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STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ACT 312, PUBLIC ACTS OF 1969 AS AMENDED

In the Matter of:

CITY OF FERNDALE

-and-

MERC Case No. D05 A-0014

POLICE OFFICERS LABOR
COUNCIL

ARBITRATION PANEL OPINION AND AWARD

George T. Roumell, Jr., Chairman
John A. Viviano, POLC Delegate
Howard L. Shifman, City Delegate

APPEARANCES:

FOR THE CITY OF FERNDALE:

Howard L. Shifman, Attorney
Bill Rye, Management Consultant
Jaynmarie Hubanks, Asst. City Manager
Timothy Collins, Police Captain
Frank Audia, CPA

FOR POLICE OFFICERS LABOR COUNCIL:

Thomas R. Zulch, Attorney
John A. Viviano, Labor Representative, POLC
Nancy Ciccone, Research Analyst, POLC
William Wilson, Union President
Brian Czajkowski, Union Vice President

Background

The City of Ferndale is located in southern Oakland County and has a population of approximately 22,000. The demography includes homes, commercial establishments and light manufacturing.

The City's police force currently consists of 38 patrol officers and 11 command officers, namely four lieutenants and seven sergeants. Three lieutenants are patrol lieutenants and six

sergeants are patrol sergeants. There is one Detective Lieutenant and one Detective Sergeant. The lieutenants and sergeants are referred to in this Opinion as “command officers” and are represented by a bargaining unit of the Police Officers Labor Council.

Over the years, the City has had negotiated collective bargaining agreements with the POLC representing the Lieutenants and Sergeants, with the last Agreement expiring on June 30, 2005. The City also has a collective bargaining relationship with the Police Officers Association of Michigan, representing the patrol officers, whose last collective bargaining agreement with the City also expired on June 30, 2005.

The City has a collective bargaining agreement with Firefighters Local 812 representing the City’s fire fighters that became effective July 1, 2004 and is set to expire on June 30, 2008, thereby covering a four year period.

The City also has collective bargaining agreements with three locals of the American Federation of State, County and Municipal Employees, Michigan Council 25 (“AFSCME”). The agreement with Local 998, representing Ferndale’s clerical and technical employees, covers the period July 1, 2004 – June 30, 2007, and a Letter of Understanding extending the contract through June 30, 2008. The agreement with Local 3120, representing the general employees in the Department of Public Services and the Parking Authority, covers the period July 1, 2004 through June 30, 2008. The City also has a collective bargaining agreement with AFSCME Local 1917, representing supervisors, that expired on June 30, 2004.

With regard to the command officers and the POLC the parties, after negotiating and mediating, were unable to reach agreement for a successor agreement, resulting in a Petition for Act 312 of Public Acts of 1969 Binding Arbitration which was filed on June 3, 2005. The present panel was subsequently impaneled.

The Dispute

The Chairman conducted two pre-trials, the first being held on December 15, 2005. The Chairman conducted a second pre-trial on November 6, 2006 which was quite extensive. Prior to the November 6, 2006 pre-trial, the City submitted the following list of comparable cities:

Clawson
Garden City
Harper Woods
Hazel Park
Riverview
Southgate
Trenton
Wayne
Woodhaven
Wyandotte

The Union stipulated to those comparables.

In addition, prior to the November 6, 2006 pre-trial meeting, both parties submitted their respective lists of unresolved issues. The City's unresolved issues were listed as follows:

1. Article XIII – Leaves of Absence

Section 2. Military Leaves. Leaves of absence without pay shall be granted to any full-time, regular employee who is inducted into or volunteers for the armed forces of the United States for training or service. Military leaves will be administered as required under the Uniformed Services Employment and Re-Employment Rights Act of 1994 (USERRA) or other relevant legislation.

2. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance

Section 1. Hospitalization and Dental Coverage. Members promoted into unit after June 30, 2005 – CB2 family coverage if employee has CB2 or 90/10 coverage prior to promotion or CB3 family coverage if employee has CB3 or 80/20 coverage prior to promotion.

3. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance

Section 1. Hospitalization and Dental Coverage. All members of the bargaining unit will have a \$10.00 generic/\$40.00 brand drug card.

4. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance.

