

STATE OF MICHIGAN

ARBITRATION UNDER ACT NO. 312

PUBLIC ACTS OF 1969, AS AMENDED

In the Matter of the Statutory Arbitration between  
CITY OF MT. PLEASANT

-and-

MT. PLEASANT POLICE OFFICERS ASSOCIATION

9/23/74

ARBITRATION OPINION AND ORDERS

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*Mt. Pleasant City of*

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ARBITRATION OPINION AND ORDERS

This arbitration is pursuant to Act No. 312, Public Acts of 1969, as amended, and Act 127, Public Acts of 1972, providing binding arbitration for the determination of unresolved contractual issues in municipal police and fire departments and in relation to economic issues, the adoption by the panel of the last offer of settlement of the party which more nearly complies with the applicable factors set forth in Section 9 of the Statute.

Hearing in this matter was held May 6, 1974 before an Arbitration Panel composed of J. Willard Carpenter, Chairman, William B. Barrons, City member and Carl Parsell, Association member. The City was represented by Mr. John C. Lynch, Assistant City Attorney,

and the Association by Mr. Richard E. Craven, its Attorney.

Subsequent to the hearing, the Arbitration Panel Chairman resigned his appointment and by letter dated August 5, 1974 from the chairman of the Michigan Employment Relations Commission, the undersigned was appointed

"as arbitrator to serve as chairman of a panel of arbitrators in a dispute involving contract negotiations between the City of Mt. Pleasant and the Mt. Pleasant Police Officers Association."

The appointment was limited "to consider on the prior record an award to be made to resolve a dispute between the Police Officers Association and the City of Mt. Pleasant." The City and Association delegates to the Arbitration Panel remained unchanged, and no additional hearings were scheduled. The activities of the undersigned Chairman were limited to careful study and review of the May 6, 1974 record of proceedings, including analysis of all exhibits submitted in evidence, and subsequent meetings of the Arbitration Panel, at which the respective positions of the parties were reviewed.

#### STATUTORY STANDARDS

Section 9 of Act 312 [MCLA 423.239; MSA 17.455(39)], establishes

the criteria to be applied by the panel in resolving disputed questions and formulating its awards:

- (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.

Much of the evidence adduced at the hearing consisted of information and documentation obtained by interview, telephone contact, surveys based upon published data, and other forms of evidence generally unacceptable in a court of law. Technical application of the rules of evidence was avoided to permit each party to fully present its case. Notwithstanding, the Arbitration Panel has based its findings, opinions, and orders solely upon competent and material evidence, guided by the specific statutory standards above set forth.

#### UNRESOLVED ISSUES

Only those contract issues upon which impasse still existed at the close of the May 6 hearing will be discussed hereinafter. Parenthetically, the transcript indicates that prior to the arbitration hearing, the parties were able to reach agreement in the following contractual areas: Blue Shield-Blue Cross insurance, including Master Medical coverage; life insurance; holidays, sick leave; uniform allowance; personal leave days; retirement; and

agency shop. In addition, disputes over vacations and shift differential were resolved during the hearing and thereby removed from consideration by the Panel. At the close of the hearing, two issues remained in dispute:

1. Wages
2. Educational requirement for new patrolmen.

In addition, some discussion was had in the course of the arbitration hearing concerning the timeliness of the Association's demand for statutory arbitration pursuant to the provisions of Act 312, PA 1969, as amended and, concurrently, the right of the Arbitration Panel to issue its award for the 1974 calendar year with retroactive effect to January 1. This area also will be discussed briefly hereinafter.

#### GENERAL BACKGROUND

The City of Mt. Pleasant has a population of between 20,000 and 22,000, including a resident population at Central Michigan University, at the time of the 1970 census, of more than 6,000. However, there are between 14,000 and 15,000 students at the University, an institution of higher learning located within the community. The City's fiscal year is identical with the calendar year and the

last collective bargaining agreement between the parties expired December 31, 1973. The police department totals twenty in number and consists of a chief, one captain, and eighteen bargaining unit members who, since 1972, have been represented by the Association. Prior thereto, the bargaining unit was represented by another labor organization. Four separate law enforcement agencies are located and operate in the immediate Mt. Pleasant area: the State Police, the Isabella County Sheriff's Department, the Central Michigan University Public Safety Department, and the Mt. Pleasant Police Department.

