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STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ACT 312, PUBLIC ACTS OF 1969 AS AMENDED

*In the Matter of the Act 312
Arbitration Between:*

CITY OF OAK PARK

MERC Act 312
MERC Case No. D10 I-1025

-and-

POLICE OFFICERS ASSOCIATION
OF MICHIGAN

ARBITRATION PANEL OPINION AND AWARDS

**George T. Roumell, Jr., Chairman
Howard L. Shifman, Employer Delegate
Kenneth E. Grabowski, Union (POAM) Delegate
(Last hearing June 2, 2011; Opinion issued June 15, 2011)**

APPEARANCES:

FOR THE CITY OF OAK PARK:

Howard L. Shifman, Attorney
Richard Fox, City Manager
John McNeilance, Director Public Safety

FOR POLICE OFFICERS ASSOCIATION
OF MICHIGAN:

Kenneth E. Grabowski, Business Agent
William Birdseye, Business Agent
Kevin Loftis, POAM Research Analyst
John T. Barr, POAM Research Analyst
Eric Sanders, President
Matt Theisen, Vice President
Mike Hodakoski, Secretary

Background

The City of Oak Park is located in the southeast corner of Oakland County, southeast Michigan. The City's geographical area is approximately 5.5 square miles with a population of approximately 32,000 which reflects the annexation of a portion of Royal Oak Township to the

City of Oak Park. Oak Park is bounded on the west by Ferndale, on the south by the City of Detroit and Southfield, on the north by the City of Berkley and on the east by the City of Huntington Woods.

The City is basically a residential community, but there are industrial areas, apartment complexes and at least two high rises.

The City has a Public Safety Department which means that Officers perform both the function of law enforcement officers and fire fighters. The Officers are cross-trained. They also furnish medical response services to citizens. There are approximately 49 Officers, excluding Command, in the bargaining unit represented by the Police Officers Association of Michigan.

The Command Officers are represented by the Police Officers Labor Council.

The City also has a labor agreement with the Oak Park Dispatchers Association, represented by the Police Officers Association of Michigan. In addition, the general employees are represented by Local 513 of the American Federation of State, County and Municipal Employees Council 25.

The Agreement between the City of Oak Park and the Oak Park Public Safety Officers Association affiliated with the Police Officers Association of Michigan was from June 1, 2006 to June 30, 2010.

The parties commenced bargaining for a successor contract. Following negotiations and mediation sessions, the City petitioned the Michigan Employment Relations Commission for an Act 312 Arbitration Panel. George T. Roumell, Jr. was selected as Chairman.

A pre-hearing was held with the Panel and the parties on January 24, 2011. Thereafter, a hearing/meeting was held on February 24, 2011 and a subsequent hearing/meeting on June 2,

2011. The Chairman at the hearings/meetings became familiar with the issues presented and the arguments of the parties as well as relevant evidence. This Opinion, written by the Chairman, and the Awards that follow stemmed from such review.

The Issues

By the time the hearing/meeting of June 2, 2011 was concluded, the issues separating the parties had been refined as follows:

1. Contract duration
2. Wages
3. Time off
4. Hospital, medical, surgical and dental insurance (Article XXIV)
5. 6 for 8 Rule (Article XXIX)
6. Pensions, including pension provision for new employees and employee contribution
7. New hires
 - A. Health CPA accounts
8. Minimum manpower, which the City maintains is a permissive subject, not subject to Act 312
9. Language concerning legislation and regulations

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 consider the following criteria when fashioning opinions and 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 internal comparables as well as external comparables with other similarly situated public and private employees. In other words, the economic realities of the situation must be considered.

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.

