

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

In the Matter of the Act 312
Arbitration Between:

MERC Case No. L14 C-0225

CITY OF STURGIS

Public Employer

-and-

POLICE OFFICERS LABOR COUNCIL

Labor Organization

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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMM.
DETROIT OFFICE

ACT 312 OPINION AND AWARD

Micheal J. Falvo, Chairperson
Peter H. Peterson, Employer Delegate
Thomas R. Zulch, Union Delegate

APPEARANCES:

FOR THE CITY OF STURGIS

Peter H. Peterson
Miller Johnson

Michael Hughes, City Manager
Holly Keyser, City Controller
Geoffrey Smith, Director of Public Safety

FOR THE POLICE OFFICERS LABOR
COUNCIL

Thomas R, Zulch
Police Officers Labor Council

Nancy Ciccone, Research Analyst
William T. Kaiser III, Field Representative
Hall Tilling, Field Representative
Brian Cooper, Patrol Officer
Jeremy Marsh, Sergeant
Franklin Noel, Patrol Officer
Greg Peterson, Patrol Officer

BACKGROUND

The Police Officers Labor Council is the collective bargaining representative for all Sturgis police officers (excluding the Director and Deputy Chief, Public Service Officer, Executive Secretary and Clerks), and the Humane Officer (Animal Control/Code Enforcement Officer) and Records Clerk.

The expired collective bargaining agreement covered the period October 11, 2011 to September 30, 2014.

Sturgis is located in St. Joseph County and is about two miles from the Michigan-Indiana state line. Its land size is approximately six square miles. The 2010 population was 10,994, a decrease of 291 from the 2000 census. The United States Census Bureau estimates the 2013 per capita income to be \$18,223 (compared to the state per capita income of \$25,681) and the 2009-2013 median household income of \$35,245 (compared to the state median household income of \$48,411). The percentage of the population below the poverty level is 25.9% (compared with the state percentage of 16.8%).

Sturgis is a home rule city under state law. The City has a City Commission-City Manager form of government. The City Commission is comprised of eight members (two from each of four districts and one at-large). Each year the members of the Commission choose one member to serve as Mayor who chairs meetings but has the same authority as other Commission members. The City Commission establishes policy and appoints the City Manager, City Attorney, City Assessor, City Treasurer, and City Clerk. The City Manager is responsible for day-to-day operations. The current City Manager is Michael Hughes who has served in that position since 2005.

The City currently has approximately 120 full-time equivalent positions. There are about 90 full-time employees and the remainder of the employees work on a part-time basis. The POLC represents 16 sworn and two non-sworn employees. City employees in the Police Department, Fire Department, and Electric Department are covered by collective bargaining

agreements. There are approximately 60 employees in other departments who are not represented by a union.

The hearing took place at the Sturgis City Hall on January 15, 2015 and the record was kept open pending receipt of post-hearing briefs that were received on March 9, 2015. The panel conducted a telephonic conference on May 18, 2015.

STATUTORY STANDARDS

Act 312 of 1969, MCL 423.321, as amended by Act 116 of 2011, is intended to implement the public policy of the state to provide an alternate, expeditious, effective and binding procedure for the resolution of labor disputes involving public safety employees. The legislature deemed interest arbitration a requisite to the high morale of public safety employees as well as the efficient delivery of public safety services. Section 9 provides that the panel's findings, opinion and order shall be based on the following criteria.

- (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 accountability act, 2011 PA 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 the wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees 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 while the arbitration proceedings are pending.

- (i) Other factors that are normally or traditionally taken into consideration in the determination of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service or in private employment.

Public Act 116, which became effective on July 20, 2011, added a significant provision.

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

While Public Act 116 makes financial ability to pay the preeminent factor, this must be understood along side the Michigan Supreme Court's explanation that the Legislature did not intend each Section 9 factor to be afforded equal weight.

The Legislature has neither expressly nor implicitly evinced any intention in Act 312 that each factor in § 9 be accorded equal weight. Instead, the Legislature has made their treatment, where applicable, mandatory on the panel through the use of the word shall in §§ 8 and 9. In effect then, the § 9 factors provide a compulsory checklist to ensure that the arbitrators render an award only after taking into consideration those factors deemed relevant by the Legislature and codified in § 9. Since the §9 factors are not intrinsically weighted, they cannot of themselves provide the arbitrators with answers. It is the panel which must make the difficult decision of determining which factors are more important in resolving a contested issue under the singular facts of a case, although, of course, all "applicable" factors must be considered.¹

The reader should not conclude that the failure to discuss every factor on each issue means it has not been considered since that is not the case. The most salient factors pertaining to particular issues are highlighted. All pertinent factors have been painstakingly considered. It should be understood that the word "panel" is used to signify a majority of the panel. The concurrence of a panel member in the disposition of a particular issue does not necessarily signify that he agrees with the chairperson's reasoning or statements.

The parties stipulated that all issues are economic issues. Consequently, Section 8 requires the panel to adopt the last offer of settlement that more nearly complies with applicable Section 9 factors. The record contains a stipulation that issues other than those considered in this hearing have been settled or waived and that all uncontested provisions of the prior agreement and any tentative agreements reached during negotiations are incorporated into the new agreement.

¹ *City of Detroit v. Detroit Police Officers Association*, 408 Mich. 410, 484 (1980).

A recent legislative change should be noted. Public Act 54 of 2011, among other things, prohibited Act 312 panels from ordering a retroactive increase in wages or benefits. Public Act 322 of 2014, effective October 15, 2014, rescinded this limitation on retroactivity if the wage or benefit increase is awarded by the panel or included in a negotiated bargaining agreement.

At the chairperson's urging the parties stipulated to comparable cities. The comparable communities to be considered by the panel are:

1. Charlotte
2. Coldwater
3. Hastings
4. Marshall
5. Niles
6. Tecumseh
7. Three Rivers

CONTESTED ISSUES AND LAST BEST OFFERS

The panel must decide the following seven issues:

1. Wages for 2014-2015 (JOINT ISSUE)
2. Wages for 2015-2016 (JOINT ISSUE)
3. Wages for 2016-2017 (JOINT ISSUE)
4. Changes to Defined Benefit Retirement Plan (Section 17.1) (CITY ISSUE)
5. Changes to Retiree Health Care (Section 17.2) (CITY ISSUE)
6. Change to Hospitalization Insurance for Active Employees (Section 20.1) (CITY ISSUE)
7. Change to Maintenance of Conditions provision (Section 21.0) (CITY ISSUE)

ISSUE 1 – WAGES FOR 2014 – 2015

EMPLOYER

Modify Schedule "A" to reflect a wage increase of 1.5% across the board effective October 1, 2014.

UNION

Effective 10-1-24 – 2.25% across-the-board increase with full retroactivity.

ISSUE 2 – WAGES FOR 2015-2016

EMPLOYER

Modify Schedule “A” to reflect a wage increase of 1.5% across the board effective October 1, 2015.

UNION

Effective 10-1-15 – 2.5% across-the-board increase.

ISSUE 3 – WAGES FOR 2016-2017

EMPLOYER

Modify Schedule “A” to reflect a wage increase of 1.5% across the board effective October 1, 2016.

UNION

Effective 10-1-2016 – 2.75% across-the-board increase.

ISSUE 4 – DEFINED BENEFIT RETIREMENT PLAN

EMPLOYER

Modify Section 17.1, Voluntary Retirement, by changing the first and fourth paragraphs to read as follows:

All police officers and civilian dispatchers hired before {DATE OF AWARD} may voluntarily retire after twenty-five (25) years of service or at age fifty-five (55) provided the employee has ten (10) or more years of service with the City. All police officers and civilian dispatchers hired on or after {DATE OF AWARD} may voluntarily retire at age fifty-five provided the employee has twenty-five (25) or more years of service with the City or at age sixty (60) provided the employee has ten (10) or more years of service with the City. All police department personnel must retire at age seventy (70), unless otherwise agreed to by the pension board, the City, and the individual employee.

* * *

Upon retirement, all police department employees who have attained the required retirement age and service shall receive an annual retirement allowance pursuant to the rules of the retirement system. All pension rights and benefits due police department employees, including all police officers and civilian police department employees, shall vest after ten (10) years of continuous service in the police department.

UNION

The Union requests status quo on this issue.

ISSUE 5 – RETIREE HEALTH INSURANCE

EMPLOYER

Modify Section 17.2, Retiree Health Insurance, by deleting subsection (b) and changing subsection (a) to read as follows (and renumbering the remaining subsections as necessary):

(a) If an employee 1) retires having met the age and service requirements in Section 17.1 applicable to the employee at the time of retirement, and has reached the age of 55 (either at or after the time of retirement), the City shall, until the retiree reaches 65, pay 70% of the required premiums necessary for any medical, hospitalization, surgical and prescription drug insurance coverage for single coverage for a retiree (or, if elected by the retiree at the time of retirement, 60% of the required premiums for double coverage for the retiree and the retiree's spouse), and the retiree shall pay the remaining required premiums.

UNION

The Union requests status quo on this issue.

ISSUE 6 – HEALTH INSURANCE

EMPLOYER

Modify Section 20.1, Hospitalization, Medical and Surgical Insurance, by adding a new subsection reading as follows:

The Employer reserves the right to change, amend, modify and/or discontinue the existing health insurance benefit program as legally required in response to developments associated with the Patient Protection and Affordable Care Act ("Act"), and as the Act may be from time to time changed, amended, defunded, or modified, including the right to so act in response to (a) regulations issued pertaining to the Act, and/or judicial interpretations of the Act. Before any change is implemented pursuant to this paragraph the City will provide the Union with written notice of the change at least sixty (60) days in advance of the change and an opportunity to review and provide input regarding the change.

UNION

The Union requests status quo on this issue.

ISSUE 7 – MAINTENANCE OF CONDITIONS

EMPLOYER

Delete Section 21.0, Conditions, in its entirety.

UNION

The Union requests status quo on this issue.

THE CITY'S FINANCIAL CONDITION

A number of Act 312 arbitrators have noted that the phrase used in Section 9(a) – “the financial ability of the unit of government to pay” – is not self-defining. In one sense it might be said that a unit of government necessarily has the financial ability to pay as long as there exists sufficient cash flow to meet payroll. That is not the intended meaning. Subsections (i) – (iii) require that the panel take account of additional factors: (1) the financial impact on the community; (2) the interests and welfare of the public; and (3) all other financial liabilities. Exacting consideration of these criteria is imperative since Public Act 116 requires, if supported by substantial evidence, that the financial ability of the local unit of government to pay be accorded the most significance.

The introductory remarks in the City's fiscal year 2014-2015 Budget provide a helpful insight into the City's finances.

FY 2014-15 will continue the trend of financially demanding times for the City of Sturgis. Recent years presented a host of financial challenges including an unprecedented decrease in property tax revenue, a substantial increase in employee benefit costs, decline in interest income as well as State Shared and Act 51 revenues, and flat or declining utility consumption. All of these issues present real challenges in providing services at current levels.

