

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

7/14/70.

ARB

Muskegon, City of

In the Matter of
CITY OF MUSKEGON

-and-

MUSKEGON FIRE FIGHTERS
INTERNATIONAL UNION OF FIRE FIGHTERS

Local No. 370

7/14/70

On December 23, 1969 the undersigned, Leon J. Herman, was appointed by the Employment Relations Commission as impartial chairman of an arbitration panel in a proceeding in arbitration pursuant to Act 312 of Public Acts of 1969. Michael M. Knowlton was named as arbitrator by the City of Muskegon. Local 370 of the Muskegon Fire Fighters named Harry Larson as the third member of the panel. A pre-trial conference was held on January 2, 1970. Thereafter, hearings were held and testimony taken on February 27, April 23 and 24, 1970 in Walker Arena, Muskegon, Michigan. In addition, conferences between the arbitrators were held on June 20, July 7 and 14, 1970 at the offices of Poppen, Street and Sorensen, Muskegon, Michigan. A verbatim record of the proceedings was made. Upon recommendation of the panel, only the record of the conference on January 2, part of the testimony on February 27 and the full testimony taken on April 24, 1970 was transcribed.

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Herman, Leon J.

Darryl R. Cochrane, Attorney, represented the Muskegon Fire Fighters. Frank D. Wanto, Director of Employee and Public Relations, represented the City of Muskegon. Elmer Olson, President and William Fiektra, Vice President, and Paul Vandenberg, Fire Fighter of Muskegon Fire Fighters, and James Workman, Auditor and Finance Director and Robert Pulcher, City Manager of the City of Muskegon testified in the course of the hearing. Full opportunity for examination, cross examination and redirect examination was afforded to counsel for both parties. Approximately 50 exhibits were submitted. Opening statements by both counsel related and supported their positions in detail. Closing statements were made in writing by both parties and and both parties submitted briefs relative to the authority of the City to establish a new classification outside the purview of the authority of the City Civil Service Commission.

Both parties entered in good faith into the negotiations. The issue of arbitrability was confined solely to the right of the City to invade the jurisdiction of the Civil Service Commission. No question was raised as to the legality or authority of the arbitration panel to determine the issues presented, apart from the dispute concerning reclassification of certain fire fighters to Engineer, and even as to this issue the underlying substantive factors were fully argued and documented.

Muskegon Fire Fighters, Local No. 370, has been the bargaining agent for the City fire fighters since 1933. It presently comprises 86 of the 87 members of the department below the classification of Chief, and claims the right of representation of all 87. Its first collective bargaining agreements with the City

covered the years 1968 and 1969. Negotiations for a renewal contract have been under way since June, 1969, and agreement reached upon all matters except the issues related herein. It has been stipulated that the award of the arbitration panel shall be considered as retroactive to January 1, 1970. The negotiations and presentations in this arbitration have all been directed toward a one year contract.

It should be noted that the overall length of time consumed in this matter was caused by attorneys' conflicting commitments, which necessitated prolonged lapses of time between hearings. All parties consented to the extensions of time.

— The subject matter of this proceeding consisted of four basic issues:

1. Salary
2. Engineer classification
3. Holidays
4. Insurance.

The insurance issue may be further subdivided into three elements:

- a. Life insurance
- b. Hospitalization insurance
- c. Hospitalization insurance for retirees.

No offer was made as to the requested Engineer classification, which the City has rejected out of hand. Nor did the City agree to a reduction in the number of steps on the salary scale.

The statute pursuant to which this proceeding came into being and this panel functions posed certain specific criteria which the panel must consider in arriving at a conclusion.

- 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.

a. That a City may negotiate wages, hours, and working conditions of its employees with a duly certified bargaining agent has been established by the Public Employees Relations Act. The Union here has been duly certified and has been recognized as the bargaining agent for all Fire Department employees below the grade of Chief since the inception of the first labor management contract executed as of January 1, 1968. Further, both the City and the Union have agreed to compulsory arbitration of the items remaining in dispute in their current negotiations in accordance with Act 312 of the Public Acts of 1969. The City has, however, denied its authority to negotiate a new classification, contending that this right has been abdicated without recourse under the City Charter to the City Civil Service Commission, and that to withdraw such authority from the Commission would necessitate a vote of the electorate approving a Charter amendment. Discussion of this contention is deferred to Section 2 of this opinion, entitled "Engineer Classification". In all other respect the City agrees that the City has the lawful authority and obligation to negotiate and conclude an agreement in consonance with the award of this panel.

b. The parties have stipulated that the panel may consider the issues above outlined and render an award thereon which both will

accept; that such award shall be retroactive to January 1, 1970; that all proceedings of this panel of arbitrators have been properly taken in compliance with the governing statute, and that this award is duly processed and is binding upon the parties.

