

2197

STATE OF MICHIGAN
DEPARTMENT of CONSUMER and INDUSTRY SERVICES
EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF ACT
312 INTEREST ARBITRATION
BETWEEN:

CITY OF CHARLOTTE
EMPLOYER

and

Act 312 Case No.:
L06 E-4007

**POLICE OFFICERS LABOR
COUNCIL**
UNION

ARBITRATION OPINION AWARD AND ORDER

ARBITRATION PANEL:

HIRAM S. GROSSMAN, ESQ.	(P-14425)	CHAIRMAN
DENNIS W. STARK	CITY MGR.	EMPLOYER DELEGATE
BILL CALLAHAN	POLICE CHIEF	ALTERNATE EMPLOYER DELEGATE
HOMER LAFRINERE	STAFF REP.	UNION DELEGATE

APPEARANCES OF PARTIES ADVOCATES:

THOMAS M. HITCH, ESQ.	(P-25558)	FOR EMPLOYER
THOMAS R. ZULCH, ESQ.	(P-57195)	FOR UNION

STATE OF MICHIGAN
DEPARTMENT of CONSUMER and INDUSTRY SERVICES
EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF ACT
312 INTEREST ARBITRATION
BETWEEN:

CITY OF CHARLOTTE
EMPLOYER

and

Act 312 Case No.:
L06 E-4007

**POLICE OFFICERS LABOR
COUNCIL**
UNION

ARBITRATION OPINION AWARD AND ORDER

APPEARANCES

FOR THE UNION:

FRED KONING

STEVEN POSHEDLY

NANCY CICCONE

PAUL MONTAGUE

FOR THE EMPLOYER:

BILL CALLAHAN

CHRISTINE MOSSNER

WITNESSES

FOR THE UNION:

FRED KONING

FOR THE EMPLOYER:

CHRISTINE MOSSNER

WILLIAM CALLAHAN

INTRODUCTION

Upon petition for arbitration, under Act 312, Public Acts of 1969 as amended, filed by the Police Officers Labor Council (hereafter referred to as the "union" or "POLC") indicated a contract dispute between the union, in behalf of the City's Patrol Officers enumerated in the parties Collective Bargaining Agreement identified as Exhibit A, and the City of Charlotte (hereafter referred to as the "employer" or the "City"). The Act 312 Petition was assigned to the arbitrator chairman by letter dated December 18, 2006, for resolution under the terms of Act 312. Prior to the Act 312 petition being filed a single mediation session was held on August 7, 2006, before Mediator James Spaulding; the session lasted one hour.

A pre-arbitration hearing conference was held on March 6, 2007 at the City of Charlotte's Municipal Building. In the Act 312 petition and at the pre-arbitration hearing conference a single issue of a wages for the July 1, 2001 through June 30, 2007, was identified as the sole issue in dispute. At the time the Act 312 petition was filed by the POLC, its wage offer was four (4%) percent wage increase; at the time of the March 6, 2007, pre-arbitration hearing conference, the POLC had modified its wage proposal to a 3% wage increase. The City of Charlotte's wage proposal has remained at one and one half (1½%) percent. Act 312 Arbitration Hearings were conducted on May 30 and 31, 2007. Executive session(s) were used by the parties to present, explain and clarify their positions on the wage issue. Each party submitted its last best offer in their post Act 312 Arbitration Hearing brief. The arbitration panel met in executive session to discuss and review each party's final offer, their position and brief in support of their final offer.

The collective bargaining agreement which is the subject matter of this Act 312 proceeding became effective July 1, 2005, and expires June 30, 2008. The parties negotiated wage reopeners for the July 1, 2006, through June 30, 2007, period which is the subject matter of this Act 312 proceeding and a wage reopener for the July 1, 2007, through June 30, 2008, period. This is the first time the parties have availed themselves of the Act 312 procedure. Prior to the POLC filing its Act 312 petition on the wage issue, the parties negotiated and impasse was reached; Mediation took place before

State Mediator James Spaulding on August 7, 2006. The parties have executed a stipulation waiving Act 312 time limitation requirements set forth in Sections 6 (1) and (2) of Act 312 indicating the time when the Act 312 hearing proceedings are to commence and conclude.

