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MICHIGAN DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the matter of:

MERC Act 312
Case No. L97 H-6010

The Act 312 Arbitration Between
POLICE OFFICERS LABOR COUNCIL,

Union

and

CITY OF MUSKEGON

Employer,

ARBITRATION PANEL

Teddy J. Baird, Chairperson

Fred LaMaire, Union Delegate

John C. Schrier, Employer Delegate

PARTY ADVOCATES

John C. Schrier, Employer Advocate

Timothy J. Dlugos, Union Advocate

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION
RECEIVED - 1 JAN 10 23

Muskegon, City of

BACKGROUND

The petition for Act 312 arbitration was filed by the Union on December 17, 1997. In that petition, the following issues were identified as being in dispute:

I. Union Proposals

1. Sick Leave (Sections 19.2 and 19.10)
2. Uniforms (Section 22.3)
3. Insurance (Section 23.4)
4. Longevity Pay (Section 27.1)
5. Education bonus (Section 33)
6. Pension (Sections 34.7, 34.10 and 34.11)
7. Residency (Section 35)
8. 457 Plan
9. Appendix A – Wages

II. City Proposals

1. Management Rights (Section 7.3)
2. Working Conditions (Section 10.2)
3. Overtime (Section 15 B and new Flextime)
4. Sick Leave (Section 19.12)
5. Salary Agreement (Section 26)
6. Longevity Pay Plan (Section 27)
7. Pension (Section 34)

Subsequently, a pre-hearing conference was held on April 22, 1998. At that conference, the hearing date was set for September 14, 1998. (By agreement between the parties, the date was later changed to October 5, 1998.) The parties agreed that the following issues were the only ones currently open:

Union Proposals

1. Uniforms, Section 22.3
2. Longevity Pay, Section 27.1
3. Education Bonus, Section 33
4. Pension, Sections 34.7 (part)
5. Pension, Section 34.10
6. 457 Plan
7. Appendix A – Wages

City Proposals

1. Management Rights, Section 7.3
2. Overtime/Comp. Time, Section 15
3. Overtime, Section 15
4. Salary Agreement, Section 26
5. Pension, Section 34

At the pre-hearing conference, the parties also agreed that “ability to pay” is not an issue in this arbitration.

The arbitration hearing was held on October 5, 1998. Last Best Offers were submitted by the Union and the city on October 7, 1998, and October 14, 1998, respectively. Post-

hearing briefs were received from the Union and the city on December 4, 1998 and December 8, 1998, respectively.

COMPARABLES

A. Stipulated Comparable Communities

The parties agreed on the following seven (7) comparable communities:

City of Bay City
City of Holland
City of Kentwood
City of Muskegon Heights
City of North Shore
City of Saginaw
County of Muskegon

B. City of Jackson as a Comparable Community

In addition, the Employer has proposed that the City of Jackson be included as a comparable community. In view of the similarity between the City of Jackson and the City of Muskegon in the areas of population, size of the department and tax revenues, the City of Jackson is determined to be a comparable community.

Accepted:



Teddy J. Baird

Rejected:

C. Relative Weight of Comparable Communities

In addition to the proposal that the City of Jackson be included as a comparable community, the Employer has also suggested that Muskegon County, Muskegon Heights and Norton Shores "should have the greatest weight afforded to them in these proceedings". The basis for this suggestion is the geographical proximity of these communities to the City of Muskegon. This suggestion ignores the fact that these three (3) communities differ dramatically from the City of Muskegon in virtually all relevant areas (See City Exhibit 1A). While geographic proximity may or may not be extremely relevant to some of the specific issues, it is insufficient to support a general proposition that these three (3) communities should be given greater weight than the other stipulated comparable communities. Therefore, it is determined that Muskegon County,

hearing briefs were received from the Union and the city on December 4, 1998 and December 8, 1998, respectively.

COMPARABLES

A. Stipulated Comparable Communities

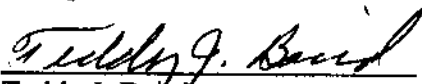
The parties agreed on the following seven (7) comparable communities:

City of Bay City
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City of North Shore
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County of Muskegon

B. City of Jackson as a Comparable Community

In addition, the Employer has proposed that the City of Jackson be included as a comparable community. In view of the similarity between the City of Jackson and the City of Muskegon in the areas of population, size of the department and tax revenues, **the City of Jackson is determined to be a comparable community.**

Accepted:


Teddy J. Baird

Rejected:



