent wage increase combined with a 2 percent rank differential to be received by lieutenants and captains under the Township's and Union's proposals.

The data indicate that a three percent wage increase would result in Muskegon Township firefighters (second lieutenants) receiving the highest wages of all firefighters of equal seniority among the comparable communities.

Total Cash Compensation (2002)
3% + 2%

	Firefighters	LTS	Captain
Fruitport	\$30,781	\$34,732	\$43,479
Muskegon	\$37,038	\$50,806	\$55,239
Muskegon Heights	\$33,786	\$41,020	\$42,828
Muskegon Township	\$42,628	\$43,661	\$44,679
Norton Shores	\$39,761	\$46,911	\$48,056
South Haven	\$34,160 (EMT-S)	---	\$42,087
Average not including Muskegon Township	\$35,105	\$43,366	\$46,337

Union Proposal (4% + 2%)

Muskegon Township	\$43,010	\$44,051	\$45,077
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The Township's wage proposal when combined with the two percent rank differential would result in the Township's lieutenants ranking ahead of two and below lieutenants in two of the six communities. They would be receiving wages superior to that received by lieutenants in Fruitport Township and Muskegon Heights but below lieutenants in Norton Shores and Muskegon. (South Haven does not employ this rank.) The total cash computation of Muskegon lieutenants under the Township's proposal is \$43,661, an amount that approaches the average earnings of \$43,367 received by lieutenants in the comparable communities.

As a result of the three per cent wage plus two percent rank differential, captains in Muskegon Township would rank third in terms of total cash compensation and ahead of what Captains receive in Fruitport Township, Muskegon Heights and South Haven. However, under the Township's proposal, captains would receive \$2,647 less than that the average total cash compensation paid firefighters in other communities.

Summarizing the data, it can be maintained that the Township's wage proposal for the position of firefighters is quite reasonable, resulting in their receipt of cash compensation that is the highest in the area. Its proposal would result in lieutenants receiving wages that are competitive with wages received by lieutenants in other departments. The Township's proposal for 2002 is also supported by considerations of internal comparability as both police personnel and the DPW/clerical employees have received three percent wage increases in 2001 and 2002. At the same time, it is also apparent that the Township's proposals would result in captains receiving significantly less than the average wage captains enjoy in other communities. In this regard, the acceptance of Union's proposal would help reduce this serious gap. Yet on balance, the Panel finds the Township's proposal for 2002 reasonable, and therefore adopts the 3 % wage increase effective January 1, 2002.

Determining what the wage increases should be for the successive years, especially in years 2004 and 2005 of the agreement, is most difficult, as factors that may impinge on the Employer's ability to pay are unknown. Additionally, once we go beyond 2003, it is difficult to make meaningful comparisons with wages and benefits in other comparable communities, as many of the comparable communities do not have contracts covering these time periods. Thus in 2004 and 2005, only Fruitport and South Haven will

have negotiated contracts. Looking at wage increases in Norton Shores and South Haven for 2003 we find that wages increased by approximately three percent. In Fruitport however, lieutenants received no increase, while firefighters received a 4.4 percent increase and captains a 3.5 percent increase wages.

Looking at this pattern one might argue that the Township's proposal of three percent is more consistent with the general pattern of wage increases offered by other townships in 2003. Yet there are other factors which must be addressed. Just as it is unreasonable to ignore the rank differential increase proposed by the Township, it is equally arbitrary to ignore the effect that employee contributions to hospitalization and medical premium costs will have on the real earnings of Township firefighters. Furthermore, any fair comparison of the earnings of the Township's firefighters must consider this element, because firefighters in all comparable communities do not bear the economic burden of premium sharing. Currently as agreed to by the parties, employees must contribute a minimum of .57 (.0057) of their wages to fund health premium costs. Over a two-year period, a minimum of 1.14 percent of employee wages will be used to fund health care premium costs. These added costs will obviously reduce the value of the economic package offered by the Township.

Moreover the Panel's calculations overestimate the economic standing of the firefighters vis-a-vis firefighters in two of the comparable communities. Thus firefighters in Muskegon and Muskegon Heights will be negotiating new contracts for calendar year 2002 and it is quite possible that firefighters in these communities will receive wages and other fringe benefits such as longevity or holiday pay that will increase their total cash compensation. Given this consideration as well the health-care costs incurred by

firefighters, it is likely that not only captains but in lieutenants in Muskegon Township would receive less in total cash compensation than the average amount paid firefighters in the comparable communities were the Township's proposal on wages to be fully accepted.

As a result, the Panel finds that providing firefighters wages that are competitive with the total cash compensation received by firefighters in comparable communities requires not adopting in full either party's final offer on wages, but rather integrating them. This can be achieved by implementing the Township's wage proposal in 2002 and 2004 and the Union's wage proposal in calendar years 2003 and 2005. Additionally, the Panel does not find such an approach inconsistent with considerations of internal comparability. A review of internal wage adjustments negotiated over the years in the Township indicates other occasions in which firefighters have received higher annual increases than police officers and where employees in the DPW/clerical unit received higher annual increases than either firefighters or police personnel. Additionally while these increases are higher than the increases experienced in the cost of living, the increases are fully compatible with the bargaining practice in the Township to negotiate wage increases in excess of yearly increases in the CPI, when changes in the CPI have been relatively moderate. Finally the wage proposal that the Panel is adopting is compatible with the Township's ability to pay as the Township has experienced strong growth in property values and fund balances.

Given these considerations, the Panel awards firefighters a three percent wage increase effective January 1, 2002, a 4 percent wage increase effective January 1, 2003, a

three percent wage increase effective January 1, 2004, and a four percent wage increase effective January 1, 2005.

Rank Differential

Currently there exists a rank differential of approximately one percent between the positions of Second Lieutenant and Lieutenant and between Lieutenant and Captain and an approximately two percent wage differential between the position of Captain and Assistant Chief. The last classification is not significant for purposes of this review, as the Assistant Chief position has not been filled and there appears to be no interest or intent by the Township to fill it.

The Union has proposed the following amendment to the wage scale outlined in Appendix A of the parties' contract.

Appendix A. Rank Differential. Effective January 1, 2003, and calculated on the rate effective January 1, 2003, a five percent differential shall be maintained between the ranks as set forth below:

Assistant chief:	105 percent of Captain rate
Captain	105 percent of Lieutenant rate
Fire Inspector (certified)	105 percent of Lieutenant rate
Fire Inspector (uncertified)	105 percent of second Lieutenant (24mo)rate
Lieutenant	105 percent of second Lieutenant (24mo)rate

The Township proposes the following last best offer:

The Lieutenant and Uncertified Fire Inspector shall be two percent above the second Lieutenant.

The Captain and Certified Fire Inspector shall be two percent above the Lieutenant and Uncertified Fire Inspector.

The Assistant Fire Chief shall be two percent above the Captain and Certified Fire Inspector.