c. The interest and welfare of the public and the financial ability of the City to meet the increased costs resulting from implementation of this award have been considered and determined in Section 1, Salaries, and Section 2, Engineer Classification.

d. Comparison of wages, hours and conditions of employment, in both the private and public local sectors as well as in comparable communities, is discussed at length under the appropriate section headings.

e. Increases in cost of living as a factor in the determination of this panel are detailed in Section 1, Salaries.

f. Changes in the present program of holidays, life insurance and medical and hospitalization insurance, for those presently employed as well as for retirees, are discussed under the appropriate headings in Section 3, Holidays and Section 4, Insurance. Consideration is there given to the effect of proposed modifications upon the prevailing pattern in other City labor agreements. Continuity and stability of employment are considered in Section 1, Salaries.

g. By mutual agreement the 1969 contract has been continued in full force pending receipt of this award, at which time ordered adjustments will be effected retroactively. It is the panel's understanding that the City has increased its contribution to

payment of insurance premiums, and possibly other minor changes have been made in practice pending a new agreement, but it appears to the panel that all such changes have been consummated upon prior mutual consent. No objectionable practice has been charged against either party.

h. Other factors considered by the parties and the panel are listed in the opinion.

It should be emphasized at this point that all comments and interpretation of factual evidence stated below are solely and exclusively the responsibility of the impartial arbitrator, unless specifically attributed to another member of the panel.

1. SALARIES

The fiscal year of the City coincides with the calendar year. Labor agreements made with the City are therefore based on a calendar year. The 1969 contract with the fire fighters established the following schedule of direct salaries which, incidentally, have been maintained in effect pending execution of a new agreement:

	Start	6 mo	1 yr	18 mo	2 yrs	30 mo	3 yrs	42 mo	4 yrs
Fire Fighters	7160	7260	7370	7470	7580	7680	7790	7890	8000
Lieutenant	8132	8237	8342	8447	8552				
Assist.									
Mechanic	8132	8237	8342	8447	8552				
Captain	8784	8889	8994	9099	9204				
Batt. Chief	9344	9449	9554	9659	9764				
Asst. Chief	9551	9761	9971	10181	10391				

The Union has proposed a 1970 schedule of salaries with a reduced period of time to reach the maximum scale; and with the addition of a new classification:

	Start	6 mo	1 yr	18 mo	2 yr
Fire Fighter	9500	9750	10000	10250	10500
Engineer	10700	10950	11200		
Lieutenant	11500	11750	12000		
Asst. Mechanic	11500	11750	12000		
Captain	12300	12550	12800		
Batt. Chief	13500	13750	14000		
Asst. Chief	14300	14550	14800		

The City has recently hired two fire fighters at the 1969 starting base. It therefore sees no justification in substantial salary increases. However, the City has offered an increase of \$800 at the top of the range for fire fighters and \$900 at the maximum for ranking officers. This would result in the following maximum pay rates:

Fire Fighters	\$8800
Lieutenant	9452
Asst. Mechanic	9452
Captain	10104
Batt. Chief	10664
Asst. Chief	11291

The City has not indicated whether the proposed increases would be extended in the same amount to the lesser grades on the

pay scale. Were this to be assumed - it is not presented as fact - the City's proposed pay scale would appear as follows:

	Start	6 mo	1 yr	18 mo	2 yrs	30 mo	3 yrs	42 mo	4 yrs
Fire Fighters	7960	8060	8170	8270	8380	8450	8590	8690	8800
Lieutenant	9032	9137	9242	9347	9452				
Asst:									
Mechanic	9032	9137	9242	9347	9452				
Captain	9684	9789	9894	9999	10104				
Batt. Chief	10249	10349	10454	10559	10664				
Asst. Chief	10451	10661	10871	11181	11291				

The Union calculations indicate that the cost of its proposed direct salary increase to the City would equal \$265,100. Were the City's hypothetical across the board offer of \$800 to fire fighters and \$900 to upper echelons be adopted, it would cost the City \$87,500 in increases for the year.

It must be remembered, however, that the Union's total proposed salary cost includes increases of \$3,200 for 24 fire fighters who would be reclassified as engineers. To equate the City total increase above with the fire fighters' request it would be necessary to reduce the Union's cost calculation by 24 men multiplied by the difference between 3200 and 2500 for a reduction of \$16,800. The Union's total thus becomes \$248,300. The adjusted difference between the projections is \$160,800.

Since about 1966 the City had on its books an ordinance which decreed parity in pay scales between its police and fire fighters. By the terms of the ordinance equal pay brackets were

maintained in each grade up to the position of chief. Fringe benefits and other supplementary compensation plans were included on a parity basis in the ordinance.

