

Sub.

IN THE MATTER OF THE
ARBITRATION BETWEEN:

CITY OF GROSSE POINTE PARK

and

MERC Case No. L 98 A-0028

POLICE OFFICERS LABOR COUNCIL

COMPULSORY ARBITRATION

Pursuant to Act 312,

Michigan Public Act of 1969, as amended

OPINION & AWARD

Arbitration Panel

William E. Long
Arbitrator/Chair

Dale Krajniak
City Delegate

Lloyd Whetstone
Union Delegate

Date: April 5, 1999

Grosse Pointe Park, City of

INTRODUCTION

These proceedings were commenced pursuant to Act 312 of the Public Acts of 1969 as amended. The arbitration panel was comprised of the Chair William E. Long, City Delegate Dale Krajniak, and Union Delegate Lloyd Whetstone. Initially the union delegate was Mike Somero, but at the December 21, 1998 hearing, at the request of the union, Lloyd Whetstone became the union panel member delegate.

A pre-hearing by way of teleconference was held on August 18, 1998 and a hearing was held on December 21, 1998 at the City of Grosse Pointe Park Administrative Offices. The City of Grosse Pointe Park was represented by Attorney David Shand. The Union was represented by Attorney Mark Douma. The record consists of 176 pages of record testimony in one volume. Exhibits offered by the parties and accepted consisted of employer Exhibit 1, tabs 1-26; Exhibit 2, tabs 1-8 and Union Exhibit 1, tabs A-U. For purposes of this opinion and order exhibits will be referred to as E1 1-26, E2 1-8 and U A-L. Therefore a total of 34 separate Employer Exhibits were offered and accepted and 12 separate Union Exhibits were offered and accepted. A last offer of settlement was submitted by the Union and the City on January 14, 1999. Post hearing briefs were submitted by the parties on February 15, 1999. By written stipulation, which is contained in the case file, the parties waived all time limits applicable to these proceedings, both statutory and administrative. The parties agreed that all issues pending before the panel are economic and that the duration of the contract, which is the subject of this proceeding, will be for a three-year period from July 1, 1998 through June 30, 2001. The Union requests full retroactivity of all economic benefits and the City proposes that only wages and

COLA payments be retroactive to July 1, 1998. Applicability of retroactivity will be addressed on an issue by issues basis.

When considering the economic issues in this proceeding, the panel was guided by Section 8 of Act 312. The section provides that "as to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in Section 9."

The applicable factors to be considered as set forth in Section 9 are as follows:

- (a) *The lawful authority of the employer.*
- (b) *Stipulations of the parties.*
- (c) *The interests and welfare of the public and the financial ability of the unit of government to meet those costs.*
- (d) *Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:*
 - (i) *In public employment in comparable communities.*
 - (ii) *In private employment in comparable communities.*
- (e) *The average consumer prices for goods and services, commonly known as the cost of living.*
- (f) *The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.*
- (g) *Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.*
- (h) *Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.*

Where not specifically referenced, the above factors were considered but not discussed in the interest of brevity.

BACKGROUND

The City of Grosse Pointe Park is located in the Southeastern portion of Wayne County, Michigan. It is bordered on the East by Grosse Pointe City, on the North and West by the City of Detroit and the South by Lake St. Clair. It had a population of 12,857 in 1990 (U-C) and is primarily a residential community with 98.2% of its real property tax derived from residential properties. (E1-4) It has maintained a millage rate since the implementation of Proposal A in 1994 within a range of 14.22 to 14.47 and its taxable value average annual increase has been approximately 2.4% from 1994 to 1998. (E1-6) Grosse Pointe Park experiences very little growth. Between 1990 and 1997 the number of new dwellings was 56, 41 of which was a condo complex. (E1-5) Grosse Pointe Park also has a relatively stable population. Because of Proposal A Grosse Pointe Park has a disparity between assessed value and taxable value of properties. Between 1997 and 1998 assessed value increased 8.5%, but taxable value increased only 3.03%. (E1-3)

COMPARABLE COMMUNITIES

As noted earlier, Section 9(d) of Act 312 directs the panel to consider and compare the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of employees performing similar services in public and private employment and with other employees generally in comparable communities.

