

10/1/82
ARB

In the Matter of the Arbitration
between:

CITY OF MUSKEGON HEIGHTS

MERC Act 312
Case No. G81-E-677

and

MUSKEGON HEIGHTS FIRE FIGHTERS,
LOCAL 615, INTERNATIONAL
ASSOCIATION OF FIRE FIGHTERS

OPINION AND AWARD OF
ARBITRATION PANEL

Arbitration Panel:

Michigan State University
LABOR AND INDUSTRIA
RELATIONS LIBRARY

Robert G. Howlett,
Chairman
Michael M. Knowlton,
Employer Designee
Darryl R. Cochran,
Union Designee

A p p e a r a n c e s:

For the City:

Michael M. Knowlton,
Attorney
Kenneth H. Heineman,
Mayor
Fred J. Snider, City
Manager
James St. Bitz, Finance
Director
Robert R. Chambers,
Councilman
Charle H. Jackson,
Councilman

For the Union:

Darryl R. Cochran,
Attorney
Steven J. Hutchison,
President
Robert W. Swanker,
Secretary/Treasurer

For a number of years MUSKEGON HEIGHTS FIRE FIGHTERS LOCAL NO. 615, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS (Union) has represented a bargaining unit of fire fighters employed by the CITY OF MUSKEGON HEIGHTS (City). The classifications in the bargaining unit are Fireman, Sergeant, Lieutenant, Captain, and Assistant Chief.

Muskegon Heights, City of

A collective bargaining contract dated September 19, 1979, between the City and the Union expired June 30, 1981. Representatives of the City and Union engaged in collective bargaining, but did not reach agreement. They were then assisted by a mediator of the Michigan Employment Relations Commission. At the end of mediation, three issues (listed below) remained unresolved.

The Union petitioned for arbitration under the Police/Fire-fighter Arbitration Act [Public Act 1969, No. 312 as amended; MCLA 423.231 et seq; MSA 17.455(31)et seq].

The Michigan Employment Relations Commission, pursuant to Section 5 of Act 312, submitted to the City and Union the names of three persons as nominees for Chairman of the Arbitration Panel to be established under Act 312. Robert G. Howlett was designated by the Commission as the Chairman of the Arbitration Panel.

Darryl R. Cochrane was designated as Panel Member by the Union. Michael M. Knowlton was designated as Panel Member by the City. Both Messrs. Cochrane and Knowlton also served as counsel for their clients at the hearing.

The hearing was held in the Muskegon Heights City Hall on Monday, June 14, 1982. Both parties presented oral and written evidence. A record of the proceedings was made by a court reporter.

The three unresolved issues are all economic issues, hence subject to the last offer provisions of Section 8 of Act 312. Following the hearing, the City and Union submitted their respective last offers on the three issues and post-hearing briefs to support their respective positions.

The three issues submitted to Act 312 arbitration and the last

offers of the parties follow.

1. The Union proposes an 8% across-the-board increase for all fire fighter salary levels commencing July 1, 1981.

The City proposes a 2% across-the-board increase for all fire fighter salary levels commencing July 1, 1981.

2. The Union proposes the inclusion of contract language in the collective bargaining agreement to require the City to pay the medical insurance premiums for all fire fighters who retire after the arbitrator's award from the date of retirement¹ until such employee reaches the age of 65.

The City proposes that the Union proposal be denied.

3. The Union proposes that contract language be included in the collective bargaining agreement effective July 1, 1981, to require the City to pay holiday pay at 2½ times the straight time rate rather than the double time which has been paid under the prior contract.

The City proposes that the Union proposal be denied.

The City, located in Muskegon County, has a population of between 14,000 and 15,000 persons. It is one of five cities in the County which constitute the Muskegon municipal area (Muskegon Heights, Muskegon, Norton Shores, North Muskegon, and Roosevelt Park). It is governed by a Mayor, City Manager, and six Council members. Its economy is supported by a combination of heavy and light industries, and commercial businesses.

1. The present collective bargaining contract provides that "Retirees are eligible for City-paid hospitalization coverage upon attaining age sixty-five (65) provided they are drawing City retirement benefits."

The following groups of employees are in bargaining units: clerical personnel, technical employees, police patrolmen, police command officers, supervisors, fire fighters, and employees of the Department of Public Works.