Beginning in 1968 the Fraternal Order of Police, representing the members of the Police Department requested the City Commission to repeal the ordinance. When no action was taken by 1969, the Order circulated petitions among the citizens to put public pressure on the Commission. The Fire Fighters later joined the police in the request, and the ordinance was repealed. The patrolmen then negotiated separately, and agreed with the City on the following pay schedule for 1970:

Start	6 mo	1 yr	18 mo	2 yrs	30 mo	3 yrs	42 mo	4 yrs
8200	8300	8400	8500	8600	8700	8800	8900	9000

According to Mr. Wanto, the increase over 1969 amounted to 12 percent. The police department comprises 60 patrolmen, 9 sergeants, 5 lieutenants, and 2 captains, plus, of course, the chief. Police officials are not members of the patrolmen's union.

Policemen work a 40 hour week as against the fire fighters 56 hours (except for fire prevention personnel, who work 40 hours). The fire fighters' schedule is 24 hours on and 48 hours off, while patrolmen work an 8 hour day. Because of the difference in scheduling, fire fighters get very little overtime as compared to patrolmen. However, while a full day on duty, when not actually fighting fires, is occupied with maintenance, instruction and study, there is adequate time within the 24 hour work period for meals, rest and sleep.

Some of the fire fighters utilize their 48 hour breaks for outside work, such as house painting. If needed and available, they are always subject to emergency call during their off time.

The City also has a 1970 contract with the employees affiliated with Local 586 of the Public Employees' Union of Southwestern Michigan. By this contract the employees received an 8 percent average increase in pay over 1969. The covered employees work in a variety of city departments. Permanent laborers receive \$3.22-3.27 per hour; maintenance men \$3.37-3.50 in some departments, \$3.59-3.74 in others; truck drivers are paid \$3.64; auto and equipment repairman, operators and mechanics receive \$3.94, all at the top of a scale varying in length from 6 months for laborers to 2 years for certain higher rated employees.

Operators in the Water Department begin at \$7678 to \$8975 with a top after 4 years of \$8566 to \$9666, except for Operator II in Waste Water Treatment, who reaches \$9666 in 30 months.

All work a 40 hour week, with time and one half for overtime over 40 hours, and with double time in certain circumstances. Police receive time and one half for overtime over 8 hours. Fire fighters receive time and one half if they are held over after the 24 hour duty shift.

The Union, to support its claim to a higher salary scale, has pointed out that Muskegon is a highly industrialized city with an estimated population of 50,000 residents. (A preliminary census report reduces this figure to 44,000.) As a consequence, a comparison

with industrial rates of pay in the city is appropriate. Its survey of salaries of skilled workers in Muskegon trades, on an annual basis for a 40 hour week shows (by random selection) that the plasterers and cement workers earn \$12,688, laborers \$9796.80, painters \$11,440, glaziers \$10,400, bricklayers \$13,520, boilermakers \$13,104 and carpenters \$12,584. Turning to three specific companies who are major employers in the area, it lists the following hourly rates paid effective February and March, 1970:

	Continental Motors.	Sealed Power	Campbell, Wyant and Cannon
Welder	\$4.52	\$4.515	\$4.53
Carpenter	4.445	4.415	4.53
Tinsmith	4.445	4.415	4.53
Electrician	4.49	4.465	4.53
Pipefitter	4.445	4.415	4.53
Millwright	4.445	4.415	4.53

Consumers Power Company has paid these hourly rates since April 1st:

Lineman in charge	\$5.06
Lead Lineman	4.94
Local serviceman A. (per week)	195.60
Local serviceman B. (per week)	179.60
Electric Serviceman A.	4.89
Lineman A	4.75
Lineman B	4.10
Street light serviceman	4.18

In contrast the 1969 maximum weekly pay for fire fighters, based on a 56 hour week, is \$153.85. The 1970 maximum pay for patrolmen, who work a 40 hour week, is \$4.33 per hour as against the fire fighters' current \$2.75.

Fire fighting is, of course, a highly specialized profession. It requires a peculiarly unique type of training which is not to be found in any other occupation. It is thus impossible to equate fire fighting with the services rendered by any other occupational skill. It has been customary in many communities to put police and fire fighters on a parity basis insofar as wages and fringe benefits are concerned, but this practice has been abandoned in a number of cities, Muskegon among them. Probably the only satisfactory mode of correlation is to compare salaries paid to fire fighters in other cities, although this too introduces certain elements of uncertainty. Assessed valuations, sources of taxation, even fire fighting requirements differ among municipalities. The proportion of industry to commercial business and to residences, the nature of the industries, the local cost of living factors, even the geography of the cities vary so considerably as to render the most logical of comparisons suspect. The Union has presented a chart showing that cities in Michigan of 50,000 or more population paid as of July 1, 1969 a maximum fire fighter salary ranging from \$7935 in Bay City to \$10,000 in Detroit. In Area 2 cities of the Michigan Municipal League, as of the same date, these salaries were paid to fire fighters:

Flint:	\$9970
Kalamazoo:	8284
Lansing:	8586
Saginaw	8724
Midland:	9000
Jackson:	8681
Grand Rapids:	8954
East Lansing:	8515
Battle Creek	8364
for average of	8786

To further bolster its claim, the Union has presented a variety of national statistics, which establish (1) that on August 1, 1969 average weekly earnings of production workers in manufacturing industries was \$142.30 in Muskegon, \$160.81 in Battle Creek, \$153.39 in Bay City, \$171.32 in Detroit, \$145.70 in Grand Rapids, \$154.99 in Jackson and \$156.98 in Kalamazoo; (2) there was an increase of 7.3% in the BLS Consumer Price Index in Detroit from December, 1968 to November, 1969; Gross National Product increased by 8% from 1969 to 1970; the BLS index for all cities increased in 1969 by 5.8% from July to November, 1969; and that by computation of the Bureau of Labor Statistics of the U. S. Department of Labor, a moderate standard of living for an urban family of four as of January 1, 1970 required an income of \$10,867.

It was also pointed out that the job is inherently dangerous, and therefore more highly compensable. Eight fireman have been killed in line of duty over the past years. The department

averages 27.3 injuries per year, a ratio of one out of three fire fighters.. Projected increases in population will increase the fire fighters' exposure, and inevitably the injury rates.

The Union therefore insists that its salary demands are fair and equitable.

The parties have agreed that by the BLS Cost of Living Index there has been an increase of 6.2% in 1969. The City concurs that 6% is a reasonable adjustment to allow for increased costs. It insists that its budget cannot permit a salary scale higher than \$8700 or \$8800 at the maximum for fire fighters. It further proposes that its salary schedule should be comparable with comparable cities such as Battle Creek and Bay City. It cites 1968 figures to establish the economic relationship of these cities to Muskegon (cents omitted):

	Battle Creek	Bay City	Muskegon
Equalized Valuation	\$182,430,089	\$152,359,408	\$200,472,151
City taxes	2,074,075	3,317,218	2,759,717
County taxes	877,488	901,967	1,403,305
School taxes	5,358,436	3,432,657	5,467,606
Total taxes	8,310,000	7,651,843	9,630,629
Total rate	45.55	50.22	48.04

The City has a general fund limit, established in 1933, of ten mills. Millage for sanitation and the new City Hall Building, not available for general purposes, brings the total to 14 mills. In 1965, and again in October, 1969 the electorate rejected an income tax proposal.

The budget for 1970 provides for general fund expenditures of \$3,751,810. Of this sum \$923,969 is allocated to the Fire Department, of which salaries constitute \$789,839, broken down as to personnel as follows:

One Chief	\$ 14,100
One Assistant Chief	11,000
One Battalion Chief	10,364
One Battalion Chief	10,207
Seven Captains at \$9,804	68,628
One Captain	9,646
Thirteen Lieutenants at \$9,152	118,976
One Lieutenant	8,995
Three Assistant Mechanics at \$9,152	27,456
Fifty-one Firefighters at \$8,600	438,600
One Firefighter	8,510
One Firefighter	8,405
Two Firefighters at \$8,340	16,680
One Firefighter	8,213
One Firefighter	8,125
Two Firefighters at \$8,020	16,040
One Secretary	5,894
	<u>\$789,839</u>

As can be seen, it proposes increases to \$8020 at the start and \$8600 at the top, estimated at 7 to 7-1/2%.

Included in the Fire Department budget is a contingency fund of \$17,400, the purpose of which has not been explained. There is in the budget a general fund surplus of \$140,000 which, city officials say, has already been appropriated.

The Union's salary demands, contends the City, could exceed the budget account by 36%, whereas in Kalamazoo a recent salary increase of only 9% was found acceptable. In Battle Creek the salary maximums after four years are:

Fire Fighters	\$ 8,364
Lieutenant	9,027
Asst.. Mechanic	None
Captain	9,755
Batt.. Chief	10,782
Asst.. Chief	None

In Bay City these maximum salaries are in effect:

Fire Fighters	\$8,135
Engineer	8,385
Lieutenant	8,584
Asst.. Mechanic	None
Captain	8,781
Batt. Chief	Classified as Asst. Chief
Asst. Chief	9,931

These salaries increase on July 1, 1970 and again on January 1, 1971, and are augmented by longevity pay.

Mr. Wanto believes Bay City and Battle Creek are the cities in Michigan most comparable in various aspects to Muskegon. In Bay City the percentage of valuation of residences is 49, industry 26 and commercial 23. In Battle Creek, the percentages are 34, 37 and 24, respectively, while in Muskegon the ratio is 41, 36 and 22. Assessed dollar valuations are similar.