USE OF COMPARABLES

The parties have agreed upon the use of five (5) external comparables that would be used in their presentation of the wage issue. At the Prehearing Conference the City of Charlotte submitted the following as its comparables; they are the cities of: Grand Ledge Hastings, Marshall, Mason and St. Johns. Within a few days, the POLC indicated it agreed to the use of the same five (5) comparables proposed by the City. At the Act 312 Hearing the City and the POLC used City of Charlotte employees as an internal comparable. At the Act 312 Hearing testimony was adduced, exhibits were submitted on the wage issue using the five (5) external comparables and the internal comparable, City of Charlotte employees by the POLC and the City. The parties' briefs in support of their respective position on the wage issue have relied upon the five (5) external comparables and the internal comparable, the City of Charlotte's employees, for support of their position and in refutation of their counterparts position on the wage issue.

STATUTORY AUTHORITY

Statutory basis for these proceeding are Act 312 of Public Acts 1969, as amended (MCLA 423.231 et seq.). Section 8 provides in pertinent part:

At or before the conclusion of the hearing held pursuant to section 6, the arbitration panel shall identify the economic issues in dispute and to direct each of the parties to submit within such time limit as the panel shall prescribe, to the arbitration panel and to each

other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute as to which of these issues are economic shall be conclusive. . . . 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.

Section 9 of the Act provides in pertinent part:

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 an 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) Stipulation of the parties.
- (c) The interest and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employees performing similar services and with other employees generally.
 - (i) Public employment in comparable communities.
 - (ii) Private employment in comparable communities.
- (e) The average consumer price for goods and services commonly known as 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 foregoing circumstances during the pendency of the arbitration proceedings.

(h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration, or otherwise between the parties, in the public service or in private employment.

The constitutionality of Act 312 was affirmed by the State Supreme Court in **City of Detroit vs. Detroit Police Officers Association**, 408 Mich 410 (1980). The court underscored the significance of the section 9 factors and the role they play in an Act 312 proceedings. In its opinion, the court concluded:

(T)he panel's decisional authority has been significantly channeled by section 9. . . . That section trenchantly circumscribes the arbitral tribunal's inquiry to only to those disputes involving 'wage rates or other conditions' of employment embraced by a newly proposed or amended labor agreement and commands the panel to 'base its finding, opinions, and order' relative to these narrow disputes on the eight listed factors as applicable. . . . 408 at 453.

The court in **City of Detroit** concluded Act 312 does not constitute an unconstitutional delegation of authority because:

. . . . The eight factors expressly listed in section 9 of the act provides standards at least as, if not more than as, 'reasonably precise as the subject matter requires or permits' in effectuating the Act's stated purpose 'to afford an alternate, expeditious, effective and binding procedure for the resolution of disputes.' MCL §423.231; MSA 17.455(31). These standards must be considered by the panel in its review of both economic and non-economic issues. In its resolution of non-economic issues, the panel 'shall base its findings, opinions, and orders upon the following factors, as applicable', MCL§423.239; MSA §17.455(39). (Emphasis supplied). See MCL 423.238; MSA §17455(38). 'The findings, opinions and orders as to all other issues (i.e., non-economic issues) shall be based upon the applicable factors prescribed in section 9. (Emphasis supplied). When these eight specific section 9 factors are coupled with the section 8 mandate that: '[a]s 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,' MCL §423.238; MSA §17.455(38). (Emphasis supplied)' the sufficiency of these standards is even more patent (footnote omitted) 408 at 461, 462.

In determining whether the panel's arbitration award should be enforced, the court in the **City of Detroit** case underscored the critical importance of the section 9 factors as well as Sections 8, 9, and 12 of the Act interdependence with each other.