The Fire Department consists of fifteen employees plus a Fire Chief. The fifteen employees are divided into classifications listed above.²

The wage rates of the fire fighters as of the end of the 1978-81 contract, and as paid thereafter up to the date of the hearing, are as follows:

Fireman	\$16,124 - 16,866
Sergeant	16,990 - 17,237
Lieutenant	17,360 - 17,979
Captain	18,165 - 18,782
Assistant Chief	18,968 - 19,586

Currently, insurance premiums are paid to retired fire fighters when they reach the age of 65, but not prior thereto.

Currently, fire fighters are paid double the straight time rate for work on holidays, computed on the basis of a 54-hour week.

Section 9 of Act 312 specifies that an Arbitration Panel shall base its findings, opinions, and order on the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of

2. The testimony discloses there is one sergeant's position which was not filled at the time of the hearing.

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, holiday 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.³

The City relies on item (c): The interests and welfare of the public and the financial ability of the City to meet the costs.

The Union relies primarily on item (d): A comparison of the wages of the fire fighters with the wages of other fire fighters, and with other employees generally, i.e., the employees in other City departments.

The Union cited, as discussed below, the wage rates of fire fighters in other communities which, it avers, are comparable. The City disagrees that the communities cited are comparable, primarily because of economic factors which have affected the City.

There is no dispute over the facts presented by the written

3. MCLA 423.239; MSA 16.455(39).

evidence and oral testimony of the witnesses. The last offers of the parties meet head-on. The comparability evidence supports the Union; the financial ability to meet the costs of the Union increases supports the City.

The Union advances an argument that equity supports its position because of the increase granted to the police officers. This is, in part, a comparability argument, but is advanced by the Union in addition to comparability.

The City agrees that the fire fighters are "deserving" of "reasonable wage improvements," but asserts that the City's financial plight requires the acceptance by the Panel of its last offer.

SALARIES

The contract between the City and the union representing the police officers covered a period from July 1, 1979, to June 30, 1982. This contract provided for a salary increase of 8% effective July 1, 1982, which was paid to the police officers. The police officers have agreed to a 2% increase effective July 1, 1982. Other unions representing the clerical, Department of Public Works personnel, supervisory, and technical employees whose contract expired June 30, 1981, agreed to accept 2% pay increases effective July 1, 1981. The union representing the police command officers received an 8% increase effective July 1, 1981, and agreed to accept a 2% wage increase effective July 1, 1982.

A summary of the evidence presented by the parties to support their respective positions follows.

A Comparison Between City Fire Fighters And Police Officers

The differential between the salaries of the fire fighters

and police officers increased between 1967 and 1981. In July, 1967, the base salary rate for both fire fighters and police officers was \$6,100. In November, 1967, the police officers' base rate was increased to \$7,000, and the fire fighters' to \$6,700. In 1968, base salary rate for fire fighters was \$7,350, and for police officers \$7,650. By 1981, the base wage rate for fire fighters was \$16,866 as compared with \$20,588 for police officers.⁴ As of July 1, 1982, the police officers (after receiving a 2% wage increase) have a base salary rate of \$21,000.

The Union post-hearing brief points out that in the event the City last offer is accepted, the difference between fire fighters' and police officers' base wage rates will be \$3,385 as of July 1, 1981; whereas if the 8% wage increase proposed by the fire fighters is accepted (providing a base wage rate of \$18,215), the difference will be \$2,353.

Comparisons With Other Cities in the Area

The Union submitted evidence of fire fighter salaries in the City of Muskegon and the City of Norton Shores. Muskegon is contiguous to Muskegon Heights on the north; Norton Shores is contiguous to Muskegon Heights on the south. Both are larger than Muskegon Heights.

The evidence discloses the following concerning the City of Muskegon.

In January, 1969, there was parity between Muskegon fire fighters and patrolmen, the base rate of each being \$8,000 per

4. I have used the top of the base rate for fire fighters. The comparative data for the other cities used the highest base rate figure.

year. Parity was broken in January, 1970.

In 1976 the police officers' base rate was \$936 more per year than fire fighters, although fire fighters received cost of living payments which were not applicable to the police officers. The differential decreased so that by 1981 the police officers' base rate was \$144 more than the fire fighters' base rate. With the fire fighters' cost of living, it is probable that the fire fighters receive more than the police officers.

By January, 1981, the base wage rate for fire fighters was \$20,852; whereas, the base rate for patrolmen was \$21,000. The exhibit presented by the Union discloses that negotiations for police officers' salaries to be effective in January, 1982, had not been completed at the time of the hearing.