C. Relative Weight of Comparable Communities

In addition to the proposal that the City of Jackson be included as a comparable community, the Employer has also suggested that Muskegon County, Muskegon Heights and Norton Shores "should have the greatest weight afforded to them in these proceedings". The basis for this suggestion is the geographical proximity of these communities to the City of Muskegon. This suggestion ignores the fact that these three (3) communities differ dramatically from the City of Muskegon in virtually all relevant areas (See City Exhibit 1A). While geographic proximity may or may not be extremely relevant to some of the specific issues, it is insufficient to support a general proposition that these three (3) communities should be given greater weight than the other stipulated comparable communities. **Therefore, it is determined that Muskegon County,**

Muskegon Heights and Norton Shores shall not, as a general rule, be given greater weight in this arbitration proceeding than the other comparable communities.

Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

[Signature]

COSTS AS A FACTOR TO BE CONSIDERED

Throughout its post-hearing brief, the Union argues that since the City's ability to pay is not an issue in the present proceeding, the panel should not be swayed by any reference to costs in the exhibits.

This panel does not adopt the Union suggestion that the lack of an ability to pay issue means that costs should not be considered. Many of the Section 9 factors in Act 312 assume that costs will be considered even if the employer is capable of paying them. Sections d, e, f, h and the first part of section c ("the interests and welfare of the public") may all justify examining the costs of proposals, even if the organization's ability to pay is not an issue.

Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

UNION'S LAST BEST OFFER

1. Uniforms, Section 22.3

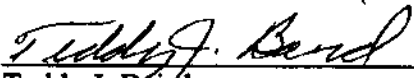

The Union withdraws this issue.

2. Longevity Pay, Section 27.1

The Union requests that Section 27.1 be modified to read as follows:

Muskegon Heights and Norton Shores shall not, as a general rule, be given greater weight in this arbitration proceeding than the other comparable communities.

Accepted:


Teddy J. Baird


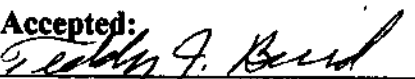
Rejected:

COSTS AS A FACTOR TO BE CONSIDERED

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This panel does not adopt the Union suggestion that the lack of an ability to pay issue means that costs should not be considered. Many of the Section 9 factors in Act 312 assume that costs will be considered even if the employer is capable of paying them. Sections d, e, f, h and the first part of section c ("the interests and welfare of the public") may all justify examining the costs of proposals, even if the organization's ability to pay is not an issue.

Accepted:


Teddy J. Baird

Rejected:



UNION'S LAST BEST OFFER

1. Uniforms, Section 22.3

The Union withdraws this issue.

2. Longevity Pay, Section 27.1

The Union requests that Section 27.1 be modified to read as follows:

Semi-annual payments to be paid in June and December using the following formula:

2% of base pay	after 5 years of service
4% of base pay	after 10 years of service
6% of base pay	after 15 years of service
8% of base pay	after 20 years of service
10% of base pay	after 25 years of service

Longevity payments shall be based on a maximum salary of \$15,000.

3. Education Bonus, Section 33

The Union withdraws this issue.

4.A. Pension, Section 34.7

The Union is requesting that 34.7 be modified to read as follows:

A member who retires on or after January 1, 1995, shall be entitled to a level straight pension equal to two and one-half (2.5%) percent of the member's final average compensation multiplied by the member's credited service, not to exceed seventy-five (75%) percent of the member's final average compensation.

4.B. Pension, Section 34.10 (New Section)

As of [the effective date of the Arbitrator's Award], amounts paid for overtime shall be included in the employees' final average compensation.

5. 457 Plan

The Union withdraws this issue.

6. Wages, Appendix A

The Union requests a 4% wage increase in each of the three years of this collective bargaining agreement. As such, the Wage Schedule under Appendix A shall be modified to read as follows: (Schedule not attached to this award)

For all Employer issues, the Union requested that the sections remain status quo.

EMPLOYER'S LAST BEST OFFER

1. Uniforms, Section 22.3

The City proposes no change from the present contract.

2. Longevity, Section 27.1

The City proposes altering Section 27.1 to provide as follows:

- .1 Semi-annual payments to be paid in June and December on a basis of \$200 per year for each five (5) years of service and not to exceed \$1,000.00.

3. Education Bonus, Section 33

The City proposes maintaining the present contractual provisions.

4. Pension Multiplier, Section 34.7

The City proposes to increase the pension multiplier to 2.4% of final average compensation. The proposed contractual language would be as follows:

34.7 A member who retires on or after January 1, 1995 and before January 1, 1998 shall be entitled to a level straight life pension equal to two and three/tenths (2.3%) percent of the member's final average compensation multiplied by the member's credited service, not to exceed seventy-five (75%) percent of the member's final average compensation.