[A]ny finding, opinion or order of the panel on any issue must emanate from a consideration of the eight listed section 9 factors as applicable. 408 at 482.

. . . Construing sections 9 and 12 together then, our review must find that the arbitration panel did indeed base its findings, opinion or order upon competent material and substantial evidence relating to the applicable section 9 factors. Cf. **Caso vs. Coffey**, 41 NY 2d 153, 158; 391 NW 2d 88, 91; 359 NE 2d 683, 686 (1976). In other words, the order of the panel must reflect the applicable factors and the evidence establishing these factors must be competent, material and substantial evidence on the whole record. It is only through this judicial inquiry into a panel's adherence to the applicable section 9 factors in fashioning its award that effectuation can be given to the legislative directive that such awards be substantiated by evidence of, and emanate from, consideration of applicable section 9 factors. (emphasis in original) 408 at 483.

In the **City of Detroit**, the court left for the arbitration panel the decision of determining relative importance of each of the section 9 factors to the particular case; however, in every 312 Act case, each of the section 9 factors must be considered.

[T]he legislature has made the treatment, where applicable, mandatory on the panel through the use of the word 'shall' in sections 8 and 9. In effect, then, the section 9 factors provide a compulsory checklist to ensure that arbitrators render an award only after taking into consideration these factors deemed relevant by the legislature and codified in §9. 408 at 484.

In the **City of Detroit**, the court concluded the non-economic award was defective because the arbitration panel did not consider all the applicable section 9 factors in making its award as Act 312 mandates.

[T]he panel does not have the discretion to ignore any applicable section 9 factors. Moreover, this legislative directive is no less obligatory on the panel when the parties themselves have failed to introduce evidence on an applicable factor. In such a case, the panel, in order to comply with the intention of Act 312 that arbitral decisions be substantiated by evidence of, and emanate from consideration of the applicable section 9 factors, must direct the parties to introduce evidence relating to the applicable factors. By so doing, the panel will be able, per the dictates of sections 8 and 9 to make findings based upon the applicable factors enumerated in section 9 from the evidence of record before it.

* * *

Such Pro forma deference to the requirements of sections 8 and 9 of the Act will not do. These sections, by their terms require rigid adherence. . . (footnote omitted) 408 at 496, 497.

From the Supreme's court holdings in the **City of Detroit** case, the decision making process of the arbitration panel must, in Act 312 cases, be based upon the factors enumerated in section 9 of the Act and the panel's decision, must be based upon competent material and substantial evidence on the record considered as a whole.

ISSUE

The issue in dispute is economic, wages for the July 1, 2006, through June 30, 2007, period.

BACKGROUND

The City's police department is comprised of: a police chief and one lieutenant, both of whom are unrepresented by any union, currently there are twelve (12) patrol officers including two detectives, represented by the POLC, four sergeants

represented by the POLC in a separate supervisor's unit and a police secretary represented by the SEIU union (T31 Vol. 2,) (T.55 Vol. 1.¹) The patrol officers perform all law enforcement functions including investigating crime, responding to calls, making citizen contacts, work traffic, available for special assignment, and some code enforcement (T32 Vol.) The sergeant is a supervisory level position; they review and command a shift, they oversee the patrol officer's jobs and duties, certain command assignments stats, fire arms range, property in evidence, handle first line discipline of patrol officers, handle minor internal affairs investigations, and have all the duties and responsibilities of a patrol officer (T33 Vol. 1.) The lieutenant he directs the commanders of the special teams, the team leader of the tactical team, organizes training, purchases equipment, involved in policy development and functions as chief administrator in absence of the police chief, he oversees the detective bureau, and submits grant requests for funding for training grants (T34, 35 Vol. 1.)

