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STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
EMPLOYMENT RELATIONS COMMISSION

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In the Matter of Arbitration  
Under Act 312

City of Sterling Heights,

Employer,

-And-

MERC Case No. D11 G-0911

Michigan Association of Police

(Police Officers) Union.

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**OPINION AND AWARD**

Chairman of the Arbitration Panel:	Kenneth P. Frankland
City Delegate:	Dennis B. Dubay
Union Delegate:	Richard Heins
Representing City:	Dennis B. Dubay
Representing Union:	Fred Timpner
Pre-Hearing Conference:	February 21, 2012
Opinion and Award on Duration:	April 18, 2012
Hearings Held on May 21, 22, 23, 24, June 12, 13, 2012	
Opinion and Award on the Merits:	September 17, 2012

### **STATEMENT OF THE CASE**

The City of Sterling Heights (City), filed a petition for arbitration pursuant to Act 312 of Public Acts of 1969 on November 21, 2011 as to the expired collective bargaining agreement with the Michigan Association of Police – hereafter “Union” (The unit consists of all sworn officers under the rank of Sergeant). On February 15, 2012, MERC appointed Kenneth P. Frankland as the impartial arbitrator and Chairperson of the panel in this matter. A pre-hearing conference was held on February 21, 2012, and a report was generated by the Chair the same day. During the pre-hearing conference, the parties agreed to confer to narrow the issues and to submit Position Statements of unresolved issues by March 16, 2012. Duration was not mutually agreed by March 16, so the parties submitted Briefs on that issue and the panel issued an Award on April 18, 2012 finding that the new contract would be for two years, July 1, 2011 – June 30, 2013. Evidentiary hearings were held on May 21, 22, 23, 24, June 12 and 13, 2012; there are 23 City issues and 6 Union issues. City Brief of 115 pages and Union Brief of 108 pages were submitted on or after August 7, 2012 and this Opinion and Award ensues. As required by the Act, on economic issues, the panel is required to adopt the offer of one of the parties that most closely conforms to the requirements of Section 9(1).

### **STANDARDS OF THE PANEL**

Act 312 of 1969, MCL 423.231, as amended by Act 116 of 2011 specifically §9(1), contains nine factors upon which the panel is to base its opinion and

award. Those are:

- (a) The financial ability of the unit of government to pay. All of the following shall apply to the arbitration panel's determination of the ability of the unit of government to pay:
  - (i) The financial impact on the community of any award made by the arbitration panel
  - (ii) The interests and welfare of the public
  - (iii) All liabilities, whether or not they appear on the balance sheet of the unit of government
  - (iv) Any law of this state or any directive issued under the local government and school district fiscal accountability act, 2011PA 4, MCL 141.1501 to 141.1531, that places limitations on a unit of government's expenditures or revenue collection.
  
- (b) The lawful authority of the employer;
  
- (c) Stipulations of the parties;
  
- (d) Comparison of 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 in both of the following:
  - (i) Public employment in comparable communities;
  - (ii) Private employment in comparable communities;
  
- (e) Comparison of the wages, hours, and conditions of employment of other employees of the unit of government outside of the bargaining unit in question
  
- (f) The average consumer prices for goods and services commonly known as the cost of living;

(g) 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;

(h) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings;

(i) Other factors that 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.

(2) The arbitration panel shall give the financial ability of the unit of government to pay the most significance if the determination is supported by competent, material, and substantial evidence.

### **Background Information**

Sterling Heights (hereafter, "SH" or "City") was incorporated as a City in 1968 and operates under the Council-Manager form of government. SH is located in the northwest quadrant of Macomb County surrounded by the Cities of Warren to the south, Troy to the west (Oakland County) and the townships of Shelby to the north and Clinton to the east. It has 36.8 square miles with 395 miles of roads of which 349 are local. The 2011 estimated population is 129, 699, the fourth largest in Michigan. Currently, less than 5 percent of the land is vacant. There are 33, 922 houses, 9,734 apartments, 6,691

condominiums, 1,691 mobile homes and 2,472 commercial and industrial businesses. In 2010 there were 70 new construction permits with a fmv of \$12.3 million and 360 improvements valued at \$839,587. In 2011, new permits were 87 valued at \$15.5 Million and 402 improvements valued at \$1.5 million. These figures are slow increases from lows in 2009 but significantly less than the boom in 2002-2006 of 2722 housing starts, high of 763 in 2003, or an average of 544 units per year.

The City does not have a lot of calls for service compared to other nearby entities and has 1.5 violent crimes per 1,000 residents – the national average is 3.4. The City is in the lowest percentile of arrests – 25 per 1,000 – the national average is 60.

According to the seniority lists (C-28, 29) there are 294 City employees, of which 120 are in the Police unit, all sworn police officers under the rank of Sergeants. (C-11, the Petition filed by the City indicates 133 in the unit). This unit is the Michigan Association of Police. The current contract ran from July 1, 2006 and expired June 30, 2011. Per the earlier Award in this case, the new contract is two years, from July 1, 2011 – June 30, 2013.

When the City sought concessions from all the Union, these parties executed a MOU (C-2) wherein the Union members agreed to increase their pension contribution from 5% to 8% of base pay for FY 2010-11 and the City contribution was correspondingly reduced and this was as a set-off against the scheduled 3% pay increase. Further, participants in the DROP agreed to suspension of the uniform allowance for FY 2010-11 and deferred compensation contributions to be reduced by \$580 annually. The City agreed to no layoffs in this unit and not to seek further concessions before June 30, 2011

equal to or greater than those that might be obtained from other labor units.

There are eleven other bargaining units in the City – Police Command Officers Association, July 1, 2007 – June 30, 2012; POAM, Dispatch, July 1, 2006-June 30, 2012; MAP Clerical Employees, July 1, 2006 – June 30, 2011; Fire Fighters Association, Local 1557, July 1, 2007 – June 30, 2012; Public Works, Teamsters Local 241, July 1, 2007 – June 30, 2012; Public Works Supervisory, AFSCME Local 1917, July 1, 2007 – June 30, 2012; UAW Local 412, Professional and Technical Employees, July 1, 2008 – June 30, 2013; UAW Local 412, Supervisory Employees, July 1, 2012 – June 30, 2014; MAPE, Technical/Office Employees, July 1, 2007 – June 30, 2012; MAPE Executive Group, July 1, 2008 – June 30, 2013; 41-A District Court AFSCME Council 25, July 1, 2011 – June 30, 2013.

The City negotiated concessionary MOU's with all the above Unions. (See, C-30, 32, 34, 36, 39, 40, 42, 43, 45, 46, 49, 50, 52, 53, 55, and 56) These concessions were 3% for July 1, 2010 to June 30, 2011. For July 1, 2011 to June 30, 2012, eight of 12 units agreed to an additional 7% concession and elimination of a 3% increase set for July 1, 2011. For July 1, 2012 to June 30, 2013, the City was seeking 15% and by the hearing three units had agreed to 15% and tentative agreements were reached with three others.

A summary follows taken from City Brief p. 37 follows.

<b>ANNUAL PERCENTAGE CONCESSIONS</b>			
<b>Internal Comparables</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Police Command Officers Association	3%	0%	open
POAM (Emergency Dispatch Unit)	3%	0%	open
MAP (Police Clerical)	3%	0%	open
IAFF Local 1557	3%	10%	open
Teamsters Local 214 (DPW Field Unit Employees)	3%	10%	15%
AFSCME Council 25, Local 1917 (DPW Supervisory Employees)	3%	10%	15%
UAW, Unit 40 of Local 412 (Professional and Technical Employees)	3%	10%	15%
UAW, Unit 41 of Local 412 (Supervisory Employees)	3%	10%	15%
MAPE (Technical Office Employees)	3%	10%	open
MAPE (Executive Group)	3%	10%	16.4%
41-A District Court (Control Unit)	3%	10%	15%
<b>MAP (Police Officers)</b>	<b>3%</b>	<b>0%</b>	<b>open</b>

The panel asked the parties to submit a listing of the potential savings from their proposals as Section 9(a) (i) requires the panel to determine the financial impact on the community of any award. C-178 suggests savings of \$1,497,000 if implemented by July 1, 2012 and \$1,247,450 if by September 1, 2012. Union 106 claims savings of \$2,186,388 but that includes previous layoffs and statutory mandated changes. The City challenges these “savings” as not concessions and that if subtracted as per the calculations at City Brief, 38-39, the Union savings would be \$656,367 or 6.31%.

The Union argues that it negotiated with the City and offered concessions which in its view were comparable to those obtained from other Unions and this proceeding is an effort to extract more than 15% concessions from the Police. Conversely, the City argues that with the decrease in revenues it must obtain the maximum possible concessions from this Union and

that it is only asking for comparable savings it did obtain from other non-Act 312 units. It is important to realize that other Act 312 units are either in negotiations or in the Act 312 process.

### **Ability to Pay**

The parties have emphasized and the Panel recognizes that this is one of the first proceedings conducted after passage of several amendments to Act 312. In particular, the legislature added a new subsection (2) “the arbitration panel shall give the financial ability of the unit of government to pay the most significance if the determination is supported by competent, material, and substantial evidence.”

Further, the legislature identified criteria for a panel to use in this context.

- (a) The financial ability of the unit of government to pay. All of the following shall apply to the arbitration panel’s determination of the ability of the unit of government to pay:
  - (i) The financial impact on the community of any award made by the arbitration panel
  - (ii) The interests and welfare of the public
  - (iii) All liabilities, whether or not they appear on the balance sheet of the unit of government.
  - (iv) Any law of this state or any directive issued under the local government and school district fiscal accountability act, 2011PA 4, MCL 141.1501 to 141.1531, that places limitations on a unit of government’s expenditures or revenue collection.

Various views have been expressed as to the legislative intent but several observers have thought that the amendments were crafted to cure a perception that Panels may have awarded benefits in the past without considering the future financial impact of those awards as to available revenue streams. In other words, Panels are now to look at proposed benefit



enhancements and actually determine if awarded, that those benefits are affordable within projected employer revenue. The legislature, as viewed by some, wanted clear criteria and direction to Panels when the Act 312 proceedings involved numerous proposals for benefit enhancements.

In this Panel's opinion, and as the Union argues, this case is not about improvements or enhancements in compensation, but rather how deep concessions will be awarded. The City characterizes the proceedings as, "the City does not have the ability to pay the ongoing costs of the extraordinarily generous salary and fringe benefit package currently in effect." (*Emphasis Added*, City Brief at 39).

One always expects some hyperbole from experienced advocates and the City is correct that Union members' total compensation does exceed the average of the comparables but whether it is "extraordinarily generous" is in the eyes of the beholder. A little perspective is in order. These parties have never been to arbitration before – thus no Panel has awarded these benefits. Rather, the parties have **collectively bargained** these benefits. The City, for whatever reason at the time, July 2006, agreed to a five year contract and the benefits levels in the now expired contract! No one forced the City to agree to the package in the expired contract. One can only assume that the precipitous drop in revenue was unanticipated. C-86b shows that in 2008-2009 the expenditures began to exceed revenues and the City began to dip into the Fund balance. The City did realize a \$31million insurance settlement and has used that money in 2006, 2007 and 2009 to assist in balancing the budget. It is not the responsibility of any Panel to save a City from its own largesse. It is the responsibility of any Panel to sift through the record, examine the positions and then apply the statutory factors and that is what

we shall do.

The City is not much different from other municipalities and school districts that must rely upon the property tax as the largest source of revenue. All are suffering from decreased revenue as the tax base has eroded and combined with provisions of the Headlee Amendment the task to have a balanced budget as mandated by law, is daunting. All entities are making expenditure cuts, asking for concessions from Union contract terms and then using Fund balances, if available, to obtain the balanced budget. Sterling Heights is no different and has employed the same strategies. This Panel cannot correct, in a two year contract, with the first year already history, the effect of declining revenues upon the City and this Union specifically.

The most recent audited financial report FY ending June 30, 2011(C-70) is chock full of information useful to the Panel. Property taxes for the general fund generated \$57,562, 445 or 67% of revenue. Yet taxable valuation declined by over 24% from 2007 to 2012. The millage rate is 12.6858 which includes a 1.9 mill increase authorized by the Council in 2011 and also includes the required annual millage (believed to be 2.26) to support the defined benefit pension contribution of the City per Act 345. City 77 shows property taxes from 2008 to 2011 by operating, refuse and pension. Operating revenues have dropped by 26.2%. Pension millage assessments have gone from \$1,707, 901 in 2008 to \$5,753,668 in 2011. Thus, of the 12.6858 mills assessed in 2011, a greater percentage than in the past, almost 10%, was most recently used for funding the retirement obligations of the City. State statutory revenue sharing is in sharp decline and state revenue was just \$10million. (C-70, at 22)

On the expenditure side, the City spent \$86.6 million in FY 2011/2012. C-86b shows revenue and expenditures from 2008/09 and as projected through 2015/16. Through 2012-

2013, the end date of this new contract, expenditures are projected at \$83,207 million and revenues at \$78,506 million. To be balanced, the deficit would be made up from the Fund balance of \$26,230 million leaving a balance of \$21,529 million. C-86b is dated April 2012 and the Fund is called General & Insurance Fund Balance. However, C-86e is dated 5/2/2012 and has different numbers. It seems to exclude insurance and the Fund balance for 2011-12 is \$10,991 or 7.5% and estimated 2012/13 the balance is \$7,230 or 8.7%. It is noted that there is a proposed transfer in 2012/13 of \$4,701 from the self-insurance fund to boost the revenue side of the budget. (For further comparison, see U-44 dated 12/12/11 with more optimistic Fund balances)

Per C-86c, the Police budget for 2010/2011 was \$32.483 million or 39% of the total budget up from 32% in 2006. The 2011/2012 budget is \$32,588 and estimate of \$32,380; for 2012/2013 the proposed budget is \$32,942.

Staffing reductions have been vigorous. There are 106 less general positions now than in 2002 (C-86w). There are 8 less officers coming from attrition from privatizing the jail – there were no changes in road patrol officers. There were no police layoffs through June 30, 2011 per the MOU. C-86w also sets forth other steps to reduce costs such as reduced services or shared services with other communities.

Since the legislative amendments require consideration of unfunded liabilities, the City spent considerable time presenting information on unfunded pension and unfunded health insurance liabilities (OPEB). These are not reflected on the City balance sheet but may be required in the future per proposed accounting standards.

City 83 is the actuarial report of the Police and Fire retirement system as of December

31, 2011 without breaking out either police or fire. For 2012-2013 FY, starting July 1, 2012, the normal rate is 16.3% of which employees pay 5%, thus City normal cost is 11.3% plus the unfunded accrued liability of 25.9% - a total of 37.25% of payroll or \$8,815,031. The City contributions have increased dramatically per C-83, page 4 from as little as \$1,707 in 2006 to \$8.815 in 2012 and the liabilities are 66.5% funded. The unfunded total is \$87,282 million. It is noted that as late as 2007, the system was overfunded and with plan changes in 2008 the level dropped to 95% and has declined each year thereafter. It should be recalled that per Act 345 the revenue for the annual City contribution for this liability is obtained via an annual millage, currently 2.26 mills and not from operations portion of the general fund.

As to the General Employees Retirement System, C-84 is the actuarial report as of December 31, 2011. It covers employees before 1997 since there has been a DC plan for those hired after that date. The UAAL was \$11.288 million. This System is financed via the operations section of the general fund.

As to OPEB, the last actuarial report is of December 31, 2010 (C-85). The accrued liability is \$178 million but the City has set aside \$38 million with the balance to be amortized. July 1, 2011 the required contributions were \$11,523,829 of which \$6,385,735 was for Police/Fire and \$5,138,094 for general employees. On July 1, 2012 the contributions were slightly increased to \$11,984,782. The OPEB for all employees is about 26.55% of total City payroll.

City 86v is the budget message for 2012/2013 and C-72 is the budget synopsis for the same year. This was adopted May 8, 2012 and reduces 59 positions and reflects concessions as of that time and concessions the City deems it needs from this and other units. It includes

projected layoffs of five police officers. Even though there is a projected deficit, the testimony was that the City fathers had no interest in imposing an un-voted increase in the millage rate as they perceived negative reactions from citizens when the 1.9 mills were imposed unilaterally. The City has opted to draw from the Fund balance to balance the budget. C-86e projects a Fund balance of \$7, 230. Mr. Baker did testify that after a citizen survey and if concessions from the Unions materialize and legacy costs were controlled, council could consider a November 2013 vote for a special police-only millage.

The City made a major point that legislation is pending to abolish the personal property tax and even if some hold harmless provisions are included to protect high personal property communities like Sterling Heights, the loss of revenue would be devastating. It is only prudent for budget officials to consider such proposed enactments when proposing future budgets. However, in this case this issue is a red herring. We are discussing concessions that will assist in reducing projected deficits now. The legislation has not passed and there is no certainty that it will pass this session, and at this writing, there has been no further legislative action. Finally, the projected start date for the elimination of the tax is at least two years away and not within the time limits of this contract. This is not a matter for this Panel to consider in its deliberations.

Despite these unfavorable statistics, the City presents somewhat more glowing appraisals in the CAFR June 30, 2011. (C-70, U-2)) For example at p.3, “despite growing long-term retirement costs, the City continues to fully fund its retirement systems. The City has been able to maintain a diversified tax base with low tax and water and sewer rates ....” At p. 12, “Even with the 1.9 mill adjustment, the vast majority of property owners are paying less in taxes... The City has continued to maintain one of the lowest tax rates in the state with 85.0

percent of cities having a higher rate.”

The Union points out that SH has a very good bond rating, AAA from Fitch, AA+ for S&P and AA1 for Moody's.