The fire fighters' January, 1982, base rate in Muskegon was \$22,416 as compared with the City base rate (prior to any increase awarded in this case) of \$16,866. The 8% increase proposed by the Union to be effective July 1, 1981, would result in a City base rate for fire fighters of \$18,214, or \$4,202 less than the January, 1982, wage rate for City of Muskegon fire fighters.

The evidence discloses the following concerning the City of Norton Shores.

There was parity between the police officers and fire fighters from 1969 through 1973. The base rate of both classifications in 1969 was \$8,177 and in 1973 \$10,975.

Commencing in July, 1974, the police officers received larger increases than the fire fighters. By July, 1981, the base rate for police officers was \$21,970; and for fire fighters \$18,691. This compares with the City base rate (prior to any

(increase involved in this case) of \$16,866, or a difference of \$1,825.

Comparisons With Other Cities In the Area

The Union presented evidence of the Michigan cities of Holland, Grand Haven, St. Joseph, and Benton Harbor. All of these cities are located on the shore of Lake Michigan and are in many respects comparable to the City. All have heavy and light industry,⁵ as does Muskegon Heights.

The base rates for the cited cities are as follows:

Holland	\$17,076	June 30, 1982 ⁶
Grand Haven	\$14,500	June 30, 1981 ⁷
St. Joseph	\$14,561	June 30, 1981 ⁸
Benton Harbor	\$16,082	June 30, 1982 ⁹

5. I take note of the well known fact that the City of Benton Harbor has, in recent years, suffered disastrous financial problems. It is probably in a more serious financial condition than the City of Muskegon Heights.

6. The data submitted at the hearing sets out base rates designated as "start." It appears (although the testimony is not specific on this question) that the \$17,076 compares with the City base rate of \$16,124, not the top rate of \$16,866. The same is true with respect to the other cities listed.

7. I note the base (Start) wage rate of \$14,500 is less than the current (without any increase which may be awarded in this case) base rate for City fire fighters. The top salary rate for fire fighters in Grand Haven is \$17,833, as compared with the top wage rate for City fire fighters of \$16,866.

8. The starting wage rate for fire fighters was \$14,561, as compared with the City wage rate (prior to any award in this case) of \$16,124. However, the top wage rate for fire fighters was \$17,988 as compared with the City top wage rate (prior to any increase awarded in this case) of \$16,866. The data was for 1979-81. No evidence was offered as to an increase, if any, for the St. Joseph fire fighters effective July 1, 1981.

9. In Benton Harbor, the top wage rate for fire fighters is \$17,907 for the July 1, 1981, to June 30, 1982, period.

The Union argues that "the firefighters feel most comparable to ... the Muskegon Heights patrolmen," noting that fire fighters, like police, are public safety employees for the City. The Union recognizes that historically there has not been parity between the City fire fighters and police officers, but the difference between the wage rates of the fire fighters and police officers has increased from a few hundred dollars to \$1,686 in July, 1980, and in July, 1981, (prior to any increase which may be awarded in this case) to \$3,722.

A record of the base rates of City fire fighters and police officers for 1964 through 1982 is attached hereto as Exhibit 1.

The Union avers:

The 8% proposal of the firefighters - though it would broaden the gap between the police and the firefighters somewhat, would generally maintain the gap at its historical level. The 2% proposal of the City would establish the gap at its highest level ever in the history of the City. Thus, it is the position of the firefighters that from the standpoint of the relationship between the police and firefighters' wages, the firefighter proposal represents by far and away the fairest proposal.

With respect to the City of Norton Shores, the Union avers:

Generally, the Norton Shores firefighters were paid a few hundred dollars more than the Muskegon Heights firefighters. As of July of 1980, the Norton Shores firefighters were making \$16,871 while the [City] firefighters were making \$16,866.

As of July, 1981, the Norton Shores firefighters were raised to \$18,691. This compares very favorably to the \$18,215 [proposed by the] firefighters and not so favorable to the \$17,203 [proposed] by the City.

With respect to the City of Muskegon, the Union avers:

[G]enerally the difference between the pay of Muskegon firefighters and [City] firefighters remained within \$1,000. Starting in 1976, the gap began to widen [so that] by July of 1980, the difference was \$2,335, based on the January, 1980 wage for Muskegon and the July, 1980 wage for the City.