A member who retires on or after January 1, 1998 shall be entitled to a level straight life pension equal to two and four/tenths (2.4%) percent of the member's final average compensation multiplied by the member's credited service, not to exceed seventy-five (75%) percent of the member's final average compensation.

5. Overtime Inclusion in Final Average Compensation, Section 34

The City proposes that no change be made and that overtime not be included in final average compensation.

6. 457 Plan

The City proposes no change relative to the City's match of contributions to the 457 Plan.

7. Wages

The City proposes the following wage increase:

01-01-98	3.25%
01-01-99	3.25%
01-01-00	3.25%

8. Eliminate "Except to Avoid Overtime" in Management Rights, Section 7.3

The City proposes modifying Section 7.3 to read as follows:

- 7.3 Transfer employees from one shift to another on a temporary basis; transfer employees to other positions within the department; require employees to perform outside their assigned job classifications which such assignment is, in the management's judgment, advisable regardless of the availability of work in their regular classifications, but not to extend beyond sixty (60) calendar days; however, employees may be transferred from one shift to another on a temporary basis when such temporary transfer is mutually acceptable to the employee and management; require employees to give instruction or receive instruction in special training for selected employees.

9. Committee Attendance, Section 15

The City proposes expanding Section 15B to include committee attendance at straight time. The proposed contractual language would be as follows:

15B Training shall be as follows:

1. Mandatory training shall be paid at time-and-one-half for actual time in training with a two-hour minimum;
2. Voluntary training, approved by the Chief of Police, and committee attendance shall be paid at a straight time rate for time in actual training.
3. Required supervised firearms training shall be paid at a straight-time rate with a two-hour minimum;
4. The conditions and terms of training pay shall be designed and posted in the announcement of the training schedules.
5. Training pay for training during an extension before or after a regular duty period shall be paid for actual time at the applicable rate and not subject to a minimum.
6. Training bulletins will be posted at the department. Interested employees may apply for training opportunities. It shall be the Chief's decision on whom, if anyone, shall attend training. The Chief's decision is not subject to the grievance procedure.

10. Non-Mandatory Flex Time, Section 15

The City proposes non-mandatory flex time for community officers and officers in the specialist division. The proposed language would be as follows:

Community officers and officers in the specialist divisions may be allowed to use flex time. The use of flex time requires the consent of both the

affected employee and the Chief or designate.

11. Step Increases, Section 26

The City proposes that step increases, excluding first of the year increases, shall occur on the nearest first day of the pay period. The City proposes the following contractual language:

Section 26.4 Step increases that occur pursuant to Section 26.3, or on step increases throughout the year, excluding pay increases which occur on January 1 of each year, shall become effective on the first day of a pay period nearest to the date that the officer is eligible for the increased compensation.

12. Final Average Compensation, Section 34

The City proposes that final average compensation shall be the last three years. As such, paragraph 34.5 would be revised to read as follows:

The Pension Ordinance as applied to the members of this bargaining unit shall further be amended in Section 2(o), as follows:

Final average compensation" for ... a police officer member who terminates City employment on or after January 1, 1989 means 1/3 of the compensation paid during the last three (3) years of credited service.

AWARD

Both parties submitted evidence to the Panel concerning the issues involved in this arbitration. The Panel has reviewed all of the material as it relates to the following factors contained in Section 9 of Act 312.

- a. The lawful authority of the employer.
- b. Stipulation 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 of 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.

Based upon that review and upon the requirements of Act 312, the award of this Act 312 Arbitration Panel is that the issues in dispute shall be resolved by having the relevant contract sections read as indicated below. Unless indicated otherwise, all sections of this award will be effective retroactively to January 1, 1998.

1. Uniforms, Section 22.3 [Issue was withdrawn by Union]

2. Longevity Pay, Section 27.1

Both parties agree that the external comparables warrant an increase in longevity pay. The City argues that the patrol officers have the same longevity plan as all other City of Muskegon employees, and that if an increase is given to the patrol officers, all other bargaining units will seek the same change. The City urges this panel to "take that into account and temper the increase being sought by the Union". The city also argues that its proposal keeps the costs of this proposal "within the context of what it is able to afford". The Union argues that the City's proposal "still leaves the members below the average longevity pay received by officers in comparable communities".