Last year's budget memo to the City Commission identified two primary issues of concern, which remain; the pending elimination of personal property tax and unfunded liabilities related to post-employment benefits. Other concerning trends of note include the flat nature of property tax and Act 51 revenues. As the economy crawled out of recession, activity has increased as expected, however our historically low staffing levels are a mismatch with this activity increase. From an organizational standpoint, we are at a crossroads between level of service expectations and staff's ability to execute operations and implement capital projects with current resource levels.

While uncertainty lingers with issues like property tax, it seems that the economy has stabilized. As an indicator of private investment, Industrial Facilities Exemption Certificates (IFEC's) have increased from \$4.4 million in 2012, to \$3 million in 2013, and finally to over an impressive \$36 million so far for 2014.

City Manager Michael Hughes explained the reasons the City at the same time remains very concerned about its financial challenges and optimistic. Groundbreaking on a new Meijer's is scheduled for 2016 and the store will increase the tax base and boost income to the city-owned electric utility. The City received a \$1.1 million Community Development Block Grant to help pay for the rehabilitation of downtown development that is expected to include a new restaurant and

increase office and retail space as well as residential units. A local manufacturer is expected to hire 50 new employees and an additional 50 employees at a later date. The City's financial situation has been aided by a 10-year, 3-mil city road tax approved by voters in 2013 that will provide approximately \$740,000 annually to maintain and improve 52 miles of major and local streets. As quoted in a December 30, 2014 article in the *Sturgis Journal*, City Manager Hughes is "super excited" about the prospects for 2015 and considers that it will be the biggest year in his nine-year tenure as City Manager. Nevertheless, City Manager Hughes convincingly testified that consideration of these welcome developments should not obscure continuing significant financial challenges the City faces.

As is true throughout the state declining property values have hurt the City's financial strength. Real property in Sturgis is comprised of approximately 41% residential, 42% industrial, and 17% commercial. Revenues from property taxes comprise approximately 32% of total revenues. The City's charter, adjusted for "Headlee Amendment" rollback, allows for the assessment of 11.8894 mils on the taxable value of property. Since 2007 the City has levied an operating millage of 10.0285 mils. This compares favorably to other cities in southwest Michigan and is the lowest levied since 1967. In May 2013 voters approved a three mil dedicated millage to provide funding for ten years for street and sidewalk improvements. A startling statistic is that estimated property tax revenue in 2015 (\$2,674,095) is approximately the same as 2003. Although residential housing values in the country have generally shown improvement over the past few years, the FY 2015 budget anticipates a decline in property tax revenues of approximately \$21,000. City Manager Hughes explained that this two percent decrease is primarily the result of diminished assessed values of industrial property. He noted that tax revenue would not return to prerecession levels anytime soon because Proposal A limits property tax increases to the lesser of five percent (which has not been reached in recent memory) or the rate of inflation. The inflation rate multiplier in 2014 is 2.4 percent, a decrease from the 2013 rate of 2.7 percent. He explained

So the real dilemma is that once you drop value, just because the economy might be performing better does not mean you're going to make up those values; and in fact, most people won't make those up over a very long period of time. And so we really view it

more as a reset of the value versus trying to get back to normal because that is the new normal.

Another important revenue source is the personal property tax on businesses. This has diminished in recent years and accounts for approximately nine percent of revenue (\$700,000). Recent legislation has eliminated the personal property tax completely with regard to smaller (essentially non-industrial) taxpayers. With regard to industrial taxpayers, the legislation is supposed to make up the amount local units of government previously received. Local units of government will no longer collect the tax and the state will allocate payments according to a formula that takes into account the amount of personal property in the city. He said that there is “a bit of skepticism on personal property tax and probably revenue sharing because the rules change all the time and legislators can change the rules.”

State revenue sharing is a significant source of the City's operating funds. Revenue sharing funds are in two categories: constitutional and statutory. The first category consists of a proportionate share of state sales and use taxes and is calculated on population. The City's population in the 2010 census was approximately 2.6 percent lower than the 2000 census. The amount of statutory revenue sharing is determined year-to-year by the legislature and it can reduce non-constitutional revenue sharing if the state needs the money for its own budget. The amount of non-constitutional revenue sharing is now determined by the achievement of specified benchmarks in the Economic Vitality Incentive Program (EVIP). Although the City has met those benchmarks there is no guarantee that it can continue to do so. In 2010 state shared revenue was \$1.3 million. Recent amounts have been less as shown in TABLE 1.

TABLE 1 -- STATE REVENUE SHARING

FY 2012-13 (Actual)	\$935,468
FY 2013-14 (Estimated)	\$961,960
FY 2014-15 (Budgeted)	\$986,150

As is typically the case the largest category of expenditures is personnel costs. In light increasing costs and revenue reductions the City has substantially shrunk the size of the workforce. Unlike other communities the City has managed to avoid layoffs and reduce the size of the workforce

through attrition. TABLE 2 shows the number of full-time equivalents as well as the combined costs of wages and benefits. It is clear that but for the significant reduction in the number of employees the cost of wages and benefits would have ballooned well beyond the City's ability to pay. As TABLE 3 shows, city employees have shouldered substantial increases in their share of benefit costs. It should be noted that salary and benefits level are not the same among different departments and classifications and that salary and benefit costs have been rounded to the nearest thousand dollars.

TABLE 2 -- CITY'S PERSONNEL COSTS 2006-2013

	<u>FULL-TIME EQUIVALENTS</u>	<u>SALARY COSTS</u>	<u>BENEFIT COSTS</u>	<u>COMBINED COSTS</u>	<u>AVERAGE PER EMPLOYEE</u>
2006	160	6,214,000	2,393,345	8,607,000	\$53,794
2007	151	6,113,000	2,470,000	8,583,000	\$56,841
2008	135	5,757,000	2,364,000	8,121,000	\$60,156
2009	130	5,686,000	2,483,000	8,169,000	\$62,838
2010	127	5,643,218	2,596,000	8,240,000	\$64,882
2011	122	5,514,000	2,440,298	8,155,000	\$66,844
2012	125	5,742,000	2,557,000	8,301,000	\$66,408
2013	120	5,661,928	2,296,000	7,958,000	\$66,317

TABLE 3 -- BENEFIT COSTS PAID BY EMPLOYEES

	<u>FULL-TIME EQUIVALENTS</u>	<u>BENEFIT COSTS</u>	<u>AVERAGE PER EMPLOYEE</u>
2006	160	44,547	\$278
2007	151	46,584	\$308
2008	135	48,838	\$363
2009	130	79,895	\$615
2010	127	107,025	\$843
2011	122	149,524	\$1,226
2012	125	224,739	\$1,798
2013	120	251,761	\$2,098

The City's financial information is divided into several funds. The Annual Comprehensive Financial Report (CAFR) is prepared Norman & Paulson, P.C. It is based on an audit of financial records in accordance with generally accepted accounting practices. The report contains a section titled "Financial Highlights" for the fiscal year ending September 30, 2013.

- The City's financial position increased by \$1,369,982 which represents a 2.1 percent increase in net position from \$63,812,217 at the beginning of the year to \$65,182,199 at the end of the year. Included in the City's total net position is the Electric Utility Fund. The Electric Utility's net position decreased by \$436,256 to \$38,345,103 due to a net investment pool market value loss of \$807,981.
- The City's Governmental Funds reflected a total fund balance at September 30, 2013 of \$5,151,630, which was an increase of \$759,702 from the previous year.
- The City's Municipal Street Fund reflected a total fund balance at September 30, 2013 of \$536,323, which was an increase of \$382,855 from the prior year-end and included an operating transfer from the General Fund of \$690,000.
- The City's Municipal Street/Sidewalk Fund reflected a total fund balance at September 30, 2013 of \$694,568, an increase from the prior year-end and included voter approved property tax revenue of \$707,524.
- The Net Position of the Pension Trust Fund increased by \$2,745,967 or 10% of beginning net position of \$28,105,940. This was the result of a net appreciation in the fair market value of investments of \$2,907,596.
- The total Governmental Fund expenditures for the year ended September 30, 2013, amounted to \$9,998,324, of which \$4,050,664 (41 percent) was for public safety, \$2,321,593 (23 percent) was for public works, \$1,60,734 (16 percent) was for recreation and cultural, and \$1,602,429 (16 percent) was for general government.

Funds are categorized into three major categories: governmental, proprietary, and fiduciary. With some funds the City has discretion to shift monies from one to another. However, certain funds can only be used for specified purposes. Special reserve funds include: Major Street and Trunkline Fund, Local Street Fund, Municipal Street Fund, Municipal Street/Sidewalk Improvement Fund, and Capital Projects Fund. There are four enterprise funds: Electric Fund, Water Fund, Sewer Fund, and Economic Development Fund. Revenue from the utilities fund is based on rates charged to customers. Utility funds make a payment in lieu of taxes to the General Fund. The recent trend in utility tax revenue has been flat. Mr. Hughes attributed this to decreases in usage resulting from national and regional economic issues.

The General Fund is the general operating fund. It is used to account for all financial transactions except those that are accounted for in another fund. The General Fund balance is a

chief financial indicator. A fund balance has been compared to an individual's checking account. It is the rollover amount available after expenditures are made added to the fund balance from the previous year that may yield a positive or negative number. As of September 30, 2013 the fund balance was \$2,521,134, a decrease of \$268,220. The fund balance considers the ratio of the fund balance as a percentage of the general fund. City Manager Hughes testified that auditors recommend that this percentage range be 25-30 percent. The 2013 fund balance was 30 percent. However, he cautioned that "it doesn't take much" to go from a thirty percent to a ten percent fund balance if the City has a significant emergency. Maintaining the recommended general fund balance is important for the City's bond rating and ability to borrow. The City's current bond rating is "A+".

A large part of the City's financial presentation concerned legacy costs. All full-time City employees are members of the City of Sturgis Employees' Retirement System. The Defined Benefit plans are different for each group of represented employees and non-represented employees. The provisions in the various plans are discussed in the Issues section.

Gabriel Roeder Smith & Company serves as the City's actuarial consultant for the pension system. The most recent actuarial report covers the period ending September 30, 2013 and is the most recent information available for the panel's consideration. The overall gain from the last valuation was \$911,677 or 3.22% of 2012 accrued liabilities. The rate of market return for the nine months prior to the evaluation date was 16.6%, a result that substantially exceeded the assumed rate of return of 7%. However, the rate of asset return reflected for the valuation was 8.61% for the 9 months since the last valuation date. This is due to recognition of only 20% of the investment gains and losses for the current and prior years in accordance with the smoothing method. TABLES 4 and 5 show the rate of employer contributions for the current and previous fiscal years. The Annual Required Contribution is computed by deducting the employee's share of the normal cost and adding the amortized amount of the unfunded actuarial accrued liability. The amortization period is fifteen years.