Union 9, a document used by Committee to Elect Notte in 2011, lists the City AAA bond rating, highest of the ten listed; pension fund % funded at 106.2; property taxes paid per capita \$443, lowest of the ten listed; debt per capita as \$361, ninth of ten listed; and SEV of 5.1 billion.

Union 10, a City prepared document entitled “Low Cost of City Government” states the average tax bill in 2012 is \$2,236 whereas it was \$2,765 in 2007. The document emphasizes that 90% of cities state-wide have a higher tax total. Of a typical monthly tax bill of \$65, police are \$24, the highest, with fire next at \$14 and the police figure includes the Act 345 assessment. It also lists total government debt as \$281 per capita, less than in the Notte election material.

The Panel has tried to digest the voluminous record and the above is just a snapshot of the evidence produced. The Panel is comfortable in saying that SH is extremely well run and has budgeted as well as can be expected given the economic turmoil and decreasing revenues from the property tax. It has an extraordinary high bond rating a measure of the community's fiscal strength and a testament to good stewardship. It proudly expresses to its citizens that they pay the lowest taxes in Macomb County and less than 85-90% of all Michigan cities. Therein lays the rub. With a low millage rate and declining assessed values, revenues have plummeted. To address lower revenues, SH has made major cuts to eliminate expenses. They have sought concessions from the Unions and have been successful in the main. They have

convinced bond rating agencies they have a definitive and constructive plan to deal with possible deficits and thus have kept their excellent bond rating.

This is a hearing to maximize concessions, to lessen the projected deficits for the two years of this contract and thus lessen withdrawals from the Fund balance. This is not a City on the brink of an emergency manager not even close. In the Panel's view this is not the kind of case envisioned when Act 312 was amended and ability to pay was identified as the most important issue. If the legislative intent was to require a Panel to adopt all of a city's proposals once the city had established that it did not have **current** revenues to meet **current** expense, and thus did not have the ability to pay, the Panel would be but a rubber stamp. Ability to pay is always important but on this record the Panel finds that SH does have the wherewithal to finance what will be awarded herein. The City has planned to pay for the costs of this contract and other units and has chosen to do so by use of the Fund balance for any deficits, clearly one component of ability to meet expenses, while deferring until after this contract expires, at the earliest, any increase in millage and only after a vote of the people. The City has exercised its discretion not to raise the millage as it has the power to do but to pay any deficit from its reserves. The City has a plan in place and that plan has satisfied the major Bond rating agencies to maintain its impressive bond rating. This matter is but a part of that plan, to obtain concessions from this Union, and will only assist the City in reducing any deficit and thus less draw from the Fund balance. This is a matter of competing views of how cost savings should be achieved not whether the assets are available to pay. Since revenue enhancements are not part of the equation, the Panel will deal with each issue knowing that the City does have a plan in place to maintain maximum services within the resources available and this proceeding will

help lessen the City burden.

With respect to unfunded liabilities, it is noted that the City assesses the required millage to pay for the pension costs as actuarially determined. This panel will avoid to the extent reasonable, increases in any such unfunded liability. As to OPEB, the Panel will take into consideration each proposal so as to do what is in best interest and welfare of the public. No one expects OPEB to disappear overnight and the real issue is how to lessen or spread out the costs in the long run.

### **COMPARABILITY**

Act 312 requires a Panel's Award to consider all factors enumerated in Section 9, including (d) "a consideration of the employees involved in the particular case with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public employment in "comparable communities" and in private employment in "comparable communities".

However, the Act contains no definition of "comparable community". Comparability is not an exercise in computer analysis but rather a matter of judgment, the best assessment of the most relevant factors in a specific case.

Experience has demonstrated that several criteria are commonly asserted as indicia of comparability. These include: type of political subdivision; location (proximity to the subject political jurisdiction); size, (square miles, population); economic considerations such as ability to raise revenue as measured by State Equalized Value,



fund balance of the entity in terms of percentage of budget, history of percentage of budget allocated to this unit vs. other units in the entity as compared to suggested comparables; composition of the unit; bargaining history of the unit including any prior 312's with stipulated comparables and any prior panel awards on comparability.

In this case, the parties have stipulated that Farmington Hills, Troy and Warren are comparable communities located in Macomb and Oakland counties. Additionally, the Union offers Canton Township, Dearborn and Livonia, all in Wayne County and the City offers Clinton Township, Shelby Township in Macomb County and Southfield and Waterford in Oakland County.

The parties offered a plethora of Exhibits on this issue, (Union 24-33 and the City 61-69a) on the usual statistics. The City suggests that the three Wayne County communities should be rejected out of hand as being too remote geographically from the agreed upon entities. The Union argues that Southfield should be rejected as the contract in Southfield expired in 2009 and use of salary, for example, would skew the averages as it would compare a rate that went effect in 2008 as opposed to a rate in July 2010 in SH. Both parties then offer rationale based upon the exhibits for their respective offers.

The Panel believes that external comparability is less significant in this case because this matter is a concessionary proceeding. If the City wants to obtain monetary concessions comparable to the other Unions, then it is logical to place more emphasis on comparison with the internal units if the information is in the record. That does not mean we will exclude consideration of comparable communities since the Panel must make

choices on several issues and use of data from other communities might be helpful since Police and other city units have some differences in their contracts and reaching out to external communities could be helpful.

Thus, as to external comparables, this panel favors a balanced approach that emphasizes population, proximity, SEV and political organization. We look at the agreed three communities and try to identify others that have similar characteristics of the four criteria mentioned above. It is noted that the parties did not offer prior Act 312 proceedings as guidance for this Panel as this Police unit has not gone to arbitration before. The record is silent whether other SH Act 312 units have been to arbitration.

Reviewing the Union Brief, the Panel notes that the Union does not explain in any detail why the Wayne County communities it proposes are comparable other than to mention that Dearborn and Livonia were used in the Notte political race (See, U-9) and thus if the Mayor wants to compare them for his purposes they must be comparable in this matter. This analysis is flawed; it does not necessarily follow that political use is equated with the discretion that Section 9 provides a Panel in its consideration. Whatever the motive might have been for U-9 it is not relevant for Section 9 analysis. And the Union makes no specific argument for inclusion of Canton Township.

The Panel believes that cities should be compared with cities and this is consistent with the fact that the parties agreed upon three **cities** as comparable. Townships have different political structures but more importantly, they have significantly different taxing authority. They cannot levy as much general operational millage and their bonding

capacity is likewise limited. The southeast Michigan suburban townships are different from the norm in Michigan as to size and population and a reason why they could be offered in these proceedings. However, that anomaly does not change the analysis. Accordingly, for this proceeding, the Panel will not include Canton, Waterford, Clinton and Shelby. Even though the latter two are adjacent to SH and could be included for that reason alone, their 2010 taxable value is much less than SH and another reason to exclude them. (See, U-26, SH is ranked 2, Shelby 9 and Clinton 10 – Waterford is 11 and could be excluded for that reason.)

Turning to the remaining cities, SH argues that Livonia and Dearborn should be excluded because they are in Wayne County. While this is true, county lines are arbitrary boundaries and have little significance in Section 9 analysis especially in the highly populated and relatively homogenous quality of living environments in suburban southeast Michigan.

Union Exhibits 25-33 are helpful because they include all communities as they are rebuttal to the City exhibits that excluded information on the Union proposed communities.

Regarding population SH is 2, Dearborn 3, Livonia 4, and Southfield 10. (U-25) Dearborn and Livonia are more populous than Farmington Hills and Troy. U-26 shows that for 2010 taxable value, Troy is 1, SH 2, Livonia 3, Warren 4, Dearborn 5 and Southfield 8. U-28 shows 2010 population, square miles and population density and SH is 3, Dearborn 1, Warren 2, Southfield 5, Livonia 6, and Farmington Hills 9.

With respect to proximity, Livonia shares the Oakland-Wayne County line with Farmington Hills. Livonia would not be too remote from SH geographically. Dearborn would be more remote.

After reviewing all these factors, the Panel believes that Livonia is comparable as its population is within reasonable limits of SH; its taxable value is right behind SH, \$4,517 vs. \$4,843 and is contiguous with Farmington Hills, a stipulated comparable. \

The Panel will exclude Southfield as being significantly less populous, 71,739 to 129,699 and has a billion dollars less taxable value. Panels do not usually give weight to expiration of contracts as a critical criteria but in this case the Union has pointed out (U-27) that Southfield is the only proposed community that has an expired contract. The Panel accepts the argument advanced by the Union that could be significant as it pertains to the possibility of skewing the numbers on various issues of compensation and another reason for exclusion.

Dearborn is a very close call but the Panel will err on the side of inclusion and one more comparable will not adversely affect its deliberations. While somewhat further from SH, Dearborn is within the metropolitan area and could be within the same area that SH competes for employees and thus considered proximate. Dearborn's 2010 taxable value is slightly greater than Farmington Hills while about \$800 million behind SH. While Dearborn has 98,153 residents vs. 129,600 in SH, it is still ranked 2<sup>nd</sup> behind SH and thus can be viewed as comparable.

Thus, for this matter the Panel finds that Farmington Hills Troy, Warren, Livonia and Dearborn best meet the requirements of Section 9 as comparable communities.

As to internal comparables, the Union objects to inclusion of the District Court because the City is not the employer but rather the Court. While that may be true in an legal context, the City points out that it is the funding entity and that the City does the negotiations and handles many other aspects of the administration of the unit. The Panel adopts the City position that the unit is an internal comparable for the reasons stated above.

### **DISCUSSION of ISSUES**

#### **City Issue 1 - Duration**


This issue was previously decided by the Panel and a two year contract from July 1, 2011 to June 30, 2013 was AWARDED.


#### **City Issue 2 – Union Issue 1 and 2 - Wages**

Both parties have submitted identical LOB's on this issue of no pay increase for existing employees for the duration of the contract. Accordingly, no pay increase for July 1, 2011 to June 30, 2013 is AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

**City Issue 3 – Wages New Employees**

City's Final Offer of Settlement:

ARTICLE 30 – Salary and Wages and Appendix A shall be revised by adding the following new provision:

       ***New employees hired after July 1, 2011 shall be paid 15% below the wage rate in effect for current employees in each step for each position across the board.***

Effective Date: Date of Award

Union's Final Offer of Settlement:

Article 30 - Salary and Wages and Appendix A shall be revised by adding the following new provision:

       ***All new employees hired after the date of the award shall be paid 10% below the July 1, 2010 wage scale in each step for each classification across the board with the exception of the***

***top pay step. The top step of the new wage scale shall equal the top step listed on the July 1, 2010 wage scale.***

The reader can see that each party is asking for a rate reduction for new employees, the City 15% and the Union 10% but the parties differ on the base applied. The City wants the reduction on the rate for current employees on the date of this Award. The Union wants 10% below the July 1, 2010 wage scale.

However, this issue is essentially academic or of value for future negotiations as there is no current cost savings involved. *This is so because the City hasn't hired a new employee in year one and doesn't intend to hire any new employees and is planning on a layoff of five officers.* Under the Union offer, the City would save 10% over the first five years of employment since there are eleven steps to reach top pay and spread out over 60 months. SH says this is only a temporary fix as the employees would get to the current top of \$74,296. There is only one city, Warren, that has a two tier reduced wage tier and apparently UAW Unit 41 has agreed to a second tier.

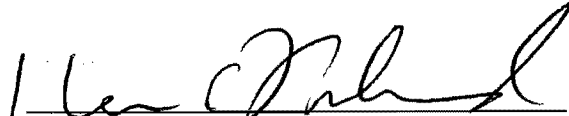
After review of all the information, the Panel finds that the Union offer more closely conforms to the Section 9 factors. There is little or no support for the City offer within the internal comparables. None of the internal units have a 15% wage reduction as the Panel perceives the record; some have agreed to overall concessions approximating that figure and that is what the City says they are seeking here, 15% overall. The emphasis has been on percentages and the case has not been presented as how the LBO's on an issue compare to the internal units on a dollar basis on that issue, assuming comparable language. Perhaps that could be gleaned from review of all

the MOU's but the Panel believes that is a difficult and onerous task.

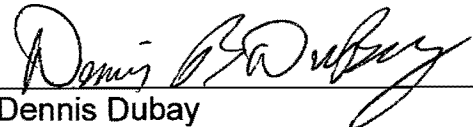
Under the City plan, it would create a two-tiered wage scale. The top pay would not be the same for all members of the unit creating some disharmony. The Union offer would avoid a true two tier system as the top pay would be the same for all with the difference being in the first five years. There would be savings as starting pay would be lower and would be applied to other benefits that are based upon wages. While the City desires to reduce the top pay, which is the highest of all comparables, this approach is over reaching. And this top pay was freely negotiated. On balance, the Union offer would save money in the first five years for new hires and avoid conflict within the unit by avoiding the two-tier system. This clearly would be in the best interest and welfare of the public should new employees be hired to the unit.

The Union offer is AWARDED.

Dated: September 17 2012

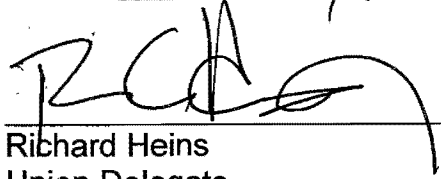


Kenneth P. Frankland  
Chairperson



Dennis Dubay  
City Delegate

Concur  Dissent



Richard Heins  
Union Delegate

Concur  Dissent



#### **City Issue 4 – Shift Premium**

##### City's Final Offer of Settlement:

Revise ARTICLE 37 – Shift Premium, Section 37.1 to provide as follows:

37.1 Effective ~~July 1, 2006~~ **[Date of Award]**, the rates for shift premium shall be as listed:

Afternoon Shift – ~~4%~~ **2%** of base hourly rate

Midnight Shift – ~~5%~~ **3%** of base hourly rate

Effective Date: Date of Award

##### Union's Final Offer of Settlement:

Maintain status quo.

The City is asking for a 2% decrease in the rate for premium shifts and the Union wants no change. The party seeking change in a contract has the burden to prove a necessity for the change. The primary reason cited by the City is to save money, \$52,780 for afternoons and \$23,708 for midnights. In the scheme of things this is not a large number but is consistent with the City approach to look at all sections of the collective bargaining agreement. Contrarily, the Union claims this is an example of overreach or overkill, that savings are available elsewhere without disrupting what has been a mutually negotiated benefit.

Currently, SH operates three, ten hour shifts for road patrol; afternoons, 4:45pm to 3:00am, midnights, 9:45pm to 8:00am, and an overlap, noon to 10:00pm. The latter is to assure coverage on the road. Shifts are filled on a seniority basis every six months. Officer Vohs testified less than 25 officers are assigned to afternoons, about 20 to the

cover shift and less than 25 to the midnight shift. Premiums are paid only if an officer is working. The Union asserts that shift premium is paid only on hours that are eligible for shift premium per the contract.

Per C-109, one external, Warren, has a percentage rate while Farmington Hills, Troy and Dearborn have a fixed number. Livonia pays no shift premium. C-110 shows that six internal units have a shift premium but all are expressed in numbers not percentage of hourly rate, including Act 312 eligible Command and dispatch.

The Panel finds that SH has not sustained the burden of proof why a change is in order given the relatively small dollar impact versus the negative impact upon police – City relations and morale. And the Panel has already determined SH has the ability to pay. There is no record information regarding the history of how the provision was inserted in the contract or why Police are the only unit to get a percentage rate. No internals have a percentage and only Warren of the externals. If the benefit is perceived to be overly generous and ripe for reduction, that should be taken up at the bargaining table not in this matter where more substantive and larger dollars are at issue. Frankly, the comparables suggest a change to a flat rate might be appropriate but that is not offered. But given the paucity of support in the record, the Panel believes the best interest of the public would be served by the status quo.

The Union offer of status quo is AWARDED.

Dated: September 17 2012

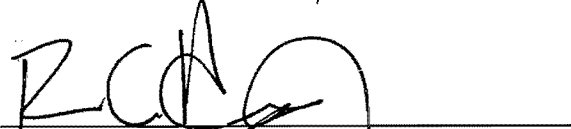
  
Kenneth P. Frankland

Chairperson



Dennis Dubay  
City Delegate

Concur \_\_\_ Dissent



Richard Heins  
Union Delegate

Concur  Dissent \_\_\_

**City Issue 5- Pension Contribution Rate and Base**

City's Final Offer of Settlement:

Revise ARTICLE 35 – Pension Plan by adding the following new contract section:

**All current employees covered by the defined benefit pension shall contribute 8% of their gross pay to the retirement system.**

Effective Date: Date of Award

Union's Final Offer of Settlement:

Revise Article 35 - Pension - As follows:

**Effective date of the award, all employees in the bargaining unit shall pay annually, eight (8%) percent of all wages used to compute Final Average Compensation, to the Sterling Heights Police/Fire Act 345 Pension system.**

There are five pension issues – if all City offers are accepted there would be savings in year two of \$649,966 and more after an actuarial evaluation. If all Union offers are accepted the year two savings are \$390, 048 plus the actuarial evaluation. While

they are separate issues, some have a bearing on others and the Panel must be cognizant of the interplay when making any one award. Clearly, pension issues are an area that could produce significant cost savings.

In this issue, the parties have agreed upon an 8% contribution rate but disagree upon what it will be based. SH wants gross wages as the base and the Union wants FAC. Gross pay would include any compensation that is not included in the FAC calculation. Currently, excluded from FAC is uniform allowance of \$1,500 and health care allowance. If uniform is included, officers would pay \$120 more per year. SH did not present exhibits or testimony on how external or internal units determine the base. Mr. Blessed explained the offer and the rationale was to shift some of the normal pension cost from the City to the officers. The Union argues this is an example of overreach since the Union tried to work with the City by agreeing to the 8% contribution rate that would be higher than the current 5% in Command, Dispatch and Police Clerical.