The Union notes that if the Union's last offer is adopted, the difference between the City's base rate and the Muskegon base rate will amount to \$4,201. If the last offer of the City is adopted, the difference will amount to "a whopping \$5,213."

"Obviously," asserts the Union, "either offer will result in an imbalance, the firefighters' only less so."

The City presented no comparable data. It relies on the financial condition of the City, agreement by four other unions to a 2% pay increase effective July 1, 1981, and agreement by the two unions whose contracts extended beyond that period to accept the 2% increase effective July 1, 1982.

That the City's financial condition is "bleak," as the City post-hearing brief states, is well established by the evidence. The brief refers to its financial condition as "desperate." That would appear to be too strong an adjective, as the City will balance its budget in 1981-82 by the use of special funds. But the evidence discloses that without such funds the City would have a deficit as noted below.

The City presented the following evidence of payments to fire fighters in 1981 and the results of the Union and City proposals:

<u>Contract</u>	<u>Wages</u>	<u>Benefits</u>	<u>Total</u>	<u>Net Increase</u>
1981	321,531	121,764	443,295	
8% increase	347,253	131,956	479,209	35,914
2% increase	327,962	124,626	452,588	9,293

The "Benefits" column for the proposed 8% increase and the proposed 2% increase is based on benefits calculated at 38% of wages.

The City points to the evidence establishing a 17% unemployment rate in the City, a projected budget deficit of \$160,000, an eroding tax base, and greatly diminished state and federal shared revenues.¹⁰

The City has eliminated twenty-one positions from City departments and, the City asserts, may be forced to eliminate more in the future.

The City notes that it has offered the Union contract improvements totaling "almost \$10,000," whereas the Union proposes contract improvements totaling over \$35,000 in wages alone.

The City questions the "comparability" of Muskegon, Norton Shores, Holland, Grand Haven, or "any other City cited by the Firefighters," and notes that the City has lost 3,000 residents, which comprises 15% of its population, between 1970 and 1980.

The City concludes:

Nowhere during the testimony presented by the Firefighters Union was any attempt made to show the panel how the City of Muskegon Heights could pay for the benefits requested by the Firefighters. In truth, the Firefighters demands can only be met by deeper cuts in those essential services the City must provide to its citizens. The Firefighters' demands are not in the public's best interest, they endanger the public welfare, and consequently they must not be awarded at this arbitration.

10. The use of the special funds will eliminate this deficit for 1981-82. Such funds, however, will not be available in 1982-83.

I have noted above that the comparison cities are in many respects similar to Muskegon Heights. The City contention that the cities are not comparable is based on the City's financial condition. No evidence was offered concerning the financial conditions of the comparison cities, although as noted in footnote 5 above, the "bleak" (and, perhaps, desperate) financial condition of Benton Harbor has been well documented in the news media.

INSURANCE

The Union avers that its proposal should be accepted, because insurance coverage for employees who retire before reaching the age of 65 was granted to the police officers during the last contract negotiations. The Union avers that "this request is fully justified by the fact that the City voluntarily granted this benefit to the police and it asks that it be awarded this coverage by this decision."

The City relies on the City's financial condition. It asserts that its financial condition is such that the request should be denied under Section 9(c) of Act 312.

Section 9(f) of Act 312 is involved in this issue.

HOLIDAY PAY

The Union avers that its proposal should be adopted, because all other bargaining units in the City are currently receiving $2\frac{1}{2}$ times the straight pay rate for holidays. It notes particularly that $2\frac{1}{2}$ -time was granted to the police during the last contract negotiations.

The City relies on the City's financial condition. It asserts that its financial condition is such that the request should be

denied under Section 9(c) of Act 312.

APPLICATION OF STANDARDS

Section 9(f) of Act 312 is involved in this issue.

The Union has made a strong case under Section 9(c) of Act 312. The City has made a strong case under Section 9(d) of Act 312. The question to be decided by the Panel under "last offer" is which of the two factors should be afforded the greater weight in determining the acceptance of one of the last offers.

Section 9(f) of Act 312 is a factor for consideration under the insurance provision, as the City has voluntarily agreed to an insurance program for police officers which is the same as requested by the Union. It is also involved in the holiday pay issue, because other bargaining units, pursuant to an agreement by the City, are receiving 2½-time for holiday pay.