The City of Charlotte is a community of approximately 8,700 people (T.87 Vol. 1.) The City has grown from 8,300, 2000 census to presently around 8,700 (T.87 Vol. 1.) The taxable value of the City is currently \$196,000,000.00 (T.87 Vol. 1.) State revenue sharing has been dropping yearly since fiscal year 2001 – 2002. In fiscal year 2001 – 2002, the City received a little over one million dollars; in fiscal year 2007 – 08, it is projected to be 800,000.00. At the end of 2006, the City's unreserved/undesignated fund balance was \$957,000.00, which represents twenty-one (21%) percent of the City's expenditures (T.88 Vol. 1.) The police officers' salaries come from the General Fund (T.88 Vol. 1), sixty-three (63%) percent of the City's General fund goes for salary and benefits; thirty-seven (37%) percent represents the police departments wages and benefits which includes the POLC patrol officer bargaining unit, the supervisory sergeants unit, and a unrepresented Lieutenant and police chief and secretary who is represented by the SEIU union (T.90 Vol. 1.) The City's projected revenue for the 2005 – 2006 budget year was \$4,461,090.00; actual revenue for that time period was \$4,604,988.00 or increased revenue of \$143,898.00. (T48 Vol. 1.) The City's projected revenue for the 2006 – 2007 budget year was \$4,642,700.00; the actual revenue for

¹ The letter "T" followed by a page refers to a page in the Act 312 Arbitration. Vol. 1 refers to May 30th hearing; Vol. 2 refers to May 31st hearing.

that time period was \$4,884,501 or 241,801.00 of increased revenue (T.48 Vol.1.) Examining the City's expenditures for 2005 – 2006, the City's overall budget projection was \$4,926,380.00; the City actually spent in 2005 – 2006 \$4,638,905.00. The City spent 287,000.00 less than budgeted in 2005 – 2006 (T.49 Vol. 1.) The City has projected it will have \$1,525,227.00 cash on hand as on June 30, 2007; on June 30, 2006, the City had cash on hand of \$1,296,868.00 (T.49, 50 Vol. 1.) These figures were obtained from the City's budget (T.50 Vol.1.)

Testimony revealed the overall projected police department budget for 2005 – 2006 fiscal year was \$1,777,480.00; the actual police department budget for that period showed \$1,764,804.00 was spent. The city spent \$12,676.00 less than budgeted (T50 Vol. 1.) The police department budget includes in addition to the bargaining unit employees, supervisory sergeant employees, lieutenant and police chief and the secretary (T5 Vol 1.) The health and dental benefit cost for the entire police department employee compliment was \$11,355.00 less in fiscal year 2005 – 2006 in comparison to fiscal year 2004 – 2005 (T51 Vol. 1.) The actual numbers were \$223,950.00 in fiscal year 2004 – 2005; and \$212,600.00 in fiscal year 2005 – 2006 (T51 Vol. 1.)

The overall budgeted wages of the police department excluding the lieutenant and chief for fiscal year 2005 – 2006 was 791,930.00; the amount the city actually spent in that period of time was 763, 949.00 or \$27, 981.00 less than budgeted (T51, 52 Vol. 1.) The City in its 2006 – 2007 fiscal year budget contained a 3% wage increase for the POLC bargaining unit (T52 Vol. 1.) The City 2006 – 2007 fiscal year projected budget for the POLC Unit included \$540,350.00 in wages and \$48,720.00 in overtime pay for the POLC unit for a total of \$589,070.00 in budgeted wages for the POLC unit (T52 Vol. 1.) As of May 11, 2007, the City has paid out \$437,653.00 in wages (T53 Vol. 1.) The remaining gross pay for the POLC unit for fiscal year 2006 – 2007 would be \$59,028.00 which does not include overtime (T53 Vol.1.) The calculations show the actual wages to be paid to the POLC unit members in fiscal year 2006 – 2007 excluding overtime would be \$43,669.00 less than the budgeted base wages for fiscal year 2006 – 2007. After taking overtime into account for the POLC unit in fiscal year 2006 – 2007, the City will have spent \$92,389.00 less than budgeted for the POLC unit in fiscal year 2006 –

2007 (T54 Vol. 1.) As of May 11, 2007, the entire police department has spent \$369,585.00, less than its 2006 – 2007 fiscal year budget and there were three (3) pay periods remaining in fiscal year 2006 – 2007 (T54 Vol. 1.)