The Panel agrees with the Union that there is scant support in the record for the City proposal. The City appeal is an effort to shift some of its normal cost but the rationale is not well documented and the cost shifting is nominal. By applying the Section 9 factors the Panel is convinced the Union offer should be AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson



Dennis Dubay  
City Delegate

Concur  Dissent



Richard Heins  
Union Delegate

Concur  Dissent

### City Issue 6 – Pension FAC

#### City's Final Offer of Settlement:

Revise ARTICLE 35 – Pension Plan, Section 35.4 Three (3) of Ten (10), by adding the following new subsection to provide as follows:

- D. Section B above is subject to the limitation that for FAC calculation purposes employees can only have a maximum of 150 hours of vacation bought back at 100% upon retirement count towards the FAC calculation. A maximum of 50 hours of sick and personal time combined bought back at 50% at retirement may be used for FAC calculations.**

Effective Date: Date of Award

#### Union's Final Offer of Settlement:

Maintain status quo.

The City seeks to limit the amount of vacation and sick payout in computation of FAC. The Union wants to retain the current system of a maximum of 270 hours of vacation and 160 hours of sick leave. The City would limit the vacation hours to 150, a decrease of 120 hours, and sick to 50 hours, a decrease of 110 hours. This

translates to 17.5 days versus 43 days of vacation at 100% and 21/2 versus 15 days of sick at 50% according to the Union. Officers would still receive payout of the full value for their banks at retirement – just less for calculation of FAC.

While the Union characterizes the saving as negligible, the City says it would be \$243,702. Actuary, Denise Jones, testified that lump sum payouts increased pensions by 10%; the City proposal would reduce that to 3.3% and decrease the contributions by 2.15% based upon 2010 payroll. The Union Brief challenges Ms Jones' assertions claiming not all have maximum accumulations. However, they did not produce actuarial contrary evidence and this Panel finds Ms Jones' testimony convincing.

The SH DB is determined by FAC times 2.8% times years of service. Apparently the parties have not discussed changes to years of service nor the factor. Thus, if there is to be any change in the basic formula it must be in FAC. The City argues that the DB system is expensive and the UAAL is underfunded, presently at 68%. They seek a reform that would in its view assist in containing legacy costs and assist in the educational process for a future millage proposal. The Panel believes this to be a laudable objective.

SH argues that when officers retire with large sick and vacation banks, those payments skew the FAC causing the final year's compensation to be unusually high and not reflective of an employee's actual salary. Experience bears out this point. Per C-104 a typical officer at the top step receives wages of \$90,426 when all fringes are included. (Shift allowance, sick time buy back, longevity, holiday, overtime, compensatory and roll call.) This is generous by some accounts and yet well earned from the Union

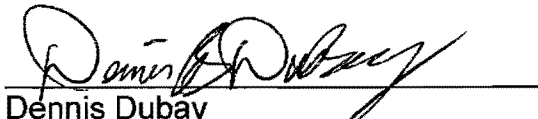
perspective. C-104a lists the 2011 W-2 taxable amounts for this unit and the average is \$96,391 higher than the C-104 total. These numbers when applied to the pension formula produces a substantial pension by themselves. These figures can be augmented by the inclusion of lump sum payouts in the last year of employment. Since officers are not eligible for Social Security, the Union says do not diminish the maximum pension that an officer might earn. While this is a valid statement, reality is that an officer has the opportunity to obtain Social Security eligibility as an officer can retire after 25 years of service without an age requirement and thus may have several years to acquire SS eligibility.


This is a very difficult issue for the Panel and both sides have presented compelling arguments for their position. But on balance the Panel finds that the City proposal makes sense as a step toward controlling legacy costs. At some point, you have to take a rather bold step if costs are to be controlled. Of the external comparables, only Livonia has a lump sum payout; Farmington Hills Troy, Warren, and Dearborn do not according to C-117. But, U-100 says Dearborn is a DC plan after 2005, Livonia after 1998 and Troy after 2000. Internally, the analysis is mixed. While several units would have payouts that are higher than the City proposal, the hourly base for the non-Act 312 units is substantially lower and the impact on pensions is not as large. For Act 312 units, the record is inconclusive as the Panel is not privy to what is being negotiated for the four expired contracts and those units are in negotiations or in Act 312 proceedings. When the Panel considers Section 9(a) (iii), (d), (e) and (g) these factors can be applied to this issue and the Panel believes these factors favor the City offer.

The City Offer is AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

**City Issue 7- Cadet Credit, Prior Law Enforcement Time**

City's Final Offer of Settlement:

ARTICLE 35 – Pension Plan shall be revised by adding the following new section:

***Employees hired after [Date of Award] shall not be covered under the City of Sterling Heights Police & Fire Retirement System current defined benefit retirement plan. Employees hired after [Date of Award] shall be covered under the City of Sterling Heights 401(a) defined contribution plan as administered by the ICMA (or equivalent). The City and the employee shall make contributions as follows:***

***Employer: 12% of earnings***  
***Employee: 5% of earnings***

***Employee vesting in employer contributions will be upon 7 years of service.***

***New hires in the defined contribution plan will be included in the defined benefit plan for duty and non-duty disability and death benefits and actuarially funded.***



**Duty Disability**

- a) **The City's liability for the retirement disability benefit shall be offset by the lifetime annuity value of the employee's 401(a) defined contribution retirement account, determined as of the effective date of the employee's disability related separation from service.**
- b) **Upon the employee's disability-related separation from service, the employee will elect whether to draw on the balance in the defined contribution account to supplement the employee's net disability payment.**

**Non-Duty Disability**

- a) **The City's liability for the retirement disability benefit shall be offset by the lifetime annuity value of the employee's 401(a) defined contribution retirement account, determined as of the effective date of the employee's disability-related separation from service.**
  - b) **Upon the employee's disability-related separation from service, the employee will elect whether to draw on the balance in the defined contribution account to supplement the employee's net disability payment.**
- 

Effective Date: Date of Award

Union's Final Offer of Settlement:

New Section Article 35 - Pension Plan.

**New employees hired after the date of the award shall be members of the Sterling Heights Police and Fire Act 345 pension system. The multiplier for the new employees shall be 2.0 for each year of service to a maximum of 75%, with the retiree health care plan available to them at the time of retirement. Should these employees not be able to participate in the retiree health care plan at the time of their retirement, their pensions shall be calculated using a multiplier of 3.0 for each year of service to a maximum of 75%.**

**The balance of the pension formula used to calculate the pension for employees covered by this section shall be the same as used to calculate the other pensions for the members of the bargaining unit.**

The parties have agreed to eliminate cadet credit so the dispute is about buyback for prior law enforcement time. The City wants to eliminate any buyback while the Union would permit three years of purchase at 100% of the total cost, if purchased within the first five years of employment.

The City does not present any specific argument in its Brief as to the merits of eliminating buybacks and why the Panel should adopt it other than the general statement from Ms. Jones that late purchase can create a loss – which she could not quantify. Rather, the City challenges the Union position that it is a reasonable compromise. Ms. Jones testified that there could be a cost as opposed to a savings as actuaries use average numbers to calculate the purchase price and since each case would be different, she could not quantify any numbers with certainty. The City presents an argument that if service time is purchase that would increase the retiree health costs and uses an illustration of four employees and would be required to provide five with retiree healthcare instead of four. The Panel is confused by the example but finds the comments unpersuasive to consideration of this pension issue.

To its credit, the Union addresses the current flaw that by waiting to purchase, say in year twenty-two of employment so as to meet the twenty-five year requirement, the system loses actuarial advantages of time to use the purchased amount. Ms. Jones said the closer a member is to retirement the more expensive the purchase but the contribution rate that is paid is an average of all the members and could produce a loss and thus elimination would prevent that loss. To address the late purchase, the proposal

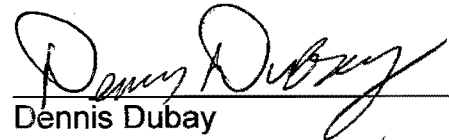
is to buy within five years of employment. Ms Jones said the sooner the contribution the better and if in the first year there may not be any cost and in the first five years would mitigate a lot of losses.

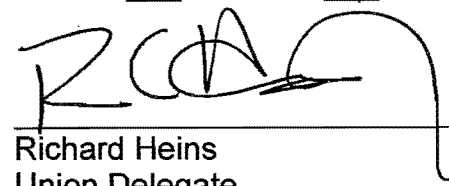
Applying the Section 9 factors, the Panel believes the Union offer would most conform to those factors. The problem of actuarial loss of the present system by purchase of service is not quantifiable and thus the magnitude of any saving is theoretical at best. Given movement by the Union to address and ameliorate a potential actuarial loss to the system there is little basis to scrap the system but the better solution is to keep the concept of buyback and force members to buy within five years. This makes sense and should help to address the potential actuarial problem.

The Union offer is AWARDED.

Dated: September 17 2012

  
\_\_\_\_\_  
Kenneth P. Frankland  
Chairperson

  
\_\_\_\_\_  
Dennis Dubay  
City Delegate  
Concur \_\_\_ Dissent

  
\_\_\_\_\_  
Richard Heins  
Union Delegate  
Concur  Dissent \_\_\_

**City Issue 8 – Defined Contribution for New Hires**

City's Final Offer of Settlement:

ARTICLE 35 – Pension Plan shall be revised by adding the following new section:

**Employees hired after [Date of Award] shall not be covered under the City of Sterling Heights Police & Fire Retirement System current defined benefit retirement plan. Employees hired after [Date of Award] shall be covered under the City of Sterling Heights 401(a) defined contribution plan as administered by the ICMA (or equivalent). The City and the employee shall make contributions as follows:**

**Employer: 12% of earnings**  
**Employee: 5% of earnings**

**Employee vesting in employer contributions will be upon 7 years of service.**

**New hires in the defined contribution plan will be included in the defined benefit plan for duty and non-duty disability and death benefits and actuarially funded.**

**Duty Disability**

- c) The City's liability for the retirement disability benefit shall be offset by the lifetime annuity value of the employee's 401(a) defined contribution retirement account, determined as of the effective date of the employee's disability related separation from service.**
- d) Upon the employee's disability-related separation from service, the employee will elect whether to draw on the balance in the defined contribution account to supplement the employee's net disability payment.**

**Non-Duty Disability**

- c) The City's liability for the retirement disability benefit shall be offset by the lifetime annuity value of the employee's 401(a) defined contribution retirement account, determined as of the effective date of the employee's disability-related separation from service.**
- d) Upon the employee's disability-related separation from service, the employee will elect whether to draw on the balance in the defined contribution account to supplement the employee's net disability payment.**

Effective Date: Date of Award

Union's Final Offer of Settlement:

New Section Article 35 - Pension Plan.

***New employees hired after the date of the award shall be members of the Sterling Heights Police and Fire Act 345 pension system. The multiplier for the new employees shall be 2.0 for each year of service to a maximum of 75%, with the retiree health care plan available to them at the time of retirement. Should these employees not be able to participate in the retiree health care plan at the time of their retirement, their pensions shall be calculated using a multiplier of 3.0 for each year of service to a maximum of 75%.***

***The balance of the pension formula used to calculate the pension for employees covered by this section shall be the same as used to calculate the other pensions for the members of the bargaining unit.***

In this issue, the City proposes to shift from a DB to a DC plan for new hires after the date of this award. The City would contribute 12% and the officers 5%. New hires would be eligible for the DB plan in the case of duty or non-duty disability. In response, the Union proposes to keep the DB plan for new hires but reduce the multiplier from 2.8% to 2.0% as long as retirees have access to health care but would rise to 3.0% if retiree healthcare was eliminated.

The rationale for the City is that all general employees are in a DC plan since 1997 and they want to do the same for police and fire units. (MAP, Command and IAFF are all covered by Act 312, the others are not.) Dispatch and Police clerical are in the DC plan. Externally, Troy, Dearborn and Livonia have DC plans. (C-121)

C-123 is an evaluation of the City proposal by Rodwan Consulting dated April 30,

2012 and uses the evaluation as of December 31, 2011. It concludes that City contribution at the 14.52% normal cost would decrease by \$1,283,979 if the plan was closed to new hires. The accrued liability would not go away but would be amortized over 25 years resulting in savings over the long haul. The City claims that the 12% contribution rate is equivalent to the City rate for general employees when the 4% is added to the 7.65% Social Security rate and the 1.45% Medicare contribution and thus there would parity amongst all City employees. The City further argues that to get the same benefit as the DB plan, Ms Jones testified that contributions would have to be at the normal cost of 14.52% along with the assumed 8% return on investments and since the combined contribution is 17%, the DC plan should produce an equal retirement benefit.

The Union argues that DC is not a pension but rather a tax-deferred savings plan where all the risk is on the employee that the annual interest rate is at least 7-8% and that the employees need not draw on that plan until late in life so as to maximize its potential. They suggest that the volatility in the market subverts the major assumption of the interest return and has no guarantee even close to that of the DB plan benefit.

The Union also asserts that the City offer does nothing to relieve the City legacy costs. Any decrease in costs would be very gradual according to Ms. Jones. Further, the normal cost savings would not accrue until there are actual new hires, and none are contemplated, and would not be great until most of the existing officers retire. The Union questions the cost of the disability aspects of the proposal and believes the plan is silent as to who bears those costs but it assumed it would be the City.

The Union offer of 2% would drop the City costs dramatically when and if new officers are hired. This offer was evaluated September 23, 2011 by Rodwan (C-86) and then again in April 2012. (C-123) Both reports emphasized the savings would be very gradual.

The Panel has carefully considered all side of this issue and concludes this is not the time to make a major, dramatic switch from DB to DC for new hires. It should be remembered that this is a concessionary proceeding limited to the two years of this contract and more specifically the second year. The shift has major policy considerations beyond the scope of this two year contract especially as there will be no new hires.

Shifting to DC is a major policy consideration and usually the parties present voluminous material regarding the advantages and disadvantages of each approach. This record has little on how each system works and why one or the other is better for either the Employer or the Employees. The chair has extensive experience in comparing one to the other. In the main, the chief difference is in the risk – in DB all is on the Employer and in DC all is on the employee. Persons with DB plans rarely move to DC voluntarily and indeed that was the testimony of Mr. Blessed – he did not switch when given the opportunity based upon his personal circumstances.

The certainty of the DB benefit for life is very valuable to an employee. The uncertainty of market volatility to ensure a consistent 8% return is a major drawn back of a DC plan. While the City argued that the combined contributions in DC would equate to the same value as a DB plan assuming 25 years of contributions, the Panel is very skeptical of that argument. More importantly, whatever is in the plan at retirement is all


the employee has to draw on for the rest of his life. It could well work out advantageously but the risk is too great when compared to the fixed benefit for life under the DB plan.


These are major considerations with long time consequences that should not be undertaken in this short contract. The City does have a strong argument based upon the internal comparables and some of the external comparables. It is true that the private sector has reverted almost exclusively to DC plans and that many public entities are also moving in that direction via new hires. But the timing is not right in this proceeding to undergo such a drastic change. Any monetary gains would not be realized in this contract as no new hires are contemplated. Better to let the parties live through this contract and then explore in greater detail this issue as their interests suggest.

Given that the Panel must accept one or the other and since the Panel will not accept the City offer then the Union proposal will be adopted. It does provide some normal cost relief should there be any new hires and that would be immediate.


The Union offer is AWARDED.

Dated: September 7 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur \_\_\_ Dissent



  
Richard Heins  
Union Delegate  
Concur  Dissent

**City Issue 9 – Deferred Retirement Option Plan (DROP)**

City's Final Offer of Settlement:

ARTICLE 35 – Pension Plan and APPENDIX D – DEFERRED RETIREMENT OPTION PLAN (DROP) shall both be amended by adding the following new provision:

***The DROP plan shall be closed as of [Date of Award] and no employee may be a participant after that date.***

Effective Date: Date of Award

Union's Final Offer of Settlement:

Keep the DROP plan with the following modifications:

Amend Appendix D DEFERRED RETIREMENT OPTION PLAN (DROP)

**A.** ~~Effective January 1, 2007, a~~Any Employee who is a member of the City of Sterling Heights Police Officers Association (hereinafter the "Police Officers Association") may at any time voluntarily elect to participate in the Sterling Heights Police and Fire Retirement System Deferred Retirement Option Plan (hereinafter "DROP") after attaining ~~20–25~~ years of service credit regardless of age. In addition; Employees otherwise qualifying for DROP Participation shall have a sixty (60) day window period commencing January 1, 2007 through and including March 1, 2007, during which eligible employees (those on active payroll as of January 1, 2007) may file a retroactive DROP election with the Retirement Board with an effective DROP date commencing July 1, 2006 or later at the Employees election. Upon commencement of DROP participation, the Participant's DROP Benefit shall be the dollar amount of his or her monthly pension

benefit computed by using the contractual guidelines and formula(s) that are in effect on the DROP Date. During DROP participation, the Participant continues with full employment status and receives all future promotions and benefit/wage increases, and is considered an employee of the City, not a retiree. The Participant's DROP Benefit shall be credited monthly to the Participant's DROP Account which shall be established within the Defined Benefit Plan of the City of Sterling Heights Police and Fire Retirement System (the "Retirement Board"). Upon termination of employment, the retiree shall ~~begin to receive payment or payments from his or her individual DROP Account as described herein.~~ **withdraw their accumulated balance within sixty (60) days after the last day of employment.** The DROP payment or payments are in addition to all other contractual pension benefits. The Participant is solely responsible for analyzing the tax consequences of participation the DROP.

**B. ELIGIBILITY**

~~Effective January 1, 2007,~~ **Any** member of the Police Officers Association may voluntarily elect to participate in the DROP at any time after attaining 20 . 25 years of service credit **including buy back time**, regardless of age. The member's election to participate in the DROP shall not operate to change or in any way modify the Retirement System's minimum requirement for a normal service retirement or pension.