Section 1. Hospitalization and Dental Coverage. Effective July 1, 2005, the members receiving health coverage through the City will pay the \$50 per family member per month through payroll deductions towards the cost of providing health and dental coverage for the member's family.

5. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance

Section 1. Hospitalization and Dental Coverage. All members of the bargaining unit will have CB3 Dental.

6. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance.

Section 1. Hospitalization and Dental Coverage. The employee is responsible for notifying the Personnel department of any change in his dependents within thirty (30) days from the date of occurrence. If the employee does not notify Personnel within the time limits, a) he will be responsible for paying the dependent's coverage at COBRA rates, in the case of a dependent who should have been dropped; or b) he will not be able to add the dependent until open enrollment, in the case of a dependent who should have been added.

7. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance

Section 3. Retiree Hospitalization. Coverage to eligible retiree, and the spouse at time of retirement, at a level comparable to that of active employees.

8. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance

Section 3. Retiree Hospitalization. Normal retirement defined as 'Rule of 75' with at least 25 years of service under the Defined Benefit (DB) Plan or the Defined Contribution (DC) Plan.

9. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance

Section 3. Retiree Hospitalization. Non-Duty Disability retirement - not eligible for health care unless employee meets the 'Rule of 75.'

10. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance

Section 3. Retiree Hospitalization. The City and the Union agree that health insurance, life insurance, and Medicare Supplement are retirement benefits. The parties further agree that as retirement benefits they are payable by utilizing the funds of the City of Ferndale Police and Fire Retirement system.

11. Retiree Health Coverage.

Should hospitalization and medical care benefits provided to current employees as defined in this Article change in future contracts, then hospitalization and medical care benefits provided for retirees retiring on or after January, 2006 shall also be changed to the same hospitalization and medical care benefits coverage provided to current employees.

Should the coverage in effect for active employees not be accepted where the retiree resides, the Employer will provide a comparable plan which will be accepted where the retiree is presently residing.

Employees retiring on a duty or non-duty disability will be provided health coverage until they are Medicare eligible.

12. Each employee in the bargaining unit shall place five percent (5%) of their wages in an Employer-designated fund to pay for retiree health care.

13. Article XX – Administrative Leave and Physical Fitness Program

Reduce administrative leave time to 65 hours.

14. Article XXI – Holidays

Employees to be paid for holidays actually worked.

15. Article XXII – Retirement

Section 1. Defined Benefit Plan.

Pop-Up Provision. Employees shall have the right at retirement to make an election under Option 2 (100% Survivor) or Option 3 (50% Survivor) that will allow the employee to revert (or ‘pop-up’) to a straight life pension contingent upon the death of the employee’s named beneficiary. The cost for this election shall be determined by the City’s actuary at the time of retirement.

16. Article XXII – Retirement

Section 2. Defined Contribution Plan.

E. Disability Pension

1. General.

B) Hospitalization coverage will be continued for an employee while on duty disability;

C) Routine evaluations of the employee’s disability may be made annually, at the City’s discretion and expense, until the employee attains age 55, to determine the disabled employee’s fitness to return to duty.

17. Article XXII – Retirement

Section 4. RHS Plan (NEW) Members of the bargaining unit shall be able to elect to participate in the City’s Retirement Health Savings (RHS) Plan.

18. Article XXV – Wages

Eliminate the Differential language and Wage increases as follows:

- a. July 1, 2005 – 0%
- b. July 1, 2006 – 1%
- c. July 1, 2007 – 1%
- d. Each year is a separate issue.

19. Article XXV – Wages

Employees promoted into the unit after June 30, 2005 will use the following schedule as a basis to calculate increases (a detective or specialist being promoted to the level of sergeant would be placed at the ‘1 year’ rate, per Civil Service Rules):

	Start	1 Year
Sergeant	58,367	61,869
Lieutenant	63,645	67,464

20. All individuals in the Defined Contribution Plan will be required

to put no less than 5.35% of their wages into the Defined Contribution Plan.

The POLC's list was set forth in correspondence to the Chairman dated October 10, 2006, as follows:

1. Term. 5 years July 1, 2005 to June 30, 2010.
2. Article XVI – Longevity. The union proposes to amend this provision to reflect **all** employees promoted into the Command Unit after May 1994 will be included in the Longevity provision defined in the July 1, 2003 – June 30, 2005 Agreement provision labeled 'B.' The Provision labeled 'C' shall be eliminated.
3. Article XVII – Insurance.