Parties' Arguments in Support of their Final Offers

The Union maintains that its proposal is justified by the need to rectify the Township's failure to afford supervisory firefighter personnel an appropriate rank differential that accounts for their supervisory command responsibilities. The Union notes that the current differential between a firefighter (Second Lieutenant) and Lieutenant is only .9 percent while in comparable communities the average rank differential is 8.9 percent. The differential between the rank of Fire Captain and Lieutenant is even more glaring with the average differential in comparable communities amounting to 10.1 percent or more than double the Union's last best offer of five percent. It contends that its proposal is further justified by the inadequate wages command personnel and particularly captains receive in Muskegon Township.

The Township maintains that its proposal approximately doubles the rank differential that has previously existed. Furthermore, when taking into consideration the 3 percent across the board general increase that it has proposed, its combined wage and rank differential proposals will result in Muskegon Township firefighters achieving reasonable parity with firefighters in the comparable communities.

Discussion

The Panel is sympathetic with the Union's concern that command personnel especially Captains have not been adequately compensated for the supervisory duties that

they exercise. Captains especially are underpaid relative to command personnel in other units. At the same time, the Employer's last offer helps to correct this disparity by doubling the current wage differential between ranks. Furthermore, the Panel's award on wages will bring significant increases for Township firefighters occupying all classifications. Effective January 1, 2002 Second Lieutenant will get an effective wage increase of three percent, lieutenants four percent and captains 4.8 percent. Their increases in 2003 would average four per cent. Moreover adoption of the Union's rank differential proposal would require the Township to provide wage increases to firefighters far in excess of wage patterns negotiated in comparable communities and within the Township. The average wage increases in 2003 and 2004 year in Fruitport, South Haven, and Norton Shores was between three and four percent. Yet the Union's rank differential proposal would result in Township firefighters in the various ranks receiving wage increases ranging from 4 to 12 percent in calendar year 2003. Given these considerations, the Panel adopts the Township's rank differential proposal.

Health Insurance: Premium Co-Pay

Currently under Article XXVI of the parties' agreement and as a result of a prior Act 312 award, the Township is entitled to deduct from each employee's paycheck on a monthly basis a sum equal to three percent of the Employer's current premium costs on health insurance.

The Township seeks to modify Article XXVI in the following manner:

Effective the first full month following the Act 312 award, there shall be deducted from each employee's paycheck covering the first full pay period in each remaining

month for the calendar year 2002, a sum equal to four (4) percent of the current premium amount for the employee.

(i) Effective January 1, 2003, the amount shall be five (5)percent.

(ii) Effective January 1, 2004, the amount shall be six (6) percent.

(iii) Effective January 1, 2005, the amount shall be seven (7) percent.

The Union proposes that the status quo be maintained which amounts to a continuation of the employees' three percent co-payment of the premiums.

Parties' Arguments in Support of their Final Offers

The Township notes a substantial and dramatic increase in insurance costs over the past five years. In proposing increases in employee contributions to premium costs, the Township maintains that it is proposing to do what others are doing across the country. Thus an increasing number of both small and large firms are requiring that employees increase their premium costs contributions. In support of its position, the Township notes that in other Township bargaining units including the police and DPW/clerical, employees will be required to contribute equivalent amounts for health insurance coverage. In this regard, police officers have contributed five percent in 2001 and six percent in 2002, and will be contributing 7 percent in 2003 and 8 percent in 2004. The DPW/clerical unit employee premium co-payment was 4 percent as of July 2000, 5 percent for 2001, 6 percent for 2002, and will be 7 percent in 2003. Furthermore even with these contributions, wage increases provided employees under the Township's wage proposal will result in their receipt of increases that exceed increases in the cost of living.

The Union maintains that the Township's proposal is unjustified. It contends that the Township has failed to adequately consider the substantial savings it incurs as a result

of the employees' willingness to switch from an HMO plan to a point of service plan. As result of the switch, the Township will incur savings of over \$7000. Additionally the Township's proposal is inconsistent with the prevailing pattern established in other comparable communities whereby Employers have typically assumed the full burden of employee health coverage. Finally, the Employer's proposal should be rejected because of its negative impact on employee income and the absence of any evidence that such increases in employee co-payments are required by ability to pay consideration within the Township.

Discussion

The effort to address and respond to ever-increasing health-care costs is a problem affecting all employers and Unions. In this bargaining unit workers have voluntarily agreed to liquidate health-care coverage through an HMO and and select instead a less costly point of service plan through Blue Cross Blue Shield. The potential savings achieved by the Township are considerable. While monthly premium costs under the HMO for 2002-2003 would have been \$971, premium costs for a family under the point of service plan in 2002-2003 have been reduced to \$794. For ten employees, the annual savings is \$21,240.

Yet the Township still has experienced increased costs for health insurance. While the 2001 HMO rate was \$711 for a family, the monthly premium cost for family coverage in 2002 for the point of service plan is \$794. If all 10 firefighters are enrolled in the family plan, the Township will experience increased costs of \$9661 ($\$9960 \times .97$). The question before the Panel is the propriety of requiring employees to assume a greater burden of increases in premium costs.

The Township has pointed to a national trend in which employees are assuming increased responsibilities for health-care coverage. To some degree, experience within the Township reflects this trend, as firefighters themselves have agreed not to contest the three percent premium sharing requirement endorsed in the previous Act 312 proceeding. At the same time, from this Panel's perspective, more critical than national trends are practices prevailing within the comparable communities, for it is with the benefits in these departments that the Township's firefighters compare their own, and it is against these same departments that the Township must compete in recruiting and maintaining a stable work force. In proposing that employees assume substantial responsibility for premium sharing, the Township is seeking to impose on its firefighters an economic burden not shared by firefighters in nearly every other comparable community. Thus Fruitport Township, Muskegon, Muskegon Heights, and Norton Shores pay 100 percent of the cost of employee health insurance. It is clear then that considerations of external comparability strongly support the Union's position of status quo.

The Panel also finds the Employer's proposal less acceptable, because of its seriously negative impact on the real wages of employees. The Township is proposing an employee co-payment of five percent effective January 1, 2003, 6 percent effective January 1, 2004, and seven percent effective January 1, 2005. A five percent contribution by an employee who subscribes to a point of service family plan would equal $(.05 \times \$794 \times 12)$ approximately \$480. For a second lieutenant this would amount to more than a one per cent deduction from his/her real wages. As a result, in 2002, the actual wage increase of second lieutenants would be less than the increase this Panel has previously found reasonable. Lieutenants and Captains would also be heavily and negatively affected in

2003 and succeeding years. In practice, the increased contributions required of employees would seriously dilute the wage proposals adopted by the Panel and would likely result in firefighters receiving for the period of the new agreement smaller percentage wage increases than would be received by firefighters in comparable communities.

The Township has argued that considerations of internal comparability support its position. While the Panel recognizes that adoption of the Union's position would conflict with this consideration, the Panel is constrained nonetheless to reject the Employer's proposal because it would otherwise interfere with the effort to provide firefighters with wages and fringe benefits that are consistent with the wages and fringe benefits enjoyed by firefighters in comparable communities. Furthermore the argument for parity between the firefighters and other units is less compelling here where both on an absolute and percentage basis firefighters and police within the Township do not enjoy the same level of benefits. Thus as noted earlier, different percentage wage increases have been granted members of the three bargaining units. Additionally, members of the police bargaining unit are better able to assume increased premium sharing costs, as members of that unit and police command personnel on the average earn several thousand dollars more than members of the firefighters' bargaining unit.