In this proceeding, the Union and the City both proposed the communities of Grosse Pointe City, Grosse Pointe Farms, Grosse Pointe Shores and Grosse Pointe Woods as comparables. In addition, the Union proposed the Cities of Berkley and Beverly Hills as comparables. (U-C)

The panel accepts all of the comparables jointly proposed by the parties. In addition, the panel accepts the City of Beverly Hills offered by the Union as a comparable community, but rejects the City of Berkley proposed by the Union as a comparable community. Union Exhibit (U-C) provides a demographic comparison of the comparables. The panel notes that while Berkley's population and S.E.V. fall within the range of other comparables, its S.E.V. per capita is the lowest and its median home value and median family income is substantially lower than those of the comparable communities identified in this exhibit. Additionally, the crime rate as depicted by the number of offenses reported is significantly higher than those of other comparable communities. As the City, in its closing brief points out, comparing the number of offenses in Berkley and Grosse Pointe Park to the number of residents and crime rate in each city, Berkley officers appear to be involved with a significantly higher volume of criminal activity than those officers in the other comparable communities. Also, Berkley's dependency of residential property tax is not as great as Grosse Pointe Park and the majority of the other comparables. (E2-2)

On the other hand, these same distinctions cannot be made for the City of Beverly Hills. The City, in its closing brief, argues that both Berkley and Beverly Hills should be rejected by the panel as comparables because they are located in Oakland County, which is a fast growing county. But we are comparing cities within counties, not counties. The City also argues that these cities are not contiguous, but also points out that noncontiguous units of government were offered by both the Union and the City of Grosse Pointe Woods in a recent arbitration decision involving Grosse Pointe Woods. The City also states that the two cities proposed as comparables in this proceeding were not proposed by either party in the City of

Grosse Pointe Woods proceeding, but that is not justification for rejecting them in this proceeding.

Viewing the comparable factors contained in the exhibits offered in this proceeding as a whole, the panel concludes that the majority of factors applicable to each community offered for comparison, including those for the City of Beverly Hills, but not for the City of Berkley, fall within a reasonable range of comparability. Therefore, the panel chooses the following communities as comparable to the City of Grosse Pointe Park in this proceeding: the City of Beverly Hills, the Cities of Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Shores, and Grosse Pointe Woods.

ECONOMIC ISSUES

As indicated previously in this opinion and order, the parties have agreed and the panel concurs that all outstanding issues in this proceeding are economic issues. The panel will address each of these issues separately.

ISSUE 1

Wages

The Union's last offer of settlement requested an across the board increase of 4% as of July 1, 1998, 4% as of July 1, 1999 and 4% as of July 1, 2000. The City's last offer of settlement requested an across the board increase of 3% as of July 1, 1998, 3% as of July 1, 1999 and 3% as of July 1, 2000.

The panel has taken a number of factors into consideration on this issue. Sec. 9(c) requires consideration of "the interests and welfare of the public and the financial ability of the unit of government to meet those costs." The City has not

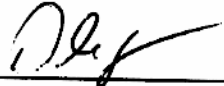
claimed an inability to pay and has offered increases in its final offer of settlement. On the other hand it is recognized that when considering the relative stability and potential for growth and tax base, the City's revenue growth is limited. (E1-3) Sec. 9(d) requires a comparison of wages, hours and conditions of employment . . . with other employees performing similar services and with employees generally. The panel has reviewed Exhibits E1-7 through E1-15, E2-8 and U-D and portions of the transcript relating to testimony on those exhibits as it has considered its findings and conclusions on the issue of wages. These exhibits provide a variety of comparisons of wages of employees in other units of government performing similar services.

