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Arb 12/27/95

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

ACT 312, 1969, AS AMENDED
COMPULSORY ARBITRATION

IN THE MATTER OF
THE CHARTER TOWNSHIP OF MUSKEGON
(FIRE DEPARTMENT)

Employer,

MERC Case No. G93-I-1023

and

MICHIGAN AFSCME COUNCIL 25,
LOCAL 201,

Union.

Muskegon Township

# OPINION AND AWARD

# COMPULSORY ARBITRATION PANEL

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| Arbitration Panel: | Allen J. Kovinsky, Chairperson<br>P. Don Aley, Employer Delegate<br>Gerald Coles, Union Delegate |
| Appearances: | |
| Charter Twp. of Muskegon, Employer | Warner, Norcross and Judd, LLP<br>By Donald J. Veldman<br>400 Terrace Plaza<br>P. O. Box 900<br>Muskegon, MI 49443-0900 |
| MI AFSCME Council 25 Local 201, Union: | Gaylen C. McDonald<br>Staff Specialist<br>Michigan AFSCME Council 25<br>3625 Douglas Avenue<br>Kalamazoo, MI 49004-3403 |

## I. BACKGROUND

On February 27, 1995, Allen J. Kovinsky was appointed as the impartial arbitrator and chairperson of the Arbitration Panel in the matter between the Charter Township of Muskegon Fire Department and Michigan AFSCME Council 25, Local 201, in MERC Case No. G93-I-1023. A pre-arbitration conference took place on July 14, 1995. The hearing took place on September 21, 1995. The respective Panel members, in addition to the chairperson, were P. Don Aley, on behalf of the Charter Township of Muskegon ("Employer"), and Gerald Coles, on behalf of Michigan AFSCME Council 25, Local 201 ("Union"). The Charter Township of Muskegon, Employer, was represented by Donald J. Veldman of Warner, Norcross & Judd, LLP. Michigan AFSCME Council 25, Local 201, was represented by Mr. Gaylen C. McDonald, Staff Specialist.

The parties had previously stipulated that all of the issues to be determined by the Panel were economic. The parties had also stipulated that they waived all time limits with respect to the issuance of an award, pursuant to the decision of the Court of Appeals in the case of the *City of Detroit v DPOA, MERC, and Kiefer,* 174 Mich App 388 (1989). The parties also stipulated that the provisions of the prior Collective Bargaining Agreement and all tentative agreements modifying that Agreement were to be incorporated into the Award of the Panel by reference. Accordingly, that stipulation is received and the Panel hereby incorporates the provisions of the prior Collective Bargaining Agreement, except as modified herein, and all tentative agreements that were reached between the parties into this Award by reference. The parties also stipulated

that the length of the contract would be for a period of four years and that stipulation has been received, accepted by, and granted by the Panel.

The parties filed their last best offers and their Briefs within the time limits set forth by the Panel.

The parties stipulated that the cities of Muskegon, Muskegon Heights and Norton Shores and the Township of Fruitport would be considered comparable communities. In addition, the Charter Township of Muskegon proposed the County of Muskegon, the City of South Haven, and the Professional Med Team contract, which was in existence for Muskegon, as additional comparables. The parties also stipulated that the contracts for other bargaining units in the Charter Township of Muskegon (internal comparables) would be considered to be comparables for purposes of these proceedings. The parties also stipulated that with respect to any issues involving insurance premiums and co-payments, the Award, if in favor of the Employer (the Union has requested status quo, except with respect to the prescription drug rider co-payment) should be effective on the first day of the month immediately following the date of the decision. The parties also stipulated that the proposal of the Employer with respect to the adoption of a Section 125 plan was satisfactory and would be incorporated into the Award. Further, the Section 125 plan shall be instituted on the same date as any changes in the health care, dental, and other medical insurance plans. However, the institution of the Section 125 plan shall only be effective in the event that the Employer's last best offer is awarded with respect to its proposal on health insurance.

The parties also stipulated that wage increases for the first three years of the Collective Bargaining Agreement had been agreed upon and stipulated to as follows:

> *On January 1 and July 1 of each year for the calendar years 1994, 1995, and 1996, the Employer will increase the base wages of the Employees by two percent.*

That stipulation was accepted by the Panel and is hereby incorporated into this Award as a result of the stipulation. The fourth year of wages is in dispute commencing on January 1, 1997, and will be dealt with in the portion of this Award which relates to wages.

With respect to the issue of wages, the parties stipulated and the Panel accepts the stipulation that all wages for 1994 and 1995 are retroactive, as well as any portion of the 1996 wages which may have been paid subsequent to the issuance of this Award based upon the 1995 rates which did not include the January 1, 1996, two percent wage increase. Those stipulations are hereby incorporated into the Award.

The parties also stipulated that the Award would be prepared prior to an executive session of the Panel. That stipulation has been accepted by the Panel. The Panel did, in fact, meet subsequent to the preparation of the Award and the Panel members reviewed the Award and signed the Award with their dissents so noted.

The parties presented pre- and post-hearing Briefs which were received by and considered by the Panel.

The Township financial exhibits (*Exhibit 1*, pp. 1-52) were received and accepted by the Panel. The Township exhibits relating to sick leave were received by the Panel as *Exhibit 2* (pp. 53-71). The Township *Exhibit 3* relating to health care issues (pp. 72-89) were received by the

Panel. The Township *Exhibit 4* (p. 89a) relating to dental insurance was received by the Panel. The Township *Exhibit 5* (p. 90) relating to funeral leave was received by the Panel. The Township *Exhibit 6* (pp. 91-106) relating to wages and pensions was received by the Panel. Insofar as those exhibits are concerned, the Union objected to the exhibits insofar as they related to the County of Muskegon, the City of South Haven, and the Professional Med Team exhibits. The Union's objections have been considered and will be referred to in the portion of this Award that relates to the determination of comparable communities.

Joint *Exhibit 1* was received by the Panel. That exhibit represents the prior Collective Bargaining Agreement and any new tentative agreements without the issues which will be determined by the Panel. The Panel also received and accepted Joint *Exhibit 2* (the Collective Bargaining Agreement between the Charter Township of Muskegon and the Police Officers Labor Council expiring December 31, 1996); Joint *Exhibit 3* (Collective Bargaining Agreement between the City of Muskegon Heights and the International Association of Fire Fighters terminating on June 30, 1995); Joint *Exhibit 4* (the Collective Bargaining Agreement between the City of Norton Shores and the International Association of Fire Fighters terminating on June 30, 1996); Joint *Exhibit 5* (Collective Bargaining Agreement between Fruitport Township and the International Association of Fire Fighters terminating on March 31, 1996); Joint *Exhibit 6* (Collective Bargaining Agreement between the City of Muskegon and the Muskegon Fire Fighters Association terminating on December 31, 1995); Joint *Exhibit 7* (Collective Bargaining Agreement between the Charter Township of Muskegon and the Muskegon Township Employees, AFSCME Council 25–Clerical, expiring on December 31, 1995).

The Union also introduced exhibits which were received by the Panel. Union *Exhibit 1* contained pages 1-12; however, some of the pages also contained additional pages marked with alphabetical designations. The pre-hearing Brief of the Union was received by the Panel as Union *Exhibit 2*.