Among the criteria utilized by fact finders are 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 Chairman described the “art of the possible” in a previous 312 Opinion that he issued in *County of Lake and Command Officers Association of Michigan*, MERC Case No. L02 H-9004 (2004), where he wrote at page 4:

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 an earlier 312 opinion, this Chairman articulated the concept of the “art of the possible” when he noted that the goal of an Act 312 Chairman is to effect the settlement the parties would have reached if negotiations continued and the parties are confronted with the realities of the situation for, in *County of Ottawa Sheriff's Department and Police Officers Association of Michigan*, MERC Case No. L96 H-6011 (1998), this Chairman observed:

A very distinguished arbitrator, Theodore St. Antoine of the University of Michigan Law School, in two recent act 312 Arbitration proceedings, pointed out that as to an Act 312 panel, to best preserve health, voluntary collective bargaining, “the soundest approach for an outsider in resolving union-employer disputes is to try to replicate the settlement the parties themselves would have reached, had their negotiations been successful.” *See, e.g., County of Saginaw and Fraternal Order of Police*, MERC Case No. I90 B-0797 (1992); *Macomb County Professional Deputies Association and County of Macomb*, MERC Case No. E91 I-1674 (1992). This is, indeed, an appropriate consideration and falls within the concept of Section 9(h).

In other words, the concept of the art of the possible 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 consider what is sometimes referred to as the “strike” criteria. Recognizing that Public Safety Officers in Michigan cannot engage in a strike and that Act 312 is a substitute for a strike, a Panel, following the dictates of 9.H, could consider the result of strikes that may have occurred in the metropolitan area of Detroit and their outcomes as a guide to what may have resulted if the Public Safety Officers were permitted to go on strike. There is also the impact of legislation that has recently been passed and potential legislation that may impact on negotiations.

There is no reason why the art of the possible, as well as the strike criteria and what the Chairman has referenced as the legislative criteria, along with the other criteria cannot be factors in arriving at the Awards that follow.

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

The Michigan Supreme Court, in ruling on the constitutionality of Act 312 and its application, in an opinion of Justice Williams in *Detroit v Detroit Police Officers Association*, 408 Mich 410 (1980) at 484, Justice Williams wrote:

We disagree with the city's contention. The fact that an arbitral majority may not be persuaded by a party's evidence and argument as to certain items does not mean that those arbitrators failed to give the statutory factors that consideration required by law. The Legislature has neither expressly nor implicitly evinced any intention in Act 312 that each factor in § 9 be accorded equal weight. Instead, the Legislature has made their treatment, where applicable, mandatory on the panel through the use of the word "shall" in §§ 8 and 9. In effect then, the § 9 factors provide a compulsory checklist to ensure that the arbitrators render an

award only after taking into consideration those factors deemed relevant by the Legislature and codified in § 9. Since the § 9 factors are not intrinsically weighted, they cannot of themselves provide the arbitrators with an answer. It is the panel which must make the difficult decision of determining which particular factors are more important in resolving a contested issue under the singular facts of a case, although, of course, all "applicable" factors must be considered. Our comment in *Midland Twp v State Boundary Comm*, 401 Mich 641, 676; 259 NW2d 326 (1977), is here apposite.

"Merely because some criteria were factually inapplicable or were found by the commission to be of less importance than other criteria does not mean that the commission 'ignored' relevant criteria. The commission may regard a particular criterion to be of decisive importance outweighing all other criteria."

In other words, though the Panel must consider all applicable factors, as Justice Williams noted, the Panel can emphasize certain criteria over others in resolving contested issues.

The criteria are there to be followed. Though all the criteria are to be considered, there are two dominant criteria that are applicable in this situation. There is the financial ability of the City of Oak Park whose administration, because of the City's deteriorating financial situation, is concerned that the City could be a candidate for the appointment of a financial manager pursuant to Act No. 4 of Public Acts of 2011. In addition, there is the internal comparable within the City, namely, the settled contract with AFSCME that came about considering the City's financial condition. Thus, the financial ability and the internal comparables addressing the financial ability are dominant criteria coupled with, as already alluded to, the "legislative" criteria, the strike criteria and the art of the possible.

Discussion

Financial Ability

The City of Oak Park is faced with a severe financial situation. Plante & Moran, certified public accountants, in an overview of the City's financial situation entitled "Where is Oak Park

Today?", makes the following observation:

The global economic collapse that began in late 2008 has significantly increased the severity of the City's financial position.