Bay City, with a population of 52,000, has 77 men in its fire department, with 62% above the entrance level. Battle Creek employs 79 men.

The City has computed the cost of the Union's request as \$264,565 in salary increases, holiday pay \$9882, insurance \$15,846 and

retiree's hospitalization \$4,200. In the salary increase computation the cost of the proposed engineer classification is included.

In 1969 the City budgeted a total of \$3,433,000. Its actual expenditures were \$3,851,378. It had programmed a gross income of \$3,431,518, against actual receipts of \$3,993,047, resulting in approximately \$140,000 in surplus, which was carried over into the 1970 contingency fund. A surplus over anticipated revenues was also posted in 1968.

Of the 1969 surplus, \$50,000 was transferred to the Park Fund; \$10,000 to establish operating funds for the new municipal golf course; \$832 to the Fire Department for a fire alarm system requested by the School Board; \$2,000 for excessive general audit costs; \$10,500 for the purchase of five new vehicles; \$7,000 for additional land for the golf course; and \$20,000 for housing prisoners in the County Jail. The remaining approximately \$40,000 went to purchase land for the golf course.

The municipal golf course is funded by a bond issue. Receipts from the course are expected to pay for operational costs and repayment of the bonds. The income is not expected to be sufficient to repay the \$40,000 expended on additional land acquisition.

It appears that the City Commission has taken a conservative approach to its budget in the past several years. With perhaps only one exception, income in each department has exceeded the budgetary figure. However, the retiring City Manager predicts that the city will have severe monetary problems in 1971, particularly because a 13% increase in population, with substantial reductions

in State Income Tax, State Sales Tax and highway and gas tax refunds, will mean that lesser funds will have to be spread thinner. Furthermore, new obligations, such as job training and urban development, will absorb more of the city's income. He has recommended that traditional services will have to be cut to meet decreasing revenues, rather than new services. He proposes cuts in cemetery maintenance and adult recreation programs; the elimination of the mass transit system; and, predictably, the closing of one fire station and the reduction of one fire company.

It is the opinion of the impartial chairman, concurred in by Mr. Larson, that the city's financial position is relatively good, particularly in view of the distressed situation in cities like Detroit and Hamtramck. This city has capable and conservative fiscal management, which has been able to generate a budget surplus year after year. It will in all probability achieve a surplus in 1970. It may be necessary to curtail disbursements like land purchases for a golf course, hardly an essential element of municipal survival. It may eventually be compelled to seek from the electorate an improvement in its antiquated 10 mill limitation. Basically, it must pay a fair living wage to employees, even if it becomes necessary to curtail less essential services to do so.

At the same time, its salary range should be reasonable, with comparability to other wage rates paid for similar services in the area, and in consideration of the substantially permanent feature of the employment. The impartial chairman considers a 7 to 7-1/2% increase over 1969 wages inadequate to do more than catch

up with living costs as of last January. It takes no account of increases which have occurred since, and which will undoubtedly escalate further in the near future before leveling off.

It has been stipulated that the cost of living index for all cities rose 6.2% in 1969. The BLS indices since that date have all been on the plus side:

January, 1970	.5
February	.7
March	.7
April	.8

for a total through April of 2.7%. Added to 6.2, the increase through April is 8.9%. From this point on one can only conjecture. Should the cost of living index continue at the same rate, it will rise an additional 5.4% by the end of the year to 14.3%. Assuming that present economic trends, even though influenced by the restraints imposed by the administration in Washington, will continue at the same rate for the balance of this year, a rounded out increase in starting salaries of 14% would be justified. It is higher than the 11.1% lately awarded by an arbitration panel to the Detroit Police Department, and which the Fire Department there will probably also gain because of parity. But it must be remembered that, conceding all differences in the cost of living between the two cities, the Detroit departments began with a far higher base. The Muskegon 1969 salary base, in the opinion of the impartial arbitrator, and considering the increases which Bay City has agreed upon (a fire fighter maximum after two years of \$8,835 on July 1, 1970 and \$9,035 on January 1, 1971) and

Battle Creek (a maximum of \$8,782 after two years on January 1, 1970), is so low that it would require this proposed percentage increase to bring Muskegon in line.

The impartial arbitrator is averse, however, to reduce at this time the number of steps in the progression to maximum. To do so would unduly increase the overall package beyond what the City can reasonably afford. The alternating step increases of \$100 and \$110 for fire fighters, and the \$105 step increases for lieutenants, assistant mechanics, captains and battalion chiefs, and the \$210 step increase for assistant chief, have been retained intact. The resultant proposed salary schedule, with cents discarded, would be:

	Start	6 Mo.	1 Yr.	18 Mo.	2 Yr.	30 Mo.	3 Yr.	42 Mo.	4 Yr.
Fire Fighter	8162	8262	8367	8467	8572	8672	8777	8977	9000
Lieutenant	9270	9375	9480	9585	9690				
Asst. Mechanic	9270	9375	9480	9585	9690				
Captain	10013	10118	10223	10328	10433				
Batt. Chief	10652	10757	10862	10967	11072				
Asst. Chief	10898	11108	11318	11528	11938				

The impartial arbitrator proposes that the foregoing salary schedule be made effective as of January 1, 1970. Mr. Knowlton assents. Mr. Larson emphatically disagrees. He contends that the fire fighters have long been underpaid, and that the proposed salary schedule will barely catch up with the cost of living by the end of the year. It is his proposal that the salaries be increased close to that proposed by the union, to permit his associates in the department a standard of living enjoyed by employees in private industry.