This arbitration panel agrees with the Union's position. The longevity pay in the external comparable communities overwhelmingly supports the Union's last best offer. In cases where the external comparables clearly support the position of one of the parties, the use of internal comparables to justify a contrary result (absent an ability to pay issue) would defeat the purpose of interest arbitration. An employer could continually maintain pay and benefits at a sub-standard level relative to other comparable external communities simply by keeping that pay and those benefits consistently low for all internal employee groups. Internal comparables can be persuasive and even dispositive of an issue when the external comparables do not clearly support one position, and/or when the internal comparables are supported by an ability to pay factor or other factors pursuant to Act 312, Section 9. Those factors do not support the City's proposal in this instance.

The Union's last best offer is awarded.

Section 27.1 shall be modified to read as follows:

Semi-annual payments to be paid in June and December using the following formula:

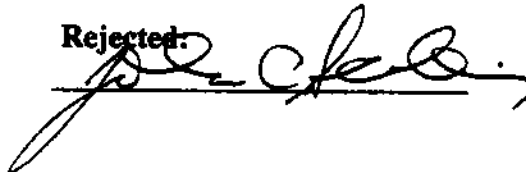
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6% of base pay	after 15 years of service
8% of base pay	after 20 years of service
10% of base pay	after 25 years of service

Longevity payments shall be based on a maximum salary of \$15,000.

Accepted:


Teddy J. Baird

Rejected:



3. Education Bonus, Section 33 [Issue was withdrawn by Union]

4. Pension, Section 34.7

Both parties agree that the external comparables support an increase in the pension multiplier, and both parties have proposed increasing the pension modifier from its current 2.3%. The City proposes increasing it to 2.4% and the Union proposes increasing it to 2.5%. Both parties propose maintaining the current maximum benefit of 75% of FAC. Seven (7) of the eight (8) comparable communities have pension multipliers of 2.5% or above.

The Union argues that the external comparable communities strongly support a pension multiplier of 2.5%, as does the fact that the City firefighters have a 2.5% pension multiplier. The Union also argues that costs should be given little weight because they touch upon the ability to pay factor.

The City argues that that the high cost of the Union proposal, in light of other Union proposals is excessive. The City also argues that there is a lack of consistency of what is included in FAC in the comparable communities, making a realistic comparison of actual benefits impossible. Finally, the City argues that it provides other benefits that "more than make up for the difference in the multiplier".

This panel is convinced by the uniformity of the external comparable communities, and the fact that the firefighters have the 2.5% multiplier. While it appears true that FAC content differs among the comparable communities, there is insufficient data to indicate that those differences result in a lesser FAC than in the City of Muskegon formula. To the contrary, there are differences in the FAC of several other comparable communities that make their plan more valuable to employees. One of those differences is the

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Longevity payments shall be based on a maximum salary of \$15,000.

Accepted:

Teddy J. Baird
 Teddy J. Baird
Paul LaMaie

Rejected:

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This panel is convinced by the uniformity of the external comparable communities, and the fact that the firefighters have the 2.5% multiplier. While it appears true that FAC content differs among the comparable communities, there is insufficient data to indicate that those differences result in a lesser FAC than in the City of Muskegon formula. To the contrary, there are differences in the FAC of several other comparable communities that make their plan more valuable to employees. One of those differences is the

State Bar of Michigan

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February 2, 1999

Mr. John C. Schrier
Parmenter O'Toole
P.O. Box 786
Muskegon MI 49443-0786

Mr. Fred LaMaire
6725 N. Wentward Ct.
Hudsonville MI 49426

SUBJ: MERC Case No. L97 H-6010;
Correction of Typographical Error
in Arbitration Award

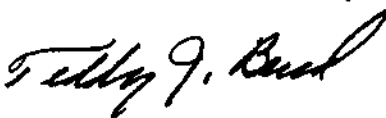
Dear Mr. Schrier and Mr. LaMaire:

On page 11 of the arbitration award in the above referenced case, there is a typographical error. Specifically, the award for section 34.7 reads "A member who retires on or after January 1, 1995..." The award should read as follows:

A member who retires on or after January 1, 1998, shall be entitled to a level straight pension equal to two and one-half (2.5%) percent of the member's final average compensation multiplied by the member's credited service, not to exceed seventy-five (75%) percent of the member's final average compensation.

If you have any additional questions, please feel free to contact me.

Very truly yours,



Teddy J. Baird

cc: MERC
LIR Library, MSU

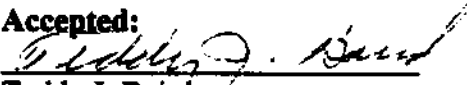
maximum benefit of 80% of FAC, compared to a maximum of 75% in the City of Muskegon.