The City's proposal, particularly with the inclusion of the annual Emergency Medical Technician (EMT) stipend equal to 4% of base wage for 20 of the 29 officers in the bargaining unit, is the last offer of settlement most comparable to the comparable communities. All of the comparable communities' base wage increases for the period 1998-99 and 1999-00 were 3% or less with the exception of the City of Beverly Hills. (E1-8) But even Beverly Hills' contract provides a 3% increase on 1-1-98 from the previous 12-month period and a 2% increase on 1-1-99 and a 2% increase on 7-1-99. (E2-8) Union Exhibit U-D points out that the average base wage increase for top paid public safety officers for all of the comparable communities was 2.96% for 1998 and 3.25% for 1999.

Section 9(e) requires consideration of the average consumer prices for goods and services for the period of time at issue and City Exhibit (E1-11) demonstrates that the CPI for urban consumers has increased 2.5% for the Detroit area in the past 12 months. The City's last offer of settlement on wages is more aligned with the CPI for the period than is the Union's.

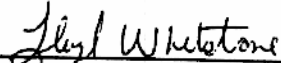
Also, as the City points out in its brief, under the City's proposed increase of 3%, the public safety department's budget is expected to grow to 52.59% of the City's total budget for 1999. (E1-7) (E1-14) The panel believes this reflects the City's commitment to its citizen's safety. The relative number of public safety officers and the resulting comparative low crime rate for the City of Grosse Pointe Park compared with the other communities demonstrates the value to the City of placing such priority on public safety. Keeping these numbers of officers within this budget commitment can be impacted by the wages and benefits paid each officer.

Taking all of these factors into consideration, the panel accepts the City's last offer of settlement on the issue of wages. These wages will apply retroactively beginning July 1, 1998 to all employees who are employed on the date this opinion and order is issued and who were employed during the applicable time period.

City: Agree 

Disagree _____


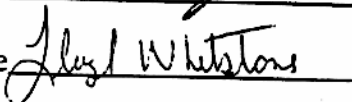
Union: Agree _____

Disagree 

ISSUE 2

Cost of Living

The parties' last offer of settlement contained exactly the same proposals for this issue. Both parties proposed increasing the cost of living payment from \$550.00 to \$850.00 to be paid during the first two weeks of July and January of each year of the contract. Therefore, the panel accepts the Union and City proposed last offer of settlement on this issue. Language in Article XIV A of the existing contract should be revised by striking \$275.00 and inserting \$425.00. This provision will be effective July 1, 1998.

City:	Agree	<u></u>	Disagree	_____
Union:	Agree	<u></u>	Disagree	_____

ISSUE 3

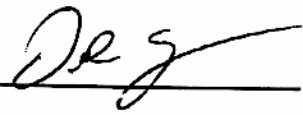
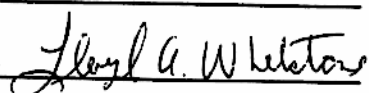
Pension

The current contract provides that any employee who retires shall have his pension benefits calculated on the basis of 2.50% for each year of service up to 80% of his final average compensation. (U-B) The Union, in its last offer of settlement, proposed that effective July 1, 1999 this provision be changed to reflect 2.80% multiplied by years of service for the first 25 years and 2.5% multiplied by the years of service in excess of 25 years. The City proposed the contract remain status quo.

The Union acknowledges that if the Union's proposal is adopted it would result in the bargaining unit having the highest multiplier among the comparables. (E1-17) (U-F) However, it states in its brief that the employee contribution is also the

highest among the comparables. The panel notes, in reviewing U-F that the Cities of Grosse Pointe Shores and Grosse Pointe Woods have a 6.0% employee contribution, the same as that for this bargaining unit. Those cities also have a lower maximum benefit than the City of Grosse Pointe Park. The Union also states in its brief that the bargaining unit is the only comparable, other than Beverly Hills, that has no post retirement escalator. It is also noted that Beverly Hills multiplier is 2.25%. (U-F)

Based on a review of the comparables, and in the context of the overall benefit package, the panel finds the City's last offer of settlement to maintain the status quo on this issue the most reasonable. Therefore, on the issue of employee pension contribution, there shall be no change from the current contract.