The Township's pre-hearing Brief was received by the Panel as Township *Exhibit 7*.

## II. FINANCIAL BACKGROUND

P. Don Aley, the Supervisor of the Charter Township of Muskegon, testified that he has held his position for five years. He is also chairman of the Labor Committee of the Township. He represents the Township at the collective bargaining table. In addition, he is the chief financial officer of the Township and is responsible for the preparation of the Township's budget. He is also responsible for overseeing the expenditures of the Township and processing the bills. The Township Brief noted that it did not take a position that it was financially unable to pay, rather it believed that it had a duty to exercise fiscal responsibility in its expenditures, including salaries and fringe benefits for its employees. Mr. Aley noted that for the past three years the unreserved general fund balance had declined to a point where, if it was reduced further, it could reach a critical level in a short period of time. The Township's tax base has increased as a result of growth in the building of new homes and commercial establishments, but revenue sharing had generally declined. The Township's costs had increased at a greater pace than its revenues which in turn required the Township to utilize cash reserves. Mr. Aley opined that Proposition A had adversely impacted the Township and would continue to adversely impact the Township, since

any increases in State equalized valuation were capped at a maximum of five percent or the rate of inflation, whichever was lower. Accordingly, in the prior fiscal year, the Township had only had a 2.8 percent increase in property taxes. Its increase in costs had exceeded that figure. In addition, in the past in at least one fiscal year, the Township had experienced a freeze with respect to assessments and, accordingly, there had been no increase in taxes, except for any new additional construction which had taken place and had been completed.

As a result of policies instituted by the governor and the legislature, Mr. Aley indicated that the Township's share of state shared revenues had remained basically flat over a period of several years.

Payrolls in the Fire Department had increased dramatically, even in years that there had not been a wage adjustment, as a result of an increase in the number of fire related calls which impacted upon the departmental payroll in terms of increased overtime.

Mr. Aley noted that with respect to fund balance the unreserved undesignated balance had been approximately $660,000 on December 31, 1991, and had increased to $847,000 on December 31, 1992. However, it dropped to $669,000 on December 31, 1993, and further dropped to $526,000 on December 31, 1994. The declines would have even been greater if wage increases had been instituted for the Fire Department in 1994 or 1995. While those increases have not been paid, they would amount to something over four percent in each of those years which would further reduce the fund balance. According to Mr. Aley, the actual fund balance, as adjusted, would have been in the sum of $486,000 on January 1, 1995.

Mr. Aley noted that on May 2, 1995, the electorate passed a millage in the sum of two mills for public safety. Those monies may only be utilized for the benefit of the police and fire departments. A portion of that money will be utilized to update equipment in the police and fire departments. In addition,the building housing Fire Station No. 1 is in need of repairs and expansion and might even be replaced. The Township also plans to hire additional firemen and policemen. The Township intends to spend a larger portion of the two mills on the Fire Department in order to replace equipment than it does on the Police Department. At lease one and possibly two additional firemen will be hired.

Township *Exhibit 8* was introduced during the course of Mr. Aley's testimony, which basically indicates that revenues remained flat during a period of several years while Fire Department budgets increased. He indicated that the new millage will increase revenue by approximately $360,000 annually. In addition, new housing had increased by 61 houses in the prior year and, in 1995, 61 houses had already been built in the first eight months of the year. This will result in increased tax revenue even though assessments in general remain relatively flat. In all likelihood assessments would only increase by 2.7 or 2.8 percent. Thus, the cost of running the Township on an annualized basis exceed the increase in property taxes generated through millage since the assessments are kept at a level less than the increase in the costs associated with running the Township. Mr. Aley also noted with respect to Township *Exhibit 8* that the increases in the Fire Department expenditures did not include the four percent retroactive pay increases which will be paid by the Township for 1994 and 1995. Mr. Aley noted that in the 1993 calendar year all of the bargaining units in the Township had received a five percent

wage increase. In 1994 the clerical unit received no increase and in 1995 they received two percent. The police received the same wage increases in 1994, 1995, and will receive the same wage increase in 1996 as has been stipulated for the Fire Department (two percent increases on January 1 and July 1 of each of those three years).

On cross-examination, Mr. Aley conceded that the actual fund balance (unaudited) on December 31, 1994, would have been in the sum of $631,240. Previously, it had been estimated that the fund balance would be $234,617. These unaudited figures were received as an exhibit and designated as Union *Exhibit 3*. Mr. Aley noted that as of January 1, 1994, there had been a fund balance of $718,749. At the end of the year, there had been a fund balance of $665,371 with an expected fund balance of $610,000 as of December 31, 1995.

Mr. Aley acknowledged that the millage was not limited to capital expenditures (two mill increase, May 1995) but could also be used for wages, training, safety, fire run costs, and equipment expenditures. Mr. Aley testified that out of the millage, he expected to purchase a new fire truck which would cost approximately $230,000. Some of the money was already on hand but a substantial portion of it would be paid from the increased millage. He concluded his testimony by indicating that the health care costs remained about even in 1994-1995.

In response to questions of the Panel on redirect, Mr. Aley indicated that the department consisted of nine full-time fire fighters, including the chief who was not a member of the bargaining unit, and 36 part-time fire fighters who are also not members of the bargaining unit. The part-time fire fighters do not receive any fringe benefits.

## III. COMPARABLE COMMUNITIES

The parties have stipulated that the internal comparables in the Charter Township of Muskegon will be utilized for purposes of comparables. In addition, the parties agreed that the Collective Bargaining Agreement related to fire fighters in Muskegon Heights, Norton Shores, Muskegon and Fruitport Township would be considered to be comparable communities. Those four comparable communities are represented in Joint *Exhibit 3, Exhibit 4, Exhibit 5* and *Exhibit 6.* Joint *Exhibit 2* and *Exhibit 7* represent internal comparables between the Charter Township of Muskegon and the Police Officers Labor Council and the Charter Township of Muskegon and Michigan AFSCME Council 25, Local 201, on behalf of the highway/clerical/inspection employees. Proposed Township *Exhibit 9* through *Exhibit 20* relate to comparables which have been proposed by the Township but objected to by the Union. Proposed Township *Exhibit 9* relates to the City of South Haven. Proposed Township *Exhibit 10* relates to the Professional Med Team, Inc., and Service Employees International Union, Local 79. Proposed Township *Exhibit 11* through *Exhibit 20* relate to various agreements between the Muskegon County Board of Commissioners involving the sheriff's command, the deputy sheriffs, the nurses association, the Service Employees International Union on behalf of clerical employees, Teamsters Local 214 on behalf of a general employees unit, Teamsters Local 214 on behalf of a CMH Aide Unit, Service Employees International Union on behalf of an LPN Unit, Teamsters Local 214 on behalf of district court employees, and Local 570 of Council 25 of AFSCME on behalf of the Brook Haven Medical Care Facility Unit.