The impartial arbitrator holds to his position because the City's financial picture does not warrant the raise that Mr. Larson proposes and further, because the relative stability and continuity of the employment in this department is also a factor to be considered in developing an annual rate of remuneration lower than the equivalent rates in private industry.

2. ENGINEER CLASSIFICATION

— The Muskegon Fire Fighters have proposed a new classification entitled "Fire Equipment Operator" or alternatively "Engineer" at a starting salary of \$10,700 increasing to \$10,950 in six months and \$11,200 in one year. A description of the job, tasks to be undertaken, preliminary experience and training and eligibility requirements have been presented to the City. A copy is attached at the close of this section.

It is proposed that promotion to this classification be based either on seniority or on the usual civil service standards for advancement.

The union lists 19 Michigan cities of which only Bay City does not have a classification of "sergeant" or "engineer". No explanation of the duties of a sergeant or of the particular duties of an engineer in the various cities listed has been given. For purposes of this opinion, it has been assumed that the sergeants or engineers in these various cities perform the same duties and are required to have the same qualifications as those listed in the job description attached hereto.

59 of the members of the Muskegon Fire Department are fire fighters. Of these, 24 men presently perform the same duties which are required for the classification of engineer, although they remain in the fire fighter classification and receive the fire fighter scale of pay. They drive trucks, place them in position, tend to the gauges and assist the other fire fighters. The union claims that these greater duties, over and above those which the other fire fighters in the same classification are required to perform, warrant the change in classification and the higher rate of pay.

The city position is that an 87 man department hardly needs the establishment of an engineer classification. The work is now being done by the fire fighters, so that in effect the change in classification would mean a superimposed wage increase for the same duties which are currently performed. The new classification, it is charged, is intended to cover a demand for an additional wage increase. The city contends that the extra cost is beyond its ability to pay and that in any event the new classification is not in the public interest and welfare, since it is already receiving the same services at a lesser rate. Furthermore, to establish a new classification would require the concurrence of the Muskegon Civil Service Commission, which is not a party to this proceeding and, it is contended, is not bound by any award which may be made in arbitration between the city and the union.

These facts must be conceded: The proposed engineer classification work is now being done by fire fighters at the fire

fighter rate of pay.. To establish a new classification would be in effect to give an increase to certain members of the department to compensate for greater experience and greater skills. Insofar as the same services may be obtained from fire fighters at the fire fighter scale, the new classification would certainly not be in the public interest and welfare. It is to the public's interest to obtain such services at the lowest price compatible with fair wages. If it can obtain these services at a fair wage, it should not be compelled to pay a higher rate for something it has already been receiving.

— The attorney for the union in arguing the question concerning the authority of the Civil Service Commission points out that the Muskegon plan was adopted pursuant to MSA5.2082, which outlines permissible charter provisions for home rule cities. The union's position is that the the specific language contained in Section 9 of Act 379 of Public Acts of 1965 permits the arbitration panel to override civil service regulations and classifications. Section 9 gives the panel the right to hear disputes concerning "wage rates or other conditions of employment". A classification in the promotional ladder is assuredly a condition of employment.

It is emphasized that the language of MSA5.2082 is general, while that of Act 379 is specific and that the rule of law is that subsequent specific legislative language will supersede prior inconsistent, but general, language.

The union has no objection to bypassing the Civil Service Commission altogether by basing promotion to engineer exclusively

on seniority. It argues that the city may establish a separate promotional step, so long as the employees are not removed generally from civil service protection..

To bolster its position, the union points to Section 41 of the Collective Bargaining Agreement between the city and Local 586 of the Public Employees' Union of Southwestern Michigan. That paragraph provides that "this Collective Bargaining Agreement supersedes any other city ordinances dealing with wages, hours, and terms and conditons of employment. However, when not negated by the provisions of this Agreement, the civil services rules and regulations and personnel policies of the city shall apply." It was also agreed in that contract that any new civil service rules bearing on hours, wages and working conditions should be negotiated and agreed to before application to the civil service commission.