The police department supervisory sergeants unit received a 3% wage increase in fiscal year 2006 – 2007 (T54 Vol.1.) The City's DPW union employees received a 3% wage increase and an increase of \$500.00 match to their health savings plan in fiscal year 2006 – 2007 (T55 Vol. 1.) Included in the DPW union is the police department's secretary and some city hall clerical and secretarial employees (T55 Vol.1.) The police department's lieutenant wage scale was increased by 11.5% in fiscal year 2006 – 2007 (T55 Vol. 1.) The City manager received a 5.5% increase in his salary in fiscal year 2006 – 2007 (T56 Vol. 1.) The fire department received a 1½% wage increase in fiscal year 2006 – 2007 (T8 Vol. 2.) The non union City employees include all department heads, all fire department personnel, administrative DPW personnel, and all City administrator employees (T8 Vol. 2.)

When the POLC and the City negotiated the current contract, the POLC bargaining unit agreed to give up health and medical insurance coverage for retirees between 55 and 65 years of age. In exchange the City agreed to increase the multiplier from 2.5% to 3.0% and to obtain a change in the method the POLC members were to be paid for working holidays (T57 Vol. 1.) In order to maintain health and medical insurance for retirees, the actuary computed cost was 5.8%. The POLC member paid 2%, the City paid 3.8%. The City's savings per year is approximately \$1,645.00 per bargaining unit employee; currently there are 12 police officers in the POLC unit (T58 Vol. 1.) The yearly savings is \$19,740.00 based upon twelve (12) POLC members.

In assessing the total difference in wage cost to the City of the City's 1½% wage increase to the POLC members; it would increase the POLC unit's wages by \$85,975.00, Employer Exhibit A. In turn the POLC's 3% wage increase would increase the wages the City pays to the POLC members by \$96,535.00 or by a total difference of \$10,560.00, Employer Exhibit A. Comparing the five comparables wages for its patrol officers, the average salary of the five comparables is \$43,734.00, the median is \$43,315.00. (Employer Exhibit F) The City's 1½% wage increase is about \$700.00 less

than the average of the five comparables and \$268.00 less than the median of the five comparables. (Employer Exhibit F) There are two comparables whose wages will be higher even with the 1½% wage increase proposed by the City and three comparable communities whose wages will be lower after the City's 1½% wage increase were to be enacted. (Employer Exhibit F) Comparing the Union's 3% wage increase, it would be less than the average wages of the five comparables by \$51.00, but higher than the median wages of the comparable communities by \$268.00. (Employer Exhibit F) Four of the five comparable's police departments would be earning less if the POLC unit received a 3% increase; one of the comparable's police departments would have a higher wage. (Employer Exhibit F) Similarly, if you compare the City's detective's salaries with the comparables; only three of the five comparables contain a separate detective pay classification. (Employer Exhibit G) Comparing the average wages of the three comparables with the City reveals the City's 1½% wage increase proposal is \$185.00 greater, Employer Exhibit G. Comparing the average wages of the three comparable cities with the POLC 3% wage increase reveals the Unions 3% wage increase proposal is \$841.00 greater. A similar comparison of the median wage increase of the three comparable's detective classification with the City's reveals the comparable median wage compensation is \$195.00 higher than the City's proposed 1½% wage increase and the comparable communities detective wages are \$461.00 less than the POLC's 3% wage proposal. (Employer Exhibit G) Two of the three comparable's detective classification is higher than the City's proposed 1½% increase. (Employer Exhibit G) Two of the three comparable's detectives classification is lower than the POLC's proposed 3% wage increase. Employer Exhibit G)

Economic Issues in Dispute

I. WAGES

A. Current Wage Provision:

Listed below are the classifications which are covered by this Agreement with the corresponding annual salaries and the merit increases for each Step increase agreed to by the parties to this Agreement. Patrol Officer classification is

established as a starting position for all patrol officers. Their status will then be adjusted as outlined in Article 23 (Salary Classification) of this Agreement.