Given these considerations, the Panel adopts the Union's last offer on this issue.

Health Insurance Traditional BC/BS Prescription Drug Rider

Under Article XXVI, section 26.1(a) employees must pay five dollars when purchasing prescription drugs. The Employer has sought to increase the co-payment from 5 to 10 dollars by amending Article 26 in the following manner:

Effective the first full month following the date of the Act 312 award:

- (a) the Employer agrees to pay, subject to the provisions set forth below, hospitalization premiums for the employee and dependents for one of the plans elected by the employee, which plans are as follows:
 - (i) Blue Cross/Blue Shield with a Master Medical (Option 4) and the ML rider, FAE rider and Prescription Drug Plan.
 - (ii) Blue Cross POS Plan # 4 5/10 RX with dental coverage.

At the hearing the Union had already agreed to the point of service (POS) plan. In addition in its last best offer the Union has agreed to increase the prescription drug rider on the traditional Blue Cross/Blue Shield coverage from \$5 to \$10. At result there is no difference between the Employer's and Union's last offer on this issue. For this reason that Panel will adopt the language incorporated in the Township's last best offer.

Health Insurance-Implementation of Base Plan

The Township has proposed a new condition to be added to the health insurance provision outlined in Article 26. The Township's proposal provides as follows.

Section 26.1 Election of Higher Cost Plan

- (b) Should the employee elect the plan with the higher premium, the difference in the premium shall be paid by the employee, in addition to the amount to be paid in Section (d) below, by payroll deduction which is authorized by this Agreement.

In its last offer, the Union presented a proposal which essentially mirrors that of the Township. For this reason the Panel adopts the Township's last offer.

Health Insurance: Changing Insurance Carriers, Nature of Employer's Obligations, Insured Plan Subject to Terms of the Individual Policies

The Township has proposed additional changes to the health insurance provisions by adding a new subsection 26.6 to Article XXXVI. Section 26.6 (a) (b), and (c) are as follows:

Effective the first full month following the date of the Act 312 award, the Employer proposes:

- (a) The Employer reserves the right to select and change any and all of the insurance carriers and/or that method of funding upon advance notice to the Union, provided that there shall be no substantial change in the level of benefits.
- (b) The Employer's obligation with respect to any insurance coverage or claim shall be limited to the payment of its portion of the premiums or the transmittal of premiums to the designated carrier or its agent and upon such payment or transmittal, the Employer shall be relieved of any liability with respect to such coverage for claims.
- (c) The insured plans referred to above are subject to the terms and conditions of the individual policies and nothing in this Agreement is intended to provide benefits or coverage except as it is contained in such policies

The Union's last offer on section 26.6 is set forth below:

- (a) Effective upon issuance of the Wolkinson Act 312 award, the Employer reserves the right to substitute another insurance carrier and/or self-insure any of the insurance plans as outlined in this Article, upon advance notice to the Union, provided that the level of coverage and/or benefits remains unchanged.

Parties' Positions on Issues

The Employer maintains that its language is preferable as it more realistically recognizes that is almost impossible to activate a clause permitting a change in insurance carriers without precipitating some change in the level of benefits. From its perspective, the Union's language essentially prohibits bringing in a new carrier or self-funding. The second provision is reasonable as it makes it clearly understood that the Employer is not the insurance company and that its responsibility is only to pay premiums to the carrier. Consequently disputes regarding claims in coverage are between the employee and the

carrier and not the Employer. The last provision further protects the Employer from any claims that go beyond the actual insurance policies.

The Union maintains that the Employer has provided no compelling evidence to support a change in the status quo. With regard to subsection (a), it contends that the Employer's language permitting change in policies as long as there would be "no substantial change in the level of benefits" is inherently vague and would precipitate grievances. Furthermore the Employer's proposed subsections (b) and (c) would result in employees having no resort to the grievance arbitration procedure should insurance carriers default on their responsibilities. Under the Township's proposal, its only recourse would be an expensive lawsuit against the insurance carriers. Such an approach is contrary to statutory policy which encourages arbitration as the preferred means of resolving disputes between unions and employers.

Discussion

Subsection (a) of the Township's proposal addresses the receipt of health care benefits, subsection (b) implicitly addresses the mechanism by which the receipt of these benefits may be enforced, while subsection (c) clarifies the source of employee benefits. As each of these provisions are subject to distinct considerations, the Panel will address them as separate issues and therefore make separate findings on each of them.

With respect to subsection (a), the Township's proposal does not find support either in internal or external comparables. The Police Officers Labor Council agreement does not contain any such provision. Additionally only one comparable community contains the provision that the Township is seeking in subsection (a). Consequently the status quo appears to be more strongly supported by comparability considerations.

The Panel is also concerned that the language "no substantial change" may well precipitate conflict and subsequent grievances with regard to its meaning. At the same time, the Union's language does afford management the flexibility of changing insurance carriers or self-insuring. Additionally the Panel does not agree that the Union proposal effectively blocks any change. For example, assume that the new insurance carrier would not cover a particular medication. Yet if the substitute carrier provided alternative medication, that change would be permissible, as effectively there would be no reduction in benefits. Furthermore, the Union's language only requires that the levels of benefits and coverage remain unchanged. Consequently some small adjustments would be permissible. At the same time, it is apparent that the most effective means of health care cost savings is through joint Union- management discussion through which both sides can identify and agree to changes that would reduce costs. It is precisely this kind of approach that led the parties to agree to a Point of Service Plan that will significantly reduce health care premium costs over the terms of this agreement. Such collaboration is also promoted by adoption of the Union's proposal , as it places more restraints on unilateral employer changes in health insurance.

Given these considerations, the Panel adopts the Union's final offer with regard to subsection (a) of Article 26.6.

With regard to subsection (b), the Township's proposal is supported by considerations of internal comparability. The contracts in the police and DPW bargaining contain similar provisions. On the other hand, it appears that the contracts of only one comparable, Norton Shores, contains a provision indicating that the Employer's liability is limited to the payment of insurance premiums.

The Union's principal argument against this provision is that this provision would deprive employees of recourse to the grievance arbitration procedure were the insurance carrier to modify its plans and policies and deprive employees of benefits. From its perspective such an approach runs contrary to common-law and statutory policy which encourage arbitration between unions and employers. The Panel does not find this argument persuasive. Were the insurance carrier unilaterally to withhold benefits previously paid for through premiums, the offending party would not be the Employer, but the insurance carrier. Under such circumstances, it is questionable that the arbitration process would be the appropriate forum for relief, or that the Employer should be singled out for liability. Furthermore subsection (b) only clarifies the reality that the Township is not the insurance carrier, and that its obligations are essentially limited to paying the premiums for the specific health care insurance policies agreed to by the Township and the Union. Finally the Township has shown its good faith in the past, by interceding with the insurance carriers when employees have had difficulties recovering benefits. Consequently, this provision should not be viewed as an effort by management not to assist employees in their recovery of claims. Given these considerations, the Panel finds the Township's proposal reasonable and adopts it.