The city contends that since the opening of negotiations it has continuously insisted that the Board of Civil Service Commissioners is in fact an autonomous body whose rules and regulations must be followed in all matters pertaining to that Board. The Board of Civil Service Commissioners was established by the charter of the City of Muskegon. Appointments to the Commission are made by the Mayor with the advice and consent of the City Commission. The charter provides that the Civil Service Commission is obligated to act within the framework of the Civil Service Rules and Regulations. The charter directs "The Commission shall classify all of the offices of employment".

The Muskegon Fire Fighters would circumvent the administrative authority vested in the Civil Service Commission, were this

panel to establish a precedent whereby Civil Service could be avoided on job classification items.. It is contended that the statute never intended such a result.

Judge Piggins of the Wayne County Circuit Court in the Case of In re Nagy et al vs. City of Detroit ruled that the Civil Service Commission is a necessary party to any proceeding regarding classification. He added that "the Civil Service Commission and no other body in city government has the final authority to control appointments, promotions and discharges in the classified service of the city."

The Nagy case is presently on appeal.

Obviously, there is a serious question whether this panel has the authority to establish a new classification outside the purview of the Civil Service Commission. The statute under which this panel is sanctioned makes no reference to Civil Service Commissions nor their inclusion in arbitration proceedings under the Act, nor is there any point in attempting to determine whether this panel is authorized to bypass the Civil Service procedure, tempting though the proposition may be, unless the panel finds that the new classification should be established.

It is the opinion of the impartial arbitrator that the engineer classification is not in the best interests and welfare of the City. The City is presently obtaining the same services at the fire fighter rate of pay and has done so for many years. To establish

a new classification would in effect greatly increase the number of chiefs without a corresponding increase in the number of indians. Certainly the proposal of a new classification is essentially an attempt to obtain for 24 of the 59 fire fighters a substantial increase in pay over and above that which has been awarded in Section 1 of this opinion. There is no quid pro quo for the new classification. The only avail would be an extremely high pay increase to some 40 per cent of the fire fighters and a steep accentuation of the cost of operation to the City.

The impartial arbitrator feels that such a classification and the attendant increase in pay is justified neither by the City's financial condition nor by a change in duties of the fire fighters which would warrant a higher classification. Mr. Knowlton agrees. Mr. Larson dissents, as he believes the higher grade of skills and experience should be suitably compensated.

FIRE EQUIPMENT OPERATOR

NATURE OF WORK

This is general firefighting work in operating fire apparatus in combating and extinguishing fires and in the minor maintenance of equipment, apparatus, and quarters.

Work involves the safe and efficient operation of firefighting apparatus in accordance with standard procedures and techniques. The employee is responsible for the proper placing and operation of the assigned apparatus at the scene of a fire, and for the performance of hazardous and strenuous tasks in fighting fires, often under handicaps of cramped quarters or smoke. Limited supervision may be exercised over firefighters, in the absence of a supervisory officer. Supervision is received from a superior officer, who reviews work for proper performance through inspections, personal observation, and activity reports.

ILLUSTRATIVE TASKS (The following examples are for illustration and are not intended to be an exhaustive list of duties of this class)

Drives fire pumper or ladder truck to the scene of a fire; places pumper truck in proper position to permit the laying of hose and pumping of water; attaches water intake and fire hose to pumps and operates pump at required pressure; locates ladder truck to best advantage; raises ladder hydraulically, after setting stabilizer.

As assigned, mans fire hose to combat blaze; ventilates burning buildings; performs salvage operations; removes persons from danger and administers first aid to injured persons.

Participates in fire drills and attends classes on firefighting, first aid, and fire equipment and apparatus construction and operation.

Makes inspections of homes and business establishments as a portion of the department's fire prevention program.

Performs general maintenance work in the upkeep of fire properties; cleans and washes, hangs, and dries hose; cleans, polishes, and tests apparatus.

Performs related work as required.

KNOWLEDGES, ABILITIES AND SKILLS

Knowledge of departmental policies, rules, and regulations.

Knowledge of firefighting apparatus, equipment and methods, of fire department hydraulics, and of the geography of the city and the location of firefighting water supply sources.

Ability to understand and follow oral and written instructions.

Ability to establish and maintain effective working relationships with supervisors and fellow employees.

Physical strength and agility and freedom from disabling defects, and ability to meet such specific physical requirements as may be established by competent authority.

Skill in administering first aid.

Ability to obtain at the time of appointment, a valid drivers license as issued by the State of Michigan.

DESIRABLE EXPERIENCE AND TRAINING

Some experience as a full-time firefighter; and graduation from a standard high school, or equivalent education.

ELIGIBILITY REQUIREMENTS

To be eligible for this position you must have a minimum of 5 years service with fire department.

3. HOLIDAYS:

The 1969 contract gives to the Fire Department six holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. It is proposed by the union that four more holidays be added: Easter, Christmas Eve, New Years Eve and the fire fighter's birthday.