The wage increase effective July 1, 2005, is based upon a three percent (3%) wage increase from the previous labor agreement ending June 30, 2005. The Union and the City agree that there will be a labor agreement wage re-opener consisting of two (2) additional wage determinations during the life of this agreement. The first shall be effective on July 1, 2006, and the second effective on July 1, 2007. Each wage negotiations are To Be Negotiated (*TBN) starting in the month of January each year the negotiated wage is to be effective.

	Effective July 1, 2005	Effective July 1, 2006	Effective July 1, 2007	
<i>Patrol Officer:</i>		*TBN	*TBN	
Start	\$15.67			
One Year	\$16.90			
Two Years	\$18.63			
Three Years	\$20.39			
Detective	\$21.04			

The July 1, 2006, through June 30, 2007, wage increase is to be negotiated. The parties, the City of Charlotte and the POLC, were unable to agree on wages, during negotiations on a wage reopener for the fiscal year 2006 – 2007.

B. City of Charlotte's last best offer:

One and one half (1½%) percent wage increase to all steps of the wage scale.

C. POLC's last best offer:

Three (3%) percent wage increase to all steps of the wage scale.

D. Basis for the City's position:

There are several reasons for the City's 1½% wage proposal increase:

The State revenue sharing dollars to the City has decreased for the last several years from an amount in excess of one million dollars in 2001 – 2002 to a projected \$800,000.00 for the fiscal year 2007 – 2008. The City's fund balance has been reduced from its desired level; the City has had to dip into fund balance when expenditures have exceeded revenues. The increase in the costs of health and medical insurance the City is paying to cover its employees to maintain quality health insurance coverage. Comparing the overall wage and compensation package provided its patrol officers such as wages, health and medical insurance including up to \$5,000.00 reimbursement per family for medical deductible claims; the City covers 100% of prescriptions except for nominal deductibles. The City pays an average \$2,226.00 per year per employee for prescriptions that otherwise would be the cost to the employee. The City pays 6.8% contribution rate of the patrol officer's wages into their pension to MERS. Additionally items such as longevity, full cleaning of uniforms and \$200.00 per year shoe allowance and a \$500.00 plain clothes clothing allowance, an employer match of up to \$500.00 to be increased to \$1,000.00 7/1/2007 into a patrol officer's health savings account when a patrol officer makes a similar contribution to their health savings account, a match of dollar per dollar up to \$2,000.00 into a POLC's members 457 Plan when a patrol officer makes a similar contribution into his 457 plan. Thus, the total compensation package provided the POLC members is very generous and places them at the top of total compensation package of the five comparable's police departments. Also, in fiscal year 2006 – 2007 the unrepresented employees, including most administrators received 1½% wage increase; likewise the fire department employees received a 1½% wage increase. Although, the DPW represented employees and the sergeants unit received 3% wage increases in fiscal year 2006 – 2007; these wage increases were negotiated in prior years when the State Revenue sharing was larger and more secure. Finally, it is necessary for the POLC member to receive a 1½% increase in fiscal year 2006 – 2007 to maintain an adequate pay separation between the POLC unit and the supervisory sergeant's unit. The City wants to create a promotional ladder from patrol officer to sergeant, from sergeant to Lieutenant, and from lieutenant to Police Chief. The only way to attract the best and brightest officers to climb the career ladder is to have an adequate and sufficient wage and compensation difference between each of these law enforcement classifications.