**TABLE 4 -- REQUIRED EMPLOYER CONTRIBUTION
FISCAL YEAR 10/1/15 – 9/30/16**

<u>DIVISION</u>	<u>PERCENTAGE OF PAYROLL</u>	<u>AMOUNT</u>
General	5.43%	\$150,353
Electric	6.65%	\$ 57,782
<i>Police</i>	<i>17.11%</i>	<i>\$204,963</i>
Fire	16.65%	\$ 95,607
Combined	9.50%	\$508,705

TABLE 5 -- REQUIRED EMPLOYER CONTRIBUTION (VALUATION YEAR)

<u>DIVISION</u>	<u>12/31/11</u>	<u>12/31/12</u>	<u>9/30/13</u>
General	5.72%	6.19%	5.43%
Electric	13.39%	10.69%	6.65%
<i>Police</i>	<i>20.01%</i>	<i>17.95%</i>	<i>17.11%</i>
Fire	17.51%	18.46%	16.65%
Combined	11.30%	10.84%	9.50%

TABLE 6 explains components of the Annual Required Contribution (ARC). Normal Cost is the annual cost assigned under the actuarial funding method to current and subsequent plan years. Actuarial Accrued Liability is the difference between the actuarial present value of future plan benefits and the actuarial present value of future normal cost. Unfunded Actuarial Accrued Liability is the difference between the actuarial accrued liability and valuation assets.

**TABLE 6
ANNUAL REQUIRED CONTRIBUTION (ARC)
FOR FISCAL YEAR 10/1/15 – 9/30/16**

	Overfunding indicated in parentheses				
	<u>GENERAL</u>	<u>ELECTRIC</u>	<u>POLICE</u>	<u>FIRE</u>	<u>TOTAL</u>
Normal Cost	10.08%	11.99%	17.44%	18.04%	12.91%
Employee Share	1.80%	1.97%	3.01%	4.40%	2.36%
Employer Normal Cost	8.28%	10.02%	14.43%	13.74%	10.55%
Unfunded Accrued Liability	(2.85%)	(3.37%)	2.68%	2.91%	(1.05%)
RATE FY 10/1/15-9/30/16	5.43%	6.65%	17.11%	16.65%	9.50%
RATE FY 10/1/14-9/30/15	6.19%	10.69%	17.95%	18.46%	10.84%
Decrease	0.76%	4.04%	0.84%	0.19%	1.34%

Persons responsible for financing a pension plan as well as those who depend on the plan for retirement income are interested in how well the plan is positioned to pay the plan's beneficiaries what they are owed. If a plan has fewer assets than needed to meet its obligations it has an unfunded accrued liability. TABLE 7 shows the funding percentage for the entire plan and for the separate divisions. When assets exceed liabilities the employer contribution rate is reduced.

TABLE 7 - PENSION FUNDING LEVELS BY DIVISION – 9/30/2013

	<u>GENERAL</u>	<u>ELECTRIC</u>	<u>POLICE</u>	<u>FIRE</u>	<u>TOTAL</u>
TOTAL LIABILITY	11,687,058	4,027,062	7,087,902	5,715,598	28,527,620
PRESENT ASSETS	12,570,961	4,351,315	6,732,419	5,530,851	29,185,546
UNFUNDED ACCRUED LIABILITY	(873,903)	(324,253)	355,483	184,747	(657,926)
FUNED PERCENTAGE	107%	108%	95%	97%	102%

The City's presentation emphasized the challenges it faces because of retiree healthcare or what accountants call other post-employment benefits (OPEB) liability. In addition to its defined benefit pension plan, the City provides a retiree health care benefit. For employees hired before a certain date (the exact date varies depending on the specific employee group), the City pays 70% of the premium cost of health insurance for a retiree and spouse for life. Employees hired on or after the cutoff date do not receive health insurance coverage. Instead, the City makes a matching contribution of 1% of pay during their employment to a special-purpose savings account known as a retirement health savings plan (RHSP). The current agreement with this bargaining unit contains the following provisions on retiree health care.

The Governmental Accounting Standards Board (GASB) establishes standards that governmental entities must follow in its financial reports. In 2005 the Board issued GASB Statements 43 and 45. In general, postemployment benefits are financed in one of two ways.

Some governments follow an actuarial approach. Under the actuarial approach the governmental unit pays into a plan an amount that is invested and expected to be sufficient to finance post-employment benefits such as retiree health care. Although units of government typically follow this approach for pension benefits they have not done so for accruing OPEB liability. The second and more commonly used method is “pay-as-you-go”: the bills are paid each year as they become due. The new standards do not mandate that assets be set aside to pay for future benefits. The new standards require that governmental units account for and report the annual costs and outstanding obligations and commitments in the same manner as they currently do for pensions. The lifetime retiree health care benefit (described by the City as the “legacy benefit”) for employees hired before the switch to the RHSP is enormous. TABLE 8 shows the actuarial accrued liability and actuarial value of assets for the police department and total city contained in the Retiree Health Care Plan Actuarial Valuation Report dated December 31, 2013 prepared by Gabriel Roeder Smith & Company.

TABLE 8
LIABILITIES AND FUNDING LEVELS FOR OPEB BENEFITS (12/31/2013)

	<u>General</u>	<u>Electric</u>	<u>Police</u>	<u>Fire</u>	<u>Total</u>
Actuarial Accrued Liability	10,143,858	2,839,368	3,469,277	4,079,555	20,532,058
Actuarial Value of Assets	1,167,547	326,808	399,310	469,552	2,363,217
Unfunded Actuarial Accrued Liability	8,976,311	2,512,560	3,069,967	3,610,003	18,168,841
Funded Ratio	11.5%	11.5%	11.5%	11.5%	11.5%

The actuarial report calculates an Annual Required Contribution (ARC). This is calculated by adding the normal cost (the annual cost assigned under the actuarial funding method to current and subsequent plan years) plus the portion of the unfunded actuarial accrued liability to be amortized in the current period. If the City paid the ARC on an ongoing basis it would be expected to provide sufficient resources to fully fund the plan with the unfunded actuarial accrued

liability amortized over a 24-year period. The ARC amount is \$1.6 million, which currently equates to almost 29% of payroll. Since 2005 the City has tried to pay as much of the ARC as it can afford, but it has not been able to pay the full amount resulting in the 11.5% funding ratio. City Manager Hughes testified that currently the City is pretty close to making the required annual contribution. According to the 2014 – 2015 Operating Budget the annual required contribution is \$1,419,000 and the budgeted amount is \$1,277,000.

DISCUSSION ON ABILITY TO PAY

The panel has not attempted to reiterate all of the financial information contained in the record. It is too voluminous. The panel has carefully examined all of the information and formed its own conclusions rather than adopting the opinions of the witnesses or advocates. The City's short-term and long-term financial ability to pay has been accorded the greatest weight of all of the Section 9 factors. In consideration of the City's financial situation the panel has declined to award the Union's wage demand in the third year of the agreement. Although not insubstantial, the wage award for a police officer is over the life of the contract \$1,064 greater than if the panel had granted the City's demand in each of the three years. The panel's declination to raise the age for retirement eligibility for newly hired personnel has taken into account, in addition to all Section 9 criteria, the financial solvency of the pension fund as well as the fact that the City has already succeeded in capping its pension contribution for bargaining unit members hired after October 1, 2011 to 16.2% with the risk of higher future contributions on the employee. In that regard I agree with the Union that in evaluating the employer cap the panel should take into account that the City is not responsible for the social security employer contribution (6.2%). With regard to the declination to grant the City's demand on retiree health care the panel feels constrained to explain that it would not, if the law permitted, grant either party's demand and instead would fashion an award to help ameliorate the City's substantial OPEB dilemma without delinking eligibility for retirement and retiree health care. Because the panel must accept or reject each side's final offer of settlement in its entirety that is not the result. The panel applauds the City's prudent approach to successfully navigate the perils of reduced revenues and rising costs in order to strike the delicate balance necessary to provide quality services to the public. The

panel finds that the City has the ability to pay the cost of the issues decided in this proceeding and this award is consistent with the public's interests and welfare.

ISSUES

As is customary in interest arbitration proceedings the panel has been provided with and has carefully reviewed voluminous materials provided by the parties on comparables. Section 9(a)(d)(1) of Act 312 requires the panel to consider wages, hours, and conditions of employment of employees providing similar services in public employment in comparable communities. Section 9(e) requires the same comparison with other employees outside the bargaining unit in the local unit of government. Section 9(a)(d)(1) states that the panel is to consider employees performing similar services in the private sector. Certified law enforcement officers are licensed by the Michigan Commission on Law Enforcement Standards and must be employed by a public entity. MCL 28.601.

Section 9(g) specifies that the panel is to consider 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. Although wage, pension, and medical and hospitalization benefits are discussed in more detail under the corresponding issues a preliminary discussion is necessary concerning overall compensation.

The direct wage compensation of municipal employees is different by job classification. Unsurprisingly the top wage scale in the three bargaining units for non-supervisory do not correspond with one another. The maximum hourly base wage in the expired agreement for a Police Officer after four years is \$26.92. The maximum hourly wage in the current agreement for a Firefighter after five years is \$15.10. The maximum hourly wage in the expired agreement with the International Brotherhood of Electrical for a Utility Line Worker is \$33.78. The record does not include wage rates for non-represented employees. However, the same pay scale variations apply to those positions.

With the exception of pensions, the other listed components of overall compensation are not significantly different among represented groups. All city employees have the same choices concerning health coverage. Contractual provisions on vacations, holidays, and other excused time are for the most part the same and any differences are inconsequential for purposes of comparability.

Also unsurprisingly, wages and fringe benefits vary considerably in the comparable cities. The panel has reviewed the corresponding collective bargaining agreements for each of the cities concerning the specific issues in dispute between these parties as well as the overall compensation as delineated in subsection 9(G). All of that has been given appropriate consideration in the panel's assessments. In the panel's view including fringe benefit provisions from the three internal and seven external collective bargaining agreements on issues that are not in dispute would unnecessarily lengthen this document without productive purpose.

In light of the prominence of the issues the panel will address the City's demands on pension eligibility and retiree health care before discussing wages and two other disputed issues concerning contractual language. Although presented and discussed separately, the panel is acutely aware that in the final analysis the cumulative effect of individual awards is the overriding consideration.

Age 55 Pension Eligibility (City Issue)

Although all Section 9 factors have been considered, the panel concludes that the most relevant factors to this issue are subsections (a)(i)-(iv), (b), (d), (e), (g), and (i). If adopted, the City's last offer of settlement on this issue would require that bargaining unit members hired after the date of the award would be eligible for retirement at age 55 with 25 or more years of creditable service, or at age 60 with ten or more years of creditable service.

All full-time City employees are members of the City of Sturgis Employee's Retirement System. However, there are considerable differences in the plans for each of the three bargaining units as well as for non-represented employees. The main features of each category are described. More comprehensive information is contained in the *Sixty-Fourth Annual Actuarial Report as of September 30, 2013*.

Electric – The multiplier is 2.0% years of service. Employees are eligible for retirement regardless of age after 25 years of service. An employee is eligible at age 55 with 10 years of service and at age 60 with five years of service. Final average compensation is based on the highest five consecutive years out of the last ten years prior to retirement. Employee contributions are different for persons hired before October 1, 2014 and after that date. Employees hired before that date contribute 4.55%. For employees hired after that date the City's annual contribution to the pension fund is capped at 10% and employees are responsible for any cost above that amount. Employees are eligible for social security and the City is responsible for 6.2% of wages as the employer contribution. In addition, the City matches employee contributions in a deferred compensation plan up to a maximum of two percent.