Oak Park now has a significant financial challenge created by falling property values. The full impact of the decline in property tax revenue has yet to be realized by the City.

The City faces significant tax appeals, further declining state shared revenue and increasing legacy costs that further magnify the general economic challenges.

The City has significantly increasing commitments for pension costs, active and retiree health care.

The City has virtually no undeveloped property available to enhance its tax base.

The City has less than 1% of the Retiree Health Care actuarial Accrued Liability prefunded..

Out of pocket health care costs have increased by over 50% for active employees and 74% for retirees over the past 10 years.

Contributions to the defined benefit systems increased from \$1,139,000 in fiscal year 2001 to \$3,107,000 in 2010, an increase of 173%.

Foreclosures have grown from 7 in 2000 to 360 in 2010.

Oak Park already has the highest tax rate in Oakland County.

The combined impact of Proposal A and the Headlee Amendment is costing the City almost \$5 million annually.

The City's government wide financial statements show that governmental activities have unrestricted net asset deficit of \$4,176,964 vs. a positive \$5,129,771 in 2006, a deterioration of over \$9,000,000 in only 4 years.

The fact is Oak Park is a community with a declining taxable value, declining revenues, rising health care costs, high millage rates and challenging legacy costs.

In his budget address to the City Council for the fiscal year 2011-2012, the City Manager of Oak Park stated that the City's financial situation is tenuous at best, noting:

The income to operate the City is simply not enough to continue to pay active employees, maintain service programs and keep commitments to past employees.

Payments for health benefits for retirees (\$2,527,934) exceed those for people working (\$1,989,309).

With existing benefits, the City is obligated to pay 14.50% of the General Fund budget for retiree costs, leaving just 85.50% for service operations, of which the Public Safety consumes over 53%.

Unreserved fund balance has been drawn down to supplement revenue shortfalls and should not be reduced further.

Thirteen full time positions (including three public safety offices) and various programs had to be eliminated to balance the 2011 fiscal year budget.

Underlying these statements of Plante & Moran and the City Manager are certain unrefutable facts. Property taxes account for 60% of the fiscal year 2011-2012 budget in Oak Park. State shared revenue accounts for 18.10% of the general fund budget. Thus, the City's largest revenue sources are property taxes and State shared revenue which account for 78% of total revenue. State shared revenues are falling with the City estimating that the revenue decrease from the State will be approximately \$400,000 for fiscal year 2010-2011. Property values in the City has decreased by 30%. The taxable value will eventually follow suit. As noted, the City experienced for the current year 360 foreclosures and has had the last several years consistently high numbers of foreclosures affecting property tax revenues. The City has a little vacant space that would permit additional building. In addition, interest revenue is declining because of the low fund balance and falling interest rates. Revenue from fines are declining because of fewer tickets in the economy. This is in part caused by the fact there are a reduced number of Patrol Officers and the economy is affecting the ability of people to pay their fines.

The City did pass a new millage for public safety (1.0 mills) and for the library (.5) and

recreation (.5) which is in effect for 10 years beginning in 2011. A library millage of one mill was levied in 2004. This new millage removed the library from the general fund. But in regard to public safety, the one mill that was just passed added about \$550,000. Yet, at the same time the public safety millage was being passed, the State was reducing State shared revenue by \$400,000. This, combined with the loss of property tax revenues because of reduced property values, indicates that the public safety millage is not added millage, but is an attempt to preserve some revenue source.

As to State shared revenue, the City has been cut by \$1,063,208 in 2004 and is estimated that the City will lose at least \$400,000 in State shared revenue in fiscal year 2011 and 2012.

It is also noted that the City of Oak Park has the second highest tax rate in Oakland County. Bluntly put, the City has no where to go to raise revenue to address its increasing expenditures. The significance of all of this is that the City for the fiscal year 2009-2010 had a fund balance of \$1,932,449. In 2012-2013 fiscal year without the awards discussed herein will have an unreserved fund balance of negative \$96,418,000. To understand what this means is that for the fiscal year 2010-2011 the projected unreserved fund balance \$1,569,829. With the projected expenses in one year the City will spend approximately \$1,400,000 of its unreserved fund balance, highlighting that the City's financial position is tenuous at best.