**C. PARTICIPATION PERIOD**

Keep current language. No change.

**D. ELECTION TO PARTICIPATE**

Keep current language. No change.

**E. DROP BENEFIT**

Keep current language. No change.

**F. ANNUITY WITHDRAWAL**

Keep current language. No change.

**G. DROP ACCOUNTS**

For each individual DROP Participant, a DROP Account shall be created in which shall be accumulated at DROP Interest the Participant's DROP Benefits. All DROP Accounts shall be maintained for the benefit of each DROP Participant and will be managed by the Retirement Board in the same manner as the primary pension fund. DROP Interest for each DROP Participant shall be at a fixed rate of 4.0% per annum with interest credited on the first day of each month on the prior month's principal and interest balance. ***Effective date of the award for all persons entering on or after the date of the award, interest on balances in the DROP Account shall be paid at 50% of the rate of return earned by the Sterling Heights Police and Fire Pension System. The rate of interest to be paid to the DROP participants cannot exceed 4% per annum nor can it be less than 0% per annum.***

The Retirement Board shall provide each DROP Participant with an annual statement of his or her account activity. The reference to individual DROP Accounts shall be interpreted to refer to the accounting records of the Police and Fire Retirement System and not to the actual segregation of moneys in the funds of the Police and Fire Retirement System.

#### **H. CONTRIBUTIONS**

The Employee's contributions to the Police and Fire Retirement System shall cease as of the Participant's DROP Date for each Employee entering the DROP. ***All DROP Participants, including those members currently in the DROP plan, shall contribute ten (10) percent of base wages to the retiree Health Care Trust (VEBA) while participating in the DROP. Upon termination, this contribution will cease.***

The payroll of DROP Participants will be included in the covered compensation upon which regular City contributions to the Police and Fire Retirement System are based. Employer contributions shall be credited to the Retirement System and not to any individual's DROP Account.

#### **I. DISTRIBUTION OF DROP FUNDS**

Upon termination of employment, the former DROP Participant must choose one, or a consistent combination, of the following distribution

methods to receive payment(s) from his or her individual DROP Account:

- 1) A total lump sum distribution to the Participant/recipient;
- 2) A partial lump sum distribution to the Participant/recipient;
- 3) A lump sum direct rollover to another qualified plan to the extent allowed by federal law and in accordance with the Retirement Board's rollover procedures;
- 4) An annuity payable for the life of the Participant/recipient;
- 5) An optional form of annuity as established by Public Act 345 or 1937, as amended; or
- 6) ~~No distribution, in which case the accumulated balance shall remain in the Plan to the extent allowed by federal law.~~ **Employees exiting the DROP participation, must withdraw all of their accumulated balance and DROP funds within sixty (60) days after the last day of employment.**

~~Lump sum or partial lump sum distributions which would exceed Internal Revenue Code Section 415 limits will not be authorized. A former Participant may change his or her distribution method as may be applicable no more than once per year prior to June 30<sup>th</sup> of each year in accordance with such procedures and time guidelines as adopted by the Retirement Board. A former Participant may elect a total lump sum distribution for any remaining balance in his or her DROP Account at any time after termination of employment which will be paid within 90 days after receiving the former Participant's request. All benefit payments under the Plan shall be made (or commence in the case of an annuity) as soon as practical after entitlement thereto, but in no event later than the April 1<sup>st</sup> following the later of:~~

- ~~1) The calendar year in which the Participant attains age 70-½, or~~
- ~~2) The calendar year in which the Participant's employment is terminated.~~

**sixty-one (61) days after the Participant's last date of employment.**

~~If the Accumulated Balance in any former Participant's account becomes less than \$5,000 (or such other amount as provided in Internal Revenue Code Section 411(a)(11)(A)), then the Retirement Board, in its sole discretion, shall have the option of distributing the former Participant's entire account, in the form of a lump sum, to the former Participant.~~

Any and all distributions from the Participant's DROP Account shall not be subject to offset by any worker's compensation wage loss payments received by the Participant, including any redemption amounts.

**J. DEATH DURING DROP PARTICIPATION**

Keep current language. No change.

**K. DISABILITY DURING DROP PARTICIPATION**

Keep current language. No change.

**L. SPECIAL PROVISION FOR DUTY DISABILITY AND DUTY DEATH**

Keep current language. No change.

**M. PROMOTION**

Keep current language. No change.

**N. INTERNAL REVENUE CODE COMPLIANCE**

Keep current language. No change.

Currently, the contract includes a DROP plan whereby an employee with 20-25 years of service can begin to draw a pension, which is paid into an account within the retirement system. The pension is frozen and based upon 20 years of service and can last for five years up to actual retirement and the total with interest is paid in a lump sum. The account accrues interest at 4% per year. The employee continues to work for the

City, receiving full pay and benefits, and then, upon leaving the City, receives the lump sum of up to five years and accrued interest. The employee then draws his normal pension.

Mr. Blessed testified that payouts are not uncommon in the \$380,000 range. The City proposes to eliminate the DROP plan for anyone not already participating in the system. Ms Jones testified that after 20 years, a member in DROP receives 56% of the FAC as a pension and if the person works until 25 years, the pension is 70% of FAC. When entering DROP, payments are capped at 20 years of service and any increase in FAC over the last five years is not considered. Thus, if DROP is eliminated, the prospective pensioner would receive any increase in FAC and would also eliminate the 56% cap and permit a greater pension up to the maximum permitted by the contract. ✓

The Union has countered with a revision of the current DROP plan that it says will match or exceed a 1.35% saving or \$153,022; the number that Ms. Jones determined would be the savings if the plan was eliminated going forward. (See, C-86, Jones evaluation of several pension options on September 23, 2011.) They see this as a major concession in order to keep a program they assert is used to fund half of the premium for retiree care. As an aside, this statement was not fully explained or fully developed in the record. ○

There are three components. First, entry would not occur until 25 years of service, including any buyback time. (Currently, entry can be after 20 years.) This is intended to slow the entry and lessen any adverse actuarial impact. Ms Jones could not quantify the actuarial impact.

Second, within sixty days of retirement, the person must leave the DROP plan. Currently, the plan pays 4% on those assets and may act as is a disincentive to withdraw the money immediately.

Third, the Union proposes to eliminate the fixed 4% interest rate by a formula of 50% of the System annual return not to exceed 4% or go below 0%. The member would get the 4% in a year in which the fund had at least 8% rate of return but would have a diminished rate should the system return less than 8%.

While in DROP, members do not contribute to the pension plan but would contribute 2% to OPEB per another issue in this case.

The Chair is deeply conflicted on this issue. No matter the decision there should be a savings realized. But, the concept of a DROP program is hard to explain to a citizen on the street and seems like a paradoxical situation. The reader can see from C-180 and J-15 some of the pension amounts and the drop amounts and they are substantial. How does one explain that a person is able to work and receive full wages and benefits and yet be able to get a "retirement" benefit at the same time? How does one "retire" yet still work? The parties both say this provision was inserted in 2006, the expired contract, apparently to provide assets to pay for retiree health as the Union claims. But now, SH argues that whatever the purpose and motivation of the parties, DROP is too expensive, creates actuarial uncertainty and the public perception of a windfall, a double-dip if you will, is prevalent in the community. Elimination would go a long way toward changing public perception and enhance the chances of a positive vote should a police millage be placed on the ballot.

Rather than defending the concept of DROP, the Union has instead offered changes to make the system work better. In essence, don't throw out the baby with the bath water, better to tweak the system. The Chair is troubled whether the "fixes" will produce the projected savings and if so are they permanent or one time? Moving to 25 years could be effective, without including buyback time, as that is the present earliest retirement age. With no age requirement, an officer can leave at a relatively young age, be removed from the dangers of law enforcement and look to other wage earning capacities and have a vested set pension for life. It is not surprising that officers would elect to retire as soon as possible and with the DROP plan an additional asset is available to maintain a standard of living. With buyback included, a person could still enter DROP at 22 years of service. One could question how that materially helps the situation and slows retirement. Tweaks to the interest return and requiring withdrawal within 60-days does nothing to address the structural/conceptual issue of rewarding early retirement and would seem to be problematic as to slowing down those entering DROP.

The Chair is concerned that an awarded change for this short contract may have effects long after the contract ends. I have mentioned this in other issues. I am also mindful that this proposal is on the table with Command and Fire, as those contracts expire, and the result here could play a significant role in those deliberations. But putting those reservations aside, the Chair returns to the original question, how does DROP affect the financial viability of the City moving forward? Is it really too expensive in the long run? Was this a bargaining anomaly that the parties did not intend to last forever? I am sure the Union once having obtained the benefit for its members would argue it was



intended to last and was obtained by giving other things at the table. It was also bargained when the coffers were full – now they are not full for the reasons outlined above.

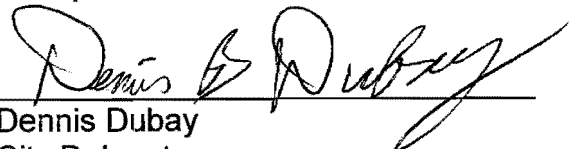
When Section 9(a)(ii), (d) (e) and (g) are applied to this issue, the Chair is of the opinion that the City offer should be accepted. No accepted comparable has such a plan. Internally, Command and Fire have this option but no other units. Based upon this record, the Chair finds that DROP is expensive and elimination will save \$153,000 annually. The perception of a double-dip, whether imagined or real, will be eliminated. The City offer will only apply to future retirees and not those currently in DROP thus there is no takeaway from members. Elimination will have the effect of increasing some pensions because up to five years of FAC will be available but it seems that will be offset by the present payouts and could slow down the rate of earlier retirements that Ms. Jones said were identified in the study preceding the most recent evaluation. She pegged those at 5% for each age between 20-25 years of service.

Accordingly, for the above reasons, the City offer is AWARDED.

Dated: September 17 2012

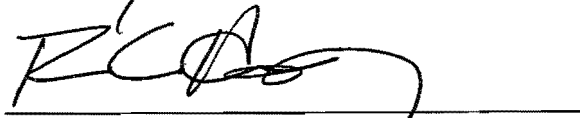


Kenneth P. Frankland  
Chairperson



Dennis Dubay  
City Delegate

Concur  Dissent



Richard Heins  
Union Delegate  
Concur \_\_\_ Dissent XX

RECAP – DASHBOARD - SAVINGS PENSION ISSUES

Issue	City	Union
5		\$225,571
6	\$243,702	
9	\$153,022	
TOTAL	\$622,273	

**City Issue 10 - Longevity**

City's Final Offer of Settlement:

ARTICLE 38 – Longevity, Section 38.1 shall be revised to provide as follows:

38.1 Longevity pay shall be paid on the following basis effective July 1, 2006 **[Date of Award]**:

- ~~\$1,500~~ **\$1,000** after 5 years of continuous service
- ~~\$2,800~~ **\$1,865** after 10 years of continuous service
- ~~\$4,100~~ **\$2,731** after 15 years of continuous service
- ~~\$5,500~~ **\$3,663** after 20 years of continuous service

Effective Date: Date of Award

Union's Final Offer of Settlement:

38.1 Longevity pay shall be paid on the following basis: effective ~~July 1, 2006.~~

- \$1,500 after 5 years of continuous service
- \$2,800 after 10 years of continuous service
- \$4,100 after 15 years of continuous service
- \$5,500 after 20 years of continuous service

**NEW 38.2 Longevity pay shall be paid on the following basis beginning with the first anniversary date following the effective date of the award:**

- \$1,200 after 5 years of continuous service**
- \$2,400 after 10 years of continuous service**
- \$3,600 after 15 years of continuous service**
- \$4,800 after 20 years of continuous service**

***Renumber rest of the article and keep the current language.***

The City offer proposes to cut the longevity schedule by 1/3. The Union offer also reduces the schedule in the range of \$300-\$700 depending on years of service. It also would start on the first anniversary date following the effective date this Award whereas the City offer would be effective on the date of this Award.

SH claims longevity costs \$370,000 and its offer will save the City \$153,000. SH asserts that the savings will occur and yet the officers will still be in line with external (C-128) and internal comparables. (C-129) Given the overall compensation package enjoyed by officers this savings should have little impact on the members according to SH.

The Union offers a reduction but not as great as the City. It says per amended C-

106, that it calculates the employer saving as \$122,078 and the Union offer as \$51,300. Further, the Union points out that 2011PA 54 that froze benefits of an expired contract caused a loss of \$38,000 in otherwise longevity increases. Since the rates are a fixed number per tier, the Panel assumes the Union argues that some members would have moved to the next tier and would have received an increase but for Act 54.

The Union characterizes legislative mandates as “concessions”; the City refutes that as employees have not voluntarily given up something, the most common definition of concession, these are required by law. Of course the City has the benefit of less costs per these legislative mandates but argues those are already built into the budget process and they are seeking, in this proceeding, true reduction of benefits, its definition of “concessions”. The Panel agrees with the City that legal mandates are not “concessions” but the Panel cannot ignore them and should give some weight to the equitable considerations of how those changes affect the total compensation of officers and will do so on this issue and further issues.

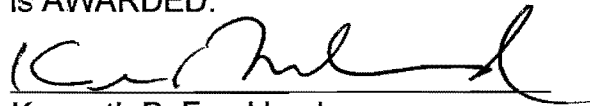
The Panel believes that the City offer more closely conforms to the Section 9 criteria. Either offer will exact a savings; we are only discussing how much. The external comparables, C-128 are a mixed bag of fixed number and rates and offers little insight on this issue. All comparables do have longevity and thus the City was foresighted in abandoning its original position of elimination of longevity. Internal comparables are helpful as all but three units have longevity and both offers here would compare favorably with internal units, some better, some slightly lower.

On balance, the City offer does save \$153,000 and the Panel assumes the

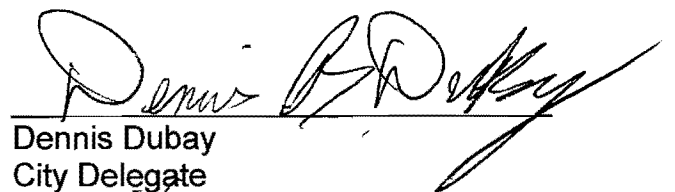
numbers are accurate since it would be a daunting task to perform an independent analysis. The Panel is a very concerned that the Union proposed reductions would not occur until the first anniversary after this Award and would not have an immediate saving in this contract, one of the objectives. This award would be a framework going forward and may be of assistance to the parties in future negotiations. The Panel is cognizant of the equitable argument raised by the Union that some consideration should be given to the law mandates and that mandates coupled with this Award would lower the members overall compensation package. While that is an accurate comment, it has less weight on this issue and less persuasive.

For the foregoing reasons, the City offer is AWARDED.

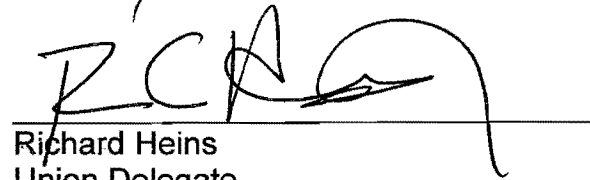
Dated: September 17 2012



Kenneth P. Frankland  
Chairperson



Dennis Dubay  
City Delegate  
Concur  Dissent



Richard Heins  
Union Delegate  
Concur  Dissent

**City Issue 11 – Deferred Compensation**

City's Final Offer of Settlement:

ARTICLE 42 – Miscellaneous, Section 42.8 Deferred Compensation shall be eliminated from the contract.

Effective Date: Date of Award

Union's Final Offer of Settlement:

Article 42.8 ~~Effective July 1, 2006,~~ the City shall annually contribute \$700 to each officer's established deferred compensation plan. This contribution shall be made through the bi-weekly pay. ***Effective date of the award, beginning with the first bi-weekly pay following the date of the award, the Employer payments to the employees deferred compensation plan shall be suspended and will stay suspended throughout the term of the collective bargaining agreement. By mutual agreement, the length of the term of suspended deferred compensation payments may be extended. The Employer will not be obligated for any lump sum deferred compensation payments at the end of the contract.***

Currently, the City contributes \$700 per year to a 457 deferred compensation plan. This costs about \$80,000 per year. The City proposes to eliminate this contribution from the contract. The Union, in response, presents another way to save the same \$80,000 – namely by suspending the payment on the first bi-weekly pay following the date of this Award until June 30, 2013. Further, the Union offers language to allow the parties to mutually agree to continue suspension of the program after June 30, 2013.

C-131 shows that no external comparable has a deferred plan and thus a basis for the City offer. Internally, C-132 shows that two units have discontinued the plan, four still have a plan (Command, Fire, Police Clerical and Dispatch) and five have suspended the plan for FY 2011-2012.


The Panel finds this issue easier to resolve than others and will adopt the Union

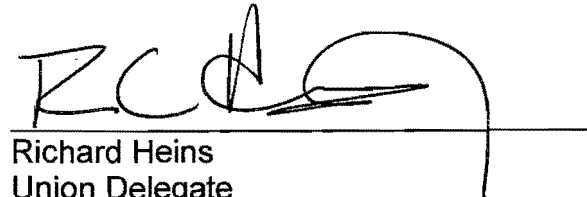
offer. First, the Panel is attempting to resolve conflicting offers in this case so as to approximate the concessions that have been obtained from internal units. Second, the Panel has tried not to terminate something and leave the parties to bargain unless the proofs show that termination is the best option. Here, that is not the case. Third, the Union has essentially copied the concession in five units and thus will save the City the estimated \$80,000 without relinquishing the benefit and leaving for another day the merits of elimination. The City still has the option to obtain elimination / suspension with the four units that are in negotiations and could revisit elimination with this unit in the future.