Section 3 – Retiree Hospitalization. The union requests that those benefits afforded to retirees be specifically defined within the agreement. It is the union's position that correct verbiage should clearly reflect vesting in retiree health care, fully funded by the employer, after 20 years of service regardless of whether the employee retires under the Defined Benefit or Defined Contribution pension system.

4. Article XVIII – Sick Leave

Section 2 – Sick Leave Control Program. The union proposes to amend this provision to reflect a 50% payout of the employee's sick time bank (480 hours) at retirement.

5. Article XXII – Retirement

Section 1 – Defined Benefit. The union proposes to allow employees who converted to the Defined Contribution Pension to buy back into the Defined Benefit Pension. Pursuant to the Actuarial Evaluation dated June 1, 2005 employees would be permitted to retain those benefits currently in their Defined Contribution Account. Effective January 1, 2007 employees may elect to revert back to a Defined Benefit Plan as defined in this Article and Section with 2.5% multiplier for all years of service. Effective January 1, 2008 those employees who did not elect to revert back to the Defined Benefit Pension would remain in the Defined Contribution Pension.

Section 2 – Defined Contribution. The union proposes to amend this provision to reflect a two percent (2%) increase of pension gross in the employer's contribution to the employee's defined contribution account. The employer currently contributes nine percent (9%) of pension gross to the employee's defined contribution account.

The employer's matching contribution an additional 3% of pension gross to the employee's defined contribution account for employees making a mandatory 3% contribution will remain unchanged.

6. Article XXV – Wages. The Union proposes to amend this provision to reflect a 3% wage increase each year of the agreement.

Wages are to be retroactive to July 1, 2005.

In the event the above wage increases reflect a wage less than the differential as prescribed within the provision then the differential shall prevail and the greater amount shall become effective.

[Emphasis in original]

During the pre-trial conference of November 6, 2006, the Chairman suggested to the parties that certain issues should be resolved or withdrawn. As a result the parties, at the pre-trial conference of November 6, 2006, agreed to the following

City of Ferndale
And
Police Officers Labor Council – Command Unit

Act 312 Arbitration Case No. D05 A-0014
The Parties List of Stipulated and Resolved Issues

The parties have agreed to the following Issues:

1. Article XIII – Leaves of Absence.

Section 2. Military Leaves. Leaves of absence without pay shall be granted to any full-time, regular employee who is inducted into or volunteers for the armed forces of the United States for training or service. Military leaves will be administered as required under the Uniformed Services Employment and Re-Employment Rights Act of 1994 (UESRRA), or other relevant legislation.

2. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance

Section 1. Hospitalization and Dental Coverage. Members promoted into unit after June 30, 2005 – CB2 family coverage if employee has CB2 or 90/10 coverage prior to promotion or CB3

family coverage if employee has CB3 or 80/20 coverage prior to promotion.

3. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance

Section 1. Hospitalization and Dental Coverage. The employee is responsible for notifying the Personnel department of any change in his dependents within thirty (30) days from the date of occurrence. If the employee does not notify Personnel within the time limits, a) he will be responsible for paying the dependent's coverage at COBRA rates, in the case of a dependent who should have been dropped; or b) he will not be able to add the dependent until open enrollment, in the case of a dependent who should have been added.

4. Article XXII – Retirement
Section 1. Defined Benefit Plan.

Pop-Up Provision. Employees shall have the right at retirement to make an election under Option 2 (100% Survivor) or Option 3 (50% Survivor) that will allow the employee to revert (or 'pop-up') to a straight-life pension contingent upon the death of the employee's named beneficiary. The cost for this election shall be determined by the City's actuary at the time of retirement.

5. Article XXII – Retirement
Section 2. Defined Contribution Plan.
E. Disability Pension
1. General.

B) Hospitalization coverage will be continued for an employee while on duty disability.