E. Basis for the POLC's last best offer:

There are several reasons for the POLC's 3% wage proposal: A comparison of the five comparables' police officers reveals the City's police officers bargaining unit employees have either been ranked 3rd or 4th highest overall in wages during the 2003 – 2006 period. (POLC Exhibit 4, Base Wage History) During the same period of time the POLC's wages lagged behind the average of the comparables anywhere from \$778.00 in 2003 to \$51.00 in 2006. (POLC Exhibit 4, Base Wage

History) Similarly, over the same period of time the average percentage increase per year for the five comparables ranged between 2.55% to 3.15%. (POLC Exhibit 4, Percentage Increase History) During this period of time the negotiated increase for the POLC Unit ranged between 2.98% to 4.21%; these percentage increases enabled the City to maintain the POLC's ranking at either 3rd or 4th highest when comparing their wages with the five comparables. (POLC Exhibit 4, Base Wage History and Percentage Increase History) None of the comparables have provided a wage increase of less than 2%, which is what the City has proposed with its 1½% increase. (POLC Exhibit 4, Percentage Increase History) The City has negotiated and agreed to a 3% wage increase for the 2006 – 2007 fiscal year for supervisory sergeants unit and the DPW for its employee unit that includes the police department secretary and city hall secretarial and clerical employees. The only employees receiving 1.5% wage increases for 2006 – 2007 fiscal year are the fire fighters who are unrepresented and the other unrepresented City employees. A comparison of the fringe benefits provided to the police officers of the five comparables with those provided to the City's police officers reveals they are comparable. While acknowledging the City's desire to establish a promotional ladder with an appropriate level of pay separating the various police department units is commendable, the POLC maintains it should not be accomplished on the backs of the police officers unit. The pay ladder differential should not be created by holding down the pay of the POLC unit. Since the City indicated it wanted to create the promotional ladder with a sufficient pay differential between each of the police department groups and the method the City has chosen to accomplish its desired goal is to offer a 1½% pay increase for fiscal year 2006 – 2007, the morale of the POLC unit has been adversely impacted and there is resentment of the supervisory sergeants unit by the police officers. The City has not advanced an inability to pay argument with respect to the POLC's 3% wage increase proposal. The City's fund balance is in better condition than many cities. State revenue sharing is impacting all communities alike; the City has not advanced any financial difficulty or any inability to pay argument. The difference between the City's 1½% wage increase offer and the POLC's 3% wage increase offer is only \$10,560.00.

Opinion, Award and Order for
Fiscal Year 2006 – 2007 Wage Increase

A majority of the arbitration panel conclude, find and adopt as its award the POLC's last best offer, the POLC's wage increase proposal of 3%. The arbitration panel has considered all applicable Section 9 requirements in arriving at its decision to

adopt the POLC's last final offer on the sole issue of the percentage of wage increase for the fiscal year 2006 – 2007. In concluding, finding and adopting the POLC's 3% wage proposal, a majority of the arbitration panel gave special consideration and weight to the following Section 9 factors:

- (a) The lawful authority of the employer.
- (c) The interest and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employees performing similar services and with other employees generally.
 - (i) Public employment in comparable communities.
 - (ii) Private employment in comparable communities.
- (e) The average consumer price for goods and services commonly known as 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 foregoing circumstances during the pendency of the arbitration proceedings.

The remaining Section 9 factors were either not applicable nor relevant.

The reasons and grounds for adopting the POLC's 3% increase wage proposal are as follows: the comparison of the wages of the five comparables both parties agreed upon revealed: The City's patrol officers were ranked either third or fourth highest during the 2003 – 2006 period; the City's police officers wages lagged behind the average wages of the five comparables anywhere from \$778.00 to \$51.00 during the 2003 – 2006 period of time. The average yearly wage increases for the five comparables ranged from 2.55% to 3.15%, and none of the comparables had negotiated a wage increase of less than 2% during the 2003 – 2006 period. The City's wage increases for its patrol officers ranged between 2.98% to 4.21% during the 2003 –