The Union's last best offer is awarded.

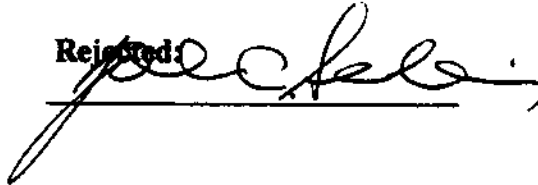
Section 34.7 shall be modified to read as follows:

A member who retires on or after January 1, 1995, shall be entitled to a level straight pension equal to two and one-half (2.5%) percent of the member's final average compensation multiplied by the member's credited service, not to exceed seventy-five (75%) percent of the member's final average compensation.

Accepted:


Teddy J. Baird

Rejected:



5. Pension, Section 34.10 (New Section)

The Union proposes a new section in the collective bargaining agreement, that would require amounts paid for overtime to be included in an employees final average compensation. The Union argues (correctly) that nearly all of the comparable communities include overtime pay in their computation of final average compensation.

The City opposes the inclusion of overtime in final average compensation, arguing that the cost is extremely expensive, that the support among the comparable communities for including overtime is only with cities or units with fairly small overtime expenses, and that the City of Muskegon has high overtime expenses.

This panel is convinced by the City's argument relating to the cost of this proposal. While the City is capable of paying, the cost of this provision when added to the costs of other provisions awarded (and to be awarded) by this panel, is excessive. In combination with other benefits and pay awarded by this panel, it would cause this economic package to far exceed the consumer price index [section 9(e) of Act 312]. If this issue were examined by itself, with reference merely to the external comparables, the result would be different. In this situation, it is coupled with large increases in longevity and pension multiplier, and (see below) pay increases which exceed the comparables.

The Employer's last best offer is awarded.

Section 34.10 shall not be included in the new collective bargaining agreement.

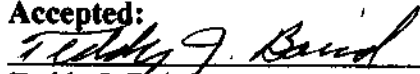

maximum benefit of 80% of FAC, compared to a maximum of 75% in the City of Muskegon.

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Accepted:


Teddy J. Baird


Rejected:

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The Employer's last best offer is awarded.

Section 34.10 shall not be included in the new collective bargaining agreement.

Accepted:


Teddy J. Baird

Rejected:

6. 457 Plan [Issue was withdrawn by Union]

7. Wages - Appendix A

The City proposes increasing wages 3.25% per year for 1998, 1999, and 2000. The Union proposes increasing wages 4.0% per year for 1998, 1999 and 2000.

The Union argues that the Muskegon patrol officers' pay is below the average of the comparables, and that the 4% increases are necessary to catch up with the comparables.

The City argues that no other external comparable provided a pay increase which exceeds the 3.25% proposed by the City, that the Muskegon patrol officers have been ranked 4th among the comparables and will continue that ranking with the City's proposal, that the patrol officers have been one year ahead of the firefighters, and that the relatively larger increase in the latter years for SEI U DPW employees must be considered in the context of the relatively smaller increases during the first years.

This Panel concludes that the patrol officers' base wage is slightly (as a percent of total wage) below the average for the comparables. Adopting the City's proposals for all three (3) years of this contract would result in the Muskegon patrol officer wages being slightly above average for part of 1998, slightly below for the second part of 1998 and the first part of 1999, and with insufficient data for the remaining 1 1/2 years. Adopting the Union's proposal for all three (3) years would have a similar result, but with a greater difference for the latter part of 1998 and the first part of 1999. Additionally, in 1999, it would put the Muskegon patrol officers base wage above the comparable wage for the Bay City unit (a unit which has been ranked, 2nd, 3rd and 4th for the last three (3) years.

Considering that 1) the Muskegon patrol officers have been ranked 4th among comparables during the current contract, 2) the wage increases proposed by the City exceed the percent of increases given to the external comparable units, 3) the wage increases proposed by the City maintain the relative ranking of this unit compared to the comparables, 4) the Muskegon patrol officers have made significant gains in this award relative to the comparables in the areas of longevity and pension multiplier, and 5) the total percentage increase (due to this award) in the cost of this contract substantially exceeds the relevant consumer price index, it is the opinion of this panel that the City's wage proposal should be adopted for all three years of this contract.

Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

Fred L. Main

6. 457 Plan [Issue was withdrawn by Union]

7. Wages – Appendix A

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The City argues that no other external comparable provided a pay increase which exceeds the 3.25% proposed by the City, that the Muskegon patrol officers have been ranked 4th among the comparables and will continue that ranking with the City's proposal, that the patrol officers have been one year ahead of the firefighters, and that the relatively larger increase in the latter years for SEI U DPW employees must be considered in the context of the relatively smaller increases during the first years.

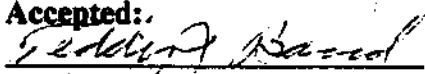
This Panel concludes that the patrol officers' base wage is slightly (as a percent of total wage) below the average for the comparables. Adopting the City's proposals for all three (3) years of this contract would result in the Muskegon patrol officer wages being slightly above average for part of 1998, slightly below for the second part of 1998 and the first part of 1999, and with insufficient data for the remaining 1 ½ years. Adopting the Union's proposal for all three (3) years would have a similar result, but with a greater difference for the latter part of 1998 and the first part of 1999. Additionally, in 1999, it would put the Muskegon patrol officers base wage above the comparable wage for the Bay City unit (a unit which has been ranked, 2nd, 3rd and 4th for the last three (3) years.

Considering that 1) the Muskegon patrol officers have been ranked 4th among comparables during the current contract, 2) the wage increases proposed by the City exceed the percent of increases given to the external comparable units, 3) the wage increases proposed by the City maintain the relative ranking of this unit compared to the comparables, 4) the Muskegon patrol officers have made significant gains in this award relative to the comparables in the areas of longevity and pension multiplier, and 5) the total percentage increase (due to this award) in the cost of this contract substantially exceeds the relevant consumer price index, it is the opinion of this panel that the City's wage proposal should be adopted for all three years of this contract.

For calendar year 1998, the Employer's last best offer is awarded.

Effective January 1, 1998, wages will be increased by 3.25%.

Accepted:

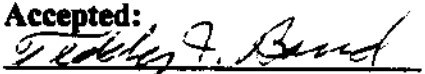

Teddy J. Baird

Rejected:

For calendar year 1999, the Employer's last best offer is awarded.

Effective January 1, 1999, wages will be increased by 3.25%.

Accepted:



Teddy J. Baird

Rejected:

For calendar year 2000, the Employer's last best offer is awarded.

Effective January 1, 2000, wages will be increased by 3.25%.

Accepted:


Teddy J. Baird

Rejected:

8. Management Rights, Section 7.3

The City proposes to delete the phrase "except to avoid the payment of overtime" from the sentence that begins "Transfer employees from one shift to another on a temporary basis". The City argues that the current language is subjective, ambiguous and creates a burden". Specifically, the City argues that transferring employees from one shift to another, even if for the necessity of the department, may result in the avoidance of overtime. The City argues that the needs of the department and citizenry require additional personnel on different shifts on a short term basis.

For calendar year 1998, the Employer's last best offer is awarded.

Effective January 1, 1998, wages will be increased by 3.25%.

Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

Shed Le Mair

For calendar year 1999, the Employer's last best offer is awarded.

Effective January 1, 1999, wages will be increased by 3.25%.

Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

Shed Le Mair

For calendar year 2000, the Employer's last best offer is awarded.

Effective January 1, 2000, wages will be increased by 3.25%.

Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

Shed Le Mair

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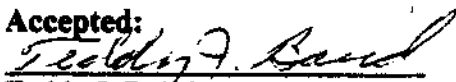
The Union argues that this language has been in the collective bargaining unit for a long time (citing Chief's testimony), that the Chief acknowledges that this language does not prevent him from making shift changes, that this clause serves as a valid check on the powers of management, and has prevented arbitrary abuse of the power to transfer employees. The Union acknowledges that "as long as the Chief has valid reasons for the shift changes, the issue cannot be debated".

This panel is convinced by the Union's argument. The City's witness has acknowledged that the clause does not prevent the Chief from making shift changes. While all shift changes have the theoretical ability to impact someone's overtime, there is no evidence that this issue has been frequently grieved under the existing or previous contracts. Equally important, the Union has acknowledged in its post-hearing brief that there can be no debate if "valid reasons" exist for such a shift change. Presumably, "valid reasons" would be any reasons that did not have as their primary purpose the avoidance of overtime. Removing this clause would allow such shift changes to be made for the express purpose of reducing payment of overtime. That may be a perfectly legitimate management interest, but that is not how this issue has been presented to this panel.