City:	Agree	<u></u>	Disagree	_____
Union:	Agree	_____	Disagree	<u></u>

ISSUE 4

Holidays

The current contract identifies within Article XX nine holidays and specific conditions for payment related to those holidays. Both the City and the Union propose adding New Year's Eve Day as an additional holiday. The Union also proposed in its last offer of settlement that, effective July 1, 1999, President's Day be added as a holiday. Exhibits E1-19 and U-G provide a comparison of number of holidays currently recognized by the comparable units of government. These exhibits reveal that one of the comparable units of government currently has 10 holidays, one has 11, two have 12 and one has 13. Four of the five comparables

recognize President's Day in some manner. (U-G) The City, in its brief, points out that no other city among the Pointe cities pays a fixed dollar amount in addition to receiving the paid holiday off. City Exhibit E1-15 and Union Exhibit U-B reveal that employees in the bargaining unit working the 12-hour schedule receive \$900.00 and those working the 8-hour schedule receive \$400.00 holiday compensation in the first pay in January. The City says when considering holiday pay the panel should consider the number of hours, not the number of days. The Union argues that holidays are usually granted and considered in days, not hours. Bargaining unit witness and current Chief Steward or President of the bargaining unit Michael Najm testified that the \$900.00 holiday compensation was included in the contract to make holiday pay and benefits for those in the bargaining unit more comparable to other city employees. (TR 146)

The panel finds that adding President's Day and New Year's Eve Day as holidays in this contract will make recognition of holidays in this contract more consistent with the other comparable units of government. The panel also recognizes the uniqueness in this contract of the \$900.00 holiday compensation. This compensation, however, even with the addition of two more holidays, making a total of 11 for this contract, does not result in this provision being economically inconsistent with the manner holidays are provided for in comparable communities. If the City believes the \$900.00 holiday compensation needs to be adjusted to compensate for the additional holidays added in this contract it can propose a readjustment in subsequent negotiations.

Based on a review of the comparables and the testimony on this issue, the panel finds the Union's last offer of settlement on this issue most

reasonable. Therefore, the following holidays will be added to Article XX of the contract:

Effective July 1, 1998 — New Years Eve Day

Effective July 1, 1999 — President's Day

City: Agree _____

Disagree DL

Union: Agree Lynda A. Whitstone

Disagree _____

ISSUE 5

Sick Leave

The current contract contains a "buy back" provision which permits an employee, at the time of retirement, to take one-half of his or her accumulated sick time, up to a maximum of 320 hours in pay. The City proposes increasing the 320-hour cap to 600 hours. The Union proposes replacing the 320-hour cap in this provision to allow a member to take 75% of his or her accumulated sick time upon retirement at the unit member current rate of pay. The Union further proposes that members who resign with at least 10 years of service receive 37.5% of their accumulated sick time at current rate of pay.

Both the City and the Union propose modifying the sick time accumulation cap provision in the contract from its current cap of 2,000 hours to 1,200 hours. The Union, however, proposes additional language be added to this section to allow employees whose accumulated sick time hours exceed 1,200 hours at the end of the calendar year to be paid for all excess accumulated hours at the employee's current rate of pay. Further, the Union proposes that in any year an employee accumulates

72 or more hours of excess sick time, that employee waives the option of electing to receive pay in lieu of vacation hours as allowed under Article XIX.

Exhibits E1-20 and U-H provide information on the method comparable communities use in addressing this issue. All have slightly varying provisions but only one, Grosse Pointe Woods, provides for payment at current wage for sick leave days accumulated in excess of the maximum allowed. Two of the five allow for 50% of current wage payment. Similarly, the sick leave payout provision proposed by the Union is not consistent with the majority of the provisions in the comparable units of government. Four of the five comparable communities pay 50% of accumulated sick leave upon retirement. Grosse Pointe Shores pays 75% with five years seniority, but only 50% upon death. The Union's proposal to increase the maximum amount of the accumulated sick time an employee could be paid upon retirement from 50% of accumulated hours to 75%, coupled with the increase in the maximum number of hours permitted to be accumulated for payment at separation from the current 320 to 50% of the maximum 1,200, or 600 hours, could result in a substantial potential increase cost to the City.