When the Chairman reviewed the financial situation in the City of Oak Park as set forth above, the Chairman understood the reason the City officials are concerned about the City's potential to become a candidate for an appointment of a financial manager, explaining the Last Best Offers which the City has made.

Accentuating the financial plight of the City of Oak Park is the fact that the City in 2004

has gone from 211 retirees versus 169 active employees to in 2010 232 retirees versus 125 active employees in the pension system. This phenomena has required the City in 2004 to make an annual contribution of \$1,263,960 to the pension plan. By 2010, the contribution was \$3,107,473, a continuing increase in contributions straining the City's finances. This has been caused by the investment results over the past several years. Contributions will no doubt increase in the future based on the fact that there are more retirees in the pension system and fluctuations in market values of investments.

In addition, the City has not funded its retirement health care liability (OPEB). The OPEB liability as of June 30, 2008 was over \$78 million. Statement No. 43 and 45 of the Governmental Accounting Standards Board requires the City to include in its financial statement unfunded actuarially determined liability. As a result, for the fiscal year 2010-2011, the City should have contributed \$4,875,562 toward the health care liability. Instead, the City contributed, including pay-as-you-go, \$2.5 million. Based upon the Standards, the City would actually need an additional \$2 million to fund its annual required contributions. The fact is the City pays as much for retiree premiums than for active employee premiums.

Again, the health care post-employment benefits puts a substantial strain on the City's finances.

Rounding out a review of the City's finances as affecting Public Safety Officers, the fact is Public Safety wages including Command represents 42.83% of the City's annual expenditure as contrasted to the expenditures for other employees of the City of 21.5% and 9.9% for retiree benefits. The remaining 26.85% is for facilities and other expenses. This means that Public Safety is a dominant expense of the City.

When the financial facts are analyzed as above, it becomes clear that this contract cycle the City desperately needs relief in order financially to survive. The financial facts speak for themselves.

Internal Comparables

Just before the POAM Agreement with the City of Oak Park expired on June 30, 2010, the City entered into an agreement with AFSCME Local 513 representing its general employees. That agreement provided that the employees would have a wage freeze for four years, increased their contribution to the pension plan, made a change in the health care and that the employees would reduce their wages by going from a 40 hour week to a 32 hour week and be paid for 34 hours, meaning that the employees would forego six hours pay per week. This agreement recognized the City's financial condition and provided reductions. However, the agreement also provided that the reductions in hours of work to only be in effect for the duration of the contract unless otherwise negotiated. This internal comparable emphasizes that given the City's financial situation that Public Safety Officers as well as Command would be expected to enter into a successor contract that would involve wage freezes and some reductions as well as a change in health care and a change in employee contributions to the pension plan.

External Comparables

As a check to what the majority of the Panel will award, a comparison was made with 12 Public Safety Departments. As of January 2010, Oak Park Officers on an annual basis had a base wage of \$70,367. The only community that came close to that figure was Fraser at \$65,360. Some of the compared communities, including the nearby Berkley, was at \$61,046. What has happened is that Berkley, Grosse Pointe Farms, Grosse Pointe Park, Grosse Pointe Woods, who

have contracts extending out to January 2012, all have had wage freezes with no increases. Grosse Pointe Woods' extended contract going to January 2013 continues with a wage freeze. Huntington Woods also has a contract extending to January 2013 with wage reductions.

The point of the discussion of the external comparables is to indicate that none of the contracts that extend out to January 2013 approaches anywhere near the \$70,367 that Oak Park Safety Officers were making. There are wage freezes and in at least in one community, Huntington Woods, there are wage reductions. Furthermore, some communities have not been settled for even 2011 such as Centerline and Farmington as well as Grosse Pointe Shores. These external comparables, though not controlling as compared to the internal comparable, highlight that a wage reduction for the life of the proposed contract would be consistent with the internal comparable and not out of line with external comparables.

Thus, a majority of the Panel issuing the Awards that follow will be governed by the financial situation in Oak Park.