C) Routine evaluations of the employee's disability may be made annually, at the City's discretion and expense, until the employee attains age 55, to determine the disabled employee's fitness to return to duty. **Should an employee provide medical evidence from a physician which disagrees with the City's physician, a third and final doctor will be selected at the City's expense to determine their eligibility for disability.**

The parties also agree to drop the following issues:

A. The City has dropped issues no. 13, 14 and 17 from its October 11, 2006 transmittal.

B. The union will drop issue #2 – longevity.
[Emphasis in original]

Though the parties did resolve a number of issues as outlined above, there were issues still unresolved, including the length of the contract, wages, contributions toward the pension plan, and provisions concerning health care and retiree health care, which require the issuance of an Award by the Panel. Recognizing this, the Chairman will discuss the remaining issues, where appropriate, and the rationale for the Awards that follow.

The Criteria

When the legislature enacted the provisions for binding arbitration in police and fire disputes, namely, Act 312 of Public Acts of 1969, the legislature provided in Section 9 (MCLA 423.239) that Act 312 Panels are to follow the following criteria when fashioning awards.

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.

Essentially, the Act 312 criteria address the cost of living, the financial ability of the employer to fund the awards, and comparables with other similarly situated public and private employees in the geographical area involved. The comparables criteria by definition includes not only external comparables but internal comparables, namely, with other employees employed by the governmental unit involved.

In addition to the enumerated criteria the Legislature, in setting forth Section 9(h), incorporated criteria sometimes used by fact finders in making recommendations as to collective bargaining agreements which are not specifically enumerated in Section 9. This means that, in addition to the enumerated Section 9 criteria, an Act 312 Arbitration Panel can utilize criteria used by fact finders.

It also should be recognized that the particular circumstances may dictate that certain criteria may be emphasized more than other criteria.

Among the criteria utilized by fact finders is the bargaining history of the parties, both past and current, as well as the “art of the possible,” namely, what is a possible settlement between the parties recognizing the give-and-take of negotiations. The “art of the possible” in concept means that if the parties were left to their own devices and the public employees involved had the right to strike, as a strike deadline loomed the parties would attempt to

compromise in order to avoid a disruption in public service and loss of employee income. The concept is that, in compromising, the parties would review their respective positions and attempt to reach a resolution based on the art of the possible, as the art of the possible is the essence of compromise.

In addition, fact finders do use the bargaining history of the parties both in the past and during the current negotiations in an attempt to ascertain, along with the art of the possible, what the parties may have settled upon on their own when faced with outside deadlines.

As enumerated in Section 9, there is the comparables criteria which would include external comparables as well as internal comparables. The function of the external comparables criteria is to ascertain the value of the marketplace in the geographical area for similarly-situated public employees has placed on the type of employment involved.

The internal comparables, as already noted, involve other employees of, in this case, the City of Ferndale. The settlements that have been reached with those other employees have an impact on the art of the possible.

It is this analysis of the applicable criteria that serves as a guide to this Panel's recommendations for settlement of this dispute.

In applying the criteria in this case, the criteria that stands out as serving as a guide to resolving this dispute is the comparable criteria, the bargaining history, and the art of the possible.

The Application of the Criteria

An important criteria to be considered is the financial ability of the City of Ferndale to meet the cost of any award. The State of Michigan in general and southeast Michigan in particular, where the City of Ferndale is located, is currently faced with trying economic times.

This has impacted on the City's financial health. The City has seen its population drop from 30,350 in 1970 to 22,105 in 2000. The City's three largest revenue sources, accounting for 72% of the its revenues, are property taxes, state shared revenue, and permits. In 2000, the City received \$4,251,688 in state shared revenue. In 2006, the state shared revenue had been cut to \$3,172,293, or a loss of \$1,300,000 in the past five years. Property tax revenue increases have been limited causing what was termed as a "flat revenue stream."

The City has attempted to control its expenditures but, in doing so, has spent minimal amounts on capital purchases to repair, replace and/or extend the life of its capital assets. The City spends about \$200,000 annually for such improvements, though the City estimates it needs at least \$1,000,000 for "urgent need" capital repair or replacement priorities and claims a basis for another \$6,000,000 for "moderate need replacement priorities."

In 1999, the City had an unrestricted fund balance of \$3,226,060. In 2005, the unrestricted fund balance was \$2,583,668. This means that although the City has a fund balance that balance has been reducing over the years.

The City has a declining population, a low taxable value per capita, high millage rates and low household income. Though the City cannot at this time claim an inability to pay, the financial picture in Ferndale is such that it must carefully budget its limited resources in order to remain a financially viable governmental entity. This proposition was not lost on the Chairman, particularly when combined with the economic conditions currently existing in Michigan.

