

1837

STATE OF MICHIGAN

MICHIGAN EMPLOYMENT RELATIONS
COMMISSION

ARBITRATION UNDER ACT 312
PUBLIC ACT OF 1969 AS AMENDED

IN THE MATTER OF

City of East Grand Rapids Michigan

and

Police Officers Labor Council

MERC Case No. L 97-C-6007

AWARD OF THE PANEL

PANEL MEMBERS:

Daniel H. Kruger, Chair
Fred LaMaine, Union Delegate
Peter H. Peterson, Employer Delegate

COURT REPORTER: Christine Hagle, CSR 5748

April 26, 1999

INTRODUCTION

On September 4, 1997 the Michigan employment Relations Commission appointed Daniel H. Kruger as Chair of the Act 312 Panel, Peter H. Peterson, Esq., was designated as Employer Delegate and Mr. Fred LaMaine was designated as the Union Delegate.

On November 20, 1997, the Panel met with the Parties at the City Hall in East grand Rapids Michigan to discuss the issues in impasse, the comparable public jurisdictions which the parties could rise in their presentations relating to comparability of wage benefits and conditions of employment.

The Chair directed the parties to return to the bargaining table to resolve as many of the issues as possible through bargaining. The parties were successful in resolving some of the issue in impasse.

The parties met again on November 5, 1998 in an effort to resolve the remaining issues. They had been successful through bargaining to resolve a number of issues. Unfortunately, the parties were not able to reach a final settlement.

On April 26, 1999 the parties convened for a formal hearing. The parties exchanged proposals in the morning and discussed throughly the issues.

When they indicated to the Chair that they had exhausted bargaining, the Chair, on behalf of the Panel asked the negotiators to indicate their last best offers on the economic issues.

The Panel convened into executive session to consider the last best offers of the parties. Below is the unanimous award of the Panel on issues submitted to it.

Applicable Statutory Criteria

Section 8 of Act 312 requires that as to each economic issue, the Panel shall adopt the last offer of settlement which more nearly complies with the applicable factors prescribed in Section 9. Moreover, the Panel's findings, opinion and order as to all other issues shall also be based upon these applicable factors. Section 9 is presented below.

Act 312 of 1969 as Amended

423.239 Findings and orders; factors considered.

Sec. 9. 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 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.

HISTORY: New 1969, p. 604, Act 312, eff. Oct. 1

ACT 312 AWARD

The Act 312 arbitration panel in the case of East Grand Rapids –and- Police Officers Labor Council, L-97 C-6007, hereby issues the following award:

1. The provisions of the existing collective bargaining agreement between the parties shall be incorporated herein except to the extent that it is modified by this Award.

2. The term of the new agreement shall be three years beginning July 1, 1997, and terminating at midnight on June 30, 2000.

3. The agreement shall be modified as set forth on the attached documents entitled "Tentative Agreements" and "1997 Tentative Agreements".

4. All classifications shall receive the following wage increases effective the first pay period on or after the dates indicated:

July 1, 1997	3.0%
July 1, 1998	3.25%
July 1, 1999	3.5%

Retroactive wages shall be paid only to those employees on the City's payroll on the date of this Award.

5. Modify Section 16.0 to read as follows effective July 1, 1999:

It is understood by all parties that employees are members of the Michigan Municipal Employees Retirement System (MMERS). Members of the bargaining unit are not covered by Social Security. All employees are enrolled in the B-4 and E-2 programs. Final average compensation for all employees shall be based upon five (5) years. Employees shall have the F-50/25 rider. Employees shall contribute 3.77% of gross wages toward the pension plan. The remainder of the cost of the pension plan shall be assumed by the Employer.

6. Modify Section 17.6 effective July 1, 1999, by changing all occurrences of the number 80 to the number 75 and all occurrences of the number 55 to the number 50.