For the foregoing reasons, the Union offer is AWARDED

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

## City Issue 12 - Holidays

### City's Final Offer of Settlement:

ARTICLE 29 – Holidays, Section 29.1 – Holidays, subsection C shall be revised to provide as follows:

- C. Working on Holidays. Only “essential” officers as determined by the Chief of Police will work on holidays. All officers whose normal work schedule falls on a holiday, but are not required to work, will receive their normal rate of pay and will not have to expend any accumulated time. **not receive pay for the holiday.**

Officers who work on any of the holidays listed below, shall receive ~~double time~~ **time-and-one half (1½)** for each hour worked on said holidays. This is in addition to all other holiday pay provisions.

New Year's Day	Martin Luther King, Jr. Day
Easter	Memorial Day
July 4 <sup>th</sup>	Labor Day
Veterans' Day	Thanksgiving
Day after Thanksgiving	December 24 <sup>th</sup>
Christmas Day	December 31 <sup>st</sup>

Second “Section C” shall be amended to provide as follows:

- C. Overtime Work on Holidays. All overtime work on holidays, i.e., work in excess of an officer's scheduled work day, including fifteen (15) minutes for shift preparation, shall be paid at time-and-one half (1½) of the regular holiday premium ~~double time~~ **time-and-one half (1½)** rate. The holiday overtime rate, totaling ~~three (3)~~ **two-and-one quarter (2¼)** times the base rate shall apply when overtime hours worked are attached to regularly scheduled hours which begin on the holiday. The holiday rate shall also apply to call-in situations in excess of regularly scheduled hours worked on the holiday.



Time-and-one half (1½) the normal premium holiday double time rate will not, however, be paid to officers in call-in situations because of sickness, vacation, or other absences of other officers. Rather, officers called in to work on a holiday on other than their scheduled day will be paid only the normal holiday premium double time **time-and-one half (1½)** rate.

Effective Date: Date of Award

Union's Final Offer of Settlement:

Article 29 - Holidays

Union agrees to eliminate current Section A of Article 29 and re-letter the subsequent sections of Article 29. Replace current Section A, with the following:

**New Section 29.1 A**

***Officers shall earn 100 hours of holiday pay during each fiscal year. Said holidays will be earned at a rate of 8.33 hours for each month from July 1 thru June 30, to be paid in November of said fiscal year. The rate of holiday pay shall be based upon the Officer's base rate of pay on the date payment is made. For purposes of probationary Officers, or Officers who's [sic] employment is terminated, the earnings of paid holidays shall be pro-rated at the rate of 8.33 hours holiday pay for each month of employment projected through June 30. Said pro-ration to be commenced on the first calendar day of the month. Officers [sic] hired after the date holiday pay is granted shall receive the pro-rated share on or before June 30.***

29.1 B. ~~Effective July 1, 2008,~~ Officers shall earn 100 hours of holiday pay during each fiscal year. ***(Rest of current contract language in Section 29.1 B is to be continued in the new agreement unchanged.)***

29.1 C. Working on Holidays. Maintain current contract language. No change.

29.1 ~~C~~ D. Overtime Work on Holidays. Maintain current contract language. No change.

On this issue, the Union claims the City has displayed gamesmanship by changing their negotiations requests for concessions (C-133) with a slightly different LBO. Specifically, the City has eliminated proposed changes to Sections A and B and offers changes to C and D. The Union offer essentially keeps the old contract by offering to keep A and B and asking for no change in C and D.

Police agencies work 24/7 thus someone must always be working on holidays. The parties have historically accommodated this reality by agreeing to pay all officers for holidays in one lump sum, calculated at 100 hours of base pay per each fiscal year. Current Section B (C-1) says, "Said holidays will be earned at a rate of 8.33 hours for each month from July 1 through June 30, to be paid in November of said fiscal year."

The City does not propose to change this formula although it did have a different configuration on the table as the Union has noted. Instead, the City proposes to change section C by eliminating the payment of a holiday that a non-essential officer who did not work that holiday currently receives. The City also seeks to amend Section D by reducing the holiday premium from double (2x) to time and one half (1.5x). The Union does not want these reductions and thus maintain the status quo.

SH argues that officers are compensated for holidays per Section B and does provide premium pay for holidays. The proposal here would save \$257,590 by eliminating non-essential pay and \$40,934 on reduced premium pay.

The Union presented testimony regarding negative impacts especially upon detectives whom the Chief has designated as non-essential. Officer Kovalchik testified

that there are 27 investigators in the detective bureau and they pick by seniority which holiday(s) they wish to work. These officers typically work either of two eight hour shifts, Mondays through Fridays but are not scheduled to work weekends. This Bureau has been deemed non-essential except for three officers per holiday. Thus, up to 24 officers could be affected if all were scheduled to work when a holiday falls in that week. The record is unclear how many detectives are regularly assigned per shift. The Union argues this adversely impacts this segment of the Union and would do so only because the Union previously negotiated permission for the Chief to designate non-essential personnel. They believe that the City is reneging on this previous bargaining concession.

On this issue, in the context of a concessionary proceeding, the City offer more closely conforms to the Section 9 criteria.

Like many other issues, the context of choosing between competing offers with the goal to approximate the concessions achieved from other internal units, does not lend itself to what might happen in a non-concessionary environment. The concept advanced by the City is logical, should a non-essential employee be paid for not working a holiday when that person is already being paid for holidays in a lump sum arrangement. It clearly has appeal to the man on the street. But, would the City have made this proposal in a non-concessionary bargaining session? That's debatable. Holiday pay arrangements are coveted benefits especially in law enforcement that must be on duty 24/7. Thus, different arrangements might be made for them as opposed to other employees. It is not comparing apples to apples. But this Panel must choose one offer and putting aside the fact this proposal seems to affect a only small segment of the

membership, the Panel must find ways to reach targets, and the non-essential proposal is one of those that helps to meet the target.

When the Panel says targets, that does not mean a specific percentage or specific dollar number, but rather a range that would approximate what this unit might be considered to contribute as its share given the concessions obtained from other units.

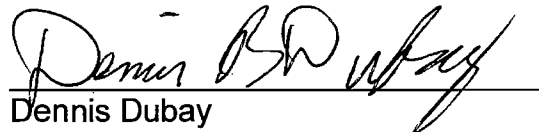
The Parties have presented summaries of the concessions in percentages not specific topics. (See, table at page 7, *supra*) A review of the MOU's suggest a pattern of topics involving wage freezes, pension contributions, suspension of deferred compensation, four unpaid furlough days and four unpaid holidays. We note these are for FY 2011 and some also are for FY 2012. The concept of not paying non-essential employees has merit as the City has pointed out that employees do get consideration for the holidays per se. Those that do work will be compensated, those that do not, will not receive the extra compensation. The Panel does recognize that this would be a change in the language and could have future impacts during negotiations. But we must make choices and this is a specific cost savings that could occur on an annual basis.

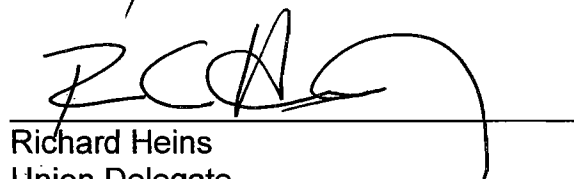
As to Section D, there was little testimony and little argument in the Briefs. The holiday premium for working that day, 1.5x the rate of pay, does have support in the external comparables in Troy, Warren and Dearborn (same rate). Internally, non police and fire units rarely are required to work a holiday and if called in generally get 2x. This does not equate to the Police situation and is not a good comparison. The better argument is to look at the external, other police agencies for comparison and they do support this part of the offer. This part of the issue will save \$40,934.

Accordingly, the City offer is AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

**City Issue 13 – Health Benefits**

City's Final Offer of Settlement:

ARTICLE 31 – Health Benefits, Sections 31.1 – 31.7 shall be revised to provide as follows:

31.1 The basic medical and hospitalization coverage for officers employed by the City as of February 1, 2007 shall be Blue Cross/Blue Shield Community Blue Plan 10. ~~Appendix B titled Community Blue PPO Benefits at a Glance Plan 10 A is a summary of covered services, including deductibles, co-pays, and co-pay dollar maximums.~~ **4 modified with \$100 ER rider and \$20 office visit co-pay.**

Officers shall have the option to select ~~Health Alliance Plan (HAP)~~

~~HMO coverage, or Coalition of Public Safety (COPS) Trust Plan as an optional health care provider. The illustrative rates determined by the base coverage, currently BC/BS Community Blue Plan 10 **4 modified with \$100 ER rider and \$20 office visit co-pay.** shall be the rates used to determine any excess cost an officer would be responsible to pay. Officers electing any option that becomes more expensive than the base coverage will have the difference in illustrative rate or premium **up to the hard dollar cap** deducted from their payroll check on a monthly basis. **In addition, the employee will be responsible for any city costs of basic medical and hospitalization coverage and prescription drug coverage in excess of the Public Act 152 hard cap amounts.**~~

~~31.2 For all new officers hired after July 1, 2006, the basic medical and hospitalization coverage shall be Blue Cross/Blue Shield Community Blue Plan 10 as modified. Appendix C titled Community Blue PPO Benefits at a Glance Plan 10-B is a summary of covered services, including deductibles, co-pays and co-pay dollar maximums. All optional health care plans will be available as indicated above. Officers electing any option that becomes more expensive than the base coverage will have the difference in illustrative rate or premium deducted from their payroll check on a monthly basis.~~

~~31.3 The City reserves the right to change the BCBSM or HAP benefit providers with 90 days prior written notice while maintaining the existing coverage levels. A new open enrollment period will be offered to employees if the City elects this right.~~

~~31.4 **31.2** Effective February 1, 2007, prescription **Prescription** coverage will be provided **with \$15/\$30/\$50 prescription drug co-pays with mandatory generic drugs and step therapy.** by ScriptGuide Rx with a generic prescription co-pay of \$0.00 and brand name prescription co-pay of \$15.00. After one year (February 1, 2008), the City reserves the right to solicit proposals for pharmacy services that provide comparable benefit coverage.~~

~~31.5 **31.3** Health Care Allowance. The Employer provides a program to coordinate and to eliminate overlapping medical coverage. Officers who choose not to join an Employer sponsored health plan and whose spouse or parent has coverage, shall be paid ~~One Thousand Five Hundred (\$1,500)~~ **Three Thousand (\$3,000)** Dollars each year for every year that the spouse or parent has~~

coverage. Payments will be made annually, in December, to each officer who has not been on an Employer sponsored health care program, except that payments will be prorated monthly to meet the dates the officer first participates and/or ends participation in this program. Officers shall be required to show proof that a spouse or parent has health care coverage that includes the officer and their dependents before the officer will be declared eligible to receive the annual payment.

**31.6 31.4 Re-Enrollment Protection.** Officers whose spouse's or parent's health care plans cease to cover the officer and their dependents, must re-enroll in an Employer sponsored health care plan. In such cases, the officer shall be allowed to enroll in an Employer sponsored plan immediately subject to the appropriate health care provider's implementation.

**31.7 31.5** If an officer's spouse works for the Employer or the 41-A District Court, the officer will not be eligible for any medical coverage provided by this Agreement, but will instead be provided the health care allowance of One Thousand Five Hundred ~~(\$1,500)~~ **(\$1,000)** Dollars. If the officer's spouse elects to take the health care allowance, the officer covered by this Agreement may keep the health coverage. In no case will married City employees both receive medical coverage. All officers/dependents shall be entitled to the dental coverage.

**Effective Date:** Date of Award

Union's Final Offer of Settlement:

31.1 The basic medical and hospitalization coverage for officers employed by the City as ~~of February 1, 2007~~ shall be Blue Cross/Blue Shield Community Blue Plan 10. Appendix ~~B C~~ titled Community Blue PPO Benefits at a Glance Plan 10 ~~A C~~ is a summary of covered services, including deductibles, co-pays, and co-pay dollar maximums. ***This plan will be modified to include a \$20 office visit (OV) rider, a \$100 ER rider and co-insurance of 80/20 with maximum out of pocket of \$500/\$1,000 in network and \$4,000/\$8,000 annual out of network costs. Deductibles are \$250/\$500 in network and \$500/\$1000 annual out of network.***

Officers shall have the option to select ~~Health Alliance Plan (HAP) HMO coverage,~~ or the Coalition of Public Safety (COPS) Trust Plan

an optional health care provider. ***The current COPS coverage is to be amended as follows effective as soon as the provider can implement following the award, \$20 office visit, \$100 dollar ER co-pay. Annual deductibles are \$250/\$500 for in network benefits. There is no co-insurance.*** ~~The illustrative rates determined by the base coverage, currently BC/BS Community Blue Plan 10, shall be the rates used to determine any excess cost an officer would be responsible to pay. Officers electing any option that becomes more expensive than the base coverage will have the difference in illustrative rate or premium deducted from their payroll check on a monthly basis.~~

***Officers selecting a health care provider whose rates exceed the premium amounts set by P.A. 152 known as the "hard cap" rates will pay the difference through payroll deduction. Any deductions for premium sharing made by employees, shall be done on a pre-tax basis in accordance with I.R.S. rules.***

***Since the Employer is self-insured with Blue Cross/Blue Shield of Michigan, the unadjusted illustrative rates quoted in the BC/BS annual rate renewal package shall be used for purposes of determining the cost of the medical benefit plan. Dental rates and vision rates will not be added to the illustrative rates for determining employee premium sharing for purposes of P.A. 152.***

***Should the State mandated hard cap rates be adjusted during any year, then the employee premium sharing shall also be adjusted accordingly. Premium sharing under P.A. 152 will not apply to retirees receiving retiree medical from the Employer.***

~~31.2 For all new officers hired after July 1, 2006, the basic medical hospitalization coverage shall be Blue Cross/Blue Shield Community Blue Plan 10 as modified. Appendix C titled Community Blue PPO Benefits at a Glance Plan 10 B is a summary of covered services, including deductibles, co-pays and co-pay dollar maximums. All optional health care plans will be available as indicated above. Officers electing any option that becomes more expensive than the base coverage will have the difference in illustrative rate or premium deducted from their payroll check on a monthly basis.~~

31.32 The City reserves the right to change the BCBSM or HAP benefit provider with 90 days prior written notice while maintaining



the existing coverage levels. A new open enrollment period will be offered to employees if the City elects this right.

31.43 ~~Effective February 1, 2007, prescription~~ **Prescription** coverage will be provided **with prescription drug co-pays, mandatory generic drugs and step therapy by ScriptGuide Rx with a generic prescription co-pay of \$10.00 and brand name prescription co-pay of \$30.00 utilizing ScriptGuide's modified formulary list of prescription drugs.** ~~After one year (February 1, 2008), the City reserves the right to solicit proposals for pharmacy services that provide comparable benefit coverage.~~

**ScriptGuide Rx will provide the Employer and the Union with quarterly plan performance outcomes. Over-performance in one quarter may be used to offset under-performance in a subsequent quarter.**

31.54 Health Care Allowance. The Employer provides a program to coordinate and to eliminate overlapping medical coverage. Officers who choose not to join an Employer sponsored health plan and whose spouse or parent has coverage, shall be paid ~~One Thousand Five Hundred (\$1,500)~~ **Three Thousand (\$3,000)** Dollars each year that the spouse or parent has coverage. Payments will be made annually, in December, to each officer who has not been on an Employer sponsored health care program, except that payments will be prorated monthly to meet the dates the officer first participates and/or ends participation in this program. Officers shall be required to show proof that a spouse or parent has health care coverage that includes the officer and their dependents before the officer will be declared eligible to receive the annual payment.

31.65 Re-Enrollment Protection. Officers whose spouse's or parent's health care plans cease to cover the officer and their dependents, must enroll in an Employer sponsored health care plan. In such cases, the officer shall be allowed to enroll in an Employer sponsored plan immediately subject to the appropriate health care provider's implementation.

31.76 If an officer's spouse works for the Employer or the 41-A District Court, the officer will not be eligible for any medical coverage provided by this Agreement, but will instead be provided the health care allowance of One Thousand Five Hundred (\$1,500) Dollars. If the officer's spouse elects to take the health care allowance, the officer covered by this Agreement may keep the health coverage. In

no case will married City employees both receive medical coverage.  
All officers/dependents shall be entitled to the dental coverage.

The City's original proposal provided only one health care option: Blue Cross Blue Shield Plan 4 Modified. The City's final offer would change the base healthcare plan from Community Blue Plan 10 (CB10) to Community Blue Plan 4 Modified (CB4M) with a \$100 ER Rider and a \$20 office visit co-pay. The City's final offer would also modify the prescription drug coverage to \$15/\$30/\$50 co-pays with mandatory generic drugs and step therapy using Navitus as the pharmacy benefits manager (PBM). The City also proposes to eliminate Section 31.2, which currently provides two-tier medical coverage based on date of hire. The Union agrees with eliminating Section 31.2 Under the City's current offer, the CB4M would apply to all employees, regardless of date of hire. Employees would retain the right to purchase COPS Trust coverage by paying the difference between the illustrative rates for CB4M and the cost of COPS Trust.

The Union is proposing to use CB10 as the base plan as modified by the same CB4M items as in the City plan. Further, the Union would modify the COPS Trust plan to include a \$20 office visit rider, the \$100 ER Rider, deductibles of 250/500 in network and no co-insurance. The employees would pay any cost for this coverage above the hard cap set forth in 2011 PA 152 by IRS approved pre-tax dollars. Dental and vision rates would not be added to the illustrative rates for purposes of Act 152 sharing. Premium sharing under Act 152 would not apply to retirees receiving retiree medical from the City. Prescription drug coverage would be provided through ScriptGuide with \$10 co-pay per generic and \$30 co-pay of the modified formulary list used by ScriptGuide. The Union's

proposal does not include the employer concept of paying the difference between the base plan and COPS Trust but rather paying only over the hard cap.