#### TIMELINESS OF THE ARBITRATION DEMAND

The City, in argument submitted during the hearing, contended the Association demand for arbitration was legally deficient in submitting contract issues for the 1974 calendar year. In further discussion, counsel for the City contended that the question of timeliness and, therefore, retroactive application of an arbitration panel order entered for the 1974 calendar year was not a proper subject for decision by the Arbitration Panel but was a question of legal construction to be finally resolved by a court of competent jurisdiction.

While the transcript of the May 6 proceeding does not include



the jurisdictional documents, the parties, in their respective arguments, set forth certain pertinent dates regarding this issue. For the purpose of this discussion, those dates will be utilized.

Counsel for the Association stated that on October 22, 1973, negotiations were instituted for a 1974 labor agreement. On November 16, the Association requested mediation but when none was had, it requested arbitration under Act 312 on December 22, 1973. Thereafter, mediation sessions were held December 26, 1973 and in January of 1974. On a date subsequent to the commencement of the 1974 calendar year -- the record of hearing is silent in this regard -- the City also requested Act 312 arbitration.

While issues of arbitrability, both substantive and procedural, are unquestionably legal in nature -- especially where the arbitration proceeding is based upon a statutory enactment -- questions of procedural arbitrability properly may be heard and resolved by an arbitrator in the first instance when the issue has not been submitted previously for judicial decision. See Elkouri and Elkouri, How Arbitration Works, Third Edition (BNA; 1973) page 173.

Based upon the record discussion by counsel, the Union's demand for arbitration, filed after mediation was requested, properly submitted existing contractual disputes between the parties for the



1974 contract year to arbitration under the provisions of §10 of Act 312, PA 1969, as amended.

WAGES

During the 1973 calendar year, the salary for each bargaining unit classification was:

Patrolman (after 3 yrs.)	\$ 9,568
Corporal	9,818
Detective	9,818
Sergeant	10,317

The following Association wage demands for 1974 were set forth in a stipulation introduced in evidence:

Patrolman	\$11,000
Corporal	11,350
Detective	11,350
Sergeant	12,000

The demands amount to an approximate 15% increase over the 1973 wage rate.

The final wage offer by the City for 1974 was modified in the course of the hearing:

Patrolman	\$10,192
Corporal	10,462
Detective	10,462
Sergeant	10,982

The City's offer amounts to an approximate 6.5% increase over 1973.

Both parties introduced comparative data in various forms which has been carefully scrutinized. All of the exhibits involve Area II cities as designated by the Michigan Municipal League. The comparisons are based upon population, on geographical location, and contractual benefits provided by other communities in which universities are located.

The City has not claimed the inability to pay a fair and adequate wage to members of the Association. It contends, however, that when all other benefits granted, including longevity, shift differential, health and medical insurance, life insurance, vacations, etc., are examined, its wage offer is substantial and compares most favorably with other comparable communities. Furthermore, it challenges certain of the Association's exhibits which disclose wage figures for fiscal years which differ from the calendar year, contending that accurate comparisons cannot be made therefrom. It also argues no direct relationship exists between population and work load, and that the Association has chosen to compare Mt. Pleasant,

basically a rural community, with other municipalities in close geographic proximity with large metropolitan areas.

The Association submits that the City's wage offer is inadequate, arguing that one of its members is eligible for welfare aid in the amount of \$41 a month based upon his 1973 income and the size of his family (an eight person household), and that members of the bargaining unit will continue to be paid poorly in comparison to wages received by police officers in other comparable communities if the City's offer is accepted. It contends the wage increment for a fully paid patrolman during the 1973 calendar year amounted to 5.9% over the preceding year while supervisory personnel of the City averaged 8.03%. With a cost of living increase in the amount of 8.8% in 1973, the Association submits that its wage demand is neither excessive or out of line with salaries received in comparable communities.