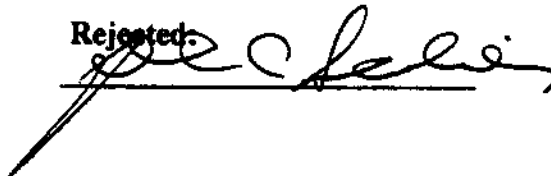
The Union's last best offer is awarded.

Section 7.3 shall remain as it is in the current collective bargaining agreement.

Accepted:


Teddy J. Baird

Rejected:



9. Committee Attendance, Section 15 B

The City proposes that employees who attend committee meetings on a non-mandatory basis shall be paid at the straight-time rate of pay. The City argues that the FLSA would not require payment, that employees attend because it is to their benefit to attend, that the City prefers to make one presentation instead of multiple ones, and that some compensation is appropriate.

The Union argues that the comparables do not support this proposal, and that the lack of testimony regarding concerns or problems warrants maintaining the status quo.

This panel agrees with the Union's arguments. As the proposing party, the City has the burden of persuasion relative to this proposal. There is simply too little information relative to this proposal to allow the panel to approve it.

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The Union's last best offer is awarded.

Section 7.3 shall remain as it is in the current collective bargaining agreement.

Accepted:


Teddy J. Baird



Rejected:

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This panel agrees with the Union's arguments. As the proposing party, the City has the burden of persuasion relative to this proposal. There is simply too little information relative to this proposal to allow the panel to approve it.

The Union's last best offer is awarded.

Section 15 B shall remain as it is in the current collective bargaining agreement.

Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

[Signature]

10. Non-Mandatory Flextime, Section 15

The City proposes non-mandatory flex time for community officers and officers in the specialist division. The City argues that this change is in the best interest of the affected employees and the City. It uses the community officer program as it was before a successful Union grievance/arbitration to support its proposal. The City argues that since this program is voluntary, there is no risk to the employees.

The Union argues that this is a way of avoiding overtime, that future use of flex time is left to the "discretion and mercy" of an employee's supervisor, that it allows for potential management abuses, that failure to elect flex time will result in some form of retribution, and that the proposal does not contain enough details.

This panel is convinced by the City's arguments. Since this flex time is totally voluntary, it cannot be used to avoid overtime without the express consent of the employee involved. It is certainly in the interest of the public for this department to have the flexibility to develop and implement innovative programs. The Union concerns regarding abuses and retribution are simply not supported by persuasive evidence. In fact, the potential for such abuses and retribution would appear to be far less under this completely voluntary program, than for many other provisions of the current collective bargaining agreement (and collective bargaining agreements in general).

The Employer's last best offer is awarded.

The following language will be added to the new collective bargaining agreement:

Community officers and officers in the specialist divisions may be allowed to use flex time. The use of flex time requires the consent of both the affected employee and the Chief or designate.

The Union's last best offer is awarded.

Section 15 B shall remain as it is in the current collective bargaining agreement.

Accepted:

Teddy J. Baird

Teddy J. Baird

John La Maire

Rejected:

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Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

11. Step Increases, Section 26

The City proposes that step increases, excluding first of the year increases, shall occur on the nearest first day of the pay period. The City argues that this change will have a "neutral or minimal impact on an employee over the life of their employment". The City argues that the main advantage is for ease of payroll preparation by the City.

The Union argues that this proposal will result in a benefit for some employees and not for others, and that the purpose of a collective bargaining agreement is to provide for uniform treatment of employees.

The panel is unconvinced by the City's arguments. Even a minimal negative impact on an employee over the life of his/her employment would be a serious enough issue to require a significant benefit for the City to counter balance it. If an employee's first step increase under this proposal were slightly closer to the next first day of a pay period, it might result in four (4) to five (5) years of slightly reduced benefits. It could take another similar period to equalized that deficiency. Additionally, the City has provided no details as to how much easier (or less costly) this proposal would make payroll preparation.

The Union's last best offer is awarded.

Section 26 shall remain unchanged from the current collective bargaining agreement.

Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

12. Final Average Compensation, Section 34.5

The City proposes that final average compensation shall be computed based on the last three years instead of the current highest three years in the last five years. The city argues that it is not anticipated to result in a cost savings to the City, but it may in the

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Teddy J. Baird
Teddy J. Baird

Rejected:

John LaMaire

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Accepted:

Teddy J. Baird
Teddy J. Baird

Rejected:

John LaMaire

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The City proposes that final average compensation shall be computed based on the last three years instead of the current highest three years in the last five years. The city argues that it is not anticipated to result in a cost savings to the City, but it may in the

future. The City's primary rationale for this proposal is that it will "allow a much easier and faster calculation of final average compensation.