7. Modify Section 13.2 (h) by changing the 100-day cap to 150 days and changing the example calculation accordingly.

8. Modify Section 13.2(b) to read as follows effective July 1, 1999:

After completion of the six (6) month period, each full-time employee, except those scheduled for 40 hours per week, shall be credited with seventy-two (72) hours of sick leave and will thereafter accumulate sick leave with pay at the rate of twelve (12) hours for each full month of employment. Employees scheduled for 40 hours

per week shall be credited with forty-eight (48) hours of sick leave after completion of the six (6) month period and will thereafter accumulate sick leave with pay at the rate of eight (8) hours for each full month of employment.

9. Modify Section 13.2(c) to read as follows effective July 1, 1999:

When an employee is off work due to his or her own illness or the illness of his or her spouse, parents or minor child, the employee shall receive sick leave pay for the time actually taken off, and his or her sick leave account shall be charged for the time actually taken off rounded up to the next half an hour (e.g., an employee who is off for 1 hour and 14 minutes will have his or her sick leave pay account reduced by one and a half (1 ½ hours)). If an employee is unable to work due to illness and the Employer calls in another employee to replace him or her, and the sick employee later becomes able to work that day, he or she shall not return to work until at least four hours of the shift have elapsed, and his or her sick leave account shall be charged a minimum of four hours.

10. Modify Section 13.3 to read as follows effective July 1, 1999:

Emergency leave shall be granted by specific approval of the Public Safety Director to a maximum of six (6) calendar days without loss of pay or benefits for a death in the employee's immediate family and to a maximum of one (1) calendar day without loss of pay or benefits for serious illness in the employee's immediate family. Immediate family is defined as follows: mother, father, stepparents, brother, sister, spouse, son or daughter, stepchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparents and grandchildren. One calendar day's leave without loss of pay or benefits shall be granted for an employee to attend the funeral upon the death of his niece or nephew. With the approval of the City Manager, this leave may be extended.

11. Increase the wage differential for Sergeant as follows:

July 1, 1997	8.0% over appropriate PSO rate
July 1, 1998	9.0% over appropriate PSO rate
July 1, 1999	10.0% over appropriate PSO rate

12. Add the following sentence to Section 9.2:

In the event this Section is not complied with in assigning overtime, the remedy of the affected employee and the Union shall be limited to placement of the affected employee at the top of the overtime opportunity list.

IMPARTIAL CHAIRPERSON

Daniel H. Kruger

Date: 4-26-99

CITY DELEGATE

[Signature]

Date: 4-26-99

UNION DELEGATE

Lud L. Mann

Date: 4/26/99

APPENDIX A

Tentative Agreements of the Parties

Memorandum of Understanding on Flextime

TENTATIVE AGREEMENTS

1. The agreement shall be modified as set forth on the attached pages entitled "1997 Tentative Agreements."
2. The term of the new agreement shall be three years beginning July 1, 1997, and terminating at midnight on June 30, 2000.
3. Add the following sentence to Section 13.2(h):

For purposes of this section, an employee will not be considered to have retired unless, within six (6) months of his/her last day of employment with the City, he/she qualifies for and begins receiving pension benefits from the City's MMERS plan.

4. Add the following new section 18.2, Right to Disqualify:

An employee who is promoted to the position of Sergeant shall serve a trial period of one year. During the trial period the City has the right acting in its sole discretion to disqualify the employee from the new position. An employee disqualified during this trial period may not grieve the disqualification. An employee so disqualified shall return to the previously held position. Further, during the trial period the promoted employee may voluntarily elect to return to the previously held position by notifying the Employer of his choice in writing.

5. Delete Section 18.10 and add the following new section 13.6, Family and Medical Leave Act (FMLA):

FMLA leaves of absence shall be in accordance with the City of East Grand Rapids Employee Handbook.

6. Modify Section 18.11 to read as follows:

The Employer, the employees and the Union, having a joint interest in ensuring a drug-free workplace, hereby agree to the drug testing procedures set forth in the City of East Grand Rapids Employee Handbook.