Command Officers

As one final point in this discussion, the Chairman notes that the Command Officers' contract has not been settled. It should be recognized, however, that with the Awards that will follow it will be obvious that the Command Officers will likewise be expected to provide the City with similar financial relief because all employees of the City must recognize that they must provide the City with financial relief if the City is to remain a viable economic entity.

The Issues

1. Duration

The duration of the contract shall be three years commencing July 1, 2010 and expiring

June 30, 2013 as such period is necessary to stabilize the relationship between the parties and the City's finances. The Panel unanimously has agreed to this duration.

2. **Wages**

A majority of the Panel believes that there should be a wage freeze for the duration of the contract and that the hourly rate for overtime purposes should remain, but that Public Safety Officers should be paid based on 2,080 hours for the contract beginning with the date of this Award. The Public Safety Officers will continue to work 2,184 hours a year based upon 12 hour days, but will be paid as if working 2,080 hours. This is consistent with the approach used in the recent negotiated AFSCME contract where the employees work 32 hours and are paid 34 hours down from their usual 40 hour week. This savings is necessary for the life of this Agreement so that the City can stabilize its finances. However, the provision in the Award will provide that on the terminal date of this Agreement going forward the payment base of 2,184 straight time hours shall return unless otherwise negotiated or changed by an Act 312 award. Furthermore, time off for any reason should be on an hour for hour basis. The City Delegate supports the Chairman on this. The Union Delegate dissents.

3. **Insurance**

One of the increasing costs to the City is the increasing cost of hospital, medical, surgical and dental insurance. The AFSCME contract has moved to a less expensive Community Blues Plan to assist the City in controlling its health care costs. The Chairman believes this is a reasonable approach. The Chairman also believes that in return for adopting Community Blues 4, the City should waive premium co-pay. In addition, there should be a change in the prescription drug rider and the deletion of the HMO as an alternative as it is not in prevalent use.

In addition, there should be mandatory mail order for maintenance drugs and for the right to go to a mandatory preferred generics program.

The Association has suggested that it wanted the opportunity during the contract to seek other bids for Community Blues 4 in an attempt to save the City money. The City is not necessarily opposed to this, but wants at least one year without the obligation to meet and confer with the Association concerning such a possibility because the City is considering going to complete self-insurance and needs at least a year to do so. Therefore, the Chairman has proposed an Award that accomplishes the two interests of the parties. The Award that follows is based upon this analysis supported by a majority with the Union Delegate dissenting.

4. **Article XIX, “6 for 8 Rule”:**

Article XIX, “6 for 8 Rule”, 29.9 of the 2006-2010 contract, in the view of the Chairman, based upon the economic realities in the City, has no place in the contract and is a payment for work not performed. The City no longer can afford such a provision. Therefore, a majority, with the Union Delegate dissenting, will provide in the Award that Article XIX be deleted from the contract.

5. **Article XXIX, “Pensions”**

Article XXIX, “Pensions”, does require revision considering the City’s finances and concern for the financial health of the pension system. The first revision would be that PSOs hired after July 1, 2011 will have a 2.5 multiplier and a final average compensation calculation based on their effective base wage rate only. Minimum retirement eligibility will be 25 years of service. The PSOs hired after July 1, 2010 shall continue to have the option to be members of a defined contribution program set forth in 31.10.

In 31.7 there is a dichotomy in the contribution rate for all employees with some employees paying 5.55% of gross pay while others pay 7.5%. During the course of the proceedings, the City initially was asking for an increase of 2% contribution by all employees. The City modified its position and instead proposed that all Officers, regardless when hired, would contribute 7.5% of gross pay. This seems to be fair and is consistent with the need to finance the pension plan.

There was a proposal by the City to amend Article XXIX by deleting Sections 31.8 and 31.9. In the view of the Chairman, there is only so much that can be accomplished in negotiations. And the art of the possible would suggest that if the parties were left to their own devices that the City would agree, if this was all that stood in the way of a contract, to forego deleting Sections 31.8 and 31.9. The Chairman, applying this concept of the art of the possible will reject the City's proposal to eliminate Sections 31.8 and 31.9. The Union Delegate agrees with the Chairman. The City Delegate disagrees. For this reason, there will be no award deleting Sections 31.8 and 31.9.