The third provision, subsection (c), indicates that the health care benefits are limited to those actually provided for in the policies. This provision in no way reduces benefits of employees and serves only to clarify to employees that there are detailed documents which the contract only refers to and which clearly state that coverage available to employees. This provision is useful as it may well encourage employees to

familiarize themselves with the detailed health care documents available to them. As a result, the Panel adopts the Employer's final offer on this matter.

Sick Leave

Currently, under Article XXI, Section 21.1 firefighters working a 24-hour schedule in the fire suppression division accrue six sick leave hours per biweekly pay period, up to a maximum of 156 hours per year. The 156 hours equates to 6 1/2 work days. The Fire Inspector, an employee in the fire prevention division, works an eight-hour day and accrues under Article XXI, Section 21.2 four hours of sick leave per biweekly pay period up to a maximum of 104 hours per year. The Union proposes to modify these provisions as follows:

Section 21.1 As of the first biweekly pay period of 2003, 24-hour shift employee shall accrue seven (7) hours of sick leave per biweekly pay period, up to 182 hours per year.

Section 21.2 As of the first biweekly pay period of 2003, the Fire Inspector shall accumulate five(5) hours of sick leave per biweekly pay period, up to 130 hours per year.

The Township opposes this offer and proposes that the status quo be maintained.

Parties' Arguments in Support of Final Offers

The Union maintains that sick leave is a critical benefit for firefighters who are exposed to every day work hazards. It also maintains that both considerations of internal and external comparability support its last best offer. Additionally, the Union point out that it is not proposing any change in the payment of sick leave but merely in the accrual. As a result its proposal should have little if any economic impact on the bargaining unit.

The Township's opposition is grounded in part on the perceived cost. It maintains that the Union's proposal based on wage rate for 2001 would result in increased costs of \$3557. Furthermore accrued sick leave benefits afforded employees are comparable with sick leave benefits provided firefighters in other communities. Moreover firefighters within the Township match up well with firefighters in other communities who accumulate the same 1440 hours. Given these considerations there is no demonstrable need to accelerate the rate of sick leave accumulation.

Discussion

Considerations of external comparability provide some support for the Union's position. Three of five comparables, Fruitport Township, Muskegon Heights, and South Haven provide significantly more sick leave accrual benefits than that provided by Muskegon Township. Agreement to the Union's position would still leave the Township providing a lesser amount in terms of sick leave annual accrual. Thus Fruitport Township allows firefighters to accrue 180 hours of sick leave, while Muskegon Heights and South Haven permits the accrual of 288 hours of sick leave annually.

Additionally, considerations of internal comparability also provide some support for the Union's position. Under the Union's position, 24-hour firefighters would be able to accumulate up to 182 hours per year. This increased leave would operate as a safety net in the event firefighters have to be off an extended period of time. The amount of accrued leave is compatible with the accrued leave hours afforded employees in the police officers bargaining unit and the DPW/clerical bargaining unit. Furthermore while the City attributes the lesser amount of accrual leave benefits afforded firefighters to the difference in the daily hours worked in each unit, the Panel does not see this factor as an

essential consideration warranting the disparity. Thus regardless of the daily hours worked in each unit, employees affected by illness will likely have their ability to work their respective shifts affected and merit equality in the receipt of sick leave accumulation.

Finally the Panel finds that acceptance of the Union's final offer would not impose any significant increases in costs for the Township. The Union's proposal does not alter the maximum sick leave pay out of 1440 hours, nor does it modify the 50 percent payout of accrued sick leave for hours not used in excess of 1440 hours that an employee is paid on an annual basis or that an employee might receive upon retirement or separation from service. Currently there is only one employee at the maximum level who might be provided some pay for unused sick leave hours in excess of 1440 hours. Additionally based on age and years of service of current firefighters there is no reasonable likelihood of firefighters retiring or separating in the near future. Finally, sick leave accumulation should not necessarily result in higher overtime costs as the Township Supervisor has acknowledged that when a firefighter calls in sick, the Township does not usually call in another person to work overtime, but operates with reduced staff. Given these considerations, while the Township's auditor may require the Township to view sick leave accrual as a cost item measured in terms of the dollar value of the hours accrued, the actual implementation of the benefit should have only a minimal economic impact on the Township.

Of the basis of these considerations, the Panel adopts the Union's last offer on this issue.

Personal Days

Under Article XXIV, Section 24.1(a) of the current agreement employees are entitled to receive two personal days and the employee's birthday to be granted and paid for in each contract year. Both parties submitted identical last best offers and accordingly the parties have reached agreement on this issue. Article XXIV, Section 24.1(a) in a new agreement shall provide as follows:

Effective January 1, 2003, three (3) personal days and the employee's birthday shall be granted and paid for in each contract year. Personal days to be scheduled will be with as much advance notice as possible but no less than two (2) days advance notice except in the case of emergency.

Vacation

Currently, Article XXV, section 25.1 provides the following vacation benefits to firefighters:

Completed Years of Service	Vacation Allowance
1-2	72 hours
3-5	120 hours
6 -12	192 hours
13-17	240 hours
18 or more	312 hours

The Union has proposed the following modifications:

Effective on each employee's anniversary date in 2002, and consistent with Section 25.10, 24-hour shift employees shall receive annual vacation time with pay at the straight time hourly rate in accordance with the following schedule:

Completed Years of Service	Vacation Allowance
1-2	96 hours

3-5	144 hours
6-12	192 hours
13-17	240 hours
18 or more	312 hours

The Employer has submitted nearly the identical proposal:

Effective January 1, 2003, 24-hour shift employees shall receive annual vacation time with pay at the straight time hourly rate in accordance with the following schedule

Completed Years of Service	Vacation Allowance
1-2	96 hours
3-5	144 hours
6-12	192 hours
13-17	240 hours
18 or more	312 hours

Parties' Arguments in Support of Final Offers

From the Employer' perspective the Union is proposing an effective date of January 1, 2002 while it is proposing an effective date of January 1, 2003. The Township maintains that it is reasonable to delay the effective date until January 1, 2003 as there is no demonstrable need to increase paid days off for more senior employees. The Union asserts no intent to receive retroactively vacation hours for the year 2002. Rather its objective is for employees to receive additional vacation hours in year 2003 and beyond. However it believes that its language is preferable as it more nearly complies with the actual contract requirements.

Discussion

Both parties are in essential agreement on this issue. The Panel however finds the Employer's proposal preferable because the language in the Union's proposal, which makes the receipt of vacation benefits effective on each employee's anniversary date in 2002, might be misinterpreted to mean that this benefit should have been afforded retroactively to employees for 2002. This potential misunderstanding is avoided by language stating that the benefit becomes effective on January 1, 2003.