7. Modify the agreement by replacing every occurrence of the term "Deputy Shift Commander" with the word "Sergeant."

**CITY OF EAST GRAND RAPIDS/POLICE OFFICERS LABOR COUNCIL
PSO-UNIT
1997 TENTATIVE AGREEMENTS**

1. Amend 4.1 to read:

Section 4.1 Personnel Files. Employees' personnel files shall be kept by the Employer. An employee may examine his personnel file in accordance with the Bullard-Plawecki Employee Right-to-Know Act.

2. Amend 4.3 (c) to read:

(c) Upon request an employee shall be entitled to have a Union representative present at any meeting with an Employer representative where there is a reasonable expectancy that such a meeting will result in disciplinary action against the employee.

3. Amend the beginning of 5.0 (b) to read:

(b) the City shall also have the right to suspend, discipline, demote, or discharge employees for just cause; . . .

4. Amend 7.1 to read:

Section 7.1 Probationary Period. All new employees shall be considered probationary employees for a period of one year, after which their seniority shall be as of their last date of hire. Time spent by an employee in the Fire Academy shall not count towards the one-year probationary period. Until an employee has completed the probationary period, he may be laid off or terminated at the City's discretion without regard to this Agreement and without recourse to the grievance and arbitration procedure. If a probationary employee is recalled or re-employed within three (3) months after the date of separation, the time previously employed shall be applied toward the completion of the probationary period. If more than seven (7) days are missed from work, in addition to time spent at the Fire Academy, the employee's probationary period shall be extended by the number of days that the employee missed work.

5. Amend 8.1 to read:

Section 8.1 Rest Periods. Employees shall be permitted one (1) rest period, not to exceed fifteen (15) minutes in duration, during each one-half (1/2) of the established daily work schedule unless operations within the Department are determined by the Employer to be under emergency conditions. Employees shall be permitted a one-half (1/2) hour meal period per shift.

6. Amend 8.6 to read:

Section 8.6 Trading. Subject to departmental manpower requirements, officers shall be permitted to voluntarily trade workdays for days off providing that the employee scheduled to work must inform the Public Safety Director in advance of any voluntary trade of workdays or days off and such originally scheduled employee shall be responsible for the attendance of his replacement together with insuring that the Employer is not liable for any overtime premium. Absences of replacement shall be charged to the originally scheduled employee unless the scheduling is changed in the scheduling book. Approval of scheduling trades involving the midnight shift shall not affect the normal rotation of officers to that shift.

7. Amend Step 3 of 10.1 to read:

Step 3. On any grievance the Union may appeal the decision of the City Manager to arbitration by giving written notice to the City of its desire to arbitrate within thirty (30) days after receipt of the City's answer in Step 2. The parties will select on a rotating basis an arbitrator from the following panel of three arbitrators:

Mario Chiesa

Mark Glazer

David Grissom

The arbitration shall otherwise be in accordance with the rules and procedures established by the Federal Mediation and Conciliation Service.

8. Amend 11.0 to read:

Section 11.0 Vacation Benefit. Employees shall become eligible for a vacation benefit and take vacation leave in accordance with the following:

Benefit

The vacation benefit shall be earned and used on an hour for hour basis. The

vacation benefit shall begin to accrue at the employee's time of hiring. Each pay period, each employee shall be credited with vacation hours based on his/her length of service:

40-hour Schedule

<u>Years of Service</u>	<u>Annual Benefit</u>	<u>Benefit Per Pay Period</u>
0-but less than 10 years full service	80 hours	3.077 hours
10-but less than 20 years full service	120 hours	4.615 hours
20 + years full service	160 hours	6.154 hours

24.25 hour Schedule

<u>Years of Service</u>	<u>Annual Benefit</u>	<u>Benefit Per Pay Period</u>
0-but less than 10 years full service	145.5 hours	5.596 hours
10-but less than 20 years full service	218.25 hours	8.394 hours
20 + years full service	291.0 hours	11.192 hours

Eligibility

The first vacation benefit may not be taken until after the employee's first anniversary date of hire. Thereafter, vacation may be taken at any approved time, except that vacation may not be taken while the employee is scheduled for the midnight shift.