Further, in support of its position, the Township introduced Township *Exhibit 21*, a letter dated August 21, 1995, from Mr. J. Delaney, Personnel Director of Muskegon County, which lists the number of employees in each of the bargaining units heretofore referred to between the County of Muskegon and the various unions. The total number of employees was 611 with the largest unit being the general employee unit of 232 employees and the smallest being the Professional Command Association and the Sheriff's Department consisting of two employees. In addition, the Township introduced *Exhibit 22* with respect to its position regarding the comparability of the City of South Haven, indicating that the city had a population of 5,496, an SEV of $142,022,700 and a fire fighting force consisting of ten full-time fire fighters and twenty-five part-time fire fighters.

At the hearing, it was indicated that each of the Township *Exhibits 9* through *22* would be received but subject to the objections raised by Mr. McDonald and a determination by the Panel that the proposed communities (City of South Haven, County of Muskegon, and the Professional Med Team Inc.) were in fact comparable; otherwise, if a determination were to be made that one or more of those entities was not comparable, the exhibits would be rejected during the course of the Award.

Mr. Aley testified that he was unaware of any direct relationship with the sheriff command in the County but the County did operate a central dispatch system for all emergency services, including police and fire of which the Charter Township of Muskegon was a member. In addition, Mr. Aley was a member of the Board of Directors of that organization. The Sheriff's Department did send road patrols into the Township, but it was not the major police force. The Sheriff's

Department acted as a backup to the Township police when needed. The County did not run its own Fire Department. Mr. Aley indicated there was a close relationship between the County Department of Public Works and the Township Department of Public Works. The County acts as the Township's water and sewer superintendent. The northside water system is a complicated system owned by three townships but is totally administered through the County of Muskegon Department of Public Works. The County is paid by the three townships to operate the system. The County buys water on a wholesale basis from the City of Muskegon and retails it to the Township residents. The Township owns the system, but the County operates it. The Township also owns portions of the countywide waste water system; however, it is totally administered by the County Department of Public Works. The Township collects county millage from the residents of the Township. The County equalization department oversees the tax assessing and administration of the Township with regard to millages. The County Board of Equalization reviews all of the Township's tax assessments and performs studies of sales of property. All township roads are county roads and the County and the Township have cooperative agreements with regard to the maintenance of the roads. The Township does maintain its own highway department which performs routine maintenance on secondary roads while the County performs maintenance with regard to primary roads and truck routes. The Township purchases its gravel and coal patches from the County. In turn, the Township plows the roads when required. The Township does not receive from the County any direct reimbursement for wages or fringe benefits for employees of the Township who maintain secondary roads. The Township Fire Department

acts as a first responder to fires and/or accidents which occur in the Township, as well as emergency medical runs.

The Professional Med Team also responds to a large number of the medical runs made by the Township. It is a county-wide ambulance service. While the Township personnel act as a first responder, the Professional Med Team acts as the transportation unit for individuals who are injured in accidents or require emergency medical transportation. In addition, in accident situations and other areas, sheriff deputies also respond as does the Township Police Department.

Mr. Aley also indicated that the City of South Haven was along the lake shore approximately 50-60 miles south of Muskegon Township.

On cross-examination, Mr. Aley admitted that the Professional Med Team had no responsibility for fighting fires, nor did any of the employees represented in the various collective bargaining units of the County. In fact, the County relies upon the local units of government to provide fire protection. Accordingly, wherever the county buildings are located, it would be the local unit of government that would have the responsibility for protecting the county buildings in case of fire.

During the course of Mr. Aley's cross-examination on the issue of comparability, the Union introduced its *Exhibit 4* which is a mutual aid pact between various local units of government, including the Charter Township of Muskegon. Mr. Aley admitted that the City of South Haven was not included in the mutual aid pact nor was it within the County of Muskegon. Mr. Aley also admitted that in checking for comparable units, the Township did not consider

other public employees, such as teacher groups, in the various local units of government within the County.

On re-direct examination, Mr. Aley indicated that Brook Haven was a county-owned medical facility which was located immediately adjacent to the Charter Township of Muskegon municipal building. The Township provides fire services for Brook Haven. On re-cross examination, Mr. Aley admitted that he was unaware of the classifications covered in the bargaining unit at Brook Haven nor was he familiar with their training or skills or comparability to the skills that fire fighters have. He indicated that those individuals at Brook Haven are first-response people for medical purposes and that they were not trained fire fighters. Brook Haven is basically a nursing home for senior citizens.

The Union chose to rest its case with regard to comparable communities on the exhibits introduced by the Township, as well as the testimony of Mr. Aley. It chose to refrain from introducing any exhibits or rebuttal testimony.

In its Brief, the Union has chosen to refrain from commenting upon the issue of comparability with regard to the comparable units proposed by the Township and objected to by the Union during the hearing.

The County urges in its Brief that each of the objected to comparable units should be considered as being comparable by the Panel. It indicates a close and continuing relationship between the County of Muskegon and the Township. It notes that the Township is situated entirely within the County and is the most populated of the townships within the County while being contiguous to the City of Muskegon. It notes that three of the County units are in the

business of "public safety" as is the Township's fire fighting unit. The units operate in contiguous and overlapping geographical areas. All of the public safety units in the Township and the County are serviced by the central dispatch system. The public safety departments of both the County and the Township routinely back up one another. The Township also notes a close interrelationship between the County and the Township Public Works Departments. This is also true with respect to the County's tax assessing administration which oversees the Township's assessments, while the Township in turn collects the County millage from its residents.

The Employer also notes that all township roads are, in fact, county roads with an ongoing cooperative relationship between the County and the Township with regard to the maintenance and repair of those roads. The Township also notes that the County has a facility contiguous to the Township municipal offices which is represented by AFSCME Council 25. Bargaining unit employees are residents of both the County and the Township and basically are subjected to the same services and the same cost for services and shop in the same general retail areas.

In support of its proposal that the Professional Med Team should be considered to be comparable, the Township notes that it is a private, non-profit employer with employees performing services similar to the Township fire fighters in the same community. The Township notes the similarity of the fact that Fire Department employees respond to emergency medical runs as do Professional Med Team employees and, in fact, both respond to the same runs with the Township being the initial first responder and the Professional Med Team performing both medical and transportation services. The Township also notes that sheriff's deputies and Township police officers also respond to the accident scenes.

In support of the issue of the comparability of the City of South Haven, the Township notes that it is located on Lake Michigan, 60 miles south of Muskegon. It has a population of approximately 5,500 with an SEV of $142,022,000. It has a bargaining unit of ten full-time fire fighters who are represented by the International Association of Fire Fighters.

In arriving at a decision on the comparability issue, as well as a decision with respect to each of the issues in dispute, it should be noted that the Panel is aware of and has applied, where applicable, the standards set forth in Act 312 of the Public Acts of 1969, as amended, in Section 9 which provide as follows:

> *Section 423.239. Basis for Findings, Opinions and Orders – Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions, and order upon the following factors, as applicable:*
>
> *(a) The lawful authority of the employer.*
>
> *(b) Stipulations of the parties.*
>
> *(c) The interest 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.*

The Panel notes that the statute does allow a comparison with other employees performing similar services and with other employees generally. The Panel also notes that the statute allows comparisons in comparable communities in both public and private employment. It also notes that the basic objection of the Union relates to the similarity or lack thereof of services rendered by the proposed comparable bargaining units in the cases of the County of Muskegon and the Professional Med Team units. The Panel also notes the Union's objection to the City of South Haven based upon the fact that, in the opinion of the Union, it is geographically remote from the Township of Muskegon. On the other hand, the Panel also notes the argument of the Township that the objections of the Union go to the weight to be given the proposed comparable units as opposed to their admissibility.