The Award as to pensions that follows reflects the comments herein. The Award is based on a majority vote with the Union Delegate dissenting except the Union Delegate agrees to keep Sections 31.8 and 31.9.

6. **Article VIII, "Hours of Work":**

Article VIII, 8.1.G reads: "On a 12 hour shift, there will be allowed a minimum guarantee of two persons allowed time off per platoon using any time account." The City has proposed eliminating this provision, citing the proposition that with current manpower staffing this provision increases overtime expenses for the City. Herein comes the concept of the art of the

possible. The City has asked much of the Public Safety Officers. There is only so much that can be accomplished. If left to their own negotiations without the intervention of Act 312, it is doubtful that this provision would be eliminated. For this reason, the Chairman, joined by the Union Delegate, will deny the request of the City to eliminate Article 8.1.G. The City Delegate dissents.

7. **“Minimum Manning”**

The Panel recognizes that, by virtue of MERC decisions and Court decisions, minimum manning is a permissive subject of bargaining. The parties have not agreed to include minimum manning in the upcoming contract. For this reason the Chairman recognizes that the City will delete all provisions as to minimum manning, including the Memorandum of Understanding dated October 24, 2006 attached to the 2006-2010 Agreement, in the July 1, 2010-June 30, 2013 contract. A majority of the Panel so orders with the Union Delegate dissenting.

8. **Legislative Acts**

There are certain legislative Acts and Regulations that are in progress or have been enacted or implemented. In order to protect the parties, this Panel unanimously will enter an Award concerning the issue of Acts and Regulations.

9. **Continuation**

Unless modified by the Awards that follow, the terms and conditions of the 2006-2010 Collective Bargaining Agreement are carried over into the 2010-2013 Agreement.

Signatures

The Awards that follow may be signed by the Panel members in separate documents but will be considered to be as valid as signed in one single document.

The Panel hereby issues the following Awards on the following issues. As indicated, each Award as set forth below has been, in each case, by a unanimous Panel or by the majority of the Panel.

A W A R D S

1. Duration: The duration of the Agreement shall be from July 1, 2010 through June 30, 2013.

2. Wages: Effective with the date of this Award, there will be a wage freeze for the duration of the Agreement based upon the wages for fiscal year 2009-2010 and for said duration Public Safety Officers shall be paid on the basis of working 2,080 hours a year during the life of this Agreement, though in fact assigned to work 2,184 hours; that at the termination date of this Agreement the Public Safety Officers shall return to payment based upon 2,184 hours unless otherwise negotiated through the collective bargaining process or changed by an Act 312 award; that the hourly rate of the Public Safety Officers for overtime payments shall be made as in the current contract. Time taken off for any reason by Officers shall be charged hour for hour.

3. Hospital, Medical, Surgical and Dental Insurance (Article XXIV):

24.1: Medical and Hospital Coverage

A. Effective July 1, 2011 or as soon thereafter as may be implemented by the City, the City shall provide each employee and his/her immediate family with Blue Cross/Blue Shield Community Blue Option 4, with 80% mental health care coverage and preventive care as outlined by the plan.

1. Office visits require a \$10 co-pay.

2. Coverage of the employee's family shall include the employee, their spouse and any eligible dependents. The recognized definition of "dependent" shall be the current accepted classification by Cross/Blue Shield for medical coverage.

3. Employees shall be eligible for such coverage after the 1st day of the month after employment with the City, or a maximum of 30 days.
4. The City will provide a prescription drug rider for all plans under the contract by the City provided which will be a closed formula drug card for \$5 generic/\$40 brand/\$80 drug card. Prescription maintenance drugs shall be by mail in MOPPD2.
5. The City reserves the right to go to a mandatory preferred generics program or mandatory step therapy if available from the carrier.
6. Opt out of medical coverage. For employees choosing to opt out of medical coverage, the employer shall pay \$200.00 per month for those with two-person coverage and \$210.00 per month for full family coverage. If an officer retires after July 1, 2006 and they are married to a City employee or retiree who also receives medical coverage from the City, the City has no obligation to provide the retiree medical coverage and payment in lieu of medical coverage. If the couple divorces then medical coverage will be reinstated as stipulated by this section and section 24.4 and the employee shall again receive the coverage provided by this agreement.