Employees may hold earned vacation, but at no time shall an employee hold more than two years vacation benefit. Unused vacation hours that exceed two years benefit will be surrendered by the employee.

Leave

Employees shall sign up for vacation in advance as follows:

Vacations will be signed for on an annual basis. On the first Monday in January following the New Year's holiday, a department seniority list and vacation sign up list shall be posted. In the order of their departmental seniority, employees shall sign up for vacation. Employees shall sign up for their vacation their first duty day once they are eligible to sign, or the next person in order will be given the opportunity to sign up.

There shall be two slots available each day for vacation leave. Only two employees per shift may sign for vacation per day.

During the sign up process, employees may only sign up for complete shifts (8 or 24.25 hours).

Employees may sign for no more than six duty days in June, July and August.

When the vacation sign up has been completed, a vacation schedule shall be posted. Any employee wishing to change a vacation day that has been scheduled may do so only by submitting a written request to the Lieutenant of Operations and receiving his/her approval.

Employees may sign up for any remaining available vacation leave slots on a first come, first served basis by submitting a written request to the Lieutenant of Operations. The request will be approved so long as it does not conflict with staffing requirements, interfere with the operations of the department, or scheduled training. Upon approval, the Lieutenant will add the vacation to the list.

Employees may take additional vacation leave when there are no slots available, including leaves of less than a full day, on a first come, first served basis. Requests shall be submitted to the shift supervisor, and shall be granted at the City's discretion, so long as the request does not cause overtime, conflict with staffing requirements, or interfere with the operations of the department or

scheduled training. Requests for vacation leave when no available slots are open are intended to meet spur-of-the-moment requests, and will not be pre-approved.

9. Amend 17.4 and 17.5 to read:

Section 17.4 Hospitalization and Dental Insurance. All full-time employees shall be entitled to participate in the Employer's Health Care Plan (Flex-plan) provided to other City employees with the required premiums for the employee and dependent family coverage assumed by the Employer. Specific terms of this Plan are set forth in the Plan documents as approved by the City Council on December 18, 1995, and shall require \$200.00 per person per year and \$600.00 per family per year deductible; \$5.00 employee co-pay drug card and \$3.00 employee co-pay at participating pharmacies. This CITY FLEX flexible benefits program provides each employee with options regarding the City provided insurance benefits and adds long-term disability coverage. Employees in the bargaining unit on or before January 1, 1997, will have the option of selecting the medical plan option ("Plan A") which continues the medical coverage that had been in effect prior to January 1, 1997. Employees who will become members of the bargaining unit after January 1, 1997, shall not have the option of enrolling in Plan A but shall have the option of enrolling in Plan B or C. Retirees will be provided comprehensive medical benefits under the Plan. Persons who retired prior to January 1, 1997, will automatically be enrolled in Plan A for medical coverage. Persons who retire on or after January 1, 1997, will continue medical coverage under the Plan (A, B or C) in which they were enrolled at the time of retirement.

The City's obligation to provide the benefits under the CITY FLEX flexible benefit program is instead of its obligations to provide the coverage as described at Section 17.4, 17.5 and 17.6 of the previous collective bargaining agreement. The City shall have no further obligations to provide the coverages described in those sections.

10. Section 18.7 Dispatching and Section 18.8 Shift Selection shall be deleted from the Agreement.

11. The following letters of understanding shall be incorporated into the Agreement between the parties:

- a) Flex-time - Detective and Community and School Liaison**
- b) Promotional Procedure Sergeant**
- c) Eligibility for Promotion to Sergeant**

MEMORANDUM OF UNDERSTANDING

The City of East Grand Rapids and the Police Officer's Labor Council feel that it is mutually beneficial to establish a program to make Flex Time available to the Detective and School/Community Liaison Officer.