In addition, the City's health care expenditures, particularly as they apply to prescription drugs, is increasing at double digit inflation. The City also has a \$34 million unfunded accrued liability for retiree health care costs. These facts emphasize the need for caution when developing an award to keep costs within the City's ability to remain financially viable.

After reviewing the financial health of the City as discussed above, the Chairman noted the negotiated settlements of the Fire Fighters and two AFSCME locals which seemed to be consistent with the economic realities in Ferndale, which impressed the Chairman of the Panel. The Chairman then compared this wage pattern with the external comparables to determine if this wage pattern was to be superimposed on the command officers, how the command officers would then compare with their counterparts in the ten comparable cities. It turns out that the Ferndale command officers would compare favorably if the internal comparables were adopted.

The internal comparables as to health care were also persuasive. These internal comparables, namely the Fire Fighters and AFSCME contracts, form the basis of the pattern that has evolved in the City of Ferndale in its attempt to address raising health care costs.

In the area of pensions, again the internal comparables gave guidance as to the award concerning pensions, particularly when coupled with the actuary's report on the Police and Fire Retirement System.

As pointed out, the pattern that emerges with the other bargaining units in Ferndale seems to be consistent and designed to address the health care concerns and basic wage patterns coupled with the need that the pension system be financially viable.

After analyzing the issues and considering the comparables and the economics of the City of Ferndale as well as Southeast Michigan, the Chairman then considered the art of the possible, namely, if left to their own devices without the aid of Act 312 and binding interest arbitration, what would the parties settle for?

The driving force behind the City's bargaining position was to maintain the wage pattern it has established with the Fire Fighters and AFSCME and to obtain some constraints on health care costs. The driving force behind the POLC was its concern over one of the City's proposals,

that retirees would receive the same health care as current employees. This proposal seemed to be a stumbling block toward settlement between the parties. The POLC also wished to have a contract that expired on June 30, 2009 because, in its view, an earlier expiration would put the parties back into negotiations. The POLC wanted some respite from negotiations rather than engaging in continuing negotiations with a shorter duration.

In evaluating the driving forces as well as other issues between the parties, the Chairman considered the pattern of bargaining that has developed in the City of Ferndale with the other bargaining units. Addressing the City's financial health, the Chairman then considered the art of the possible as well as the general bargaining history. As a result, the Chairman indicated to the parties at the beginning of the hearing his inclinations toward a possible award, based upon his review of all of the evidence which had been introduced¹ and discussions with the parties.

The Chairman communicated these inclinations to the parties, recognizing that the parties were prepared to put on witnesses who were present to testify. After deliberations, recognizing that settlement would save the parties the considerable cost of continuing with the proceeding, the parties advised the Chairman that they would agree to a settlement of the contract based upon the Chairman's inclinations.

¹ Commission Exhibit A; Commission Exhibit B; Union Exhibits 1 through 11; City Exhibits 1 through 17 were marked and received, and have been reviewed by the Chairman before coming to the conclusions which led to the Awards.

The Inclinations

The parties advised the Chairman that, based upon his statement to them of his inclinations, they would reluctantly accept an award based upon the Chairman's inclinations. It is true that under Act 312 the awards of the majority of the Panel are binding on the parties and that the term "accept" may be a misnomer. But, in applying the art of the possible criteria, an Act 312 Panel should consider the parties' willingness to reach agreement through the urging of a 312 Chairman. This is the essence of the art of the possible criteria and is the reason, considering the other criteria, that the Chairman urged the parties to accept the Chairman's inclinations because, absent any persuasive evidence to the contrary, these inclinations were going to end up in the award. The exhibits support the inclinations.

There are several points based upon the criteria set forth in Section 9 supporting the award that the parties eventually indicated they would agree to – the award that the Chairman with a majority will issue.

As to wages, the Fire Fighters and AFSCME Locals 998 and 3120 have set the pattern. The Fire Fighters' agreement provided for the following wages for three of the years under consideration for the command officers' contract, namely July 1, 2005 – 1.5% increase, July 1, 2006 – 2% increase, and July 1, 2007 – 2% increase. The Local 998 contract for July 1, 2005 has a 1.5% increase and, for July 1, 2006, a 2% increase. As to Local 3120, beginning July 1, 2005, the increase is 1.5%; beginning July 1, 2006, 2%, and July 1, 2007, 2%. Thus, the wage pattern is identical amongst the Fire Fighters and AFSCME Locals 998 and 3120.