Furthermore the Panel does not see any real risk that this new provision would create other causes of confusion that may precipitate grievances. The Union is concerned that the Township's language might be misinterpreted to change the eligibility criteria from that based on an individual's anniversary date of hire as outlined in Section 25.10 to January 1, 2003. Nothing in the Township's proposal suggests that its intent was to modify section 25.10 whereby vacation eligibility is earned in the previous anniversary year and shall be calculated from the anniversary date of one's hire. Nor does anything in the Township's proposal have such effect. Similarly, nothing in the Township's proposal was intended to or nor has the effect of modifying the requirement under Section 25.10 that employees take their vacation within a twelve-month period following each employee's respective anniversary date. Given these considerations, the Panel adopts the Township's last offer on this proposal.

Health Insurance-Cash Payment Option

Currently under Article XXVI, Section 26.1(c) a member of the bargaining unit who is otherwise eligible for hospitalization insurance coverage has the option of relinquishing Township sponsored health insurance coverage and receiving instead a cash

payment of \$100 per month for each month that coverage is waived. The Union has proposed the following modifications to this provision:

Effective January 1 2003, reimbursement to an employee who is otherwise eligible for hospitalization insurance coverage and who has executed a proper waiver of coverage will be paid in the amount of \$250 per month.

The Township proposes that the status quo be maintained.

Parties' Arguments in Support of Final Last Offers

The Union maintains that equity considerations support its proposal. If members save the Township considerable funds by declining health insurance, it is only appropriate that the Township share its savings with employees. Moreover its position is supported by considerations of internal comparability. It contends that other Township employees are eligible to receive much higher amounts if they opt out of the Township's sponsored health insurance. The Union also contends that its proposal would not materially impact on the Township's cost, as currently there is only one employee in the bargaining unit who exercises this option.

The Township maintains that there is no material basis for improving this benefit. It notes that considerations of external comparability support the current benefit. Furthermore while other Township employees may obtain a higher cash out payment, this outcome is the result of an agreement grandfathering incumbent employees. Currently all employees who were hired after January 1, 1997 or who will be hired after January 1, 1997 will receive only a \$100.00 per month cash option payment. Consequently, for newer employees the Union's proposal would conflict with considerations of internal comparability.

Discussion

On this issue, considerations of external comparability provide some support for the Union's proposal. In three of the five comparable communities (Fruitport, Muskegon Heights, and Norton) firefighters receive a minimum of \$250 per month if they opt out of the Employer's insurance hospitalization plan. In Norton Shores, firefighters receive up to \$400 a month, while in Muskegon Heights the annual payment varies between \$600 and \$1,000 depending upon the kind of coverage the employee would otherwise receive (one person, two-person or family). On the other hand, firefighters in South Haven receive no such benefit while employees in Muskegon receive only \$100 per month.

The Union has also argued that considerations of internal comparability support its position. It points to the fact that other Township employees are eligible to receive 75 to 95 percent of the premiums they save the Township if they opt out of its health insurance plan. Moreover these Township employees enjoy a benefit that increases every year that health insurance rates increase.

Yet the Panel is persuaded that internal comparability considerations favor the Township's position. Significantly the Union has failed to consider that the higher cash option benefit is not afforded non-union workers within the Township. Moreover, only employees in the police officers' bargaining unit and the DPW/Clerical unit who were hired prior to December 31, 1996 or January 1, 1997 are able to achieve a higher cash payment option if they waive health insurance coverage. At the same time, employees in these units hired after January 1, 1997 as well as all non-union personnel receive only \$100 per month. Furthermore, a review of the firefighters' seniority list indicates that with the exception of only one employee, all firefighters were employed after January 1,

1996. As a result, in practice nearly all firefighters receive the same cash out benefits provided Township employees possessing the same amount of seniority. From this perspective internal equity considerations support the Township's proposal.

While considerations of external comparability provide some support for the Union's proposal, considerations of internal comparability support the Township's proposal. Additionally as the Township is assuming an inordinate share of health insurance costs, it is entirely appropriate that it reap most of the savings that are generated when employees relinquish township sponsored health insurance. Given these considerations, the Panel adopts the Township's last offer to maintain the status quo on this matter.

Life Insurance

The Union seeks to increase life insurance coverage through the following modification of Article XXVI, Section 26.2 of the contract:

Effective January 1, 2003, the Employer agrees to provide a \$50,000 life insurance policy with double indemnity for death and dismemberment for each seniority employee.

The Township proposes to maintain the status quo.

Parties' Positions in Support of Final Offers

The Union notes that a few other professionals find themselves exposed to the risks faced by members of the firefighting profession. The demand is also consistent with benefits received by firefighters in other comparable communities. Finally the cost of this benefit is rather modest, imposing on the Township an additional cost of \$816 per year.

The Township maintains that there has been no demonstrated need for this benefit. While as a practical matter the additional cost of this benefit is not prohibitive, its implementation will negatively impact costs in other units. Furthermore neither internal or external comparables support the Union's position.

Discussion

All other bargaining units within the Township receive a life insurance benefit of \$30,000. Even Township police who are also in a high-risk occupation receive the same benefit as firefighters. While Norton Shores and City Muskegon provide greater life insurance benefits, the three other comparable communities, Muskegon Heights, South Haven and Norton Shores provide firefighters with life insurance benefits inferior to that provided by the Township. Furthermore no compelling basis was provided to increase by 66 percent the current life insurance benefit. As the weight of the evidence supports the status quo, the Panel adopts the Employer's final offer on this issue.

Dental Insurance

Currently, the Township provides dental insurance through combination of a Blue Cross plan and an Employer supplement to the plan. The combination of the two provides 75 percent coverage payment for all services except orthodontics which is paid at 50 percent. The Blue Cross policy is divided into four classes of services. Class I services provide for routine maintenance exams as well as emergency palliative treatment. Class II services covers treatment such as fillings, root canals, repairs to dental appliances as well as any needed anesthesia or sedatives related to treatment. Class III services provide coverage for dentures and bridges while class IV services offers coverage for orthodontia services for the subscriber's dependents under the age of

19. All four of the classes are paid at 50 percent of the Blue Cross policy, with the Township picking up through self insurance the remaining 25 percent on Class I, II, and III services. The maximum payment for all services is \$1000 per member, with the exception for orthodontia work for which there is a \$1000 lifetime maximum. Any costs beyond \$1000 must be paid by the member.

The Union has proposed to increase the maximum dental insurance benefit from 1000 to \$2000. Specifically it has proposed the following:

Effective January 1, 2003 the Employer will provide all eligible employees and their dependents with a dental plan of 75/25 with a \$2000 maximum. It is understood that the \$2000 maximum may be fulfilled either through the dental carrier's insurance policy, or if not provided under the dental provider's policy, then through self-insurance through the Employer.

The Employer proposes that the status quo be maintained.

Parties' Positions in Support of Final Offers

The Union maintains that its position is supported by evidence from the comparable communities. In particular it points to the higher level of dental benefits received by firefighters in Muskegon Heights and South Haven. The Employer contends that both considerations of internal and external comparability support its position of status quo.