The Panel met in executive session on Friday, October 1, 1982. The Chairman requested the Panel members in their capacities as counsel for the Union and the City to waive the "last offer" requirement of Section 8 [MCLA 423.238; MSA 17.455(38)] of Act 312 as applicable to the Salaries issue. After conferring with their principals, the Panel members agreed to so waive the requirement of Section 8 as applicable to the Salaries issue.

The Chairman requested the waiver of the last offer requirement, because the evidence persuaded him that application of the Section 9(c) and Section 9(d) "Standards" requires an award midway between the two last offers of the parties. The fire fighters are entitled to a substantial increase. Indeed, the City representatives did not, at the hearing, contend that the

bargaining unit employees were not entitled to the 8% increase requested of them. On the other hand, the evidence presented by the City discloses the financial conditions discussed above. Thus, in the opinion of the Chairman, a fair and equitable award based on Section 9(c) and Section 9(d) will grant the bargaining unit employees here involved an increase of 5% across-the-board commencing July 1, 1981. This provides the fire fighters with more than the inadequate 2% offered by the City, and also places less of a financial burden on the City than the 8% proposed by the fire fighters. The City may be required to reduce some services or purchases in order to meet the approximately \$16,000 which the increase will require. But the difficulty of paying this amount will be substantially less than the \$35,914 estimated by the City as the cost of the proposed 8% increase.

INSURANCE

The Union's request that insurance coverage be continued for employees who retire before reaching the age of 65 will involve only a modest cost. The Chairman was advised by the Panel members that no fire fighters under the age of 65 are currently retired, although it is anticipated that some will retire at less than 65 years of age in the not too distant future. In the Chairman's opinion, Section 9(f) of Act 312 supports the granting of the Union's proposal on insurance.

HOLIDAY PAY

The holiday pay proposal of the Union would involve a substantial cost to the City although the parties did not, at the hearing, provide the Chairman with the exact amount involved.

The Chairman is of the opinion that the Union proposal should be denied under Section 9(c) of Act 312. The fire fighters have been receiving double time for holidays for many years; there is little, if any, unfairness in continuing the double time pay after July 1, 1981.

A W A R D

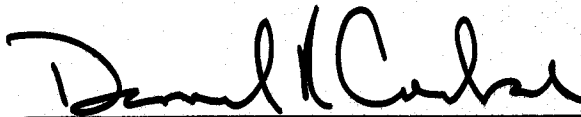
SALARIES: The wage rates for fire fighters in effect as of June 30, 1981, are, by this Award, increased by 5% effective July 1, 1981.

INSURANCE: The Panel adopts the Union proposal.

HOLIDAY PAY: The Panel adopts the City proposal.


Robert G. Howlett, Chairman


Michael M. Knowlton, Employer
Designee


Darryl R. Cochran, Union
Designee

Issued at Grand Rapids,
Michigan
October 1, 1982

COMPARATIVE DATA (BASE WAGES -1964-82)
MUSKEGON HEIGHTS PATROLMAN-FIRE FIGHTER

DATE	PATROLMAN	FIRE FIGHTER	DIFFERENCE +(-)
JULY, 1964	\$ 5,202	\$ 5,202	NONE
JULY, 1965	5,800	5,800	NONE
JULY, 1966	6,100	6,100	NONE
NOV., 1966	7,000	6,700	(\$ 300.00)
JULY, 1967	7,150	6,850	(\$ 300.00)
JULY, 1968	7,650	7,350	(\$ 300.00)
JULY, 1969	8,650	8,100	(\$ 550.00)
JULY, 1970	8,950	8,550	(\$ 400.00)
JULY, 1971	9,900	9,550	(\$ 350.00)
JULY, 1972	10,400	10,050	(\$ 350.00)
JULY, 1973	11,150	10,800	(\$ 350.00)
JULY, 1974	11,650	11,300	(\$ 350.00)
JULY, 1975	12,150	11,800	(\$ 350.00)
JULY, 1976	12,900	12,750	(\$ 150.00)
JAN., 1977	13,650	-0-	(\$ 900.00)
JULY, 1977	14,400	13,650	(\$ 750.00)
JAN., 1978	15,150	-0-	(\$1,500.00)
JULY, 1978	15,750	14,595	(\$1,155.00)
JAN., 1979	16,650	-0-	(\$2,055.00)
JULY, 1979	17,816	15,617	(\$2,199.00)
JULY, 1980	18,552	16,866	(\$1,686.00)
JULY, 1981	20,588	-0-	(\$3,722.00)
JULY, 1982	21,000	-0-	(\$4,134.00)