SH currently is self-funded for health benefits and uses Blue Cross Blue Shield for administration. It pays BCBS a fee to administer the plan and a premium for stop-loss insurance of \$250,000 per contract. COPS Trust is an insured program that charges premiums.

To determine how much to set aside each month, SH uses BCBS illustrative rates that include cost of claims, administration and stop-loss insurance. C-139 is the plan outline for CB4M and C-140 is for CB10. CB4M illustrative rates including prescriptions for FY 2012 are single \$453.53; two person \$1,088.47 and Family \$1,360.60. SH has elected hard caps per Act 152 and thus the family cap would be \$15,000 and an employee electing CB4M, family, would have to pay \$1,327 since the Family total is \$16,327 under the City offer. COPS premiums effective July 1, 2012 for family coverage is \$13,280.28 without a prescription component. (See, C-146a) Excluding drugs, this would be under the hard cap and no expense for an employee.

Currently, 80 employees elect family coverage, 15 have single and 15 have two-person. Five employees opt-out.

The Panel will address the prescription aspect first since it is the most divergent and when resolved the other sections must also be approved as the Panel has to select one offer and cannot mix and match.

The Union contends that by using ScriptGuide its offer will save more money. The Union Brief, at 69-75 reproduces testimony from Dr. Harvey Day, owner of ScriptGuide,

regarding the business model and method of operation in an attempt to persuade the Panel of its offer. However, the Panel is not convinced that the information provided would save the suggested amount. First, the contract does not require a specific PBM and by inserting a named PBM would eliminate flexibility. Second, ScriptGuide was the original PBM in the old contract and per Act 106 when the PBM was competitively bid, it placed 5<sup>th</sup> of nine in pricing and when all components of the bid process were evaluated Navitus was awarded the contract. In part, the decision was based upon the promise from Navitus that 100% of rebates from drug manufacturers would be returned to the City while ScriptGuide would retain 25% of the rebates. Third, when ScriptGuide was deemed less competitive on pricing during the bid process, how would it somehow now be the most competitive and produce more savings for the City. The Panel is not convinced by any of the statements made by Dr. Day that alleged savings are a realistic possibility to substitute it for Navitus who won the competitive bid. Fourth, using a three tier model versus a two tier approach should save the City money as more cost is shifted to the employees. Based upon this information, the Panel would accept the City offer on prescriptions.

Having accepted the prescription portion of the LBO, the Panel must award the entire LBO of the City even though the Panel has some reservations of the effectiveness of some components. The Union is correct that it attempted to address the City concerns on health care. There is much similarity, elimination of old Section 31.2, two tiers for employees is a good remediation for example. The Union claims that with its amendments to CB10 it matches the economics of CBM4. Further, the City has made a

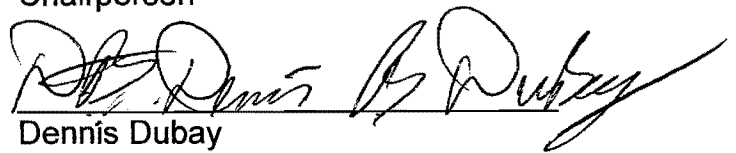
wise decision to keep COPS as an option for those employees who have interest and loyalty to that option. Also, the Union made clear that if that option were taken, the employees would pay any cost over the hard cap. These are all good idea.

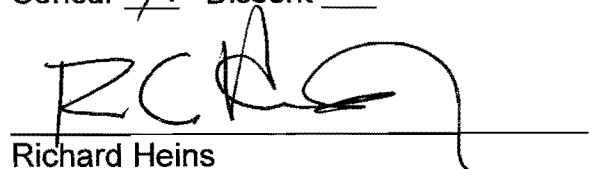
Immediate savings on this issue are elusive. The City per C-178 says 0 and the cost over the hard cap of \$130, 843 will be paid by the employees and the City also said that CB10 costs would have exceed the hard cap by \$454,903 thus this potential expense has been eliminated. But the reforms in the City offer will pay dividends in the future and have clearly stemmed a major rise in costs in this contract. The Union wanted to claim credit for \$332,630 that it asserts would be the Act 152 premium sharing. As stated earlier, statutory shifting of cost are not concessions within the meaning of these proceedings.

For the foregoing reasons, the City offer on this issue is AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

## City Issue 14 – Health Care- Employees pay 10%

### City's Final Offer of Settlement:

ARTICLE 31 – Health Benefits shall be revised by adding the following new section:

**\_\_\_ Effective January 1, 2012, employees shall pay 10% of medical premium using illustrative rate supplied by BC/BS.**

Effective Date: Date of Award

### Union's Final Offer of Settlement:

***New Section in Article 31. Officers selecting a health care provider whose rates exceed the premium amounts set by P.A. 152 known as the "hard cap" rates will pay the difference through payroll deduction. Any deductions for premium sharing made by employees, shall be done on a pre-tax basis in accordance with I.R.S. rules.***

***Since the Employer is self-insured with Blue Cross/Blue Shield of Michigan, the unadjusted illustrative rates quoted in the BC/BS annual rate renewal package shall be used for purposes of determining the cost of the medical benefit plan. Dental rates and vision rates will not be added to the illustrative rates for determining employee premium sharing for purposes of P.A. 152.***

***Should the State mandated hard cap rates be adjusted during any year, then the employee premium sharing shall also be adjusted accordingly. Premium sharing under P.A. 152 will not apply to retirees receiving retiree medical from the Employer.***

The City offer is to require employees to pay 10% of insurance premiums based on the illustrative rates supplied by BCBS for CBM4.

In conjunction with Act 152 language an employee would pay 10% of the premium

and if the remaining cost to the City was above the hard cap, the employee would also be responsible for payment of anything over the hard cap; if under the cap, no expense to the employee.

With respect to the optional COPS Trust coverage, the City's payment would be limited to 90% of the cost of the CBM4 coverage – with the employee responsible for anything above that amount. Ex. 178 shows that this proposal would save \$32,562 per year based on current CB4M rates. The City argues that savings may grow or shrink as the cost of insurance changes, but requiring a premium share on behalf of employees encourages the parties to agree to health insurance terms that remain reasonable in its view.

The Union vehemently states that the City is being unduly harsh and greedy. It argues that the Union has been hit with Act 54 increases of 100% of increased cost after the contract expired in 2011; more cost increases in 2012 due to premium increases; they will be impacted by Act 152 caps in this contract; and will be subject to increased deductibles and co-payments in either CBM4 or CB10. To have another 10% even if under the hard cap is overreaching at the least.

The Panel believes the Union argument is preferred on this issue. It does seem overly aggressive to seek a 10% premium contribution given all the statutory cost-shifting/savings. The City has significantly less costs because of these legislative enactments and while these are not "concessions" they can be considered as to what would be a fair offer on any particular issue. SH opted for hard caps instead of 20% of premiums. The City apparently believed this to be the most advantageous. To add

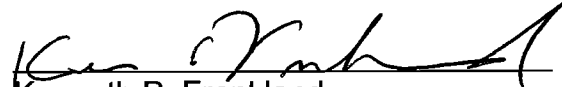
another 10% of premium in this short contract is overreaching.

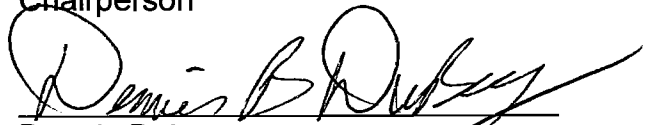
The Union offers three acceptable concepts. First, it reaffirms that its member will pay premiums above the hard cap and can do so using pre-tax dollars something not guaranteed, but assumed, in the City presentation. Second, the Union wants to affirm that costs will be determined using unadjusted illustrative rates without dental and vision included for Act 152 calculations. Third, if the state hard caps are adjusted, the City will follow.

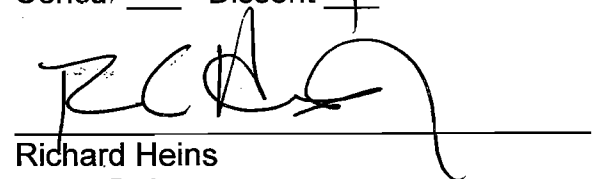
Whether the Union concerns regarding implementation procedures are substantiated or not, the Union offers are within reason and the Panel can agree with the Union offer as more closely conforming to Section 9 criteria, especially (i).

For the foregoing reason, the Union LBO will be AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

**City Issue 15 – Retiree Health Benefits**

City's Final Offer of Settlement:



ARTICLE 31 – Health Benefits, Sections 31.8 – 31.10 shall be revised to provide as follows:

31.8 Health Benefits for Retirees (Regular and Duty Disabled). The Employer agrees to provide to retired officers/dependents the Blue Cross/Blue Shield Community Blue PPO medical coverage equal to the coverage at the time of retirement, regular or duty disability retirement only. The Community Blue rider shall be added to the coverage to provide access to the national Community Blue network. Dependents shall include those as defined by the Administrative Services Agreement with the health care provider. ***Retirees will be provided with the same healthcare as provided to active employees, retirees will pay the same premium contribution as active employees. The medical insurance will change for the retirees as subsequent collective bargaining agreements are bargained including co-pays, coinsurance, drug co-pays, etc. This shall be limited to maximum of two changes in a retiree's life. The maximum amount of premiums required to be paid for retiree medical benefit coverage is 10% of the illustrative rates for active employees. If health care coverage is not provided in a subsequent collective bargaining agreement, then retirees would receive health care coverage under the prior agreement that still provided health care coverage.***

- A. Such coverage to be fully paid by the Employer and will be provided to the surviving spouse as long as the surviving spouse continues to receive a pension benefit. New officers hired after July 1, 2006 will be required to pay 50% of the illustrative rate for medical coverage when they retire. Such payment will be invoiced by the City for the preceding month. If payment is not made by the 15<sup>th</sup> of the month, coverage shall be canceled effective the 1<sup>st</sup> of the following month. ***New officers hired after July 1, 2011 will not be eligible for retiree health insurance.***
- B. Once the retired officer and/or spouse reaches the age of eligibility for Medicare, they shall apply and pay for all costs associated with the appropriate Medicare programs. The City shall then be obligated to provide at its expense comparable hospitalization, medical, and

prescription coverage to supplement Medicare as provided in Section 31.1.

- C. This benefit shall continue to exist for the retired officer and/or surviving spouse for as long as they continue to receive retirement benefits under Act 345.
- D. In the event a retired officer obtains employment from an employer who provides hospitalization and medical coverage, they shall not be covered by the City's coverage for the duration of said employment.
- E. Upon the job related death of any officer covered by this Agreement, the City shall provide, at no cost to the surviving family, a medical and hospitalization policy for the family of the deceased as was provided at the time of the death.
- F. Retired officers may participate in the Health Care Allowance Program subject to the same terms and conditions per Sections 31.5 and 31.6, unless the officer's spouse received health coverage from the Employer. In such cases the Employer will only provide one type of medical coverage.
- G. Retired officers may participate in the offered COPS Trust or ~~HMO~~ coverage as provided in Section 31.1, but shall pay any additional costs in excess of the **City cost** of base coverage.

31.9 Retirement Health Savings Plan. Effective with the signing of this Agreement and subject to Section 31.10, the City will adopt the VantageCare Retirement Health Savings (RHS) Plan administered through ICMA-RC allowing officers to accumulate assets to pay for medical expenses in retirement on a tax-free basis. For officers hired after July 1, 2006, both the Employer and the officer will be required to contribute ~~\$1,250~~ **\$1,500** on an annual basis (prorated with each biweekly pay) to this Plan.

31.10 The adoption of the ICMA-RC RHS Plan is conditioned upon a private letter ruling issued by the Internal Revenue Service (IRS). If any substantive portion of the private letter ruling invalidates the current plan parameters as provided by ICMA-RC, the parties agree

to reopen this section of the collective bargaining agreement to negotiate and review all retiree health care funding mechanisms, including VEBA's. The private letter ruling shall be requested within 60 days from the ratification of the agreement and the process shall be completed within 12 months from the date of request; however, due to extenuating circumstance, this time limit may be extended by the parties.

Effective Date: Date of Award

Union's Final Offer of Settlement:

The Union Last Best Offer of Settlement is Union Issue 5 for this Employer Issue. However, should the panel reject the Union's Last Best Offer on Union Issue 5, then the Union's Last Best Offer for this Employer Issue is keep current contract language. No change in the status quo.

**Union Issue 5 language**

**31.8 Add**

**Retirees will be provided with the same healthcare options as provided to active employees, at no additional increase in premium cost to the retiree. The medical insurance will change for the retirees as subsequent collective bargaining agreements are bargained including co-pays, coinsurance, drug co-pays.**

**Delete current sections 31.9 and 31.10 and replace with new sections 31.9 and 31.10 as follows:**

**31.9 Retirement Health Savings Plan. The parties shall establish a retiree Health Care Trust (VEBA). All current Health Saving Plan accounts will be rolled over into the new Health Care Trust within ninety days from the date the new Health Care Trust is established, Prior Employer retiree healthcare funding will also be rolled into the new retiree Health Care Trust. The Employer shall fund \$1,500.00 dollars annually for those employees hired after July 1, 2006. All future Employer retired health care funding for employees covered by this bargaining unit shall go to this VEBA.**

**31.10 All employees shall contribute two percent of base pay**

**into the new Health Care Trust Fund (VEBA). All employee contributions shall be made on a pre-tax basis, bi-weekly, through payroll deductions.**

**All employees, while participating in the DROP, shall contribute an additional eight percent of base pay for a total of ten percent, into the new retiree Health Care Trust (VEBA) on a pre-tax basis, bi-weekly through payroll deductions.**

The parties have presented significant and strikingly different approaches on this issue. Both profess the intent to address legacy costs. But legacy is generally thought to be the unfunded accrued liability and that can only be addressed over time. What has been bargained in the past and the lack of funding other than on a current basis has led to the very large “legacy” obligation. Changes to the plan design or premium sharing affecting retirees can help control the future costs of current retirees or future retirees and that seems to be the primary emphasis of the City.

The parties made a start on this effort by creating a second tier of employees – those hired after July 1, 2006, (when the expired contract began) who pay 50% of the illustrative rates. Now, the City proposes a third tier, officers hired after July 1, 2011 would receive no health care but would instead be enrolled in a Health Savings Plan. The Union vehemently opposes a third tier.

The real dispute is over who pays and how much. The Union does assert they favor retirees being held to the same plan updates that would mean more co-pays or more deductibles but not to share any further cost for either tier. They suggest that Act 152 does not apply to retirees and they would not support either tier having to pay above a hard cap even if there is limit of 10% as proposed by the City. Instead, the Union

proposes Union Issue 5 language stated above or status quo.

They want the plan updates and any inherent cost for co-pays etc but not increase in premium cost. Further they want new Sections 31.9 and 31.10 creating a VEBA that would require 2% of base pay be paid into the VEBA for all employees and those in DROP pay an additional 8% for a total of 10%. The Union also challenges the City language, "this shall be limited to maximum of two changes in a retiree's life" in Section 31.8 as unspecific and capable of multiple interpretations.

As with some of the other issues, the Panel has a difficult time sorting out the offers and determining if either one is appropriate for a concessionary, short contract, with just nine months or so of effectiveness before the contract will expire. For the reasons that follow, the Panel opts to retain the status quo and allow the parties to hash out the details of this issue at the bargaining table.

The Panel is deeply concerned with the unspecific language of Section 31.8 and will not attempt to answer the questions posed by the Union Brief, at 84. This alone could be a reason not to accept a proposal if is not clearly and unambiguously stated.

There are two concepts inherent in the City offer that gives pause to the Panel.

One, adding a third tier for new hires and not providing health coverage but rather a HSA is a major item that should stand alone and be considered on its merits without being a part of an omnibus plan. While this is generally offered by cities to address and control future costs, it creates inherent inequality amongst members. This is a major conceptual scheme and should be addressed at the table, not imposed by a Panel in Act312 in a concessionary contract. It does not save immediate dollars as is the goal of

this proceeding. It would help the future, but is more appropriate for consideration with the give and take of collective bargaining and not part of a more ambitious multiple-conceptual, all or nothing offer. There is some but not general support in either external or internal comparables. (See, C-154, only Supervisory Employees and District court; C-153 Troy and Warren only.)

Two, requiring the same premium contributions as those of active members, hard caps, on retirees would impose an economic burden that exceeds the implied contractual agreements for those people when they retired and could well be an impairment of those contracts. They retired under one plan and had no expectation that their health benefit could be altered without their input. Apart from this legal conundrum, Tier one retirees who pay nothing would be adversely impacted in the future, if not immediately. They have fixed pension income that may be the only income in the household. And, if they retired at an early age, may not be Medicare eligible for that primary coverage for some time. For Tier two, since they pay 50% based upon illustrative rates it may be better or worse but this element was not developed on the record. Imposing this requirement and the no health for new hires seems inconsistent with the parties' intentions as expressed in the expired contract. The parties worked to add the 50% pay at tier two and to start funding HSA – they collaborated. Continuation of the collaboration belongs at the table.


As to the Union Issue 5 proposal, it too has deficiencies. To propose a VEBA without any discernible, draft document in the record is inadequate as the details of a VEBA are important and without a document to review and comment upon, the City could be buying a pig in a poke! The idea of employees contributing 2 % and DROP


participants 10 % is intriguing and worth pursuing at the bargaining table. The Union offer of the same healthcare options being available to retirees is appealing as long as the retirees would have to pay the same co-pays, deductibles etc. The Panel reads the Union presentation as doing so. These ideas need to be discussed and developed in depth with the dialogue on a meaningful VEBA document. A VEBA could be more attractive than the present system especially if there is a serious IRS concern regarding viability. The Union has not presented record evidence of external or internal comparable information that would support its Issue 5 offer.