24.2: Dental Coverage. The City shall provide a Group Dental Insurance Program with benefits as follows:

<u>Type of Service</u>	<u>Policy Coverage</u>	
Class I Benefits	Basic Dental Services	100%
	Balance of Class I Benefits	90%
 Class II Benefits		
	Prosthodontic Dental Services	75%
	\$1,000 Maximum per person per contract year of Class I & II's	
 Class III Benefits		
	Orthodontics	50%
	\$1,000 Lifetime Maximum per person	

24.3: Optical Coverage. The City shall pay 70% of the cost and the employees shall pay 30% of the cost.

24.4: Continuance of Insurance Policies.

- A. The City shall continue to maintain Hospital, Medical, Surgical, Dental, Optical and Prescription Insurance coverage and benefits for an employee on duty

disability leave and for his family under the insurance programs in force.

- B. The City shall continue to maintain Hospital, Medical and Surgical insurance coverage for an employee and their dependents on non-duty disability leave. New officers hired after date of execution of this agreement will receive this non-duty disability coverage for three years from the date of separation from the city.
- C. The City shall continue to maintain Hospital, Medical, Surgical, Dental, Optical and Prescription rider benefits for the widow and children (under 19 years) of an employee killed in the line of duty.
- D. Hospital, Medical, Surgical, Dental, Optical and Prescription rider coverage will be made available to all retirees, their spouse and any eligible dependents, at the same level of coverage that was provided at the time of their separation of employment with the City, with cost to be paid by the City. Spousal coverage is only for that individual that the retiree is married to at the time of their retirement. If a retiree and/or spouse become eligible for Medicare, they must participate in the Medicare program, and pay for all of its associated costs. The City will provide supplemental coverage to Medicare to the same level that was provided prior to Medicare participation. Any survivor receiving a pension who receives health coverage from their employer or through a new spouse, must participate in those health care programs as primary coverage and the City healthcare shall be supplemental, as long as they continue to receive a City pension.
- E. 1. Retiree's Blue Cross. The percentage of retiree's Blue Cross premium that will be paid by the City for new hires (hired after January 18, 1993) shall be as follows:

- At least 10 years, but less than 15 years = 55%
- At least 15 years, but less than 20 years = 75%
- At least 20 years, but less than 25 years = 85%
- At least 25 years, or more = 100%

For any current member, of the group, (those hired before January 18, 1993) they would qualify for one hundred percent Blue Cross retiree premium paid by the City at twenty years and each other category would accelerate accordingly. Those employees hired after May 2, 2005 will be eligible. for retiree medical coverage after 25 years of service. For any member that qualifies for a Duty Disability Injury or Pension, their medical benefits shall continue to be provided regardless of time in service according to all of the Provisions of the Workers Comp Act and the Pension Ordinance.

The Blue Cross/Blue Shield Community Blue Option 4 shall be the base plan at retirement consistent with all the provisions set forth in this Article.

2. For individuals hired by the City on or after July 1, 2011, the above described insurance benefits for retirement shall not be available, but instead said individuals will participate in an Employee Health Retirement Savings Account which replaces all insurance benefits for employees hired by the City on or after July 1, 2010 and subsequently retire.

These accounts may be used by the employee, their spouse, or qualified dependents to help offset the cost of health care after the employee retires or separates from service.

The employee does not pay taxes on the contributions, investment earnings, or distributions for medical reimbursements.

The City, at its sole discretion, can determine which plan will be provided and the same plan will be provided to all non-union employees.

After death, any remaining account balance may be used by the employee's surviving spouse or surviving dependents for the reimbursement of qualified medical expenses.

Vesting will be ten (10) years under this plan. The City's contribution will be 1% of base salary. The employee's contribution shall be 2% of base salary.