General – The multiplier is the sum of 1.2% for the first \$4,200 and 1.7% of the amount in excess of \$4,200. An employee is eligible at any age with 25 years of service. Final average compensation is based on the highest five consecutive years out of the last ten years prior to retirement. Employees contribute 1.8%. Employees are eligible for social security and the City is responsible for 6.2% of wages as the employer contribution.

Police – The multiplier is 2.5% per year of service. Employees are eligible for retirement regardless of age after 25 years of service. An employee is eligible at age 55 with 10 years of service or at age 60 with 5 years of service. Final average compensation is based on the highest five consecutive years out of the last ten years prior to retirement. Employee contributions are different for persons hired before October 1, 2011 and after that date. Employees hired before that date contribute 3.01%. For employees hired after that date the City's annual contribution is capped at 16.2% and employees are required to pay any additional cost. Sworn members are not eligible for social security benefits. In addition, the City matches employee contributions in a deferred compensation plan up to 1.3% of eligible gross wages.

Fire – The multiplier is 2.5% per year of service. Employees are eligible for retirement regardless of age after 25 years of service. An employee is eligible at age 55 with 10 years of service or at age 60 with 5 years of service. Final average compensation is computed on the highest three consecutive years out of the last five years prior to retirement. Employee contributions are different for persons hired before October 1, 2012 and after that date. Employees hired before that date contribute 4.3%. For employees hired after that date the City's annual contribution is capped at 16.2% and employees are required to pay any additional cost. Firefighters are not eligible for social security benefits. In addition, the City matches employee contributions in a deferred compensation plan up to 2% of eligible gross wages.

It is true that the decision for the panel on this issue is whether to continue the “25 and out” pension eligibility (as the Union advocates) or to require newly hired police officers to work to at least age 55 to qualify for pension benefits (as the City advocates). However, that decision must be made in the context of each of the four categories in their entirety. Unlike vacations or other time off they are different in numerous respects. And assessing unlike aspects of pension provisions for comparison purposes is not easy. Although the City Manager’s testimony revealed an impressive grasp of the City’s finances he did not offer testimony helpful to making an “apple to apple” comparison. Nor did any other witness. The average final compensation period is an important component of pension plans. Generally speaking a shorter period is more advantageous for the employee. Three groups (Police, Electric, and General) compute the pension benefit on the highest five consecutive years out of the last ten years and one (Fire) computes it on the highest three years. The multiplier is of obvious importance: it is 2.5% for two groups (Police and Fire) and less for the civilian groups (2.0% for Electric and a combination of 1.2% and 1.7% for General). The employer’s contribution is capped for new employees in three groups (Police, Fire and Electric) but not in the other (General). The cap is different for these three groups: 10% (Electric) and 16.2% (Police and Fire). The level of employee contributions depends on date of hire in three groups (Police, Fire, and Electric) but not in the General group. The amount of the contribution for other than new hires is different for each group: 3.01% (Police), 4.3% (Fire), 4.55% (Electric) and 1.8% (General). The City pays the employer share of social security (6.2%) for two groups (Electric and General) and does not pay it for two groups (Police and Fire). Consequently, uniform employees would be expected to receive a higher pension but no social security and civilian employees would be expected to receive a lower pension and social security. And of obvious significance, all groups establish pension eligibility at “25 and out” regardless of age.

In considering the “internal comparable” Section 9 factor, the panel concludes that the plans are substantially equal. Except for non-represented employees the differences are the result of the collective bargaining process and presumably reflect the bargaining objectives of both sides.

The complexity is not less with regard to the external comparables.

Charlotte. The plan is different for employees hired on or after July 1, 2012. Employees hired before that date have a defined benefit plan. The multiplier is 3.0%. The maximum pension amount is 80%. The final average compensation period is five years. Police Officers contribute 10% and Sergeants contribute 13%. There is an age/service requirement: 50/25 or 60/10. The employer matches employee contributions in a 457 deferred compensation plan up to \$2,500 and an additional \$1,000 if the employee contributes \$2,500. Employees hired after July 1, 2012 have a hybrid plan. The multiplier for the defined benefit component is 1.75%. The final average compensation period is three years. There is an age/service requirement: 55/25 or 60/6. The employer contributes 16.2% into a defined contribution plan less the cost of the employer contribution into the defined benefit plan. The maximum employer contribution for both portions is 16.2%.

Coldwater. The plan is different for employees hired before July 1, 1997. Employees hired before that date have a defined benefit plan. The multiplier is 2.5%. The maximum pension amount is 80%. The final average compensation period is three years. Police Officers contribute 6% and Sergeants contribute 5%. There is an age service requirement: 50/25 or 60/10. Employees hired after July 1, 1997 have a defined contribution plan. The employer contributes 7.5%. The employee contributes 7.5%.

Hastings. The plan is different for employees hired before July 1, 2010. Employees hired before that date have a defined benefit plan. The multiplier is 2.5% for service prior to 9-1-11 and 2.0% for service after that date. The maximum pension amount is 80%. The final average compensation period is five years. Employees contribute 1.56%. There is an age/service requirement: 50/25 or 60/10. Employees hired after that date have a hybrid plan. The multiplier for the defined benefit component is 1.0%. The final average compensation period is three years. There is an age/service requirement: 60/6. The employer contributes 10% of pay less the employer's contribution for the defined benefit portion into a defined contribution plan. The employee contributes a minimum of 1% into the defined contribution plan.

Marshall. All employees have a defined benefit plan. The multiplier is 3.0%. The maximum pension amount is 80%. The final average compensation period is three years. Police Officers contribute 8.79%. Sergeants contribute 12.24% phasing down to 8.79% effective June 1, 2017. There is an age/service requirement: 50/25 or 60/10.

Niles. All employees have a defined benefit plan. The multiplier is 2.6% for the first 30 years of service and 1.0% for the remainder. The maximum pension amount is 85%. The final average compensation period is three years. Employees hired before October 1, 2012 contribute 7%. Employees hired after that date contribute 8%. There is an age/service requirement: 52/25. A “13th check” equivalent to a regular check is paid if the pension fund is funded at a level that exceeds 110%.

Tecumseh. The plan is different for employees hired before July 1, 2011. Employees hired before that date have a defined benefit plan. The multiplier is 2.75%. The maximum pension amount is 75%. The final average compensation period is three years. Employees contribute 6.73% of pay. Employees hired after July 1, 2011 have a hybrid plan. The multiplier for the defined benefit component is 1.5%. The maximum pension is 75%. Employees contribute 6.73%. There is an age/service requirement: an employee is eligible after 25 years of service with no age requirement or at age 55 with five years of service. Employees hired on or after July 1, 2011 have a hybrid plan. The multiplier for the defined benefit component is 1.5%. The average final compensation period is three years. There is an age service requirement: 60/6. The employer contributes 5% of pay to the defined contribution component. The employee may contribute up to 10% to the defined contribution component.

Three Rivers. All employees are covered by a defined benefit plan. The multiplier is 2.5% for employees hired before May 1, 2012 and 2.25% for employees hired after that date. The maximum pension amount is 80%. The final average compensation period is five years. Employees contribute 7.4%. There is an age/service requirement: 50/25 or 55/15 or 60/10.

Although there are many differences, the principal one is whether the cities have a defined benefit, defined compensation, or hybrid plan. Each city has a defined benefit plan for at least some employees.

All employees in three cities are covered by a defined benefit plan (Marshall, Niles, and Three Rivers). Of those three cities, the multiplier is higher than Sturgis in two cities (Marshall - 3.0%; Niles - 2.6% for 30 years & 1% after 30 years; Three Rivers --2.25% or 2.5% depending on date of hire). Two of those cities require employees to be 50

Employees hired after a specified date are covered by a hybrid plan in three cities (Charlotte, Hastings, and Tecumseh). In Charlotte, the multiplier for the defined benefit component of the hybrid plan is 1.75% and the employer contribution to the defined compensation component is 16.2% less the contribution to the defined benefit component. In Hastings, the multiplier for the defined benefit component is 1.0% and the employer contribution to the defined compensation component is 10% of pay less the employer's contribution for the defined benefit component. In Tecumseh, the multiplier for the defined benefit component is 1.5%. The employer contributes 5% of pay to the defined benefit component.

Employees hired after a specified date are covered by a defined compensation plan in one city (Coldwater). The employer matches the employee contribution of 7.5% in the defined compensation plan.

There is a range of opinions concerning defined benefit, defined compensation, and hybrid plans. There are advantages and disadvantages to each. In a defined compensation plan the moneys are transferable when changing employment, employees can receive a lump sum payment of the account, the beneficiary is not limited to one's spouse, the individual can exercise control of the asset allocation in investments and individuals reaching the age of 59^{1/2} are normally permitted to make penalty-free withdrawals. Of obvious importance is the percentage of pay that the employer contributes and the notoriously unpredictable variable of whether the stock market and other investments perform well or poorly. On the negative side, the employee takes on all of the risk and by definition a defined contribution plan does not have an unfunded liability for the employer. Beyond this the panel concedes its handicap in quantifying all of the considerations that would be involved in making an intelligent and reliable comparison.

CITY'S POSITION ON AGE 55 PENSION ELIGIBILITY ISSUE

Defined benefit pension plans present substantial challenges to employers. By now it is universally recognized that most private employers have moved away from defined benefit plans to defined compensation plans because of those challenges. Many public sector employers have also concluded that defined benefit plans are an unsustainable "Cadillac" legacy benefit and that, going forward "hybrid" plans and defined contribution plans are a more prudent and appropriate expenditure of taxpayer dollars.

A part of the employer's long-term strategic approach is to keep expenditures in line with revenues and to make adjustments to benefits as necessary to control costs. The City has decided to align itself with the majority of its peers by making changes to the retirement benefit structure for new hires that allow it to move at least incrementally away from the outdated "Cadillac" approach to pensions.

The City recognizes that all other employee groups have "25 and out" pensions. Although this bargaining unit would likely be the first employee group affected by the plan change sought by the employer, there is no dispute that the City intends to make the same change for its other employees groups.

The employer's last best offer is strongly supported by the evidence. Four of the seven cities have dropped the "Cadillac" type of defined benefit plans altogether for employees hired after a cutoff date and replaced it with a hybrid or defined compensation plan. Those cities are Charlotte (hybrid), Coldwater (defined contribution), Hastings (hybrid), and Tecumseh (hybrid). Each of the three cities with hybrid plans have age/service requirements: Charlotte (55/25 or 60/6); Hastings (60/6); Tecumseh (60/6).

The other three cities for comparison still have a traditional DB pension plan for all officers, including new hires. However, none of the cities allows "25 and out" retirement. In addition, new officers at those cities contribute substantially more than new officers in Sturgis currently pay. In Marshall, new officers have a 3% multiplier and contribute 8.79% of pay. In Niles, new officers have a 2.6% multiplier for the first 30 years of service and a 1% multiplier for the rest and contribute 8% of pay. In Three Rivers, new officers have a 2.25% multiplier and

contribute 7.4% of pay. In comparison, new Sturgis officers currently have a 2.5% multiplier and contribute 3.01% and are liable for more only if the employer's contribution exceeds the 16.2% cap.