2006 period; with these percentage wage increases, the City's police officers were able to maintain their ranking as either 4th or 3rd highest wages within the five comparable police officer units. The City's other two bargaining units negotiated 3% wage increase with the City for the fiscal year 2006 – 2007; they are the POLC sergeants unit and SIEU representing DPW, clerical and secretarial employees, including the police department's secretary. The City provided 1½% wage increases in fiscal year 2006 – 2007 only to its unrepresented fire fighters and its other unrepresented employees. This factor became very instrumental in the majority of the arbitration panel's decision to embrace the POLC's 3% last best wage offer. A comparison of the fringe benefits provided to the City's police officers with those police officers of the five comparables reveal they are similar in scope and cost. While recognizing the value of the City's vision to create a promotional ladder within its police department and to establish an appropriate pay level differential between patrol officers, the supervisory sergeants, the lieutenant and police chief, it should not be attained by accepting the City's 1½% last best wage offer to help bring about the appropriate wage separation. This separation must not be attained on the backs of its patrol officers units and in holding down their wages, but must be attained through negotiation with the City and its supervisory sergeants unit. By advancing that argument, the City has lowered the morale of its police officers and created animosity between the police officers and the sergeants. The City has not raised nor argued an inability to pay the POLC's last best offer of a 3% wage increase. The difference between the City's 1½% last best offer and the POLC's 3% last best offer is \$10,560.00. The City's fund balance at the end of fiscal year 2005 – 2006 was 22%; the City has projected an 18% fund balance at the end of 2006 – 2007 fiscal year. Even if the fund balance turns out to be 18%, the City's fund balance is higher than that of many communities. The State Revenue Sharing has been decreasing over the past few years, but the decline in the State's Revenue Sharing adversely impacts all levels of government alike. The City has not shown any financial difficulty or inability to pay the POLC's 3% last best offer. The City's population has grown since the 2000 census although not markedly; similarly the taxable value of property within the City is \$197,000,000.00, representing a moderate increase.

Based upon the foregoing and the record as a whole, and after considering all applicable section 9 factors, the Award and Order of a majority of the arbitration panel is adopting the POLC's last best offer of a 3% wage increase for fiscal year 2006 – 2007 commencing July 1, 2006, for all classifications and bargaining unit employees in the POLC's patrol officer unit covered by the collective bargaining agreement in all steps of wage set forth in Appendix A. This wage increase is retroactive to July 1, 2006. The payment of the 3.0% wage increase for the fiscal year 2006 – 2007 is to be paid upon the execution and implementation of the Act 312 Award and Order, but in no event shall the payment of this 3% wage increase, retroactive to July 1, 2006, shall occur any later than 30 days after execution of this Award and Order by a majority of the arbitration panel.

Dated: 8.27, 2007

Hiram S. Grossman
Hiram S. Grossman, Chairman

Dated: 8/23/07, 2007


Dissent William Callahan
Bill Callahan, Employer delegate

Dated: _____, 2007

Homer Lafrinere, Union delegate

Based upon the foregoing and the record as a whole, and after considering all applicable section 9 factors, the Award and Order of a majority of the arbitration panel is adopting the POLC's last best offer of a 3% wage increase for fiscal year 2006 – 2007 commencing July 1, 2006, for all classifications and bargaining unit employees in the POLC's patrol officer unit covered by the collective bargaining agreement in all steps of wage set forth in Appendix A. This wage increase is retroactive to July 1, 2006. The payment of the 3.0% wage increase for the fiscal year 2006 – 2007 is to be paid upon the execution and implementation of the Act 312 Award and Order, but in no event shall the payment of this 3% wage increase, retroactive to July 1, 2006, shall occur any later than 30 days after execution of this Award and Order by a majority of the arbitration panel.


Dated: 8-27, 2007


Hiram S. Grossman, Chairman

Dated: _____, 2007

Dissent Bill Callahan, Employer delegate

Dated: 8-23, 2007


Homer Lafrinere, Union delegate