A review of the exhibits and testimony, as well as the respective arguments of the parties, has led the Panel to the inescapable conclusion that the proposed exhibits relating to the County of Muskegon and Professional Med Team must be rejected as is also true with respect to the

proposal that the County of Muskegon and Professional Med Team should be considered to be comparable. The County of Muskegon employs no fire fighters. Geographically it is many times the size of the Township of Muskegon. Its tax base is totally dissimilar from the Township of Muskegon. The services rendered by most of the bargaining units proposed in Township *Exhibits 11* through *20* bear absolutely no relationship to the duties performed by fire fighters. The fact that certain bargaining units in the Sheriff's Department perform services related to public safety does not in and of itself make their duties similar to those of a fire fighter. The other bargaining units clearly perform duties that are not related to the position of a fire fighter since they involve various departments of the County, such as clerical and highway maintenance as well as nursing. The interrelationship of the County and the Charter Township of Muskegon, while significant, is not in and of itself sufficient to render a determination by the Panel in favor of comparability reasonable under all of the facts and circumstances. A county should be compared to another county.

With respect to the Professional Med Team, the Township is seeking to compare a private company with a municipal entity. That, in some instances, might not equate against a finding of comparability if in other respects the employees in question are performing extremely similar services. The County would seek to utilize the Professional Med Team contract as a comparable, based upon the fact that it performs some emergency services as well as transporting victims of accidents and individuals who have become ill and require emergency medical transportation. However, there is absolutely no indication that those employees perform fire fighting services nor any indication as to any similarity between the revenue sources generated by a municipal entity

versus the revenue sources generated by a private employer. Moreover, there is no indication as to any comparability with regard to the size of the bargaining unit in the Charter Township of Muskegon versus the number of employees employed by Professional Med Team. Thus, for the reasons hereinabove set forth, the proposal of Professional Med Team as a comparable is hereby rejected. Accordingly, proposed Township *Exhibits 10* through *21* having been objected to are hereby rejected and the objections of the Union are hereby sustained.

With respect to the proposal of the City of South Haven as a comparable, the Panel notes that the City of South Haven employs both full-time and part-time fire fighters. In fact, the numbers are very similar to those employed by the Charter Township of Muskegon. In addition, the City of South Haven is a municipal entity located in roughly the same geographic area as is the Charter Township of Muskegon. The employees in the City of South Haven Fire Department perform services that are extremely similar to those performed by the Charter Township of Muskegon fire fighters in terms of fighting fires and providing emergency on-site medical services as a first responder. In addition, the wages and benefits of the City of South Haven and the Charter Township of Muskegon, while not identical, are extremely close for the first year of the proposed new agreement (1994). In fact, while the fire fighter rate is somewhat less, the rate for the captain and assistant chief classification is higher in South Haven than it is in the Charter Township of Muskegon. Accordingly, it is the finding of the Panel that the City of South Haven is determined, for purposes of these proceedings, to be a comparable community and the Collective Bargaining Agreement for the City of South Haven (Township *Exhibit 9*) is received

in evidence, and the objection of the Union is hereby overruled. The same determination is made with respect to Township *Exhibit 22*.

Mr. Aley concurs with the finding that the City of South Haven is comparable and dissents with the finding that the County of Muskegon and Professional Med Team are not comparable. Mr. Coles concurs with the finding that the County of Muskegon and Professional Med Team are not comparable and dissents with respect to the finding that the City of South Haven is comparable.

## IV. ISSUES

A. Article 21 – Sick Leave. The Union has proposed in its last best offer that Section 1, Section 2, Section 4, Section 5, and Section 6 remain as printed in Joint *Exhibit 1*. In addition, the Union has proposed the following language for Section 3:

> *Fifty percent (50%) of the unused sick leave days shall be paid to an employee upon separation of employment or to the employee's heirs in case of death. Computation shall be made at the employee's prevailing rate of pay.*
>
> *Effective on the date this Agreement is implemented, all employees hired after date of implementation shall receive fifty percent (50%) of the unused sick leave up to a maximum cap of one hundred eighty (180) days. For the purpose of this section, fifty percent (50%) of a sick leave day for a day fireperson shall be defined as four (4) hours and for a twenty-four (24) hour fireperson shall be defined as six (6) hours.*

The Union position, basically, is to continue the status quo with respect to current employees and cap the unused sick leave up to a maximum of 180 days for employees hired after the date of implementation of the new contract. The Union notes that for new hires the offer is intended to limit the number of days that would be paid upon termination; however, it further

notes that there is no limitation on the accumulation of sick leave days for purposes other than the payoff of sick leave days at termination. The Union notes that the Township Police Department currently has a provision in its Collective Bargaining Agreement capping the number of sick leave days at a maximum of 180 of which fifty percent are paid to the employee upon separation of employment; otherwise, the employee's accumulation is unlimited for purposes of sick leave. It further notes that the Employer's department head sick leave was frozen at the 1991 level and has not accumulated since then. In addition, the Union notes that the Employer further proposes that anyone who retires within 180 days of the Award would not be limited to a cap and that the Employer proposes a payoff figure with rates which would include any retroactive raises. The Union further notes that of the comparables which have been accepted by the Panel, only Fruitport and the Muskegon Township general employee unit have unlimited caps for payoff of sick leave provisions. However, the Union claims that other units enjoy additional benefits over and above those provided to the fire fighters. For example, police officers have a more expensive uniform provision which costs the Township much more than the $300 a year given to fire fighters.

With respect to the City of Muskegon Heights, the Union also notes that certain benefits paid to their fire fighters are in excess of the benefits paid to the Muskegon Township fire fighters. One of those benefits is longevity which far exceeds the longevity payment received by Muskegon Township fire fighters and, in addition, Muskegon Heights grants a food allowance in the sum $225 per year, which is not received by the Muskegon Township fire fighters.

The Union also notes that the City of Norton Shores pays fire fighters two percent of their annual salary to a maximum of ten percent for up to 24 years of service, which is far in excess of the $250 per year that Muskegon Township fire fighters receive.

The Union further notes that the City of Muskegon provides a food allowance of $360 per year and an emergency medical training payment of $200 annually. Finally, the Union notes that there are only two fire fighters who would be affected by the cap proposal who are or would be eligible for retirement during the term of the contract under consideration.