Discussion

On the whole Township firefighters receive dental benefits that are competitive with benefits received by firefighters elsewhere. Admittedly with regard to class I benefits Township firefighters receive smaller benefits (75 vs. 100 %) than firefighters in Muskegon Heights or South Haven. At the same time, they receive essentially the same level of coverage (75 vs. 80 %) for class II benefits, and receive a superior level of

coverage (75 vs. 50 %) for class III benefits. Additionally, Township firefighters receive the same annual maximum benefits that are provided all other Township employees.

Furthermore the Union is seeking a benefit far above what is available to firefighters in other communities. Thus the average annual maximum dental benefit available in other comparable communities for which we have data is \$1050. In the absence of any evidence that the \$1000 limit has resulted in any employee forgoing needed services, there is no basis for adopting a benefit level that would breach standards of both internal and external comparability. Given these considerations, the Panel adopts the Township's proposal to maintain the status quo on this matter

Optical Insurance

Currently, firefighters are provided a reimbursement, with a maximum payment of \$200, paid every calendar years for optical related costs. This reimbursement applies to the employee only and not to the employee's spouse or dependent children. The Union seeks to modify the current optical benefit with the following proposal:

Effective as soon as practicable after the issuance on the Wolkinson 312 Award, the Employer will provide Blue Cross/Blue Shield, Blue Vision Optical plan (24 month coverage) for each employee and their eligible dependents.

Parties' Positions in Support of their Final Offers

The Union maintains that this proposal affords a significant benefit to firefighters and their families at only a minimal cost to the Township. It also maintains that considerations of both internal and external comparability support its proposal. The Township is concerned that implementation of this proposal would result in significantly increased insurance premiums each year of the contract. Furthermore no other group within the Township currently has the benefit plan sought by the firefighters. The current

level of benefit is also consistent with the optical benefits firefighters receive in comparable communities.

Discussion

With regard to optical benefits, no uniform standard has been established in the Township. Employees of the DPW/ Clerical unit have no optical plan, while other employees such as the police receive the same optical benefits as the firefighters. In terms of the external comparables, the Union is seeking a benefit level that is consistent with benefits provided to firefighters in three of the five other communities. Firefighters in Muskegon and Norton Shores receive the same Blue Cross Blue Shield Vision plan, while firefighters in Muskegon Heights receive double the reimbursement available to firefighters in Muskegon Township.

The Panel also finds that the Union's demand would substantially improve optical benefits at only a minimal cost to the Township. Currently only employees receive optical insurance; their spouses and dependent children are not covered. This would change with implementation of the Blue Cross Blue Shield plan. Significantly the Township acknowledges that if this benefit is made available to the bargaining unit, its net annual cost would increase by only \$577. Given these considerations, the Panel finds that Union's more acceptable and adopts its final offer on this issue.

Longevity Pay

Currently firefighters completing a minimum of five years of service receive annual longevity payments of \$100. After 10 years of service this payment increases to \$200, 15 years of service results in a \$300 payment and so forth until employees completes 25 years of service, thus reaching the maximum payment of \$500. The

Union's last best offer proposes that longevity payment double in amount at each step while maintaining the same schedule of payments thus requiring employees to complete five, 10, 15, 20, and 25 years of service prior to receiving payment.

The specific proposal is as follows:

Years of Service	Annual Payment
5-10 years	\$200
10 to 15 years	\$400
15 to 20 years	\$600
20 to 25 years	\$800
25 years or more	\$1000

The Township's last best offer was to maintain the status quo.

Parties' Positions in Support of Final Offers

The Union maintains that considerations of external comparability support its position. It points to the significantly higher longevity payments received by firefighters in Fruitport Township and Norton Shores. It also contends that there is no uniform standard of longevity payments within the Township. Consequently higher longevity payments to firefighters would be appropriate. Finally it notes that this benefit would not impose significantly higher costs on the Township, as three of the 10 bargaining unit employees would still not receive any longevity payments during the terms of the Agreement while nearly all other firefighters would have their longevity payments increase by only \$100. The Employer maintains that considerations of internal and external comparability support its proposal to maintain the status quo.

Discussion

Examination of the data shows that there is no prevailing standard within the comparable communities with regard to longevity payments. As the Union has noted some communities such as Fruitport Township and Norton Shores provide substantially

higher longevity payments. Other communities such as Muskegon and South Haven provide no longevity benefits at all. Finally the city of Muskegon provides the same level of longevity payments as does Muskegon Township currently. In summary, longevity payments provided by the Township are equal to or better than the longevity payments provided in three of the five comparable communities. Additionally, it is likely that the higher longevity payments provided in Fruitport Township are designed in part to offset the relatively low wages prevailing within that community. Viewing all these factors, considerations of external comparability do not provide support for the Union's position.

At the same time considerations of internal comparability support the status quo. Police personnel receive the same longevity payments as firefighters. Additionally members of the DPW/ Clerical unit receive almost the same level of benefits, within a maximum benefit level amounting to \$600. Accepting the Union's proposal would upset prevailing standards within the Township. The Panel is reluctant to precipitate such an outcome, when adoption of the Union's proposal would benefit only a small number of employees in the bargaining unit. Given these considerations, the Panel adopts the Employer's proposal to maintain the status quo on this matter.

Pagers

The pagers at issue are alpha numeric pagers that firefighters use and carry in addition to the fire pagers required by the Employer and carried by employees. The fire pager is controlled by Central Dispatch. In the event of an emergency or an incident that requires Fire Department response, Central Dispatch sends a tone which activates the fire pager with a voice activated message. This information is recorded on a computer at Central Dispatch. Alpha numeric pagers provide information directly to the firefighters

in text form. Currently employees pay \$7.50 cents a month or \$90 annually to use alpha numeric pagers.

The Union has proposed a new section 31.4 to be added to the parties' contract as follows:

Pagers. Effective January 1, 2003, the Employer shall pay the full cost of pager(s) utilized by bargaining unit employees for fire department related matters.

The Employer has proposed that the status quo be maintained.

Parties' Positions in Support of their Final Offers

The Union maintains that while alpha numeric pagers are not technically a job requirement, they are used daily by the fire department in communicating fire service matters to employees. Indeed they are used to convey information that would not be possible or appropriate to convey through Central Dispatch. Given the benefit the Township derives from the use of these alpha numeric pagers, the Township should absorb the costs associated with their use. The Union also contends that considerations of external comparability support its proposal.

The Township maintains that it pays for the fire pagers as a means of communication. While conceding that Central Dispatch tones out both fire pagers and alpha numeric pagers, it contends that the alpha numeric pagers do not convey any different information than the fire pagers. Also, the alpha pagers are used for personal reasons at least 25 percent of the time. The Township maintains that until the alpha numeric pagers become required equipment, it should not be required to pay for their use.