In summary, most of the external comparables have dropped the traditional defined benefit pension plan for new hires and gone to a hybrid plan or defined compensation plan. Under those hybrid plans, which have a DB component, the multipliers range from 1% to 1.75% and the age/service requirements are 55/25 or 60/6. The defined contribution plans, of course, do not have age/service requirements like defined benefit plans; instead, an individual must generally reach age 59^{1/2} to begin withdrawing funds without a tax penalty. Furthermore, among the minority of external comparables that still have a defined benefit plan for new hires, not a single one provides for "25 and out" retirement.

Based on the external comparables, the employer would have had compelling support for a proposal to end the traditional defined benefit plan for new hires and switch to a hybrid plan or defined compensation plan similar to a majority of the cities for comparison. The employer has instead opted to retain the traditional defined benefit plan while changing only the wholly unsupported "25 and out" provision to the more reasonable criteria of 55/25 or 60/10.

As a final matter, the issue of Social Security should be addressed. Police Officers and Sergeants are covered by Medicare but not covered under Social Security. That fact is not relevant to the merits of the City's proposal. The issue under consideration concerns when new hires can retire, not the amount of the pension benefit. Furthermore, the City's contribution for new hires is capped at 16.2%, which is 6.2% higher than groups covered by Social Security. As a result, the employer's net contribution is the same for all new employees regardless of Social Security coverage. Finally, it is not the correct that employees covered by Social Security are advantaged. Sworn public safety employees are not responsible for the 6.2% employee contribution and can invest that money in a 457 plan or other tax-advantaged retirement account and almost certainly do better in the long run. Based on all of the relevant factors, the panel should adopt the employer's last best offer as to the age and service requirements under the defined benefit plan for new hires.

UNION'S POSITION ON AGE 55 PENSION ELIGIBILITY ISSUE

The City of Sturgis is in exceptional financial shape. Consequently, the City's financial need argument is unconvincing. The testimony and exhibits confirm that the economy has stabilized. Sturgis is not a bedroom community but one supported by manufacturing and commercial property. Its diverse tax base places it in a superior financial position over most municipalities. The employer has budgeted a decrease in industrial property value yet charts an increase in the State Equalized Value of residential homes. If there is a small drop in industrial property value it is offset or overcome by the increase in the residential property values. Although the City Manager expressed concern about changes in the business personal property tax in fact the new formula makes it an equal wash going forward. The consumption of utilities, while flat, is really a steady, unchanging funding source that most municipalities do not have. The City's general fund balance is over 30%. The City's governmental funds reflected a total fund balance on September 30, 2013 of \$5,151,630, an increase of \$759,702 from the prior end year.

Employees have helped the City get through the tough times of Michigan's economy. Bargaining unit members pay 20% of the cost of healthcare. Retiree health care has been eliminated for new hires. Employees hired after 2012 have assumed the risk of future pension cost increases above the employer cap on contributions. The strength of the City's finances is evident in that the defined benefit pension plan is fully funded even after the stock market turmoil in 2008. Additionally, the City began to fund OPEB obligations during Michigan's financial storm. Since December 31, 2010 the City has set aside \$2.3 million for OPEB.

It is inconceivable that the employer is seeking a pension reduction for those hired after the date of the award when the pension system is fully funded. With a fully funded pension there exists no reason to extend the regular retirement age to 55 years with 25 years of service. The Union gave pension relief when it agreed to cap the employer contribution at 16.2% for those hired after October 1, 2011. This puts the financial risk of an unexpected downturn similar to 2008 on the employee. In actuality the 16.2% cap is a 10% cap on the defined contribution program because the 6.2% represents the amount the City does not pay into Social Security.

Neither internal nor external comparables support the City's demand. If this demand were awarded the police would be the first and only group having the age 55 requirement imposed in addition to 25 years of service. None of the external comparables support the City's position. Charlotte, Coldwater, Hastings, Marshall and Three Rivers have the age 50 with 25 years of service. Tecumseh has no age requirement and the age requirement in Niles is 52. It is likely that none of the comparable cities have pensions that are funded as well as Sturgis. Under any analysis, the Union's status quo proposal should be adopted.

DISCUSSION ON AGE 55 PENSION ELIGIBILITY

Section 9(a) requires the panel to take into account the financial impact of its award. Indeed, the financial ability of the City to pay is to be given most significance if supported by competent, material, and substantial evidence. The panel agrees with the City that removing the "25 and out" provision would be financially beneficial to the City. This would be the case even if one considers the offsetting increase in the pension amount for the extra years. The City has not explicitly claimed or shown that granting this proposal is needed to bring the level of funding in the pension fund to an acceptable level. Presumably it would increase the overfunding but the panel has not been provided an estimate of the amount. On the other hand, the City's cautious approach to finances is sound. An overfunded pension fund can become underfunded by factors beyond the City's control quickly.

Section 9(i) instructs the panel to take into account factors that are normally or traditionally taken into consideration in collective bargaining. In collective bargaining the level and nature of recent concessions is taken into consideration. In the panel's view a cap on the employer's required annual pension payment that shifts the risk of exorbitant increases to employees is a significant concession. Presumably this change that affects employees hired in the last three years was calculated to shore up the solvency of the pension fund. If that is the case the current overfunding suggests that newly hired employees have already contributed to the City's goal.

In the same way that the City properly emphasizes how other groups of employees have been treated, the Union properly emphasizes that the City has not changed “25 and out” for non-represented employees when the change could be implemented unilaterally. While the panel believes that the City intends to remove “the antiquated 25 and out” provision for all employees it has not satisfactorily explained the reasons it has not done so for non-represented employees.

Section 1 of Act 312 makes clear that panels are not to ignore the effect of its actions on the morale of public safety personnel.

It is the public policy of this state that in public police and fire departments, where the right of employees to strike is prohibited, *it is requisite to the high morale of such employees and the efficient operation of such departments* to afford an alternate, expeditious, effective and binding procedure for the resolution of disputes, and to that end the provisions of this act, providing for compulsory arbitration, shall be liberally construed. (Emphasis added)

I agree with the well-stated concern expressed by the chairperson of another Act 312 panel who observed that one need proceed with caution in implementing last offers of settlement that have the effect of “grandfathering current employees and rewarding them with pension enhancements at the expense of their colleagues.”

While it is tempting for current employees to grab the “big carrot,” the parties often forget about the significant morale impact a two-tiered benefit system will have on future hires. They must co-exist with more senior employees, often feeling like second-class citizens.²

This caution applies as well to the situation here where the Union is opposing grandfathering. The panel does not wish to be misunderstood. There are times when the facts justify extreme measures. But proportionality and necessity are the keys. The last police officer hired by the Sturgis Police Department was 24. After serving 25 years he will be eligible to retire at age 49. If the panel grants this demand, if the next officer hired is 24 he or she will be eligible to retire in 31 years. Moreover, that officer, unlike the officer with whom he or she may working side-by-side, hopefully will not but could at some future time experience significant salary reductions if the required pension contribution exceeds the employer’s cap. And that new employee will not receive retiree health care. In other words, working six years longer for lesser benefits.

² *City of Trenton & Michigan Association of Police*, MERC Case No. D03 D-0798 p. 28 (Karen Bush Schneider, Chairperson) (April 27, 2004).

It is not possible to assess the effect of the City's proposal to impose an age requirement for pension eligibility for newly hired employees. Obviously new employees have not been hired and there is no way to reliably guess the age of newly hired personnel. Although the panel cannot assume that past is prologue consideration of the age of hire of incumbent employees provides a logical yet hypothetical starting point. TABLE 9 shows the age at time of hire of current sworn members and the approximate number of years (rounded to the nearest year) that it would take to attain pension eligibility under the current and proposed requirements.³

TABLE 9 – COMPARISON OF CURRENT AND PROPOSED PENSION ELIGIBILITY BASED ON HISTORICAL HIRING AGE

<u>Employee</u>	<u>DOB</u>	<u>Age at Hire</u>	<u>Years to Pension Eligibility (Current)</u>	<u>Years to Pension Eligibility (Proposed)</u>
1	4/26/1983	22	25	33
2	6/12/1983	24	25	31
3	4/19/1979	25	25	30
4	11/19/1979	25	25	30
5	11/18/1963	26	25	29
6	10/31/1977	24	25	31
7	5/29/1981	22	25	33
8	2/28/1961	34	25	25
9	12/6/1977	23	25	32
10	6/11/1976	29	25	26
11	6/28/1982	25	25	30
12	10/7/1970	29	25	26
13	1/5/1985	27	25	28
14	10/16/1985	27	25	28
15	6/30/1982	23	25	32
16	10/1/1989	23	25	32

The data in TABLE 10 reveals that -- assuming historical hiring patterns continued in the future -- the average age for a newly hired police officer is 25.5 years and the average number of years before reaching the proposed 25 years service and age 55 is 29.75 years. TABLE 10 shows the additional years -- hypothetically assuming historical hiring patterns continued in the future -- that

³ The number in the left column corresponds to the order in which employees are listed in Employer Exhibit 1, Tab 22. The "Years to Pension Eligibility-Current" shows the number of years from date of hire to the twenty-fifth anniversary. The "Years to Pension Eligibility-Proposed" shows the number of years to the twenty-fifth anniversary and age 55.

newly hired officers would be required to work beyond the current retirement eligibility if the City's proposal is adopted.

TABLE 10
 NUMBER OF ADDITIONAL YEARS HYPOTHETICAL FUTURE HIRES WOULD BE
REQUIRED TO WORK WITH MINIMUM AGE REQUIREMENT OF 55

<u>Number of Additional Years</u>	<u>Number of Employees</u>	<u>Percentage</u>
0	1	6.25%
1	2	12.5%
2	0	-
3	2	12.5%
4	1	6.25%
5	3	18.75%
6	2	12.5%
7	3	18.75%
8	2	12.5%

The comparison to external comparables is more complicated because at least on this score there is an “apples to oranges” problem in comparing a minimum age requirement in a defined benefit plan to a defined compensation or hybrid plan. In a defined compensation plan age is not as important an issue because the plan is portable. In a hybrid plan it is the panel’s understanding that the employee has access to the defined contribution component at age 59^{1/2} without incurring a penalty. A direct comparison with the three cities that – like Sturgis – have defined benefit plans is revealing. As the City observes none of those cities have a “25 and out” plan. The minimum age for pension eligibility is 50 (with 25 years service) in Marshall and Three Rivers and 52 (with 25 years service) in Niles. TABLE 11 compares the analysis in TABLE 10 showing the additional years the hypothetical future workforce would need to work under the City’s proposal compared to the 50 and 52 age requirements for the three cities. Once again the panel acknowledges that it would be a remarkable coincidence if the age of hire for future employees matched exactly the age of hire of incumbent employees. While admittedly imperfect it is the only experienced-based data available to gauge the likely effect of granting this proposal.