The Employer's last best offer is to cap the amount of unused sick leave days at 180 for which an eligible employee might receive compensation upon termination of employment. In addition, the Employer would pay employees who retire within 180 days of the Award the total of their accumulated sick leave days at the then-prevailing rate, which would also include any retroactive pay adjustment based upon the following proposals:

> *Article 23, Section 3. Fifty percent (50%) of the unused sick leave days shall be paid to an employee upon separation of employment or to the employee's heirs in case of death. Computation shall be made at the employee's prevailing rate of pay.*
>
> *Effective January 1, 1996, accumulated unused sick leave days shall be limited to one hundred eighty (180) days for the purpose of this section. Any employee who retires pursuant to the Michigan Employee's Retirement System within 180 calendar days from the date of the arbitrator's Award, will not be subject to the 180-day accumulated, unused sick day limit but will be paid off at 50% of the days accumulated at the pay rate then in effect.*
>
> *The pay rate to be applied to such employee shall be the pay rate in effect pursuant to the Award, which will include the retroactive increases.*

In support of its position, the Employer notes that employees would be allowed to continue to accumulate sick leave days in excess of 180 days for sick leave purposes. The position and

last best offer of the Employer simply limits the number of days that would be paid upon termination from employment. The Employer notes that the provision currently is contained in the Employer's Collective Bargaining Agreement with the police unit and for each of the Employer's department heads, sick leave was frozen at the 1991 level and has not accumulated since then. The Employer further notes that the City of Muskegon limits sick pay accrual to 180 days for 40-hour fire fighters and 60 days for 24-hour fire fighters; the City of Norton Shores limits the accumulation to 140 days with no payoff at retirement and 50% of the accumulated days over 140 being paid annually; the City of Muskegon Heights limits the accrual to 160 days and the Township of Fruitport has no limitation of the accumulation of sick leave days. The Employer further notes that the City of South Haven pays nothing on accumulated sick leave upon termination but does pay 50% of the accumulated unused sick leave not to exceed 60 days on death or retirement. The Employer further states that its proposal is fair and equitable in that it does not take away dollars that the fire fighters presently have, except in the case of two employees and only if they do not elect to retire within 180 days of the date of the Award; and, further, the proposal allows for unlimited accumulation for sick leave purposes. The Employer notes that its proposal is in line with its department heads, its police unit, and three of the stipulated comparables.

The Panel finds that, based upon the comparison of wages, hours, and conditions of employment of the employees involved in this arbitration proceeding with wages hours and conditions of employment of other employees performing similar services and with other employees generally in the public sector both in comparable communities and internally, the

position of the Employer more nearly meets the statutory criteria set forth in Section 9 of Act 312 of the Public Acts of 1969. The overall compensation received by Muskegon Heights fire fighters compares favorably, both on an internal comparable basis and on an external comparable basis. In addition, it is clear that with respect to the singular issue of sick leave pay, the comparable communities with the exception of the Township of Fruitport, all provide for a cap or limitation on the accumulation of sick leave pay and the payoff of sick leave pay upon termination, death, or retirement. The proposal of the Employer to cap the sick leave for purposes of payoff at 180 days exceeds the provisions set forth in the Collective Bargaining Agreements of the City of South Haven, the City of Muskegon, the City of Norton Shores, and the City of Muskegon Heights. In addition, the primary purpose for the accumulation of sick leave days is to provide compensation for employees who become ill and are not able to work and obtain a regular pay check. The Employer's proposal does not reduce the ability of the employees to accumulate sick leave days in excess of 180 days and draw upon those days in the event of a long-term illness, which is the primary purpose for which the accumulation of sick leave days has been negotiated in the past. Furthermore, it is not ungenerous of the Employer to seek a cap with respect to the number of sick leave days which are paid upon termination. The 180 days at fifty percent represents a potential for employees to receive over one-third of a year's pay at the time of retirement.

The Union position does not materially differ from that of the Employer, except insofar as the Union would seek to grandfather in current employees and only make the cap applicable to future hires. While that might save the employer money some 25 or 30 years down the line,

it would do nothing for the Employer in terms of current employees and the near future. Thus, for the reasons hereinabove set forth, a majority of the Panel awards the last best offer of the Employer on this issue, and that offer shall be incorporated in the new Collective Bargaining Agreement as set forth in the Employer's last best offer.

**MR. ALEY CONCURS IN THE PANEL'S DECISION.**

**MR. COLES DISSENTS FROM THE PANEL'S DECISION.**

B. Article 23 – Funeral Leave. The Union as its last best offer proposes to continue the current language as printed in Joint *Exhibit 1*.

The Union proposes to allow 48 hours of a 24-hour shift and 32 hours for an 8-hour shift employee, with pay, for a sibling's funeral.

The Employer proposes 24 hours for a 24-hour shift employee and 16 hours for an 8-hour shift employee, with pay, for a sibling's funeral.

In support of its position, the Union notes that the range of funeral days for siblings in its exhibits indicates that the City of Muskegon receives three days, the City of Norton Shores four days, the City of Muskegon Heights three days, and Fruitport Township three days. In the case of the City of Muskegon, 8-hour personnel are paid eight hours for each of the three days. The City of Muskegon Heights also grants an additional sick leave day, if required, for funeral leave for the funeral of a sibling. Thus, the Union concludes that its comparables more nearly meet its last best offer.

The Employer would delete the designation "sibling" from Section 1 of Funeral Leave which currently provides for either 48 hours or 32 hours of leave for 24-hour or 8-hour fire

persons and add the work "sibling" to Section 2 of Article 23 which provides for 24 hours of leave for 24-hour fire persons and 16 hours of leave for 8-hour fire persons with respect to attending a funeral. The rationale of the Employer is that it wishes to conform the Fire Department agreement with the agreement entered into between the Employer and the Police Officers Labor Council which expires December 31, 1996, wherein the employee is entitled to two working days for the funeral of a sibling. The Employer indicates that in its opinion, it is not necessary for an employee to be off work for 48 hours with pay to attend a sibling's funeral. It further notes that the Employer would still be able to grant additional time off without pay if sufficient cause were presented.

With the exception of the Police Department, the Employer has offered no other basis for changing the current funeral leave. The external comparables certainly do not support the position of the Employer. The Employer has failed to indicate that the current language represents an undue financial burden upon it. No evidence was offered to indicate the number of leave days which have been taken by fire fighters as a result of attending a funeral of a brother or sister. There is no indication that Article 23 has been abused by the employees of the Fire Department. Accordingly, based upon the criteria set forth in Section 9 of Act 312 of the Public Acts of 1969, the Panel awards the last best offer of the Union which shall retain the current contract language.

**MR. ALEY DISSENTS FROM THE AWARD OF THE PANEL.**

**MR. COLES CONCURS IN THE AWARD OF THE PANEL.**

C. Article 26, Section 1 – Health Insurance. The Employer in its last best offer proposes to add to the existing language of Article 26, Section 1, the following language:

*Effective October 1, 1996, there shall be deducted from each employee's paycheck covering the first full pay period in each month a sum equal to three percent (3%) of the current premium amount for the Employee. Such monthly deduction is hereby authorized by this Agreement. The Employer shall place into effect an IRS §125 Plan for pre-tax contribution benefits.*

*Effective the beginning of the first full month following the date of the arbitrator's Award, the prescription drug plan shall be changed from a $2.00 co-pay rider to a $5.00 co-pay rider.*

The Union in its last best offer proposes to amend Article 26, Section 1, to read as follows:

*The Employer agrees to pay hospitalization insurance premiums for the Employee and dependents, the plan to be Blue Cross/Blue Shield with a Master Medical (Option 4) and the ML Rider, FAE Rider, and Prescription Drug Plan ($5.00 co-pay) Rider.*

The parties in their last best offer have both agreed that the prescription drug rider shall be increased from $2.00 to $5.00 for purposes of the co-payment and, accordingly, the Panel awards the increase in the co-payment of the drug rider which shall be raised effective upon implementation of this Award from the sum of $2.00 to $5.00.