The record establishes that on the basis of population, the City ranks 59th in the state while the wage level of bargaining unit members ranks 136th. It must be recognized that in last offer arbitration, the Arbitration Panel is not free to impose the wage rate which it believes most equitable under the standards set forth in §9 of the Act. By virtue of the 1972 amendments, it is obligated to select that offer which more nearly comports with the statutory

standards. Where a wide diversion exists as is here present, the Arbitration Panel may not seek to compromise the differences extant between the parties but, no matter how difficult, must select from the last position the parties have chosen for themselves.

Based upon the foregoing considerations, careful study and analysis of all exhibits introduced in evidence, and the arguments of the parties, the panel finds it is unrealistic to exclude from its consideration the fact that the City actually encompasses the total resident population of Central Michigan University -- the record sets this figure at between 14,000 and 15,000 -- and while the University's public safety department is responsible for all law enforcement functions on campus, there cannot help but be an added impact on the City. The panel is convinced that the 15% wage offer of the Association is not only fair and equitable when considered in light of the comparative data but more nearly comports with the statutory standards which have been applied in reaching this conclusion. Even when the City's salary offer for the 1974 calendar year is utilized, wages of this unit will remain low in comparison with those effective July 1, 1973 in many other communities. Accordingly, the last offer of the Association is accepted and is hereby ordered into effect.

ORDER

That effective January 1, 1974, members of the bargaining unit shall receive the following annual salaries:

Patrolman	\$11,000
Corporal	\$11,350
Detective	\$11,350
Sergeant	\$12,000

EDUCATIONAL REQUIREMENT FOR NEW PATROLMEN

At the present time, applicants for the position of patrolman must have a high school education. The Association seeks to raise the educational entrance requirement to a minimum two year college education. It argues that the professional requirements of police work mandate higher educational standards. The City opposes any change in the educational requirement for entering patrolmen.

While the panel believes the Association's demand is most salutary and should be seriously considered by the City, this area is best left to the negotiating efforts of the parties. It is indeed admirable that a number of bargaining unit members have achieved at least two years of formal education at the college level, and it is suggested the parties establish a joint committee to review educational entrance requirements in other police departments for

future guidance.

ORDER

The demand of the Association that the educational requirement for entering patrolmen be raised to provide for completion of two years of college training is denied.

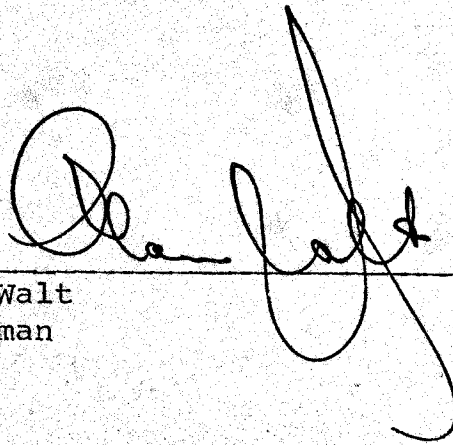
THE ARBITRATION OPINION

This opinion has been prepared by the Arbitration Panel Chairman and represents his analysis of the record. The panel has met in executive session to discuss and review the transcript, exhibits, and the respective arguments of the parties. The City and Association panelists concur or dissent in the Orders as set forth hereinafter.

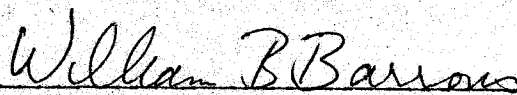
The Arbitration Panel Chairman and the Association member concur and the City member dissents on the Wages Order.

The Arbitration Panel Chairman and the City member concur and the Association member dissents on the Educational Requirement for New Patrolmen Order.

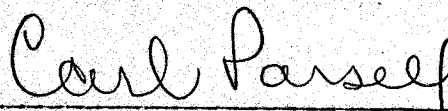
Each panelist has appended his signature hereto indicating his concurrence or dissent in the preceding orders.



Alan Walt  
Chairman



William B. Barrons  
City Member



Carl Parsell  
Association Member

Southfield, Michigan

September 23, 1974