TABLE 11 -- COMPARISON OF CURRENT, PROPOSED AND COMPARABLE PENSION ELIGIBILITY BASED ON HISTORICAL HIRING AGE

Employee	Age at Hire	Years to Eligibility (Current)	Years to Eligibility (Proposed)	Years to Eligibility Age 50	Years to Eligibility Age 52
1	22	25	33	28	30
2	24	25	31	26	28
3	25	25	30	25*	27
4	25	25	30	25*	27
5	26	25	29	25*	27
6	24	25	31	26	28
7	22	25	33	28	30
8	34	25	25*	25*	25*
9	23	25	32	27	29
10	29	25	26	25*	25*
11	25	25	30	25*	27
12	29	25	26	25*	25*
13	27	25	28	25*	25*
14	27	25	28	25*	25*
15	23	25	32	27	29
16	23	25	32	27	29
AVERAGE	25.5	25.0	29.8	25.9	27.3

* Indicates that employee meets the specified age requirement on 25th anniversary.

TABLE 12 shows the number of additional years – hypothetically assuming historical patterns continued in the future – of a minimum age requirement of 55 (the City’s proposal), 52 (age requirement in Niles), and 50 (age requirement in Marshall and Three Rivers).

TABLE 12
NUMBER OF ADDITIONAL YEARS HYPOTHETICAL FUTURE HIRES WOULD BE REQUIRED TO WORK WITH MINIMUM AGE REQUIREMENTS OF 55, 52, AND 50

Number of Additional Years	Minimum Age 55	Minimum Age 50	Minimum Age 52
0	1 (6.25%)	9 (56.25%)	5 (31.25%)
1	2 (12.5%)	2 (12.5%)	0
2	0	3 (18.75%)	4 (25.0%)
3	2 (12.5%)	2 (12.5%)	2 (12.5%)
4	1 (6.25%)	0	3 (18.75%)
5	3 (18.75%)	0	2 (12.5%)
6	2 (12.5%)	0	0
7	3 (18.75%)	0	0
8	2 (12.5%)	0	0

In summary, the panel concludes that the elimination of the “25 and out” provision is not supported by either the internal or external variables and would certainly have a deleterious effect on morale of newly hired officers. And the City has failed to satisfactorily convince the panel of the financial justification for its adoption.

Based upon the record evidence and the criteria established by Section 9 of Act 312, a majority of the panel finds that the Union’s status quo demand on age requirements for pension eligibility more closely corresponds to the applicable Section 9 factors.

Eligibility for Retiree Health Care (City Issue)

Bargaining unit members hired before October 1, 2008 are entitled to receive a “traditional” retiree health insurance benefit. Under this legacy benefit, the employer pays 70% of the cost of the premium for the retiree and eligible spouse for life (the coverage becomes supplemental to Medicare at age 65). Bargaining unit members hired on or after October 1, 2008 are not entitled to receive this benefit. Instead, those officers may make contributions to their account under the Employer’s Retiree Health Savings Plan (“RHSP”) that they can later use to obtain an officer’s annual contribution up to one percent of pay.

The employer’s demand would not affect bargaining unit members hired after October 1, 2008. It would change the legacy benefit for pre-October 1, 2008 retirees in two main ways. First, retiree health care payments would not begin until the retiree reached age 55 (either at or after the time of retirement) and would continue only until the retiree reached age 65. Second, the amount paid by the employer would be 70% of the cost for the retiree only or 60% of the cost of the premium for the retiree and eligible spouse. If the retiree dies before age 65, the eligible spouse could continue to receive single coverage until the retiree would have reached age 65 upon paying the required premium. The City proposes to delete Section 17.2(b) that currently provides supplemental coverage to Medicare after the retiree enrolls in Parts A, B, and D at his own expense.

All other full-time unionized or non-represented employees have the same legacy retiree health insurance benefit that covers Police Officers and Sergeants. However, City Manager Hughes stated that the City intends to apply the proposed change to other represented and non-represented employees.

Charlotte. Retiree health care is different for employees hired before July 1, 2012 and employees hired after that date. For employees hired before that date the City contributes \$1000 to the employee's Health Care Savings Plan account. No payment is made for employees hired after that date.

Coldwater. Employees do not receive retiree health care.

Hastings. Retiree health care is different for employees hired before July 12, 2002 and after that date. Employees hired after that date do not receive retiree health care. Officers hired before that date receive a retiree health insurance benefit which the employers pays 50% to 90% (the percentage depends on years of service at the time of retirement) of the premium for the retiree and eligible dependents for life, if the retiree has at least ten years of service and immediately begins receiving a pension benefit.

Marshall. Retiree health care is different for employees hired on or after July 1, 1996. Officers hired after that date receive no retiree health care. Officers hired before July 16, 1986 receive a retiree health insurance benefit under which the employer pays the same premium for the retiree and eligible dependents (supplemental to Medicare at age 65) as it pays for active employees. Officers hired on or after July 16, 1986, and before July 1, 1996, receive the same benefit except that the employer pays 10% of the premium upon retirement at age 50 or later with 16 years of service plus 10% per additional year of service (up to 100% with 25 years of service).

Niles. Niles provides retiree health insurance for all officers and pays 80% of the premium upon retirement at age 52 or later for the retiree only until Medicare eligibility at age 65. The retiree can add coverage for his or her eligible spouse by paying 100% of the premium for single coverage.

Tecumseh. Tecumseh provides not retiree health insurance to employees hired on or after July 1, 2011. Officers hired before that date receive a city contribution toward health care of 5% of the

premium per year of service, not to exceed 100% of the “maximum covered premium,” whichever is less, for the retiree and eligible for life, provided the retiree is at least age 55. The “maximum covered premium” was set in 1993 at \$100 per month and is increased by the annual consumer price index, not to exceed 2.5% per year. This formula currently results in a maximum covered premium of \$154 per month.

Three Rivers. The City provides a retiree health insurance benefit to all officers under which the employer pays 50% of the premium for the retiree and eligible dependents, capped at \$200 per month, until age 65, if the retiree is at least age 50 and has at least 15 years of service.

TABLE 13 shows the monthly health insurance rates for members of this bargaining unit for the years 2012 to 2015. The High Deductible Health Plan/Health Savings Account is available to retirees.

TABLE 13 -- MONTHLY HEALTH INSURANCE RATES

YEAR	<i>Blue Cross Community Blue</i>			<i>HDHP/HSA</i>		
	<u>SINGLE</u>	<u>2 PERSON</u>	<u>FAMILY</u>	<u>SINGLE</u>	<u>2 PERSON</u>	<u>FAMILY</u>
2012	\$531	\$1,256	\$1,656	\$365	\$876	\$1,095
2013	\$499	\$1,179	\$1,564	\$271	\$649	\$812
2014	\$501	\$1,203	\$1,504	\$287	\$681	\$851
2015	\$550	\$1,320	\$1,650	\$290	\$696	\$870

CITY'S POSITION ON RETIREE HEALTH CARE

If granted by the panel the employer's retiree health care proposal, persons would not be eligible for retiree health care until they reach age 55 either at or after the time of retirement. Retiree health care would continue until the retiree reaches age 65. For those ten years, the employer paid amount would be 70% of the premium cost for the retiree and 60% of the premium cost for the retiree and eligible spouse. Based on 2015 rates for the Blue Cross Community Blue rates, the maximum total post-retirement cost to the City would be \$46,2000 (70% of \$550 per month for 10 years) for retiree only coverage and \$95,040 for two person coverage (60% of \$1,320 per month for 10 years).

The City's proposal is supported by five of the seven comparables. Neither Charlotte nor Coldwater provides a traditional retiree health insurance benefit for any officers. Using the above

costs for comparison purposes, the maximum cost to the city is \$68,640 (80% of \$550 per month from age 52 to age 65) for retiree-only coverage but only \$78,936 (80% of \$1,320 per month, less \$550 per month, from age 52 to 65) for double coverage. Under the Tecumseh legacy cost benefit, the maximum employer post-retirement payments would be \$46,200 (the maximum covered premium of \$154 per month from age 55 to a life expectancy of 80). Under the Three Rivers retiree health plan, the maximum employer post retirement payments would be \$36,000 (premium cap of \$200 per month from age 50 to 65).

The legacy retiree health insurance benefits in Hastings and Marshall would result in maximum post-retirement payments substantially higher than those paid by Sturgis and the five other comparable cities. However, it is important to note that those cities eliminated retiree health care for new hires much earlier, 2002 and 1996 respectively, than the other cities. As a result the group of officers eligible for the legacy benefit is undoubtedly much smaller (and in Marshall probably non-existent) at the present time.

Based on all of the relevant factors, the arbitration panel should adopt the employer's LBO as to the retiree health insurance benefit.

UNION'S POSITION ON RETIREE HEALTH CARE

Since 2008 the employees of Sturgis have been giving concessions on many benefits. Sturgis was way ahead of the game when new hires were cut off from retiree health care on October 1, 2008. The City began saving for retiree health care in 2010. There is no mandate that the City must pre-fund retiree health care and traditionally municipalities pay as they go. Since 2010 the City has managed to set aside \$2.3 million for retiree health care. This occurred during the biggest financial storm to hit Michigan since the Great Depression. The City's ability to save this large amount demonstrates that more concessions are not needed on retiree health care.

The proposal to cut off health care until the officer has 25 years of service and age 55 is a money grab that affects nearly every eligible member hired before October 1, 2008. Only one of those officers will 55 years old on their 25 year retirement dates. The average age is 50.8. The City is attempting to take away an average of 4.2 years of retiree health care. In all likelihood

officers would be forced to stay until they reach age 55. Some officers would work as many as eight additional years to earn retiree health care. None of the officers hired since 2008 has had the chance to prepare for a gap in health insurance coverage after retirement until they attain the age of 55 and the City has not offered any method to allow officers to save the necessary dollars. The effect on individual officers would be serious. As one example, Officer Johnson was hired on November 5, 1990. He is eligible to retire in seven months. But under the employer's proposal he would be without health care coverage from November 5, 2015 until his 55th birthday on November 18, 2018.

External comparables do not support the employer's proposal. None of the comparables requires police officers until age 55 to earn retiree health care. All of the comparables except one allow for retirement at age 50. The retirement age for Niles is 52.

Internal comparables do not support the employer's proposal. Unrepresented employees, including the City Manager and the Director of Public Safety, can have the retiree health care proposal imposed without negotiation. The City has not done so. Rather it seeks to put POLC membership in a worse position than anyone else in the City.

The unreasonableness of the new age requirement is not the only reason the employer's demand should be rejected. If a retiree is married it reduces coverage from 70% to 60%. The City has already achieved substantial future savings by ending liability for retiree health care in 2008. It is sad and unreasonable that the City seeks to impose this demand on the municipal employees who have the most dangerous jobs and routinely put themselves in harm's way.

DISCUSSION ON RETIREE HEALTH CARE

Two things are clear. First, the City is justifiably concerned about the consequences of its pay-as-you-go retiree health care funding method it historically followed. Second, the proposed delinking of pension eligibility and retiree health care eligibility would – rather suddenly and without warning – thrust the majority of bargaining unit members on the horns of a dilemma: on the one hand, retire upon attaining retirement eligibility without health insurance. Or on the other hand, postpone retirement beyond eligibility for a few more years (few meaning 1, 3, 4, 5, 6,

7, or 8) and retain health insurance coverage. TABLE 14 shows the effect of granting the City's demand on members hired before October 1, 2008.