Discussion

Although not officially required by the department, the record indicates that alpha numeric pagers are standard pieces of equipment used by Township firefighters that is obtained through the Township and paid by firefighters through payroll deduction. (Transcript, Vol. 2, p.492) On a routine basis, firefighters receive information on structural fires and other emergencies not only via the regular fire pagers but through the alpha numeric pagers. At the same time, the record indicates that there are some particular benefits to be derived by the Township from the use of alpha numeric pagers. The alpha numeric pagers provide a direct written display message regarding the nature of the incident and its location. Additionally alpha numeric pagers are more widely used off-duty than fire pagers and become thereby an important means by which to notify firefighters of emergency incidents. (Transcript, Vol. 2, p.482) Additionally with regard to non-emergencies, Central Dispatch may actually prefer relying on the alpha numeric pagers in order not to tie up the airwaves. (Transcript, Vol. 2, p.494) Furthermore, for communicating certain sensitive emergency situations, the fire department has relied on the alpha numeric pagers, as they provide a more secure means of communications than the fire pagers which can be monitored by the public. For example, in bomb and anthrax scares, Central Dispatch has used the alpha numeric pagers as the preferred means for communicating with firefighters. (Transcript, Vol. 2, pp.480-481) Since alpha numeric pagers advance the interests and welfare of the public, it is reasonable for the Township to absorb the costs of providing this piece of equipment to the firefighters.

The Union's proposal is also supported by considerations of comparability. In all other comparable communities, the employers pay the costs for providing alpha numeric

paggers to firefighters. Finally the overall cost for this bargaining unit is not significant, approximately \$900.00 annually. Given these considerations, the Panel adopts the Union's last offer on this issue.

Employee Reimbursement For Classes

The Employer's last best offer is:

Effective January 1, 2003, the Employer shall either provide transportation or reimburse the employee the cost of mileage (at the prevailing IRS rate) and the cost of meals incurred by the employee while attending classes required by the Employer. If the required class (es) are 100 miles or more from the Township, the Employer shall also reimburse the cost of lodging to the employee. The employee is required to submit receipts for meals and lodging to the Employer to receive the reimbursement.

The Union's proposal essentially mirrors that of the Township. It also has endorsed the Township's proposal. Consequently the Panel adopts the Township's proposal on this issue.

Maintenance of Conditions

The Union has proposed adding a new maintenance of conditions provision to Article 31.5 of the contract as follows:

Maintenance of Conditions. Effective upon issuance of the Wolkinson Act 312 Award, wages, hours and conditions of employment in effect at the execution of this Agreement shall, except as provided herein, be maintained during the term of this Agreement and the Township shall make no unilateral change in wages, hours and conditions of employment during the terms of this Agreement, either contrary to the provisions of this Agreement or otherwise.

The Township proposes no change to the status quo.

Parties' Arguments in Support of their Final Offers

The Union maintains that this provision will stabilize labor relations and reduce disputes by making it clear that the status quo is to be maintained, absent written agreement to a change, and by eliminating any controversy over whether the Union waived its right as to any change in a past practice. Furthermore the Union maintains that the proposed language simply codifies the parties' obligations under the Public Employment Relations Act. Additionally the adoption of this language will simplify and reduce the time involved in resolving disputes over alleged past practices or conditions of employment by allowing the parties to submit the dispute to final and binding grievance arbitration rather than filing of an unfair labor practice charge.

The Township maintains that there was no demonstrated need for this proposal. Additionally it would unreasonably dilute the Township's reserve rights. Moreover current precedent under PERA and the common law of arbitration adequately protects employees, as an employer's unilateral breach of an existing past practice could precipitate the filing of an unfair labor practice or a grievance. Finally the proposal is not supported by collective bargaining practices current in other bargaining units within the Township or in other comparable communities.

Discussion

The Panel finds that the evidence supports the status quo. No other bargaining unit within the Township contains such a provision. Furthermore, in only two of the five comparable communities, Muskegon and Muskegon Heights, have the parties negotiated this type of provision.¹

¹ Union Exhibit 113 indicates that the Township of Fruitport has negotiated a similar provision. Article 27 of that agreement does contain a maintenance of conditions provision. However in reality it achieves no

The Panel also finds this provision unduly broad. Not only past practices regarding economic benefits but all other working conditions would be frozen during the life of this contract. Such a provision would emasculate the Employer's reserve rights previously negotiated by the parties in article VII of their Agreement. Additionally, both the employees and Union can obtain adequate protection from any unilateral breach of a past practice by filing an unfair labor practice charge or by initiating a grievance. As a result, the Panel adopts the Employer's last offer on this issue.

Duration- Contract Renewal Extension

Currently Article XXXVI, Section 36.1(a) of the contract provides:

Effective upon issuance of the Wolkinson 312 award, if either the Employer or the Union desire to modify, amend or terminate this Agreement, said party shall notify the other in writing within 90 calendar days prior to expiration of this Agreement. Upon receipt of said notification the party shall set a date or dates for negotiations within 30 days thereafter.

The Union has proposed adding the following language to this provision which will become "effective upon issuance of the Wolkinson 312 award".

In the event that negotiations for contract renewal or modifications extend beyond the expiration of this agreement, the terms and provisions of this agreement shall remain in full force and effect pending resolution of a new contract or until an Act 312 arbitration order is issued.

The Township proposes no change in the status quo.

Parties' Arguments in Support of their Final Offers

The Union maintains that its proposal protects its members' interests in such situations where as here the Township has failed to reach agreement on a new contract until long after the expiration of the prior agreement. It would also bar unilateral changes

such effect. Thus it only provides that the Agreement supersedes all previous written agreements between the parties, and with disagreements hereafter being subjected to the grievance procedure. Meanwhile Norton Shores and South Haven have no such provision in their agreements with the firefighters.

in terms and conditions of employment. Additionally it would insure the survival of the grievance arbitration process which could be invoked to provide more expeditious relief than that available under MERC procedures. Finally, there is precedent in other bargaining units for this kind of provision, as the City of Muskegon has negotiated a similar clause in its collective bargaining agreement with the firefighters.

The Employer maintains that the Union's proposal should be rejected, because it negates its right during the bargaining process to put into effect its last proposal on issues in dispute following impasse. Moreover the other collective bargaining agreements both within the Township and in other comparable communities do not contain this proposed language.

Discussion

The Panel finds insufficient evidence to support the Union's proposal. Data from other bargaining units within the Township and from other comparable bargaining units indicate that the Union's proposal is not one that is commonly negotiated. Additionally, there are practical considerations for not endorsing the Union's proposal. Although an environment of stability is promoted by locking in the status quo pending resolution of a new agreement or issuance of an Act 312 award, there may well be corresponding disadvantages to employers. At times, changes in working conditions may be needed to promote considerations of safety and efficiency. Consequently, what conditions of employment should be retained and what should be modified following expiration of the contract is a matter best left up to the parties for resolution through the collective bargaining process. Such an approach is implicitly endorsed by PERA which recognizes an Employer's authority following impasse to make unilateral changes in conditions of

employment. Given these considerations, the Panel adopts the Employer's proposal of status quo on this issue.