- F. In the event a retiree shall live in a state which does not provide identical benefits for the same premium, the City's obligation hereunder shall be discharged by the furnishing of the policy, and the City shall not be obligated to supplement the policy by any other payments.
- G. In the event hospitalization insurance benefits are increased for other employees of the City, such benefits shall be provided for employees of the Department of Public Safety at no additional cost to said employees.
- H. Subject to the conditions stated below, nothing in this agreement shall be construed to prohibit the City from changing carriers for dental, optical and prescription rider and hospital and medical insurance as long as the benefits are not diminished. Self-insurance is also authorized if the benefits are not diminished.

However, prior to changing carriers for hospital and medical insurance, the City shall give the Association ninety (90) days prior written notice-of such proposed change and with such notice shall fully disclose in writing to the Association information concerning the proposed carrier and proposed insurance benefits. Additionally, prior to the implementation by the City of any such change, the Association shall have the opportunity through expedited arbitration to grieve any

such change.

I. The Association shall have the opportunity after the plan outlined in 24.1.A herein has been in place for fourteen (14) months to meet and confer with the City over the possibility of seeking other bids to provide at the same or lower cost for said plan to the City.

4. Article XIX, "6 for 8 rule", 29.1 shall be deleted from the contract.

5. Article XXXI "Pensions" shall be amended in that Section 31.7 shall be amended to read, "Effective with the date of this Award, the contribution rate for all employees shall be 7.5% of gross pay." Sections 31.8 and 31.9 shall continue as is in the contract.

There shall be a new Section 31.10 which shall read, "POs hired after July 1, 2011 shall have a 2.5% multiplier and a final average compensation calculated based on their effective base wage rate only. Minimum retirement eligibility will be 25 years of service." The old 31.10 shall now become 31.11.

Except as modified, added or deleted herein, the other provisions of Article 31 shall remain.

6. Minimum Manning: All references to minimum manning as well as the Memorandum of Understanding dated October 4, 2006 shall be deleted from the contract.

7. Article VIII, "Hours of Work"

Article VIII 8.1.G shall remain as is and shall continue into the 2010-2013 contract.

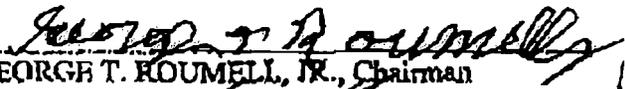
8. Legislative: The Agreement shall contain a new Article and shall read:

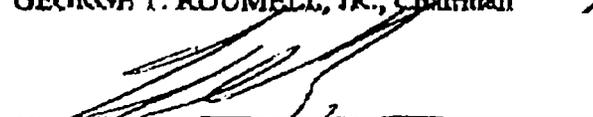
This Agreement adopts by reference any terms and conditions imposed by the State of Michigan, the Department of Treasury, Act 72 or any other regulation or law adopted by the State of Michigan.

The inclusion of this language or any language required under section 15(7) of the Public Employment Relations Act does not constitute an agreement by the Union to the substantive or procedural content of the language. In addition,

inclusion of the language does not constitute a waiver of the Union's right to raise Constitutional and/or other legal challenge (including contractual or administrative challenges) to the validity of: (1) appointment of an Emergency Financial Manager; (2) PA 1 of 2001 (Local Government and School District Fiscal Accountability Act); or (3) any action of an Emergency Financial Manager which acts to reject, modify or terminate the collective bargaining agreement.

In the event the City of Oak Park is so required by the State of Michigan in order to receive State shared revenue employees hired after July 1, 2011, depending on the requirements of the State, if required, shall contribute up to 20% of health care premium costs or the employer's share, recognizing that the employer's share shall be cost competitive with the new State preferred provider organization organizing health plan on a per-employee basis if available.


GEORGE T. ROUMELI, JR., Chairman


HOWARD L. SHIFMAN, Concurring where indicated and Dissenting where indicated in the Discussion


KENNETH L. GRABOWSKI, Concurring where indicated and Dissenting where indicated in the Discussion

Dated: June 15, 2011