Both the City and the Union briefs argue the merits of their respective proposals and their potential impact on employees' incentive to use or not use sick leave. The panel believes that the intent of sick leave is to recognize a reasonable number of days in a year an employee may be sick. Its principle intent is not to add to employee benefit payout upon separation, retirement or death.

Based on a review of the comparables the panel finds the City's last offer of settlement on this issue most reasonable. Therefore, the City's proposed change in Article XXI-C and XXI-D of the contract contained in its last offer of settlement on

this issue will be accepted by the panel to be effective on the date this arbitration award is issued.

City: Agree *[Signature]* Disagree _____
Union: Agree _____ Disagree *Glenn A. Whitmore*

ISSUE 6

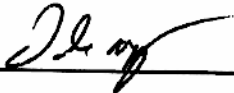
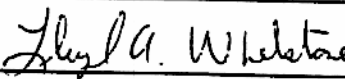
Bereavement Leave

Both the Union and City agreed at the December 21, 1998 hearing to add clarifying language to Article XXII of the current contract pertaining to the conversion of the vacation or leave days to bereavement leave. (TR 110-112) Both offered proposed language in their last offer of settlement. Both versions are acceptable, but the language offered by the Union is more detailed and, therefore, will be accepted by the panel for inclusion in this article. The Union also proposed in its last offer of settlement "spouse's grandparents" and "any living relative in an employees household" be added to the list of relatives identified in Section B of Article XXII. Exhibits U-I and E1-20 were offered by the parties to identify the comparable communities' treatment of these issues. Those exhibits reveal that three of the five comparable communities allow for one to three days bereavement days for a spouse's grandparent. None allow bereavement leave for "any relative living in a employee's household."

The addition of "any relative living in a employee's household" in Section B would be problematic for the parties without further clarification. "Any relative" and "living in" is not well defined. Would the death of a third cousin who came for

a week's visit qualify? The addition of "spouse's grandparents" standing alone might have been acceptable, but the Union's last offer of settlement coupled this language with the "any relative" language.

The panel finds the Union's proposal unacceptable for the reasons stated above. Therefore, only the agreed upon clarifying language proposed by the Union will be added to Article XXII effective on the date this arbitration award is issued.

City:	Agree	<u></u>	Disagree	_____
Union:	Agree	_____	Disagree	<u></u>

ISSUE 7

Emergency Medical Technicians

At the hearing the City proposed the elimination of Article XII of the current contract which provides a payment of 4% of base wages, in addition to base wages, for certified emergency medical technicians (EMT's). The City, in its last offer of settlement changed its position on this issue and proposed a flat \$1,600.00 per year for each of the three years of the contract in place of the 4% of base wages. The Union's position is that the current contract language remain status quo. Union Exhibit U-K and record testimony revealed that the City of Grosse Pointe Park uses members of its public safety department in a EMT capacity much more than comparable communities. (TR 113-116) Additionally, since the City did not take the position of substituting the flat rate of \$1,600.00 in place of the current contract provision of 4% of base wage for EMT's during the hearing, there is no record evidence to support this revision. City Exhibit E1-15 provides evidence that the first year of the contract the EMT pay under the current language would be \$1,817.00. While this amount would increase over the succeeding two years of the contract,

the difference between this amount and the \$1,600.00 flat rate proposed by the City to be paid to the 20 certified EMT's will not be a substantial economic burden for the City. The panel is not supportive of making this change without more evidence of the value and necessity of such change.

Therefore, on the issue of emergency medical technicians the panel finds the Union's last offer of settlement for maintaining the status quo as most reasonable. Article XII shall remain unchanged.