The parties further agreed that the IRS §125 Plan for pre-tax contribution benefits should be implemented, but in the case of the Employer it was only willing to implement the award in the event that it obtained its last best offer with respect to the monthly employee contribution to the health care premium. The Union had indicated that it would have no objection to the institution of the IRS §125 Plan for pre-tax contribution benefits, but it did object to the implementation of an employee contribution toward the health care premium in the sum of 3% per month per employee.

In support of its position, the Employer notes that based upon current premium rates, employees would be required for Blue Cross/Blue Shield coverage to pay premiums in the sum

of $5.35 for single coverage, $11.24 for double coverage, and $12.57 for family coverage per employee per month. If an employee should elect the Blue Care Network alternative, a single employee would pay $5.20 per month, an employee with a dependent would pay $11.37 per month, and an employee who selected full family coverage would pay $11.62 per month. The Employer further notes that pursuant to the IRS §125 Plan, the amounts which would be deducted for the employee's share of the monthly premium could be paid with pre-tax dollars, thus, reducing the actual impact upon the employee by the amount of income taxes that the employee would otherwise pay. For example, an employee selecting Blue Cross/Blue Shield family coverage, which costs the Employer $419.12 per month, would pay $12.57 per month. The employee could easily multiply that premium times twelve and determine to place $150 in the IRS §125 Plan. If the employee pays a total of thirty percent in various state and federal taxes, the net impact on the employee would be $125 less $37.50 or an actual net impact of $87.50 per year. In addition, the employee could under the IRS §125 Plan place additional monies in the plan to cover the cost of unreimbursed health care, dental and optical expenses which, if the employee had an additional $300 in expenses, wipe out the entire cost to the employee of the health care premium based upon the tax savings generated by placing pre-tax dollars in the IRS §125 Plan. In support of its position, the Employer notes that its health insurance premium costs have been increasing at a rapid rate from 1990 through October 1993. For example, full-family Blue Cross/Blue Shield coverage in October 1990 cost the Employer $296.19 per month. Currently, the same coverage costs the Employer $419.12 per month which represents a decrease in the highest premiums which were incurred in 1993 when that coverage would have cost $481.71

per month. Likewise, the Blue Care Network monthly premiums have also increased but not nearly as much. For example, the full-family coverage in October 1990 cost the Employer $333.33 per month. It currently costs $387.27 per month, which represents a decrease from the highest monthly premium of $435.99 per month in October 1993. The Employer further notes that it reached an agreement with its police unit that allowed for a different and lower benefit plan to go in effect which resulted in a monthly premium savings of between $50 and $100 per employee per month, depending upon the type of coverage. The proposal had been made to the fire fighters to incorporate the same plan as the police had. The testimony indicates that on two occasions it had been accepted by the bargaining committee but rejected by the membership. The present Employer proposal merely seeks a three percent monthly contribution, effective October 1, 1996. That is the date upon which the annual premiums for health insurance are changed with the carrier. At this time, of course, the Employer does not know whether the premium will remain the same, increase or decrease; however, the three percent proposed by the Employer would remain constant, although the amount attributable to the three percent could increase or decrease based upon changes in the premiums charged by the carrier.

The Employer admits that no other unit internally has an insurance co-payment and, in addition, no other fire fighting unit among the comparable municipalities have an insurance premium co-payment. However, the Employer notes that employers and unions in the immediate geographical area have recognized and dealt with the problem of escalating health care premiums by agreeing to employee contributions. The Employer believes that it is a matter of fairness. If such a co-payment were to be awarded in the proceedings, while it would be a first for the

Employer, it would certainly not be a first in today's collective bargaining forum. The Employer, as a basis of comparison notes, that if an employee were to receive a three percent wage increase in 1996, it would add $970.67 to the base pay. The insurance premium co-payment proposed by the Employer would be $150.84 less the tax benefits, assuming a 20% tax rate of $30.17, resulting in a net cost to the employee of $120.67; thus, the employee would still have received a net wage increase in the sum of $850. The Employer also notes that the net compensation increase of 2.6% when coupled with the pension upgrade proposed by both the Employer and the Union at a cost of at least 2.5% results in a combined cost to the Employer for that year of 5.1%. This, according to the Employer, represents a fair and equitable comparative basis, based upon a reasonable projection of a continuing leveling off of the cost of living. It should be noted that the City of South Haven, which has been proposed by the Employer as a comparable and accepted by the Panel, requires the fire fighters with full family coverage to pay $15 per month and 50% of the premium increase in excess of $388.14 from and after July 1, 1992.

The Union notes that the position of the Employer represents the most resented proposal of the Employer by the collective bargaining unit. The Union emphasizes that its *Exhibit 1* indicates that no collective bargaining unit shown among the stipulated comparables, as well as the internal comparables in the Township of Muskegon, have employees sharing in the premium costs of health insurance. Although the Employer implied in negotiations that by paying a portion of the premium, the employee would be less likely to use medical facilities that are not really required, it has never been proven that such an allegation is true and insofar as the Union is concerned, this is merely a ploy by the Employer to reduce the net effect of wage and pension

increases. However, the Union does note that it is willing to increase the co-pay on the prescription rider as previously noted, even though its members believe that it was not necessary in light of the reduced premium cost to the Township in 1995 as compared to prior years of health care coverage.

While it is true that both the internal and external comparisons do not support the position of the Employer and while paragraph (d) of Section 9 of Act 312 of the Public Acts of 1969 is certainly an important, if not the most important, criteria, it is but one of eight criteria set forth in the statutes. The Panel also must take into account the interest and welfare of the public and the financial ability of the unit of government to meet those costs, as well as any increases in the cost of living and the overall compensation presently received by employees, including direct wage compensation, vacations, holidays, other excused time, insurance and pensions, medical and hospitalization benefits, and the continuity of stability of employment. In addition, the Panel is mandated to consider other factors which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. While the Panel certainly is aware of the fact that employees historically have rejected, resented, and refused to contribute to the cost of health care, the Panel is equally aware that employers have been subjected to ever-escalating costs in the health care field that far outstrip as a percentage the employer's ability to increase revenue, as well as increases in the general cost of living. The position of the Employer in this case in seeking a rather minor contribution of three percent of the monthly premium, which currently would only be $12.57, is certainly reasonable, especially in view of the fact that a substantial portion of that proposed contribution would be offset by the utilization

of an IRS §125 Plan. In fact, if the employee has a total of approximately $450 annually in uncovered medical, dental, and optical costs, the employee would in effect pay nothing for the premium co-payment proposed by the Employer based upon the tax savings generated through the utilization of pre-tax dollars in the §125 Plan. Based upon past experience, the employee could easily determine whether or not he or she has out-of-pocket medical, dental, and optical expenses which equal or exceed the sum of $450 per year. It should kept in mind that the pre-tax dollars deposited in the §125 Plan save the employee, not only federal and state taxes, but also social security and medicare withholdings since those dollars are not subject to those deductions which equal approximately eight percent of each dollar deposited into the §125 Plan, in addition to the 4.4% state tax rate and the rate of federal taxes that the employee pays depending on the amount of income generated by the employee and his/her spouse.