To insure a common understanding of the guidelines the City and Labor Council agree to the following guidelines:

- Flex Time is only available to the Detective and School/Community Liaison Officer positions within the bargaining unit.
- The Detective or School/Community Liaison Officer shall submit and be paid overtime per the collective bargaining agreement when he/she works over on a case, is called in while off duty, appears in court while off duty, or would otherwise qualify for overtime consistent with current practice, supervisory approval, and the collective bargaining agreement.
- The Detective or School/Community Liaison Officer may elect to schedule appointments, attend meetings or events, or perform duties such as Sunday case review at a time convenient to him or her with prior supervisory approval and gain Flex Time on an hour for hour basis.
- The Detective or School/Community Liaison Officer may take Flex Time at his/her convenience with supervisory approval. Approval will be granted unless the supervisor feels it should be denied due to duty assignments or department needs.
- The Detective and School/Community Liaison Officer will provide a written report on all Flex Time earned and used to the Deputy Chief on a weekly basis.
- The Deputy Chief will maintain a record of Flex Time earned and taken along with a running total of Flex Time available.

-Flex Time may not be accumulated above 40 hours, the Detective or School/Community Liaison Officer may elect to be "paid off" at any time and the amount owed will be submitted at the next pay period.

This Flex Time program may be cancelled by either the City or Labor Council 30 days after written notification by one to the other.

For the City of East
Grand Rapids

For the Police Officer's
Labor Council

Date

Date



CITY OF
EAST GRAND RAPIDS, MICHIGAN
DEPARTMENT OF PUBLIC SAFETY

DIRECTOR OF PUBLIC SAFETY
PETER J. GALLAGHER
DEP. DIR. PUBLIC SAFETY
CHARLES D. SPENCER

LETTER OF UNDERSTANDING

Re: Promotional Procedure, Sergeant

The City of East Grand Rapids and the Police Officer's Labor Council agree to the following concerning the promotional procedure to the rank of Sergeant, as stated in section 18.1 of the Collective Bargaining Agreement:

1. In the event an opening exists or is anticipated the city will announce a test date for the rank of Sergeant.
2. Any officer who has met the eligibility requirements specified in the Collective Bargaining Agreement and Letter of Understanding dated June 4, 1996, or could attain those eligibility requirements within 12 months following the test date, may notify the City of his/her intention to take the test so long as the notice from the officer is received by the due date.
3. Test results will be determined per section 18.1, and the list established will be valid for 12 months from the test date.
4. When openings are available only those on the list who have met the eligibility requirements specified in the Letter of Understanding dated June 4, 1996 will be eligible for consideration. Vacancies will be filled or announced within 30 days.

For the City of East Grand Rapids

6-6-96

Date

For the Labor Council

6-6-96

Date



CITY OF
EAST GRAND RAPIDS, MICHIGAN
DEPARTMENT OF PUBLIC SAFETY

DIRECTOR OF PUBLIC SAFETY
PETER J. GALLAGHER
DEP. DIR. PUBLIC SAFETY
CHARLES D. SPENCER

LETTER OF UNDERSTANDING

RE: Eligibility for promotion to rank of Sergeant

The City of East Grand Rapids and the Police Officer's Labor Council have examined Section 18.1 of the Collective Bargaining Agreement concerning the eligibility of employees for promotion to the rank of Sergeant and agree the following guidelines shall apply:

Employees will be eligible for promotion to the rank of Sergeant only if they have been employed in a law enforcement or fire fighting classification for a period of at least five (5) years and have been employed for at least the three (3) consecutive years prior to the test date as a Public Safety Officer with the East Grand Rapids Department of Public Safety.

For the City of East Grand Rapids

6-6-96
Date

For the Labor Council

6-6-96
Date