City: Agree _____

Disagree 287

Union: Agree Thyl A. Whitton

Disagree _____

ISSUE 8

Deferred Compensation

The current contract in Article XVIII-A provides that effective July 1, 1997 the City will match an employee's payroll deduction deferred compensation contribution up to 3% of his or her base wage. This provision was added in the most recent contract. The City, at the hearing, proposed to eliminate the City's match of deferred compensation, but in its last offer of settlement proposed matching the employee's payroll deduction contribution up to 1% of the employee's salary in each year of the three-year contract. The Union's last offer of settlement is to retain the current contract language.

The City points out that the City of Grosse Pointe Park is the only city of the comparable communities which matches an employee contribution to deferred compensation other than Grosse Pointe Farms which matches up to 1% of the annual base wage. (U-J) The Union points out, however, that all other comparable

communities, with the exception of Beverly Hills, contain a post retirement escalator provision. (U-F) Union witness Michael Najm also testified that in arriving at the current contract provision the parties agreed to this provision instead of a post retirement escalator. (TR 151)

In the context of the overall benefit package the panel finds the Union's last offer of settlement to maintain the status quo on this issue most reasonable. Therefore, on the issue of deferred compensation Article XVIII-A shall remain unchanged.

City: Agree _____

Disagree *D. J. y*

Union: Agree *Thy 19. W. Whitton*

Disagree _____

ISSUE 9

Hours of Work

Article XXIII, paragraph D, of the current contract provides for employees assigned the 12-hour schedule to receive compensation of 80 hours based upon their respective rate of pay at that time. The City initially proposed elimination of this provision, but in its last offer of settlement revised its position to propose employees receive 36 hours of compensatory time. The Union's position in its last offer of settlement is to retain the current contract language.

The City, in its brief, argues that no other comparable units of government have this lump sum payment except for Grosse Pointe Shores, which is the only other comparable with members working 12-hour shifts. Grosse Pointe Shores pays 36 hours of compensatory time and that is why the City offered this number of

hours in its last offer of settlement. The Union states in its brief that the bargaining unit members work an extra four hours per pay period or 104 extra hours per year more than other comparable cities, with the exception of Grosse Pointe Shores, due to working 12-hour shifts rather than eight hour shifts. The Union considers this lump sum pay provision as pay for those extra hours worked.

The City, in its brief states this payment is analogous to a yearly signing bonus and that nowhere in the language of the contract does it state this payment is for any extra hours of work. The contract at Article XXIII D does however state "such pay shall be considered compensation for the 80 hours to be worked during the upcoming fiscal year and is not considered a part of the regular rate of pay, but will be paid in lump sum during the first two weeks of July." (U-B) This language tends to support the Union's position as testified to by Union witness Najm that this provision was linked to a recognition of additional hours worked beyond those worked by public safety officers in most of the other comparable communities. (TR 159-163)

Based on the record evidence and testimony, and in the context of the overall benefit package, the panel finds the Union's last offer of settlement to maintain the status quo on this issue most reasonable. Therefore, Article XXIII D shall remain unchanged.

City:	Agree _____	Disagree <u><i>DR</i></u> _____
Union:	Agree <u><i>Jay G. White</i></u> _____	Disagree _____

SUMMARY

This concludes the award of the panel. The signature of the delegates herein and below indicates that the award as recited in this opinion and award is a true restatement of the award as reached at the hearing. All agreements reached in negotiations as well as all mandatory and permissive subjects of bargaining contained in the prior contract will be carried forward into the collective bargaining agreement reached by the panel.

City: Agree D. Long

Disagree _____

Union: Agree _____

Disagree Lloyd A. Whetstone

Re: City of Gross Pointe Park
Police Officers Labor Council
MERC Case No.: L 98 A-0028

Date: 4-5-99

William E. Long
William E. Long
Arbitrator/Chair

Date: 3-30-99

D. Long
Dale Kraipak
City Delegate

Date: 3-29-99

Lloyd A. Whetstone
Lloyd Whetstone
Union Delegate