TABLE 14 -- ELIGIBILITY FOR PENSION AND RETIREE HEALTH CARE BENEFITS

<u>Employee</u>	<u>Hire Date</u>	<u>Retirement Eligibility Year</u>	<u>DOB</u>	<u>Age at Hire</u>	<u>Age at Retirement Eligibility</u>	<u>Gap Years to Health Care Eligibility</u>
1	6/30/2005	2030	4/26/1983	22	47	8
2	11/4/2007	2032	6/12/1983	24	49	6
3	6/1/2004	2029	4/19/1979	25	50	5
4	2/7/2005	2030	11/19/1977	28	52	3
5	11/5/1990	2015	11/18/1963	26	51	4
6	8/26/2002	2027	10/31/1977	24	50	5
7	3/22/2004	2029	5/29/1981	22	48	7
8	7/10/1995	2020	2/28/1961	34	59	0
9	3/19/2001	2026	12/6/1977	23	48	7
10	3/13/2006	2031	6/11/1976	29	54	1
11	3/5/2008	2033	6/28/1982	26	51	4
12	10/18/1999	2024	10/7/1970	29	54	1
13	1/11/2006	2031	6/30/1982	23	48	7

One disquieting conclusion from TABLE 14 is that the age 55 demand has significantly different effects on employees who should be similarly situated. If an officer were hired at age 30 the gap years until health care eligibility would be zero. If an officer is hired at the average age of 26 the gap period is 4 years. If an officer is hired at age 21, the gap period is 9 years. It does not appear to the panel to be equitable or rational to achieve savings toward the unfunded actuarial accrued liability that disproportionately disadvantages individuals because of an employment decision a quarter century earlier to hire a youthful applicant.

The panel's decision on this demand should not be understood as expressing the view that the retiree health care proposal is unreasonable in all respects. That is not the case. Substantial savings would be achieved by increasing the retiree's responsibility for two-person coverage from 30% of the premium cost to 40%. Substantial savings would be achieved by eliminating supplemental Medicare insurance when the retiree reaches 65. The record does not reflect the extent of savings those measures would achieve and how much more the age 55

eligibility would achieve. The Health Care Plan Actuarial Valuation Report is a sobering document. The problem is that the City has not shown -- especially in light of the agreement to end retiree health care for new employees -- that delinking pension eligibility and retiree health care eligibility is an appropriate solution.

Based upon the record evidence and the criteria established by Section 9 of Act 312, a majority of the panel finds that the Union's status quo demand on retiree health care more closely corresponds to the applicable Section 9 factors.

Wages (Joint Issue)

The parties have submitted wage demands for each of the three years of the successor agreement.

Wage Increase for 2014 – Last Best Offers of Settlement

The Employer's LBO is an across-the-board increase of 1.5% effective on October 1, 2014. The Union's LBO is an across-the-board increase of 2.25% effective on October 1, 2014.

Wage Increase for 2015 – Last Best Offers of Settlement

The Employer's LBO is an across-the-board increase of 1.5% effective on October 1, 2015. The Union's LBO is an across-the-board increase of 2.5% effective on October 1, 2015.

Wage Increase for 2016 – Last Offers of Settlement

The Employer's LBO is an across-the-board increase of 1.5% effective on October 1, 2016. The Union's LBO is an across-the-board increase of 2.75% effective on October 1, 2016.

If adopted in total, the City's wage proposal is 4.5% for the three-year agreement. If adopted in total, the Union's wage proposal is 7.50% for the three-year agreement. Both parties assert that the Section 9 criteria, and especially the City's ability to pay, support its wage proposals. An appropriate starting point is a review of annual wage increases for each group of city employees.

TABLE 15 -- CITY OF STURGIS ANNUAL PAY INCREASES 2005-2014

<u>YEAR</u>	<u>POLC</u>	<u>FIRE</u>	<u>ELECTRIC</u>	<u>NON-UNION</u>
2005	3.0%	2.5%	2.5%	2.5%
2006	3.0%	2.5%	2.5%	2.5%
2007	3.0%	2.5%	2.5%	2.5%
2008	1.8%	2.5%	2.5%	2.5%
2009	2.8%	0%	2.5%	2.5%
2010	2.8%	2.5%	2.5%	0%
2011	2.9%	2.5%	0%	2.5%
2012	2.17%	1.0%	2.5%	2.5%
2013	2.6%	1.0%	2.5%	2.5%
Cumulative Increase 2005-2013	24.07%	17%	20%	20%
2014	-	1.0%	2.75%	2.5%
2015	-	-	-	-

TABLES 16 and 17 show the maximum annual base wage for Police Officers and Sergeants. The top row for Tecumseh is for employees hired before 7-1-11.

TABLE 16 -- MAXIMUM ANNUAL BASE WAGE -- POLICE OFFICERS

<u>City</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Sturgis	\$55,994	-	-	-
Charlotte	\$42,278	\$47,861 (1.25%)	-	-
Coldwater	\$52,686	\$53,602 (1.75%)	\$54,538 (1.75%)	-
Hastings	\$47,486	\$47,965 (1.0%)	\$48,443 (1.0%)	-
Marshall	\$52,102	\$53,144 (2.0%)	\$54,205 (2.0%)	\$55,286 (2.0%)
Niles	\$53,189	\$54,253 (2.0%)	Wage Reopener	-
Tecumseh	\$56,822	\$57,532 (1.25%)	-	-
	\$53,981	\$54,655 (1.25%)	-	-
Three Rivers	\$50,042	\$50,793 (1.5%)	-	-

TABLE 17 -- MAXIMUM ANNUAL BASE WAGE -- SERGEANTS

<u>City</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Sturgis	\$60,986	-	-	-
Charlotte	\$53,779	\$54,443 (1.25%)	-	-
Coldwater	\$58,469	\$59,488 (1.75%)	\$60,528 (1.75%)	-
Hastings	\$50,918	\$51,418 (1.0%)	\$51,938 (1.0%)	-
Marshall	\$57,323	\$58,469 (2.0%)	\$59,634 (2.0%)	\$60,819 (2.0%)
Niles	\$58,507	\$59,677 (2.0%)	Wage Reopener	-
Tecumseh	\$61,490	\$62,258 (1.25%)	-	-
	\$58,415	\$59,145 (1.25%)	-	-
Three Rivers	\$54,282	\$55,096 (1.5%)	-	-

In addition, the panel has taken into account longevity pay for Sturgis employees. The longevity pay for all employee groups is \$250 at 5 years and \$50 per additional year with no maximum. The longevity pay for the comparable cities is the following.

Charlotte. 5-9 years -2% of base pay; 10-14 years – 3% of base pay; 15-19 years – 4% of base pay; 20+ years – 5% of base pay. Maximum payment is \$1500.

Coldwater. For Police Officers hired before 7/1/2005 and all Sergeants: 5 years – 1% of base pay plus 0.2% each year up to a maximum of 5.0% for 25 or more years. For Police Officers hired on or after 7/1/2005: 5-9 years – 0.5% of base pay; 10-14 years – 1% of base pay; 15-19 years 1.5% of base pay; 20-24 years – 2.0% of base pay; 25 or more years – 2.5% of base pay.

Hastings. 5-9 years – 1% of base pay; 10-14 years – 1.5% of base pay; 15-19 years – 2% of base pay; 20-24 years – 2.5% of base pay; 25 or more years – 3.0% of base pay. Maximum payment is \$1,000.

Marshall. For employees hired before 7/1/2002: 5 years – 1% of base pay plus 0.2% per additional year up to a maximum of 5% for 25 or more years. For employees hired on or after 7/1/2002: \$100 per year after 5 years up to a maximum of \$1500. For employees hired on or after 7/1/2014: no longevity pay.

Niles. For employees hired before 10/1/2012: 5-9 years – 2% of base pay; 10-14 years – 4% of base pay; 15-19 years – 6% of base pay; 20-24 years – 8% of base pay; 25 or more years – 10% of base pay. For employees hired on or after 10/1/2012: 5-9 years – 1% of base pay; 10-14

years – 2% of base pay; 15-19 years – 3% of base pay; 20-24 years – 4% of base pay; 25 or more years – 5% of base pay.

Tecumseh: None.

Three Rivers: None

TABLES 18 and 19 and provide a historical overview.

**TABLE 18 -- TOP ANNUAL BASE WAGE RANKING FOR COMPARABLE CITIES
(2007 TO 2013)**

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Charlotte	6	7	7	7	7	7	8
Coldwater	5	5	5	5	5	4	4
Hastings	8	8	8	8	8	8	7
Marshall	4	4	4	4	4	5	5
Niles	2	3	3	3	3	3	3
Tecumseh	1	1	1	1	2	2	2
Three Rivers	7	6	6	6	6	6	6
<i>STURGIS</i>	3	2	2	2	1	1	1

TABLE 19 -- HISTORICAL TOP BASE WAGE FOR COMPARABLE CITIES

	<u>2007</u> <u>BASE</u> <u>PAY</u>	<u>STURGIS</u> <u>ABOVE OR</u> <u>(BELOW)</u>	<u>2010</u> <u>BASE</u> <u>PAY</u>	<u>STURGIS</u> <u>ABOVE OR</u> <u>(BELOW)</u>	<u>2013</u> <u>BASE</u> <u>PAY</u>	<u>STURGIS</u> <u>ABOVE OR</u> <u>(BELOW)</u>
Charlotte	\$44,346	\$4,464	\$46,696	\$7,686	\$42,278	\$11,515
Coldwater	\$46,530	\$2,280	\$50,357	\$4,025	\$52,686	\$6,107
Hastings	\$43,430	\$4,680	\$45,198	\$9,184	\$47,786	\$11,307
Marshall	\$47,649	\$461	\$50,564	\$3,818	\$52,096	\$6,697
Niles	\$48,186	(\$76)	\$51,891	\$2,491	\$53,189	\$5,604
Tecumseh	\$50,949	(\$2,849)	\$55,427	(\$1,045)	\$56,821	\$1,972
Three Rivers	\$44,233	\$3,877	\$48,335	\$6,047	\$50,042	\$8,751
AVERAGE	\$46,476	\$1,634	\$49,781	\$4,601	\$51,371	\$7,422
<i>STURGIS</i>	\$48,110	-	\$54,382	-	\$58,793	

CITY'S POSITION ON WAGES

In 2014, the raises to Sturgis employees were: Firefighters – 1%; Electric Department – 2.75; and Non-Union Employees – 2.5%. However, these wages must be considered in historical context. During the period 2005-2013, the POLC group received increases of 24.07% in cumulative wage increases. In comparison, Firefighters received 17%, Electric Department employees received 20% and Non-Union Employees received 20%. If the employer's 2014 wage demand were granted the cumulative wage increases from 2009 would be 25.7% for POLC, 18% for Firefighters, and 22.5% for Non-Union Employees. The external comparables for 2014 had an average increase of 1.54%. As of 2013, the base wage and longevity for Sturgis Police Officers ranked above all comparables except for Tecumseh officers hired before July 11, 2011 and the difference is less than \$100. As of 2013, Sturgis Sergeants ranked above all external comparables in base wage and longevity except grandfathered Niles Sergeants and the difference is only \$281. Assuming adoption of the employer's 1.5% Sturgis Police Officers would take over the uncontested top rank and Sergeants would remain in the same high ranking status, second only to the same subset of Niles Sergeants.