The Panel is also aware of the fact that the pension increases which will be awarded by virtue of the agreement of the parties in a later section of this Award and the wage increases which have been stipulated to, as well as the fourth year, represent a considerable increase in the benefits to the employees. The employees will receive twelve percent plus the compounding feature of the wage increases proposed and stipulated to in the first three years of the contract by both the Employer and the Union. In addition, the change in the pension plan from a B-2 program which utilizes a multiplier of 2% to a B-3 program which utilizes a multiplier of 2.25% will result in each employee eventually receiving a pension that is 12.5% higher, based upon going from the B-2 to the B-3 program. Thus, for all of the reasons hereinabove set forth, it is the decision of the Panel that the last best offer of the Employer more nearly meets the criteria set

forth in Section 9 of Act 312 and, accordingly, the Panel awards the last best offer of the Employer.

**MR. ALEY CONCURS IN THE AWARD OF THE PANEL.**

**MR. COLES DISSENTS FROM THE AWARD OF THE PANEL.**

D. Article 23, Section 3 – Dental. The last best offer of the Employer for dental insurance is as follows:

> *Article 23, Section 3 – Effective with the beginning of the first full month following the date of the arbitration Award, the dental plan shall be 75/25 with $1,000 maximum.*

The last best offer of the Union with respect to dental insurance would provide:

> *The Employer agrees to provide all employees and their dependents with dental insurance. The plan shall be a co-pay of 80/20 with $1,000 yearly maximum.*

Since both the parties agree on the $1,000 maximum which is life-time for orthodontia and annual for other types of dental services, the Panel accepts and awards the $1,000 maximum based upon the agreement of the parties.

**MR. ALEY AND MR. COLES CONCUR IN THIS PORTION OF THE AWARD.**

The Union in support of its position to retain the status quo indicates that the comparable communities provide for the 80/20 coverage in Muskegon; Fruitport has no dental coverage; the Muskegon Township highway/clerical and inspection employees have the 80/20 coverage; the City of Norton Shores has dental coverage with an unspecified co-payment; the Muskegon Township Police Department has 75/25 coverage with a maximum benefit of $800 per year. The Union also believes that a reduction in the premium costs in the last fiscal year supports its

position to retain the status quo as evidenced in Union *Exhibit 4-A* in which the combined cost for health care and dental coverage was reduced on the Blue Cross/Blue Shield rates from $517.50 to $456.25 between 1994-1995 and for the Blue Care Network from $435.99 to $387.77 for the same years.

The Employer notes that the dental plan in 1991 provided for a 50/50 co-payment with $1,000 maximum benefit. In the Collective Bargaining Agreement expiring on December 31, 1993, the plan was increased to 80/20. However, as of January 1, 1993, Blue Cross/Blue Shield no longer offered the 80/20 plan. Since the dental plan and the health insurance were combined for premium purposes it made no sense to attempt to obtain another carrier for only the dental plan. Accordingly, the Employer continued to maintain the Blue Cross/Blue Shield 50/50 plan but self-insured the difference so that employees would have the benefit as if an 80/20 plan was in effect. The Employer now is able to obtain a 75/25 plan from Blue Cross/Blue Shield.

Thus, the Employer's last best offer on the issue is to implement the 75/25 plan in order to stay with a group package and continue the cost advantages with respect to having one carrier handling the entire health care package. The Employer further notes that prior to 1995, there had been a continuing increase in the monthly premiums which was finally reduced but insofar as full family coverage is concerned by some $.29 per month in the last quoted premiums.

The proposal of the Employer with respect to the 75/25 plan is certainly reasonable under all of the facts and circumstances. It is the same plan which the Employer has offered and negotiated with the Police Department. In fact, the maximum benefit of $1,000 per year or $1,000 for orthodontia is even more than what the police officers currently receive since they

only have an $800 annual maximum benefit. The impact of changing from 80/20 to 75/25 is minimal insofar as the average employee is concerned. In addition, any increase that the employee may pay as a result of the 5% differential for dental services has been more than offset by the increases in wages and pension benefits already agreed to by the Employer.

Accordingly, utilizing the factor set forth in Section 9 of Act 312 of the Public Acts of 1969 and, in particular, the interest and welfare of the public and the financial ability of the unit of government to meet those costs, the comparison of wages, hours, and conditions of employment with employees involved in the arbitration proceeding, with the wages, hours and conditions of employment of other employees performing similar services in public employment in comparable communities and with employees internally within the Charter Township of Muskegon, the average consumer prices for goods and services, commonly known as the "cost of living" and the overall compensation presently received by employees, it is the award of the Panel that the last best offer of the Employer more nearly meets the criteria hereinabove set forth. The last best offer of the Employer shall be implemented in the new Collective Bargaining Agreement with regard to dental insurance.

**MR. ALEY CONCURS IN THE AWARD OF THE PANEL.**

**MR. COLES DISSENTS WITH RESPECT TO THE AWARD OF THE PANEL.**

E. Article 27 – Pension. Both the Union and the Employer have proposed a Michigan Employee Retirement System Pension which would increase the benefit program from a B-2 to a B-3 with F-55, F-50, and E-1 and E-2 provisions. The only difference between the last best offer of the Employer and the last best offer of the Union is the date upon which the change in

the plan should be implemented. The Employer had proposed an effective date of January 1, 1997, in its last best offer. The Union had proposed an effective date of December 31, 1996.

In support of its position, the Union notes that the Employer believes that by implementing the change in the plan on January 1, 1997, it would save money with respect to the 1996 fiscal year. The Union disagrees with that contention and believes that the implementation of the pension plan in 1996 would spread the cost of the implementation over a two year period during the contract. The Union notes that the Township police contract has the same provision effective December 31, 1996.

The Employer notes that the difference between the parties is one of timing and that it would not likely make any difference or, at the most, a one day difference to any retiring employee as to whether the plan is implemented on December 31, 1996, or January 1, 1997. The cost factor should make no difference to the Union since it is borne solely by the Employer. Thus, the Employer maintains that if there is any rationale whatsoever with respect to its position, the last best offer of the Employer should be the award of the Panel. The Employer in support of its position notes that originally it proposed December 31, 1996, at a time when it believed that it had a tentative agreement in August 1994. The tentative agreement according to the Employer would have contained a potential for significant savings in other areas. However, on two occasions the tentative agreements were rejected by the Union membership. The original proposal was only for a three year period of time. Accordingly, the proposal would have allowed the pension increase on the last day of the third year. With the addition of a fourth year, the

pension implementation was changed from December 31, 1996 to January 1, 1997. The third package containing the fourth year was also rejected by the Union membership.

The Employer reasons that the change of date places the pension improvement in a new fiscal year, thus, allowing the Employer to be able to budget for it and plan ahead with more advance knowledge of both income and expenditures particularly as it might relate to settlements with other bargaining units. In addition, the Employer will not be eligible for accelerated funding credit in 1997.