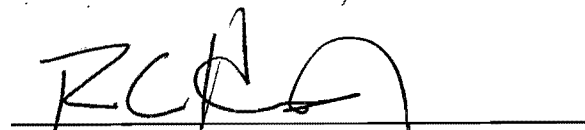
In short, the Panel has applied the Section 9 factors and believes the status quo on this issue would be in the best interest of the parties and the general public as neither offer, taken as all or nothing, is desirable for the reasons stated above.

The status quo of the existing contract is AWARDED.

Dated: September 17, 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

**City Issue 16 – Delete Dental Benefit for Retirees**

City's Final Offer of Settlement:

ARTICLE 32 – Dental shall be revised by eliminating Section 32.9 Dental

Benefits for Retired Officers:

~~32.9 – Dental Benefits for Retired Officers. The Employer agrees to provide to any officer/dependent, covered by this Agreement who retires, 75/25 Co-Pay Dental Plan or dental benefits comparable to those received at the time of a regular or duty disability/death retirement. The surviving spouse shall continue to receive benefits as long as he or she continues to receive a pension benefit. Dependents shall include those as defined by the dental care provider.~~

Effective Date: Date of Award

Union's Final Offer of Settlement:

Maintain status quo.

The City Brief, at 92 states that this proposal is to eliminate dental insurance **for persons who retire after the date of the Award** (Emphasis Added) in order to save legacy costs. Of the accepted comparables, only Warren has dental for retirees but they pay 50% of premiums. (C-156) Internally, Only Command and Fire have dental. (C-157). The City says the District Court and Supervisors have agreed to this proposal.

The Union wants status quo. They argue this has been a benefit for 25 years; there is no evidence in the record that the cost is excessive or prohibitive for the City; or even what the premiums are for a comparison of reasonableness. They point out that two other Act 312 units, Command and Fire have this benefit



and to remove it from this unit would leave them as the only public safety unit without the benefit.

As stated previously, the party seeking change has the burden of proof. Here, the City has not met that burden. The City Brief says this would only apply to new retirees. However, the panel believes that if a provision is eliminated in a contract, those who benefited from the old contract, must per force be affected adversely. They had something and then it is eliminated – this affects current retirees not just new hires as the City argues.

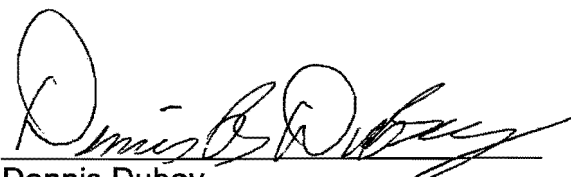
The Union is correct that the City simply has not explained nor entered evidence to support the termination of a long standing benefit. To simply state the intent is to control future legacy costs without more is insufficient. Besides there is no suggestion of current savings in this contract other than what an actuary might opine when the next report is authorized.

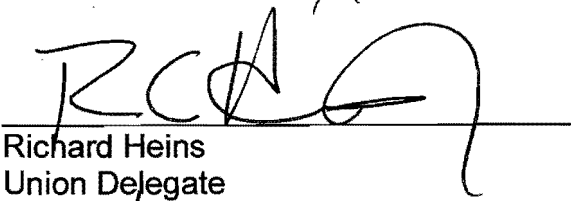
After applying the Section 9 factors, the Panel finds no criteria to support the City offer.

The Union offer of status quo is AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

## City Issue 17 – Clothing and Cleaning Allowance

### City's Final Offer of Settlement:

Revise ARTICLE 36 – Clothing and Cleaning Allowance, Sections 36.1 and 36.3 to provide as follows:

36.1 Effective July 1, 2006, officers shall receive ~~Fifteen Hundred (\$1,500)~~ **Seven Hundred Fifty (\$750)** Dollars per annum for clothing, bullet resistant vest and non-City supplied Equipment as of the date of this Agreement. Said payment shall made in the second pay period in June for the previous twelve (12) month period (up to and including June 30<sup>th</sup>).

\* \* \*

36.3 New Hire Uniform Draw. Probationary officers shall be eligible to "draw" up to ~~Fifteen Hundred (\$1,500)~~ **Seven Hundred Fifty (\$750)** Dollars to purchase the required initial set of uniforms. At the time of the first clothing allowance for which a probationary officer is eligible, the probationary officer shall receive the prorated portion of the clothing allowance from the date of hire through June 30<sup>th</sup>. A fully completed month for the prorated portion is achieved if the probationary officer was hired during the 1<sup>st</sup> through the 15<sup>th</sup> of the month. The City will purchase the probationary officer's initial bullet resistant vest; thereafter, all future vest purchases will be the responsibility of the officer.

Effective Date: Date of Award

### Union's Final Offer of Settlement:

Maintain status quo.

The City wants to reduce the current allowance of \$1,500 to \$750 per year and the Union wants status quo. The City wants this item solely to save an estimated \$86,250 annually and does not really discuss the rationale for or against the clothing allowance nor the history of why it is in the contract. External comparables seem to pay less than the proposed \$750(C-159) but the internal units involving public safety have

allowances above \$750 and Command has the same \$1,500.


The Union again states that the City is extremely harsh on this item and it "is the most insulting". This bombast arises from its assertion that the allowance does not cover bullet proof vests that are expensive and custom fitted and that are recommended to be replaced every five years. They say vests are purchased from personal funds and anything left over from the allowance. There is not enough in the allowance to cover complete winter and summer uniforms that are mandated by the City. They even claim that the special response unit members must pay for their own protective gear and weaponry. The Union further argues this is a continuation of mean-spiritedness after the Union claims it had to resort to arbitration and court actions to restrain the City's aggressiveness in enforcing legislative mandates.

The Panel believes that applying the Section 9 factors (d) (e) and (g) the City has not carried the burden of proof and the Union offer is preferred.

Apart from the extensive rhetoric and allegations of mean-spiritedness of which the Panel will not comment, the Union does raise compelling concerns with this item. The Union is correct that the City has not presented any information of wasteful spending or other abuse by officers to reduce an allowance that is of some long standing. While cost savings are the objective of this hearing, not every economic provision in the contract need be offered to the Panel to obtain the goal. Each item should be presented not only to save money but with a cogent explanation why the offer, if accepted by the Panel, will not have long term repercussions and will not hinder future collaboration and cooperation. The Panel accepts the premise that not enough has been presented to support the City offer and possible savings will be overridden by Union disharmony. It would not be good policy to have this unit with a lower allowance than other public safety units and especially less than Command and that would be the result.

For the reasons stated, the Union offer of status quo is AWARDED.

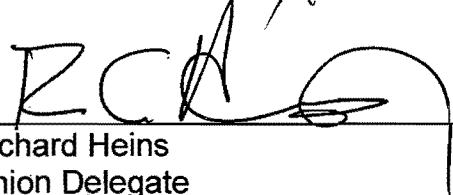
Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson



Dennis Dubay  
City Delegate

Concur  Dissent



Richard Heins  
Union Delegate

Concur  Dissent

### City Issue 18 – Sick Leave

#### City's Final Offer of Settlement:

ARTICLE 25 – Sick Leave, Section 25.1 How Earned and Section 25.2

Regular Sick Bank Accumulation shall be revised to provide as follows:

25.1 How Earned. All officers are eligible to receive sick leave. Sick leave will be earned at the rate of ~~ten (10)~~ **eight (8)** hours for each full month paid status of employment. ~~If the predominant shift should revert to eight (8) hours, this provision of the sick leave policy will be renegotiated.~~ For officers hired the 1st through the 15th of the month, their sick leave base date will be the first of that month, and if hired the 16th through the last of that month, the base date will be the first of the next month.

25.2 Regular Sick Bank Accumulation. ~~Effective July 1, 2006, sick Sick~~ leave may be accumulated to a maximum of ~~one hundred sixty (160) hours~~ **ninety-six (96) hours**. ~~Maximum sick leave earned per year shall be one hundred twenty (120) hours.~~

Effective Date: Date of Award

Union's Final Offer of Settlement:

Maintain status quo.

This item has two parts, first sick leave would be reduced from 10 to 8 hours per month and second, the maximum accumulation would be reduced from 160 to 96 hours.

Prior to 2006, officers accumulated 8 hours per month and a total of 96 per year (8x12). In 2006 the parties also agreed to move from 8 to 10 hour shifts and that 10 hour shifts would earn 10 hours sick leave, one day per month, thus 120 days for those on 10 hour shifts. The City estimates that, if adopted, there would be a \$48,801 saving. The City claims because with fewer hours available, from 120 to 96, there would be fewer fill hours. There would be savings if the accumulation is reduced because at retirement or separation, there would be a smaller bank to pay at 50%.

The City claims that the external comparables, Dearborn, Livonia, Warren and Troy use 8 hours per month, but as the Union points out, there is no information whether it is earned on 8 or 10 hour shifts. Internally, most units earn one day per month excepting Command earns 10 hours per month, Dispatch, 12 hours per month and Fire one day per month, but they work 24 hour schedules.

The Union advocates status quo because historically the pattern in all City units is to earn one day per month or 12 days per year. By reducing the 10 hour workers, they would only receive 9.6 days per year and would create different tiers within the police unit. Further, when sick leave is used, the officers are charged as their schedule dictates, 8 for 8 hours shifts and 10 for 10 hours shifts. If you earn at 8 hours and burn at 10 hours the Union argues you create unfairness and inequality within the unit. They observe that no evidence was presented of abuse of the current system, so why change and create inequality for the little money that might be saved. They also argued that neither internal nor external comparables support the proposal.

As to accumulation, the Union says the current 160 hours is not dependent upon the shift worked. This equates to 16 days for 10 hour workers and 20 days for 8 hour

workers. Per C-164, all external comparables have more than the proposed 96 hours and even the 160 current maximum.

The Panel has considered all the arguments and believes the Union offer of status quo is the most consistent with Section 9 factors.

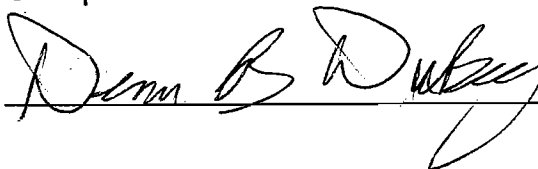
On accrual, it does not make sense to build in a different tier and create unit disparity based solely upon the hours worked per day. While the object is to find savings in this concessionary proceeding, the projected savings are relatively small versus the unfairness that would be created. The Panel finds the historical pattern a significant factor. When the switch to 10 hours was made in the current contract, the parties have lived for five years with 8 hours shift earn 8 hours; 10 hour shift earn 10 hours; burn 8 hours for 8 hours sick leave; and burn 10 hours for 10 hour sick leave. This is logical and seems to have worked as no information was presented that the system itself was broken. The City has not presented a compelling case why this should be changed.

On accumulation, there is some worthiness in exploring whether a reduction in hours could be a current cost savings and a future saving at the time of separation. The Panel has awarded a limitation on the hours of sick leave included in the FAC calculation but that award includes paying all accumulated sick time. If that number were limited as in this proposal, obviously there would be future savings on separation payments. But this is all or nothing arbitration and since the Panel does not accept the first proposal it cannot accept this one even if there is merit to the concept. Perhaps if the Panel had discretion to mix and match, as in fact-finding, something more than 96 and less than 160 might be an appropriate approach.

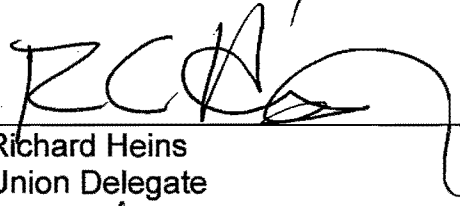
For the above reasons, the Panel finds the Union LBO of status quo more consistent with Section 9 factors and thus the Union LBO is AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson



Dennis Dubay  
City Delegate  
Concur \_\_\_ Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent \_\_\_

**City Issue 19 – ARTICLE 17 – Hours of Work**

**City's Final Offer of Settlement:**

ARTICLE 17 – Hours of Work, Section 17.2 shall be revised to provide as follows:

17.2 Workday.

- A. The normal work day shall be either eight (8) hours or ten (10) hours depending on assignment. ~~The parties agree to re-evaluate the ten (10) hour shift scheduling in July of 2010 in preparation of negotiations scheduled for 2011.~~
- B. ~~Traffic and patrol~~ **Patrol** officers, evidence technicians, Detective Bureau, and Youth Bureau officers ~~(with the exception of one (1) eight (8) hour officer)~~ shall work a ten (10) hours or **eight (8) hours** per day **schedule as determined by the Police Chief**. Officers assigned to outside agencies and the School Resource Officer may **shall** work eight (8) hours per day. **Traffic Officers shall work a ten (10) hour day.**
- C. K-9 Unit officers shall work 35 hours per week with an additional five (5) hours pay per week for Fair Labor Standards Act compliance.

- D. Officers serving as Field Training Officers (FTO's) shall receive an additional one (1) hour pay on an eight (8) hour shift or an additional one and one-quarter pay on a ten (10) hour shift.

Effective Date: Date of Award

Union's Final Offer of Settlement:

17.1. Normal Working Hours. The work week shall consist of forty (40) hours; however, officers working eight (8) shifts will report in not later than fifteen (15) minutes prior to shift start (**Roll Call**). This fifteen (15) minutes shall be paid at time and one-half (1 ½). **Officers working ten (10) hour shifts shall not be required to report fifteen (15) minutes prior to shift start for roll call.**

17.2. Workday.

A. The normal workday shall be either eight (8) hours or ten (10) hours depending on assignment. ~~The parties agree to re-evaluate the ten (10) hour shift scheduling in July of 2010 in preparation of negotiations scheduled for 2011.~~

B. Traffic and patrol officers, evidence technicians, Detective Bureau, and Youth Bureau officers (with the exception of one (1) eight (8) hour officer) shall work ten (10) hours per day. Officers assigned to outside agencies and the School Resource Officer may work eight (8) hours per day.

C. K-9 Unit officers shall work 35 hours per week with an additional five (5) hours pay per week for Fair Labor Standards Act compliance.

D. Officers serving as Field Training Officers (FTO's) shall receive an additional one (1) hour pay on an eight (8) hour shift or an additional one and one-quarter **hour** pay on a ten (10) hour shift.

Currently, SH has four 10-hour patrol shifts; day, overlap, afternoons and midnight with 21 officers, 14 officers, 19 officers, and 22 officers respectively – 16 officers are



assigned to Traffic for a total of 92. Chief Reese wants to go to 8 hour shifts for patrols organized into 3 shifts. Officers would be 24 on midnights, 25 on days and 27 on afternoons with 16 still on traffic. Traffic officers would work 10 hour days. Chief Reese testified that the move to 10 hour shifts did not obtain the objective of lessening excessive overtime, formulation of a training day and extra manpower during overlap. Although 10 hours helped in peak periods, Chief Reese said he had difficulty to backfill positions because of sick, vacation and comp time. Since the City wants to lay off 5 officers on July 1, 2012, 5 on July 1, 2013 and lose 10 officers through attrition, fewer shifts will provide more flexibility. With the projected layoffs, Chief Reese says he will have to pull officers from other bureaus to staff patrol. The intent is to address future cuts and to accommodate officers' ability to schedule time off for vacations and comp time.

The Union takes a different approach and suggests an immediate cost savings. They offer an economic incentive to keep 10 hour shifts by foregoing the current 1.5x payment for 15 minutes of roll call that precedes each shift. Officers would not report 15 minutes before shift start. They claim this could save \$317,179 assuming 115 officers working a four-day ten-hour shift.

The Panel believes this is a cost savings proceeding and on this issue the Union offer would achieve that objective better than the City offer. Chief Reese was convincing when he tried to explain the administrative headaches that accompany staff reductions. However, this proceeding is not about administrative desirability but cost savings – clearly the City intention. Why not take up the Union offer here and see if it works? The parties have not been on the current system very long and if the officers are willing to

forgo roll call payments, the Panel should concur. The downside is that by reporting as the shift starts, the cushion for coverage may disappear. But that was in part what the four 10-hour shifts was intended to accomplish. Chief Reese did not say that objective was totally unfulfilled and mentioned the lack of a training day as the most deficient result. Although he was concerned regarding filling slots due to vacation, illness etc, frankly this pales in comparison to the potential cost savings. Implementation will only be going forward and this contract will end June 30, 2013 and the parties can review the efficacy of this proposal at that time.

The Panel is cautious as to amount to be saved as the Union offer is based upon 115 officers. C-28 is the alphabetical list of officers and has 120 names; the discussion on health care lists 110 officers on a plan receiving health benefits and 5 who have opted- out – thus 115 and thus consistent with the 115 number. Further the offer is silent whether it is only for time after the Award is issued which the Panel assumes to be case. The City Brief says only 92 officers are involved. The Panel cannot reconcile the numbers but has checked the Chief's testimony at T.5, 214-215 and the numbers he used are as those in the City Brief. Perhaps the numbers do not include officers who are on vacation, leave etc. By dividing the Union savings of \$317,179 by 115, that produces \$2758 per officer. If that number is multiplied by the City number of 92, the result is \$253,743. Despite the potential discrepancy, the Panel will assume the Union number of 115 is correct and will use that number in its calculation of total savings notwithstanding the cautions above. In any event, there would be cost savings by not paying roll call time.

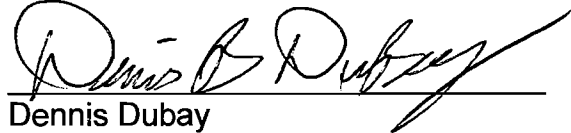
For the foregoing reasons, the Panel finds that the Union LBO more closely

conforms to the Section 9 factors as applicable in a cost savings proceeding and thus is  
AWARDED.