The parties have agreed that the award for the command officers should follow the same pattern, namely, retroactive to July 1, 2005, 1.5%; commencing July 1, 2006, 2%; and commencing July 1, 2007, 2%.

The Chairman agrees with the command that the contract should extend for a fourth year, going to June 30, 2009. Thus, commencing July 1, 2008, the wages for the command shall be the contractual differential between the command and the police officers. The reason for extending the contract to June 30, 2009 is to bring a reprieve from what seems to be continued negotiations between the City and the POLC.

As a check to these internal comparables, the Chairman considered the external comparables. Through January 2006, the external comparables for sergeants against the proposed award as to Ferndale are as follows:

City of Ferndale – Command Unit – Act 312
Maximum Base Pay Rate for a Sergeant in the Comparable Cities

<u>Comparable Cities</u>	<u>Jul 02</u>	<u>Jan 03</u>	<u>Jul 03</u>	<u>Jan 04</u>	<u>Jul 04</u>	<u>Jan 05</u>	<u>Jul 05</u>	<u>Jan 06</u>
Clawson	61,602	61,602	61,602	61,602	61,602	61,602	62,834	62,834
Garden City [1]	56,639	58,905	58,905	59,494	59,494	61,278	61,278	61,278
Harper Woods [2]	57,793	59,526	59,526	60,717	60,717	62,234	62,234	63,946
Hazel Park	60,053	60,053	61,134	62,134	63,992	63,992	63,992	63,992
Riverview	54,621	54,621	56,264	56,264	57,949	57,949	59,114	59,114
Southgate	61,027	61,027	62,858	62,858	64,744	64,744	66,686	66,686
Trenton [3]	55,688	57,080	58,222	58,222	59,677	59,677		
Wayne	60,942	60,942	62,770	62,770	64,654	64,654	66,593	66,593
Woodhaven	57,874	57,874	59,610	59,610	61,399	61,399	63,240	63,240
Wyandotte [4]	53,310	53,310	53,310	54,371	54,371	55,453	55,453	57,117
10-City Average	58,471	59,070	60,210	60,408	61,581	61,948	63,246	63,460
10-City Median	57,874	59,526	59,610	60,717	61,399	61,602	63,037	63,593
Ferndale	63,035	63,035	64,800	64,800	66,096	66,096	66,565	66,565 [5]

- [1] Increases effective on October 1.
- [2] Rate reported for uniform sergeant; detective sergeant is approximately \$1,200 higher.
- [3] Rates reported for staff sergeant; also a sergeant rank approximately \$2,000 lower (6 employees in each rank).
- [4] Rates effective 10/1 of each year.
- [5] One year rule.

The external comparables for the lieutenants through January 2006 against the proposed award as to Ferndale are as follows:

City of Ferndale – Command Unit – Act 312
Maximum Base Pay Rate for a Lieutenant in the Comparable Cities

<u>Comparable Cities</u>	<u>Jul 02</u>	<u>Jan 03</u>	<u>Jul 03</u>	<u>Jan 04</u>	<u>Jul 04</u>	<u>Jan 05</u>	<u>Jul 05</u>	<u>Jan 06</u>
Clawson	64,844	64,844	64,844	64,844	64,844	64,844	66,141	66,141
Garden City [1]	61,223	63,682	63,682	64,319	64,319	66,249	66,249	66,249
Harper Woods	63,188	65,084	65,084	66,386	66,386	68,045	68,045	69,917
Hazel Park	67,991	67,991	70,348	70,348	72,451	72,451	72,451	72,451
Riverview	57,866	57,866	59,613	59,613	61,402	61,402	62,629	62,629
Southgate	64,657	64,647	66,587	66,587	68,584	68,584	70,642	70,642
Trenton	60,719	60,719	61,934	61,934	63,482	63,482	65,386	65,386
Wayne	65,773	65,773	67,746	67,746	69,778	69,778	71,872	71,872
Woodhaven	63,487	63,487	65,392	65,392	67,354	67,354	69,374	69,374
Wyandotte [2]	58,115	58,115	58,115	59,280	59,280	60,466	60,466	62,275
10-City Average	63,305	63,788	65,026	65,241	66,511	66,910	68,088	68,296
10-City Median	63,487	64,647	65,084	65,392	66,386	67,354	68,045	69,374
Ferndale	68,735	68,735	70,660	70,660	72,073	72,073	72,583	72,583 [3]

- [1] Increases effective on October 1.
- [2] Rates effective 10/1 of each year.
- [3] One year rule.