There is no rational basis whatsoever for rejecting the last best offer of the Employer. It perhaps can save the equivalent of the one year increase in the cost of pensions by delaying by one day the implementation of the benefit. This hardly represents a hardship or undue burden insofar as any of the Union members are concerned. In fact, it probably will make no difference whatsoever since it is not likely that someone actually planned on retiring on December 31, 1996. Even if they did, they can either wait the additional day or perhaps take accumulated vacation time through December 31, 1996, which would still allow them to retire on January 1, 1997, and obtain the improved pension benefit. Thus, since it represents a substantial economic benefit to the Employer with no detrimental affect upon the Union, it is the award of the Panel that the Employer has more nearly met the criteria set forth in Section 9 of Act 312 of the Public Acts of 1969 and, accordingly, the last best offer of the Employer is hereby awarded.

**MR. ALEY CONCURS IN THE AWARD.**

**MR. COLES DISSENTS FROM THE AWARD.**

F. Wages. The last best offer and stipulations of the Employer and Union both agree that commencing on January 1, 1994, and continuing on July 1, 1994, and January 1, 1995 and July 1, 1995, and January 1, 1996 and July 1, 1996, the Employer will implement an across-the-board two percent wage increase on each of those dates for the members of the bargaining unit. Those last best offers and stipulations are accepted by the Panel and awarded in accordance with the stipulations of the parties.

**MR. ALEY AND MR. COLES CONCUR IN THE AWARD OF THE PANEL.**

However, the parties differ with respect to the implementation of a wage increase in 1997. The Union in its last best offer seeks an additional two percent on January 1, 1997, and an additional two percent on July 1, 1997. The Employer's last best offer is three percent effective January 1, 1997.

In effect, the last best offer of the Union and the last best offer of the Employer with respect to 1997 would result in approximately the same gross dollars being paid to employees in that year. However, the ongoing effect would be that under the Union proposal, commencing January 1, 1998, the employees would have an additional one percent built into their pay scale over and above that offered by the Employer. This is based upon the Unions overall last best offer which would increase the base wages by four percent as opposed to the Employer's last best offer which would increase the base wages by three percent. Since the Union's last best offer is split between two six-month periods, in effect, the actual compensation received in 1997 under both the Union and the Employer offer would be three percent although the Union offer would be slightly higher based upon the compounding effect of multiplying two percent by two

percent on July 1, 1997. The impact in future years, of course, would be much greater. Since the Union's last best offer is one percent higher than the Employer's, this would result in employees receiving, in future years, after December 31, 1997, approximately $336 more per year. In actual dollars, the Union proposal would result in a base wage of $33,005 on January 1, 1997, and $33,665 on July 1, 1997; whereas, the Employer proposal would result in a base salary of $33,329 on January 1, 1997, which would remain in effect for the entire year. However, commencing on January 1, 1998, the Union base salary offer would be $33,665, plus any additional wage increases which may be negotiated as opposed to the Employer base of $33,329, plus any additional increases which may be negotiated for 1998. The comparable wage rates in the City of Muskegon for a fire fighter at the top of the scale would have been $34,928 in 1995. In the City of Norton Shores in 1995, it would have been $33,115. In the City of Muskegon Heights, it would have been $28,395 without any wage increase being applicable after July 1, 1995; and in the Township of Fruitport, the top rate for 1995 would have been $23,000.

In the case of a lieutenant, for 1995 the City of Muskegon paid $39,063; the City of Norton Shores paid $34,015; the City of Muskegon Heights paid $30,270; and Fruitport Township does not have that position.

In the case of an inspector, the City of Muskegon paid $37,742; while Muskegon Township paid $31,786, effective July 1, 1995; while there were no inspectors in Norton Shores, Muskegon Heights or Fruitport Township. In 1995, a captain in the City of Muskegon received $42,503; in Norton Shores $34,315; in Muskegon Heights $31,623; in Fruitport Township $31,562; and in Muskegon $31,787. An assistant chief in 1995 in the City of Muskegon received $46,298;

in Muskegon Heights $32,975; and in Muskegon Township $32,471. Norton Shores and Fruitport had no assistant chief.

The Union notes that wages constitute the single, most important issue to the collective bargaining unit. The duties and number of runs have increased with the Employer's implementation of a first-responder program. The training has increased and the skill level has improved in the collective bargaining unit. The Employer has the funds necessary to grant the Union's request on all of the issues. Therefore, the Union seeks to have its last best offer with respect to wages implemented.

The Employer admits that the difference may not appear to be substantial in the last best offers of the Union and the Employer with respect to wage increases for 1997. Nevertheless, the Employer seeks the consideration of the Panel with regard to the history of wage increases granted by the Employer versus the increases in the cost of living during the past five years. The Employer notes that it has granted the fire fighters wage increases of five percent in 1991, 1992, 1993, and four percent in 1994, 1995, and 1996. Thus, over the six-year period of time, fire fighters have received wage increases of 27% (without compounding) versus increases in the Consumer Price Index totaling 14.8% as of August 31, 1995. Thus, according to the Employer, the wage increases granted to fire fighters have far outstripped the increase in consumer prices resulting in a net benefit to the fire fighters of approximately 8.2% in real wage increases. The Employer also notes that the wage increases granted in 1995 in the City of Muskegon only amounted to 3.5% and 3% in the case of the City of Norton Shores, the City of Muskegon Heights, and Fruitport Township for the most recent years available.

The Panel notes that the one percent differential in future years between the last best offer of the Union and the last best offer of the Employer amounts to approximately $3,000 total per year in additional costs to the Employer. It would appear that the interest and welfare of the public and the financial ability of the unit of government certainly can meet those costs without imposing an undue burden upon the budget of the Township. The external comparisons between the Township of Muskegon and the external comparables certainly would seem to favor the position of the Union. The cities of Muskegon and Norton Shores for the 1995 calendar year have fire fighters who earned over ten percent more than the Township fire fighters. The City of Muskegon Heights earned somewhat less but that was without a wage increase taking place in 1995. If the Muskegon Heights fire fighters receive a three percent wage increase effective July 1, 1995, they would be within $2,000 of the Muskegon Township fire fighters. The only comparable of the stipulated communities which is substantially less than the Township of Muskegon is the Township of Fruitport. However, the exhibits indicate that, after four years, a fire fighter is automatically promoted to captain. Thus, the real comparison would seem to be between the wages of a fire fighter who has served four years in Muskegon Township and a captain in Fruitport Township and, when one makes that comparison, the four-year person in Fruitport who becomes a captain, earns in 1995 $31,562 versus a four-year fire fighter in Muskegon Township who earns $31,102. The Panel also notes that the comparable which has been accepted by the Panel but not stipulated to (the City of South Haven) pays its fire fighters $28,927, effective July 1, 1994. Applying a 3% factor to that wage for July 1, 1995, would result in fire fighters in South Haven receiving approximately $29,800 per year which would be below

the rate of a fire fighter in Muskegon Township, but not so far below as to militate against the last best offer submitted by the Union. Accordingly, for the reasons hereinabove set forth and in accordance with the criteria set forth in Section 9 of Act 312 of the Public Acts of 1969, the Panel hereby awards the last best offer of the Union on the issue of wages.

**MR. ALEY DISSENTS FROM THE AWARD.**

**MR. COLES CONCURS IN THE AWARD.**

Dated: December 27, 1995

ALLEN J. KOVINSKY, Chairperson

P. DON ALEY, Employer Delegate

GERALD COLES, Union Delegate

pm:muskegon.awd