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Arb. 6/22/99

**MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ACT 312 ARBITRATION AWARD**

THOMAS J. BARNES, ARBITRATOR

IN THE MATTER OF THE ARBITRATION BETWEEN:

City of New Baltimore

MERC Case No. D96 L-3281

~ and ~

Police Officers Association of Michigan

STIPULATED AWARD

It is hereby agreed by and between the City of New Baltimore (hereinafter referred to as the "City") and the Police Officers Association of Michigan (hereinafter referred to as the "Union") that the following stipulated award, including attachment, shall be entered in MERC Case No. D96 L-3281 in complete and final settlement of all outstanding matters under negotiation. The parties' August 1, 1997, through July 31, 2000, contract shall be amended as follows:

1. Article XVIII Pension Plan, Section 18.1, shall be revised by adding the following new sub-section E:

E. The City's Pension Ordinance shall be revised to provide that the retiring employee's final average compensation shall include overtime payments made to the employee up to a maximum amount of sixteen percent (16%) of the employee's base salary. It is understood that the sixteen percent (16%) limitation shall be applied in each of the five (5) years immediately preceding retirement. In the event an employee's overtime payments exceed sixteen percent (16%) of base pay in any one year, the employee may carry over the excess payments to the next year(s) for credit under this provision. In no event shall the retiring employee's final average compensation include more than sixteen percent (16%) of the employee's base pay for any one of the five (5) years utilized in the final average

New Baltimore, City of

compensation calculation. In the event an employee paid a retirement contribution on any overtime payments which were excluded from the final average compensation payments under this provision, such retirement contributions shall be refunded to the employee at the rate and in the amount that such contributions were made (Effective July 1, 1999).

2. The Letter of Understanding with respect to the negotiation over employee pensions during the August 1, 1997, to July 31, 2000, contract term shall be eliminated from the contract.

3. Attached is a stipulation from the record in the above case that is made a part hereof.

Dated this 22nd day of June, 1999.

POLICE OFFICERS ASSOCIATION
OF MICHIGAN

CITY OF NEW BALTIMORE

_____/s/
James Tignanelli

_____/s/
Joseph W. Fremont

_____/s/
Thomas J. Barnes, Panel Member

1 We would also like to offer a
2 stipulation to the labor organization. You will
3 notice from the stipulated award that the parties
4 have agreed to a sixteen percent overtime inclusion
5 in FAC, and during our off-the-record discussion it
6 was agreed that in any year in which an employee may
7 work more than sixteen percent, the employee would
8 not be required to make a pension contribution on the
9 excess of anything over sixteen percent.

10 The balance of the calculation
11 methodology for retirement purposes is set forth in
12 the award.

13 The stipulation we offer is that
14 under Ordinance No. 81 adopted by the City Council on
15 December 14, 1998, it was made contingent upon the
16 labor organization submitting a letter of approval
17 and consent, and we understand the POAM will be
18 submitting such a communication to the City of New
19 Baltimore.

20 Once that is received, the
21 ordinance will be made effective for members of this
22 bargaining unit, and the five percent contribution
23 made by the employee would be made on the FAC
24 components, including overtime, up to the sixteen
25 percent threshold that we earlier discussed.

1 MR. BIRDSEYE: Or in excess of
2 sixteen percent, should the employee choose to carry
3 it over.

4 MR. DUBAY: Or in excess of
5 sixteen percent, I agree, should the employee choose
6 to carry that over. So we offer that as a
7 stipulation to the labor organization.

8 ARBITRATOR BARNES: Is it the
9 employee's choice to carry it over?

10 MR. BIRDSEYE: That is the way
11 it is written.

12 MR. DUBAY: That is the way it
13 is written, and we would just note parenthetically
14 that probably will not occur until toward the last
15 five years of employment. There would be no reason
16 to before that probably.

17 MR. BIRDSEYE: We agree.

18 MR. DUBAY: So we have now
19 placed before you the stipulated award, as well as
20 the stipulation that we just outlined, and the City
21 has nothing further.

22 MR. BIRDSEYE: Neither does the
23 union.

24 ARBITRATOR BARNES: Okay. Now
25 let's just go off the record for a minute.

1 (Discussion off the record.)
2 MR. BARNES: Back on the record.
3 MR. DUBAY: If I could add two
4 additional points, first, during our off-the-record
5 discussion the parties confirmed their agreement that
6 this provision will take effect July 1, 1999, and
7 would have no retroactive application prior to that
8 date.
9 In other words, if someone
10 retires July 2, 1999, the overtime inclusion in FAC
11 would not apply.
12 We also agreed that because of
13 the tax situation, the pension actuarial calculations
14 as well as the way we keep overtime lists, that the
15 calculation of the sixteen percent threshold number
16 would be done on a calendar basis, and I think both
17 parties are in agreement on that.
18 MR. BIRDSEYE: Right.
19 MR. DUBAY: Now the City has
20 nothing further.
21 ARBITRATOR BARNES: Okay. Thank
22 you all for participating in this and in reaching a
23 mutually acceptable conclusion to these negotiations,
24 and particularly for negotiating the rest of this
25 agreement while you left this issue outstanding.