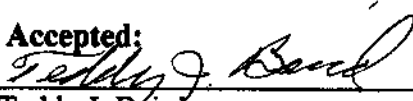
The Union argues that every comparable, both internal and external, bases final average compensation on "highest" or "best" years of service. The Union also argues that illness, injury or disability during the last three (3) years could drastically reduce final average compensation".

The Panel is convinced by the Union's argument. The comparables simply do not support the City's position. Also, the City's rationale that this proposal would allow an easier and faster calculation does not come close to justifying a radical departure from an existing, almost universally held, approach to determining final average compensation for pension purposes.

The Union's last best offer is awarded.

Section 34.5 shall remain unchanged from the current collective bargaining agreement.

Accepted:


Teddy J. Baird


Ted LeMaire

Rejected:

This award is dated January 6, 1999.

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The Union's last best offer is awarded.

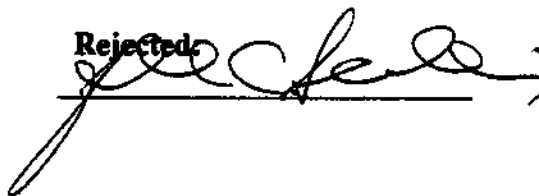
Section 34.5 shall remain unchanged from the current collective bargaining agreement.

Accepted:



Teddy J. Baird

Rejected:



This award is dated January 6, 1999.

State Bar of Michigan

Teddy J. Baird
Attorney At Law
1602 South Shore Drive
Holland MI 49423-4416

Telephone 616-335-9627
Telefax 616-335-9634

January 30, 1999

Mr. John C. Schrier
Parmenter O'Toole
P.O. Box 786
Muskegon MI 49443-0786

Mr. Fred LaMaire
6725 N. Wentward Ct.
Hudsonville MI 49426

SUBJ: Copy of Award Signed by Opposing Party

Dear Mr. Schrier and Mr. LaMaire:

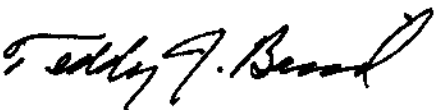
I received the copies of the Arbitration Award that were signed by each party. I am enclosing a copy of the opposing party's signed award so that you will have a completed award. The total final award is comprised of the two identical documents that were signed by the parties.

In his letter to me with his signed copy of the award, Mr. LaMaire asked if the longevity benefit is to become effective on January 1, 1998 or January 1, 1999.

The longevity section of the award is effective retroactively to January 1, 1998.

If you have any additional questions, please feel free to contact me.

Very truly yours,



Teddy J. Baird

Enclosure



POLICE OFFICERS LABOR COUNCIL

January 11, 1999

Mr. Teddy Baird
Attorney At Law
1602 South Shore Drive
Holland, Michigan 49423-4416

Re: MERC CASE NO. L97 H-6010
Act 312 Arbitration; City of Muskegon
-and- Police Officers Labor Council

Dear Mr. Baird,

In response to your inquiry regarding a post-award meeting, the Union is of the opinion that such a meeting is unnecessary.

I do have a question regarding the Arbitration Award concerning the issue of Longevity. Does the benefit become effective on January 1, 1999, or does it have a retroactive date of January 1, 1998?

Your cooperation regarding this matter is appreciated.

Very truly yours,

Fred LaMaire
Labor Representative
Police Officers Labor Council

Cc: Mr. John Corrigan
Mr. Tim Dlugos

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PARMENTER O'TOOLE

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JOHN C. SCHRIER
CHRISTOPHER L. KELLY
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GEORGE A. PARMENTER 1903-1993
CYRUS M. POPPEN 1903-1996

January 11, 1999

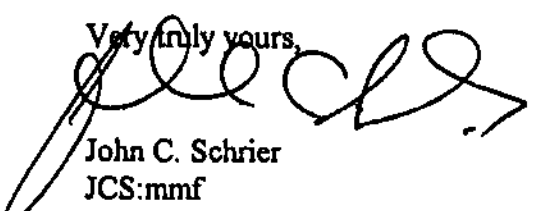
Teddy J. Baird
1602 South Shore Drive
Holland, MI 49423-4416

Re: Act 312 Arbitration: City of Muskegon and Police Officers Labor Council
MERC Case No. L97 H-6010

Dear Mr. Baird:

Enclosed please find original executed arbitration award. I see no need for a post-award meeting.
Thank you for your assistance in this matter.

Very truly yours,



John C. Schrier
JCS:mmf

Enclosure

c: Lee Slaughter