No holiday credit is presently given if it falls during the fire fighter's vacation, his normal day off, or on a sick leave day. If a holiday is worked the fire fighter is paid for four additional hours.

The same provisions are currently in the Police Department contract. Service employees, on the other hand, get seven paid holidays with double time for holidays worked.

The City's position is that holidays should remain at six days as at present. The union request is equivalent to a 4-1/2% pay increase which the City contends it cannot afford.

Again, it is difficult to equate fire fighter and police holidays with those of service employees, who operate in different trades and whose services are not of a public safety nature. The impartial arbitrator is reluctant to increase the number of holidays over that granted the police because of the certain friction which would result in the City's labor relations if one department were granted additional concessions in this regard. For this reason it is believed that the holiday allowance should remain as is. Mr. Knowlton assents. Mr. Larson dissents. The police and fire fighter contracts, he argues, are negotiated separately. It is not necessary

nor even proper to consider other contracts. This is particularly so because the fire fighters work a 56 hour week as against the patrolman's 40,, and by proportion should receive more holiday leave.

4. INSURANCE

Beginning with January 1, 1970, the City has paid \$1.44 per month for \$5,000 life insurance for each employee and 50% of hospitalization premiums, estimated at \$14.98 per month. This is equivalent to one-half of the premiums. It pays the full cost of sick leave.

The union proposes that the City pay 100% of the premiums for the employees on the job and for medical and hospitalization insurance for retirees. The City has refused to pay more than 50% of the premiums,, and has rejected payment for retired employees.

Insurance, including life, medical and hospitalization, has become a vital necessity of modern living. The cost of medical and hospitalization insurance particularly has increased spectacularly in recent years, and at this writing Blue Cross and Blue Shield are again appealing for a major increase in premium rates. It has been estimated that the hospitals may soon raise their charges to \$100 per day, almost an astronomical figure for the average workingman to absorb. As a consequence, insurance contributions by the employer have become a major fringe benefit stipulation of employees.

The City's employees are in the same predicament, and ask that their employer assume a greater proportion of the cost. The City has agreed to the extent of 50% of the premiums, and has implemented this program as of January 1, 1970. It has not extended the same benefit to retirees.

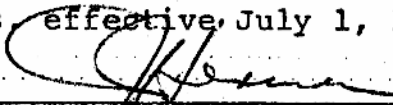
In the judgment of the impartial arbitrator, the retired employees are even more in need of help than those presently on the payroll. Their pensions have been badly eroded by the continual rises in the cost of living. Their insurance, so necessary in retirement years, is becoming too costly to maintain at a period of life when it is most needed. The impartial arbitrator strongly feels that the City has an obligation to help those people who devoted their working lives in its behalf.

Further, there is a positive trend in industrial philosophy for the employer to assume the full burden of insurance costs as an element of its cost of operation. It would patently be unfair to direct the City to assume the full costs at this time without an opportunity to readjust its budget to accommodate the added expenditures. Accordingly, the impartial arbitrator recommends that the City assume 75% of the cost of insurance premiums for employees and retirees of the Fire Department, commencing with July 1, 1970. Mr. Larson agrees. Mr. Knowlton disagrees on the grounds that it would cause a severe strain on the City's finances, that it would create an imbalance with the premium assumption in other departments, and that the union has no authority to speak for retired personnel.

Mr. Knowlton and Mr. Larson have waived the filing of concurring or dissenting opinions. By their signatures hereto, the arbitrators appointed by the City of Muskegon and the Muskegon Fire Fighters have indicated their assent or dissent, as stated herein. ' Apart from statements directly attributed to them, it is not to be assumed that they have expressed either agreement or disagreement with the comments, interpretation of facts, assumptions and conclusions of fact stated in the foregoing opinion, which are attributable solely to the impartial arbitrator.

1. The panel of arbitrators, Mr. Larson dissenting, directs that starting salaries of all personnel in the Fire Department below the classification of Chief be awarded a 14% increase over 1969 starting salaries, effective January 1, 1970. Successive steps in the salary progression shall receive the same pattern of increments as was established by the 1969 contract between the parties.
2. The panel of arbitrators, Mr. Larson dissenting, directs that the proposed classification of "Fire Equipment Operator", also designated "Engineer" be rejected.
3. The panel of arbitrators, Mr. Larson dissenting, directs that the 1969 schedule of six holidays be maintained without change.
4. The panel of arbitrators, Mr. Knowlton dissenting, directs that the City of Muskegon pay 75% of the premiums for life insurance, medical and hospitalization insurance for all employees represented by the union and 75% of the premiums for medical and hospitalization insurance for all retired employees effective July 1, 1970.

Muskegon, Michigan
July 14, 1970


Impartial Arbitrator


City Appointed Arbitrator


Union Appointed Arbitrator