Dated: September 17 2012

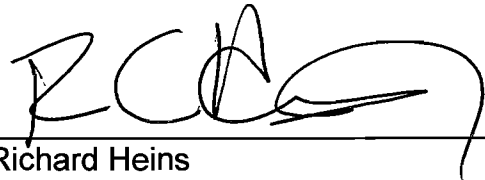


Kenneth P. Frankland  
Chairperson



Dennis Dubay  
City Delegate

Concur \_\_\_ Dissent



Richard Heins  
Union Delegate

Concur  Dissent \_\_\_

**City Issue 20 – ARTICLE 10 – Seniority, “When an officer is transferred,”**

City's Final Offer of Settlement:

Revise ARTICLE 10 – Seniority, Section 10.8 “When an officer is transferred,” subsection G to provide:

- G. New officers must serve a minimum of three years (including the probationary period) as a road patrol officer with the Sterling Heights Police Department before requesting or receiving a transfer to a specialty assignment other than DARE. ***If no one submits a transfer with three (3) year S.H.P.D. experience, officers with at least three (3) years***

**police experience, despite the department, will be eligible. If no requests are submitted, the position will be open to the police officers not currently on probation.**

Effective Date: Date of Award


Union's Final Offer of Settlement:


**H. New officers must serve a minimum of three years (including the probationary period) as a road patrol officer with the Sterling Heights Police Department before requesting or receiving a transfer to a specialty assignment other than DARE. If no one submits a transfer with three (3) year S.H.P.D. experience, officers with at least three (3) years police experience, despite the department, will be eligible. If no requests are submitted, the position will be open to the police officers not currently on probation.**


The City says the offers are the same and the Union says they are "extremely close" and it is okay to award this to the City. The Panel concurs that the intent in each offer is the same with somewhat different verbiage.

Accordingly, the City offer is AWARDED.

Dated: September 7, 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

**City Issue 21 – ARTICLE 20 – Call-in and Court Time (Economic)**

City's Final Offer of Settlement:

Revise ARTICLE 20 – Call-in and Court Time to provide as follows:

20.1 An officer whose appearance is required in Court, after he/she has reported off duty and before his/her next tour of duty, by virtue of his/her duties shall be paid for all overtime at the rate of one and one-half times his/her hourly rate. An employee who is required to report to Court after he/she has reported off duty and before his/her next tour of duty shall be guaranteed a minimum of ~~three (3)~~ **two (2)** hours credit at time and one-half times the base rate of pay for such call-in. However, if an officer is required to appear in Court for two separate cases within the same ~~three (3)~~ **two (2)** hour period, he/she shall be paid for only the minimum ~~three (3)~~ **two (2)** hour period.

20.2 Any call-in/court-time overtime pay situations that exceed the minimum ~~three (3)~~ **two (2)** hours shall require approval of a supervisor. The City shall not be liable for overtime worked beyond the ~~three (3)~~ **two (2)** hour minimum guarantee without supervisory approval. Approval shall not be unreasonably withheld.

20.3 Work on all standing committees which occurs outside an officer's normal work shift shall not entitle the officer to the ~~three (3)~~ **two (2)** minimum, but rather shall be paid on an hour for hour basis at the overtime rate. However, officers participating in the FTO program will continue to receive the ~~three (3)~~ **two (2)** hour minimum for all mandatory meetings.

20.4 Court time shall not be paid to officers who report to court when they are off work due to a duty related illness/injury and who are receiving full pay.

Effective Date: Date of Award

Union's Final Offer of Settlement:

20.1 An officer whose appearance is required in Court, after he/she has reported off duty and before his/her next tour of duty, by virtue of his/her duties shall be paid for all overtime at the rate of one and one-half times his/her hourly rate. An employee who is required to report to Court after he/she has reported off duty and before his/her next tour of duty shall be guaranteed a minimum of three (3) hours credit at time and one-half times the base rate of pay for such call-in. However, if an officer is required to appear in Court for two separate cases within the same three (3) hour period, he/she shall be paid for only the minimum three (3) hour period.

20.2 Any call-in/court-time overtime pay situations that exceed the minimum three (3) hours shall require approval of a supervisor. The City shall not be liable for overtime worked beyond the three (3) hour minimum guarantee without supervisory approval. Approval shall not be unreasonably withheld.

20.3 Work on all standing committees which occurs outside an officer's normal work shift shall not entitle the officer to the three (3) **hour** minimum, but rather shall be paid on an hour for hour basis at the overtime rate. However, officers participating in the FTO program will continue to receive the three (3) hour minimum for all mandatory meetings.

20.4 Court time shall not be paid to officers who report to court when they are off work due to a duty related illness/injury and who are receiving full pay.

The City proposes to reduce the call-in/court-time payment in the current contract from a three hour minimum to a two hour minimum. The sole intent is to save \$106,088 per year. There was no information presented on the merits of the offer or on the effects of this change by the City. The City suggests that C-171 shows that a two hour minimum would be in line with external comparables. The only internal unit with a comparable situation is Command and they have the three hour minimum.

The Union offers status quo.

The Union correctly points out the C-171 shows that only Farmington Hills has a 2 hour call back and the others have three or more for court or call back. Thus, external comparables would not support the City offer. And, if granted this would put this unit behind the Command unit. This would produce inconsistent working conditions, not a desirable result, given these are the only law enforcement units that are affected by call-in/call-back minimums.


More importantly, as to call-ins there is considerable inconvenience for officers to return to the station for uniforms, equipment and vehicles. Det. Kovalchik provided convincing testimony how the three hour minimum only partially compensates for the inconveniences of obtaining the proper clothing, obtain a vehicle at the station and then proceed to a crime scene for detectives. The current minimum is intended to assuage in part those inconveniences and reducing to two hours would be a step backward.

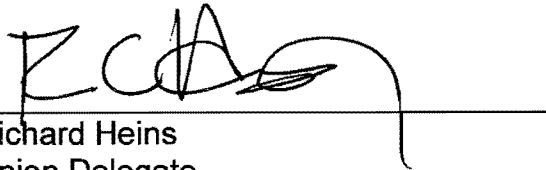
As to court time, there may be some merit to two hours especially if in District Court as is the custom in some jurisdictions but the City offered nothing to substantiate a rationale for a reduction either than cost savings. This may be an example of looking at all avenues in the contract for potential savings and seeing if the Panel would go along.

For the above reasons, the Panel believes the Union offer of status quo more closely conforms to Section 9, and thus the Union LBO is AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur \_\_\_ Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent \_\_\_

**City Issue 22 – ARTICLE 10 – Seniority, “When an officer is transferred,”**

City’s Final Offer of Settlement:

Revise ARTICLE 10 – Seniority, Section 10.8 “When an officer is transferred,” subsection F to provide as follows:

F. Temporary transfers shall not be made for a period over ~~sixty (60)~~ **ninety (90)** days. **Temporary status does not apply to three (3) year seniority rule. Temporary assignment will be made at the discretion of the Chief of Police.**

Effective Date: Date of Award

Union’s Final Offer of Settlement:

Maintain status quo.

The City claims this offer is to make two changes, one to allow a temporary transfer of 90 days instead of the current 60 days and the other to allow transfers notwithstanding the current three year seniority rule. Chief Reese used an anecdote to support the circumvention of the three year seniority rule; that he was not able to make a



transfer during an investigation and the person was instead placed on administrative leave. The Chief wants more flexibility for 90 days as he asserts that most investigations last that long. The City claims that C-173 provides some support but also concedes that some contracts don't specify the length of such a transfer.

The Union wants status quo asserting that this is a non-economic issue and the City presented no financial analysis and that C-178 shows no savings.

On the merits, the Union claims that 60 days was used to combat potential employer abuse and to go to 90 days raises seniority issues that the current contract eliminates. The Union also points out that little information was presented to demonstrate abuse of the current system, apart from the one anecdote mentioned by Chief Reese. They posit there is scant record evidence to grant the City offer.

The Panel believes that the Union position best conforms to Section 9. First, there does not appear to be any economic impact, notwithstanding the City has denominated this as economic. They produced no proofs there is an economic impact and none is mentioned in C-178. Second, this is truly an administrative issue and the Panel looks unfavorably on such issues in this concessionary proceeding. The Panel is reluctant to consider language changes that affect the relationship of the parties preferring to leave the parties to settle any conflicts on this type of issue at the bargaining table. Third, on the merits, the City has not made a persuasive case as to how this would materially assist in better administration of the department – the Union arguments outweigh whatever positive effects would materialize.

For the above reasons, the Panel believes the Union LBO best conforms to

Section 9 and thus the Union offer of status quo is AWARDED.

Dated: September 2012

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Kenneth P. Frankland  
Chairperson

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Dennis Dubay  
City Delegate  
Concur \_\_\_ Dissent \_\_\_

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Richard Heins  
Union Delegate  
Concur \_\_\_ Dissent \_\_\_

**City Issue 23 – ARTICLE 10 – Seniority, Criteria by Seniority  
Preferences Shift Selection**

City's Final Offer of Settlement:

Revise ARTICLE 10 – Seniority, Section 10.7 Criteria by Seniority Preferences, subsection A – Shift Selection, subsection 2 to provide as follows:

2. Officers shall be allowed to indicate their preference, by seniority, the shift on which they prefer to work, and their SLD's, once manpower allocations have been set by the Employer. No overtime will be paid to an officer for participating in the shift selection process. If necessary, the Police Chief may request that the Union Executive Board assist in contacting Union members for shift selection purposes. **Officers, or their designate, will have 72 hours**

***to pick their shift selection. If not selected within 72 hours, they will be bypassed until they pick their selection.***

Effective Date: Date of Award

Union's Final Offer of Settlement:

Maintain status quo.

In this issue, the City says it is economic but the Panel does not see it that way. The City wants to add a clause to the existing contract to require officers, or their designee, to pick shift selections with 72 hours and if not they will be bypassed until they actually make a selection. Shifts are selected by seniority every six months. The intent is to prevent delay in the shift picking process by absence caused by vacation, or otherwise for an extended time. C-175, external comparables offers little guidance on this issue as all do not have a set time limit and only Farmington Hills has 7 days stated. Chief Reese said if an officer is gone he could pick someone to select for him. Chief Reese did not offer any specific illustrations of any current problems.

The Union offers status quo. They assert that the City has produced no evidence that the current system is disrupting operations of the Department, nor any abuse by officers. Officer Kunath testified that he has picked shifts twice a year since 1996 and never ran out of the time frame. The officers self-police each other as they want to accommodate their own personal situations as soon as practical. Since 2006, the Chief has never come to the executive board to ask their help to speed up the process. The Union believes that even the offer of a designee does not counter act the possibility that


an officer could be on extended leave, vacation etc and using a designee would not be feasible. Better they claim to keep the current system; what is not broken does not need fixing.

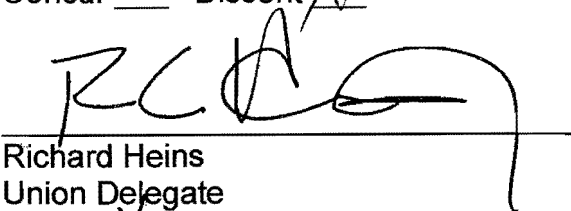
The Panel views this item similar to the last and the analysis is the same as well as the conclusion. This is not an economic issue and in the context of this matter, offers nothing to the concessions to be obtained. The City can address this item, if it is still important, at the bargaining table at the conclusion of this contract on or before June 30, 2012.

For the above reasons, the Panel believes the Union LBO of status quo more closely conforms to Section 9 and thus the Union LBO is AWARDED.

Dated: September 17 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

**City Issue 24 – ARTICLE 18 – Overtime/Compensatory Time**

City's Final Offer of Settlement:

Revise ARTICLE 18 – Overtime/Compensatory Time, Section 18.4 to provide as follows: ..

18.4 Training. Officers with approved leave time shall not be required to attend scheduled training programs. Those officers on SLD's will report for training and be paid overtime for attending training. Those officers assigned to afternoon and midnight shifts shall receive shift premium for training except when participating in the monthly department wide training program. ***When an officer requests voluntary training and the training falls on his/her scheduled leave days, they will receive an adjusted scheduled leave day at the discretion of the Division Commander.***

Effective Date: Date of Award

Union's Final Offer of Settlement:

Maintain status quo.

Currently, if an officer requests voluntary training on a scheduled leave day and it is approved, approval results in overtime. (See, City Brief, at 108 – the contract only discusses mandatory training on SLD!) The City proposes to eliminate payment and to have a different leave day later at the discretion of the Division Commander. The intent is to allow training but without the cost of overtime. It is assumed by the City that the new leave day would be within the same pay period, if staffing allows.

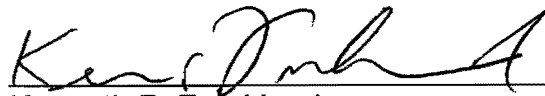
The Union again argues there has been no showing of any abuse and this change is unnecessary since there has been no showing of any adverse administrative issues. Since it is a voluntary offer and can be disapproved, the Division Commander can just say no.

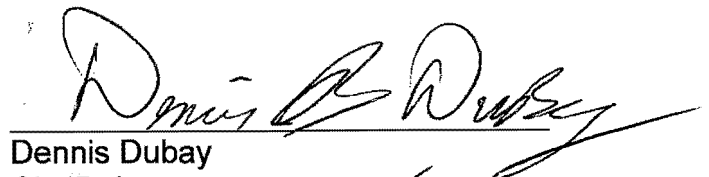
The Panel has concerns on this new language. First, voluntary training is not

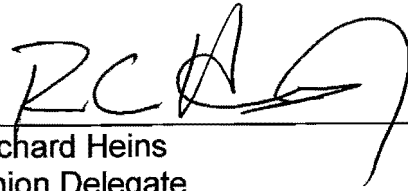
covered at all in current 18.4 and why new language should be added when the contract does not appear to have anything on the subject is problematic. Second, the only mention of SLD is when mandatory training is ordered and if on a leave day, overtime is paid as it should be. Third, the Panel is of the impression that there is an apparent policy, not contract based, for a trade off, one day for one day, if voluntary training is on SLD. The new language does not guarantee the same one for one as it states, "an adjusted scheduled leave day **at the discretion of the Division Commander**. It might mean he picks the day or that he can just not give a leave day at all. The Panel believes there is an ambiguity and does not know what the intent may have been, but as stated it gives too much latitude to the Commander without any parameters for decision making. Fourth, why would an officer who wants to improve him/herself and also benefit the Department, ask for training on his SLD with no guarantee of any rescheduled day off let alone when that day might be rescheduled? It appears that this new language is unnecessary.

For the above reasons, the Panel believes that the Union offer of status quo more closely conforms to Section 9 and thus the Union LBO is AWARDED.

Dated: September 7 2012

  
Kenneth P. Frankland  
Chairperson

  
Dennis Dubay  
City Delegate  
Concur  Dissent

  
Richard Heins  
Union Delegate  
Concur  Dissent

**Union Issues**

Duration – This has been resolved

1 and 2 Wages first and second year - Same as City Issues 2 and 3

No increases per agreement of the parties

3. Wages – Withdrawn

4. Wages – Withdrawn

5. Retiree Health – considered in City Issue 15 – Status quo Awarded.

6. Hours of Work – considered in City Issue 19 – Union offer Awarded

**Recap of Dollar Savings Generated in this Proceeding**

<b>Issue Number</b>	<b>Offer Awarded</b>	<b>Savings</b>
City 5	Union	\$225,571
City 6	City	\$243,702
City 9	City	\$153,022
City 10	City	\$122,078

Sterling Heights – MAP Opinion cont'd

<b>City 11</b>	<b>Union</b>	<b>\$ 80,500</b>
<b>City 12</b>	<b>City</b>	<b>\$257,590</b>
		<b>\$ 40,934</b>
<b>City 19</b>	<b>Union</b>	<b>\$317,179</b>
		<hr/>
	<b>Total</b>	<b>\$1,440,576</b>



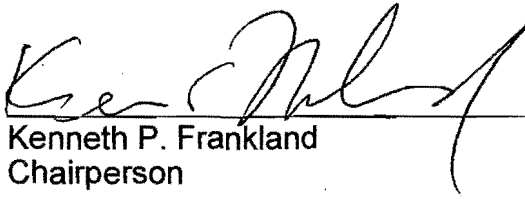
## Epilogue

The Chair recognizes the numbers above were taken from C-179 or amended U-108 and has not verified them but will let the parties respond to each other if they have differences of opinions on accuracy and assumptions used by either side. The Chair further understands that we are nearing the end of the first quarter of FY 2012 and thus these will not have a full year value since most are triggered by the Award date. Using the Police payroll of \$10,370,179 as stated by Rodwan Consulting as of 12/31/2011 in C-123, the total savings are 13.89% well within the range of concessions obtained from other units in the opinion of the Chair. There was no specific target preset but each issue was reviewed and decided on its own merits and the numbers naturally followed.

This was a long and arduous journey to reach this Award. The Chair is very grateful for the cooperation and civility of the parties during the hearings. And, the Chair is greatly appreciative of the quality of the Briefs that allowed the Chair to fully understand the issues and permitted an easier review of the record and arguments for each issue.

No one is really fully satisfied when Awards are issued as the all or nothing approach in Act 312 always leaves plenty of room for grumbling. The Chair attempted to assist the parties in resolving differences in approaches to cost savings and it is hoped that comments herein will assist in continued cooperation and collaboration going forward.

Respectfully Submitted



Kenneth P. Frankland  
Chairperson

Dated: September 17, 2012