The Chairman used the Ferndale one-year rates to illustrate the point that Ferndale, using the wage pattern set by the Fire Fighters and the two AFSCME locals, would continue to be competitive with the external comparables cities for the command officers. Therefore, the Chairman believes the wage pattern established with the Fire Fighters and the two AFSCME locals is the appropriate settlement. This explains why the award would adopt the internal wage pattern.

As to health care, the Firefighters and both AFSCME locals adopted a \$10.00 generic/\$40.00 name brand co-pay for prescription drugs. This is important for the City and sets the pattern as it is an attempt to control rising drug costs. There is no reason not to follow this pattern.

As to retirees, the Local 998 and 3120 agreements both provide that retirees shall have the same prescription drug coverage and co-pays as active employees. Thus, it would seem that consistent with the need of the City to control retiree health care costs, the pattern has been established in the area of prescription drug co-pays. For this reason, the Chairman believes, and

the parties recognize by agreeing, that retirees should have the same prescription drug coverage and co-pays as current employees. This language is a compromise as to retiree health care. It addresses only the issue of prescription drug co-pays. It resolves the tension created during bargaining over retiree health care and seemed consistent with the evolving pattern in Ferndale. The Award will so provide.

There were provisions such as notification of change in dependents that found their way into the Firefighter and Locals 998 and 3120 agreements, suggesting that this language should also be adopted in the command officers' contract.

As already alluded to, the command officers seek a longer contract because, if the contract expires on June 30, 2007, by the time this Award is implemented the parties will be back into negotiations. The command officers make a valid point. There should be a reprieve. Therefore, the Chairman will opt for a contract expiring on June 30, 2009. Since there is a wage differential built into the contract, there will be no wage statement as to the last year of the contract, namely, July 1, 2008 - June 30, 2009, for this will be handled by the percentage ratio between the command officers and the patrol officers. *See*, Article XXV.

As to pensions, in order to adequately fund the pensions the City is increasing its contribution for the Defined Contribution Plan to 14%. In turn, the employees will be required to pay a 5.35% annual contribution. The reason is simple. These contributions are necessary in order to properly provide a pension for the command officers under the plan.

There were also other proposals concerning health care and some changes in the pension plan which, in the view of the Chairman, were consistent with the art of the possible as well as the other criteria.

The parties, as indicated, have agreed to the award that will be entered. But the

Chairman felt obliged to explain to the parties and all who will read this Opinion how the Stipulated Awards came about and that the Awards are supported by applicable criteria. As contained in the comments of the Chairman, after reviewing the extensive exhibits and listening to the parties, these awards are consistent with the criteria and, to repeat, would have been adopted by the Chairman if this matter had been litigated extensively. With these commends, the Chairman lists the awards.

AWARDS OF THE PANEL

The Panel unanimously issues the following awards:

1. Article XIII – Leaves of Absence. Section 2. Military Leaves.

Leaves of absence without pay shall be granted to any full-time, regular employee who is inducted into or volunteers for the armed forces of the United States for training or service.

Military leaves will be administered as required under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA) or other relevant legislation.

2. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance.

Members who promote up into the bargaining unit after December 31, 2006 will receive those health care benefits which they received in the patrol bargaining unit unless those health care benefits are greater than those provided in the command bargaining unit.

3. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance. Section

1. Hospitalization and Dental Coverage.

All members of the bargaining unit will have a \$10.00 generic/\$40.00 brand drug card.

4. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance. Section

1. Hospitalization and Dental Coverage.

All members of the bargaining unit will have CB3 Dental.

5. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance. Section 1. Hospitalization and Dental Coverage.