Training Officer

The Union proposes a payment equal to 1.5 percent of an employee's base wage, to be paid to any bargaining unit employee who in addition to his/her normal workday duties and responsibilities is assigned by the Fire Chief to perform the duties of the Training Officer. The Union's last best offer is:

Appendix A2 Training Officer. Effective upon issuance of the Wolkinson 312 award, a bargaining unit employee who, in addition to his/her current duties and responsibilities, performs the duties and responsibilities of Training Officer shall be paid, in a separate check on or before December 15 of each year, an additional 1.5 percent of his/her base wage. An employee performing the Training Officer duties and responsibilities for less than a full year shall be paid a pro rata amount based on the number of pay periods during which the Training Officer duties were assigned and performed prior to the December 15 payment. It is undisputed that the assignment of those duties are at the discretion of the Fire Chief, subject to provisions of the collective bargaining agreement.

The Township's proposal is to maintain the status quo.

Parties' Positions in Support of their Final Offers

The Union notes that firefighters receive various training to qualify for different certifications. These include Fire Officer 1, 2, and 3 training and hazardous materials certification. Currently the Fire Chief delegates the duties of conducting training, scheduling, and recordkeeping to various bargaining unit members. From the Union's perspective, there would be advantages in having one person accountable for the coordination and scheduling of certifications and training requirements. As a result, its last best offer will benefit the Township as well as the employees.

The Township contends that the present system has worked for all concerned. Furthermore the proposal would impose on the Township unnecessary book-keeping expenses.

Discussion

It is apparent from the Union's last offer of settlement that is not seeking to require that any particular employee be designated as Training Officer or that any time be set-aside for any such employee afforded such designation. The proposal recognizes that decisions as to who should act as training Officer, when, and for how long remain at the Employer's discretion.

Presently the duty of coordinating training and certifications falls upon the Fire Chief. Formerly this responsibility was assumed by the assistant fire chief. However for some time this position has been vacant and consequently the Fire Chief performs this duty. It is also apparent that the Chief has delegated the duties of training, scheduling, and recordkeeping to various bargaining unit members.

At the same time, the record is devoid of any data as to the amount of time expended on such assignments. Is it de minimus or substantial in nature? Are such duties delegated to a few employees or many? Without information on these matters, the Panel is not in a position to evaluate the need for implementing this proposal. Thus were training duties assigned to many employees or alternatively were assignment of such duties an infrequent occurrence, implementation of this proposal would impose unnecessary and perhaps time-consuming bookkeeping duties on the Township. Given the dearth of information available to evaluate this proposal, the Panel adopts the Employer's final offer to maintain the status quo on this matter.

Wages- Deferment of Step Increase

The Township proposes the following provision to be part of the wage package:

Effective the first full month following the date of the Act 312 award:

2. Any unpaid absence of 60 consecutive calendar days or more, except for absences caused by a worker's compensation injury, shall defer any increase for a like period of time for employees.

The Union proposes continuation of the status quo.

Parties' Positions on Final Offers

The Township maintains that this provision applies to second lieutenants who are subject to a progression schedule. From the Township's perspective a deferment is necessary and reasonable to ensure that these employees receive the necessary training prior to upgrading. Additionally its proposal is supported by the fact that other city employees including the police and the DPW/ clerical workers are subject to a similar deferment clause if hired after January 1, 1996.

The Union maintains that the status quo is warranted, as no evidence has been presented that there have been any problems which would be resolved by a deferment provision. Moreover, firefighters in comparable communities are not subject to any such limitation. Finally the Township's proposal presents the potential risk of punishing employees who through no-fault of their own may be on an unpaid leave of absence.

Discussion

The Panel is concerned over the ultimate scope of the Township's proposal. It maintains that it only applies to lieutenants who are subject to a progression schedule. Yet the language of the proposal which would defer "any increase" would also apply to all groups of employees who might receive during the course of the contract wage

increases, longevity increments, or other wage supplements. Furthermore, it may have the effect of penalizing employees who are subject to military reserve duty, a not unlikely situation given the serious possibility that our nation will be pursuing military action in the near future against Iraq. Additionally no evidence has been presented of any problem within the bargaining unit that needed or could be addressed by the Township's proposal. Given these considerations, the Panel adopts the Union's proposal to maintain the status quo on this matter.

Summary of Panel's Dispositions

(1) On the issue of wages for calendar year 2002, the Panel with the Union delegate dissenting adopts the Employer's final offer.

(2) On the issue of wages for calendar year 2003, the Panel with the Township delegate dissenting adopts the Union's final offer.

(3) On the issue of wages for calendar year 2004, the Panel with the Union delegate dissenting adopts the Employer's final offer.

(4) On the issue of wages for calendar year 2005, the Panel with the Township delegate dissenting adopts the Union's final offer.

(5) On the issue of rank differential, the Panel with the Union delegate dissenting adopts the Township's final offer.

(6) On the issue of health insurance premium co-pay, the Panel with the Township delegate dissenting adopts the Union's final offer.

(7) The Panel unanimously adopts the Township's proposal on health insurance
† traditional BC/BS prescription drug rider.

(8) On the issue of health insurance-implementation of base plan, the Panel unanimously adopts the Township's last offer.

(9) On the issue of changing insurance carriers, the Panel with the Township delegate dissenting adopts the Union's last offer.

(10) On the issue concerning the nature of the Employer's insurance obligations, the Panel with the Union delegate dissenting adopts the Township's final offer.

(11) On the issue concerning insurance plans being subject to the terms of the individual policies, the Panel with the Union delegate dissenting adopts the Township's final offer.

(12) On the issue of sick leave, the Panel with the Township delegate dissenting adopts the Union's final offer.

(13) The parties have reached agreement on the issue of personal days.

(14) On the issue of health insurance- cash payment option, the Panel with the Union delegate dissenting adopts the Township's final offer.

(15) On the issue of vacations, the Panel with the Union delegate dissenting adopts the Township's final offer.

(16) On the issue of life insurance, the Panel with the Union delegate dissenting adopts the Township's final offer.

(17) On the issue of dental insurance, the Panel with the Union delegate dissenting adopts the Township's final offer.

(18) On the issue of optical insurance, the Panel with the Township delegate dissenting adopts the Union's final offer.

(19) On the issue of longevity pay, the Panel with the Union delegate dissenting adopts the Township's final offer.

(20) On the issue of pagers, the Panel with the Union delegate dissenting adopts the Union final offer.

(21) The Panel unanimously adopts the Township's proposal on employee reimbursement for classes.

(22) On the issue of maintenance of conditions, the Panel with the Union delegate dissenting adopts the Township's final offer.

(23) On the issue of duration-contract renewal extension, the Panel with the Union delegate dissenting adopts the Township's final offer.


(24) On the issue of training officer, the Panel with the Union delegate dissenting adopts the Township's final offer.

(25) On the issue of wages-deferment of step increase, the Panel with the Township delegate dissenting adopts the Union's final offer.

January 10, 2003


Benjamin Wolkinson, Chairperson


Don Aley, Township Delegate


Ronald Helveston, Union Delegate