The employee is responsible for notifying the Personnel Department of any change in his dependents within thirty (30) days from the date of occurrence. If the employee does not notify Personnel within the time limits, a) he will be responsible for paying for the dependent's coverage at COBRA rates, in the case of a dependent who should have been dropped; or b) he will not be able to add the dependent until open enrollment, in the case of a dependent who should have been added.

6. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance. Section 3. Retiree Hospitalization.

Coverage to eligible retiree and the spouse at time of retirement only.

7. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance. Section 3. Retiree Hospitalization.

Normal retirement defined as 25 years of service under the Defined Benefit (DB) Plan or the Defined Contribution (DC) Plan.

For individuals in the bargaining unit as of January 1, 2007 only, the Union's proposal on deferred retirement with 20 years of service. No retroactivity. Thereafter, eligibility will be 25 years of service.

8. Article XVII – Hospitalization, Dental, Group Life & Optical Insurance. Section 3. Retiree Hospitalization.

The City and the Union agree that health insurance, life insurance, and Medicare Supplement are retirement benefits. The parties further agree that as retirement benefits they are payable by utilizing the funds of the City of Ferndale Police and Fire Retirement System.

9. Retiree Health Coverage: Should prescription and drug benefits provided to current employees as defined in this Article change in future contracts, then prescription and drug benefits provided for retirees retiring on or after January, 2007 shall also be changed to the same prescription and drug benefits provided to current employees. In the event the employer no longer provides prescription coverage to active members of the bargaining unit, retirees shall remain at their current level of benefit in effect at the time of cancellation. This provision shall not apply to employees retiring prior to July 31, 2007 who have at least 30 years of service with the City.

The medical and hospitalization benefits will be provided at the level in effect at the time the individual retires or becomes eligible to receive the benefits under the deferred retirement consistent with number 7 above.

10. Article XXII – Retirement. Section 1. Defined Benefit Plan.

Pop-Up Provision. Employee shall have the right at retirement to make an election under Option 2 (100% Survivor) or Option 3 (50% Survivor) that will allow the employee to revert (or “pop-up”) to a straight-life pension contingent upon the death of the employee’s named beneficiary. The cost for this election shall be determined by the City’s actuary at the time of retirement.

11. Article XXII – Retirement. Section 2. Defined Contribution Plan. E. Disability Pension. 1. General.

C) Routine evaluations of the employee’s disability may be made annually, at the City’s discretion and expense, until the employee attains age 55, to determine the disabled employee’s fitness to return to duty. Should an employee provide medical evidence from a physician which disagrees with the City’s physician, a third and final doctor will be selected at the City’s expense

to determine their eligibility for disability.

12. Article XXII – Retirement. Section 2. Defined Contribution.

Effective with the first pay period in January, 2007, all individuals in the Defined Contribution Plan will be required to contribute 5.35% of their wages into the Defined Contribution Plan. Effective with the first pay period in January, 2007, the employer will be required to contribute 14% of the employee’s wage into the Defined Contribution Plan.

13. Article XXV – Wages.

A. July 1, 2005 – 1 ½% retroactive

	<u>Sergeant</u>	<u>Lieutenant</u>
Start	\$62,797	\$68,476
1 Year	\$66,565	\$72,583

B. July 1, 2006 – 2% retroactive

	<u>Sergeant</u>	<u>Lieutenant</u>
Start	\$64,053	\$69,846
1 Year	\$67,896	\$74,035

C. July 1, 2007 – 2%

	<u>Sergeant</u>	<u>Lieutenant</u>
Start	\$65,334	\$71,243
1 Year	\$69,254	\$75,516

D. July 1, 2008 subject to differential.

In the event the wage increases reflect a wage less than the differential as prescribed within the provision, then the differential shall prevail and the greater amount shall become effective.

14. The language in the above awards is illustrative of the provisions and does not reflect the final language as it shall appear in the collective bargaining agreement. The parties agree that the final language will be crafted mutually between the City’s attorney and the Union’s bargaining agent.

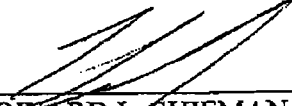
15. Contract period to be July 1, 2005 – June 30, 2009.

Dated: December 13, 2006




GEORGE T. ROUMELL, JR., Chairman

Dated: December 13, 2006



HOWARD L. SHIFMAN, City Delegate,
Concurring

Dated: December 13, 2006



JOHN VIVIANO, POLC Delegate, Concurring