In contrast, the Union's LBO of a 2.25% wage increase is higher than any of the seven comparable cities. Such an unreasonably high pay hike would only widen the disparity between the comparable cities.

No wage increase has been established for any other Sturgis group for 2015 or 2016. However, the record is undisputed that the employer intends to make the same wage, benefit and other changes that it is seeking in this proceeding. Accordingly, if the employer's 1.5% wage increases is granted POLC members would continue their historical trend of being well ahead of other employee groups in terms of cumulative wage increases since 2005.

The external comparables support the employer's 1.5% wage increase proposal for 2015. Three of the seven cities have comparison wages established for 2015. The average increase for those cities is 1.58%. Assuming wage increases in the other four cities near the average increases for 2014 and 2015 POLC members would continue to be at or near the top of the overall rankings. Of the seven cities only Marshall has a wage increase established for 2016.

The wage increase for that city is 2%. In contrast, the Union's proposed 2.75% increase for 2016 is drastically higher than any of the citizens for comparison in any of the three years.

The panel should not credit the Union's contention that special circumstances differentiate Sturgis from the comparable cities. The Union presented no documented statistical evidence or other objective data to support that position. Additionally, crediting the Union's line of argument would be inconsistent with the stipulation as to the appropriate external comparables in this case.

UNION'S POSITION ON WAGES

City Manager Hughes acknowledged that police work is very different from other city employment. It involves confrontations and arrests. Traffic, domestics, larceny, alcohol and drug use, robbery and other violent crimes routinely place a police officer in harm's way. The City of Sturgis while looking rather quaint has a hidden sinister side. It is likely tops in the state for methamphetamine production. Unlike plant based marijuana or heroin, meth is a chemically created synthesized drug created with toxic chemicals. Exposure to meth labs causes damage to the respiratory tract, mucous membranes, eyes and skins. Sixty one percent of injuries caused by meth labs are to first responders. Sturgis officers are routinely exposed to these hazards more than any other department in the state. This exposure on top of other more routine but dangerous police work places Sturgis officers in a unique position among external and internal comparables. These dangers justify superior benefits and pay over external and internal comparables.

The Union acknowledges that the Sturgis officers are number one in pay as compared to the external comparables. In any comparison, someone is number one. This position is justified by the extraordinary dangers associated with the City of Sturgis. These unique and unusual circumstances support the higher wage proposals of the Union over the smaller increases proposed by the employer.

Internal comparables support the Union position for the 2014 raise. Electrical and non-union employees received a 2.75% and a 2.5% raise while Fire only received 1%. The average

is nearly 2.1%, which is closer to the 2.25% proposed by the Union than the 1.5% proposed by the employer.

The financial strength of the City with increases expected in residential property values, increased revenue sharing, and new businesses coming to town, support the raises sought by the Union in 2015 and 2016.

DISCUSSION ON WAGES

The panel has carefully considered the unrebutted testimony concerning the hazards posed by exposure to methamphetamine labs. While that testimony is fully credited it has not been given decisive weight in the panel's deliberations on wages. In order to accord the special policing dangers in Sturgis substantial weight the panel would need a more fully developed record. For example, it would be important to the panel to have an understanding of the level of methamphetamine production in the comparable jurisdictions, perhaps as measured by arrests or seizures. This in no way diminishes the significance of the testimony. Rather, it is based on a concern that the panel needs comparative information to assess the proper weight it should be accorded.

The panel finds the Union's wage demand for 2014 is justified based on the wage increases awarded to other employee groups, particularly the 2.75% wage increase for the electric employees and the 2.5% increase for the non-union employees. It is true that the cumulative increase since 2005 for members of this bargaining unit exceeds the comparable increases for the other groups. Although that history is illuminating it is not enough to persuade the panel. Bargaining units are not identical, nor are their negotiations. Each has a pattern of give and take. Each has its own rationale for balancing wage demands and other bargaining objectives. To the panel's knowledge each of the pay raises for all of the groups were collectively bargained rather than awarded in an interest arbitration proceeding. The panel is not convinced based on the record before it that the City's catch-up justification is persuasive. In addition, it appears to the panel that there is a tension between the City's consistent position that it is seeking the same wage raises across the board and the 1.5% wage proposal for 2014 in light of the 2.75% and 2.5% pay increases.

The panel is handicapped in determining the appropriate wage increase for 2015 and 2016. As the City points out the three cities that have established rates for 2015 have an average wage increase that is closer to the City's proposed wage increase of 1.5% than the Union's proposed wage increase of 2.5%. However, there is no wage set for four of the seven cities. It is not an unreasonable assumption that the generally improving economic climate in the state will result in an average wage increase that is slightly higher. The Union's arguments that the City's improving economic situation justifies granting the additional 1% over the City's offer for 2015 are persuasive. The panel is not similarly persuaded by the Union's 2.75% wage proposal for 2016. None of the external comparables have wage increases in that range. As explained in the City Manager's budget message, as the City has crawled out of recession the increased economic activity has and will continue to place demands on city services and historically low staffing levels are a mismatch with this activity increase. The panel is persuaded that the City's wage proposal for 2016 is more in line with the overall needs of the community. In total, the wage increases over three years equal 6.25%. This is in line with the three-year wage increase of 6.0% for Marshall, the only comparable city that has set rates through 2016.

Based upon the record evidence and the criteria established by Section 9 of Act 312, a majority of the panel finds that the Union's last offer of settlement for a 2.25% wage increase effective on October 1, 2014 more closely corresponds to the applicable Section 9 factors.

Based upon the record evidence and the criteria established by Section 9 of Act 312, a majority of the panel finds that the Union's last offer of settlement for a 2.5% wage increase effective on October 1, 2015 more closely corresponds to the applicable Section 9 factors.

Based on the record evidence and the criteria established by Section 9 of Act 312, a majority of the panel finds that the City's last offer of settlement for a 1.5% wage increase effective on October 1, 2016 more closely corresponds to the applicable Section 9 factors.

Affordable Care Act provision (City Issue)

The current collective bargaining agreement contains no language regarding conformance with laws in general or conformance with the Affordable Care Act (ACA) specifically. The City's LBO on this issue would add the following subsection to Section 20.1, Hospitalization, Medical and Surgical Insurance. The Union's position is status quo.

The Employer reserves the right to change, amend, modify and/or discontinue the existing health insurance benefit program as legally required in response to developments associated with the Patient Protection and Affordable Care Act ("Act"), and as the Act may be from time to time changed, amended, defunded, or modified, including the right to so act in response to (a) regulations issued pertaining to the Act, and/or judicial interpretations of the Act. Before any change is implemented pursuant to this paragraph the City will provide the Union with written notice of the change at least sixty (60) days in advance of the change and an opportunity to review and provide input regarding the change.

The collective bargaining agreement with Electric Department employees contains the following provision concerning conformance with state and federal law or regulations.

Nothing in this agreement shall be construed to require either of the parties hereto to act contrary to any State or Federal Law or regulation. In the event that any such conditions might arise, both parties shall negotiate changes to this contract to the extent necessary to comply with such law or regulations.

The collective bargaining agreement with the Union representing Firefighters contains a similar but substantially different provision.

The Employer reserves the right to change, amend, modify, and/or discontinue existing health insurance benefit program in response to developments associated with the Patient Protection and Affordable Care Act ("Act"), and as said Act may be from time to time changed, amended, defunded, or modified, including the right to so act in response to (a) regulations issued pertaining to said Act, and/or (b) judicial interpretations of said Act. The Employer will first consult with the Union regarding any action(s) it may take. Should the Union feel that any such Employer action is not reasonable under the circumstances, the Union may grieve. An arbitrator shall give appropriate deference to the Employer's determination as to reasonableness.

Three of the comparable cities have general clauses that do not specifically refer to the ACA. The other cities do not have any provision relating to conformance with law.

Charlotte: "If State law is amended on a mandatory basis that would affect any provision in this contract, the contract shall be automatically amended to conform with the law on the effective date of such law."

Marshall. “If State or Federal law is amended on a mandatory basis that would affect any provisions in the Agreement, the Agreement shall be automatically amended to conform with the law on the effective date or such law.”

Niles. “This Agreement is subject to all applicable State and Federal laws. Any rules and regulations issued pursuant thereto which are conflicting with the provisions of this Agreement will be mutually reviewed by the Parties.”

CITY’S POSITION ON AFFORDABLE CARE ACT PROVISION

The Union’s opposition to the Employer’s proposal is mystifying since there is no rational basis for it. The only changes to the health insurance benefit permitted by the proposed language are those that are legally required under the ACA. Furthermore, the language imposes obligations on the Employer to provide input (obligations that would otherwise not exist). The provision would operate to the benefit of both parties and ensure an orderly and fair process in the unlikely, but certainly possible, event that federal law forces the Employer to modify or discontinue its health insurance benefit.

UNION’S POSITION ON AFFORDABLE CARE ACT PROVISION

Any changes or requirements of the ACA would have to be followed regardless of what language is in the collective bargaining agreement. A federal law or a Michigan law mandate must be followed. If such a mandate occurs, the Employer needs to meet the Union and negotiate in good faith. Under the City’s proposal, the City need only give 60 days notice and then can unilaterally change, amend, or even discontinue providing health care. The City’s proposal gives the Employer the right to do whatever it wishes, whenever it wishes, as long as 60 days notice is given. Such a proposal ignores decades of good faith negotiations and should not be imposed by award of the panel.

No contract language should be awarded that gives the employer the right to discontinue health care. Health care is a mandatory subject of bargaining and the language, in effect, grants the Employer the unilateral right to impose the elimination of a mandatory subject of bargaining.

DISCUSSION ON AFFORDABLE CARE ACT PROVISION

When two experienced highly respected labor attorneys disagree so fundamentally on what language means it is prudent to proceed with caution. An Act 312 panel is ill advised to

order an amendment to a collective bargaining agreement unless it is confident that it understands precisely what it is doing. If the intent of the language is solely to do what is legally required, it would appear that the first part of the sentence would do that (The Employer reserves the right to change, modify, and/or discontinue the existing health insurance benefit program as legally required in response to developments associated with the Patient Protection and Affordable Care Act.) After carefully considering the text the panel concludes that the remainder of the sentence is susceptible to differing interpretations. Do the earlier words “as legally required” also modify the subsequent language that gives the City “the right act in response to regulations issued pertaining to the Act, and/or judicial interpretations of the Act”? Assuming the answer is yes, there are latent ambiguities in the language that concern the panel. Would a decision by a District Court that is on appeal be sufficient? Or, assume that the statute is modified and the City is required to amend health care but it has the choice of two options. Could the City act unilaterally in choosing one option over the other? Would the provision, as the Union believes, extinguish the Union’s right to bargain over new health care coverage if events invalidate the current plan? In light of these questions the deletion of language the City agreed to in 2012 in the agreement with IAFF Local 722 is in the panel’s estimation problematic. (“Should the Union feel that any such Employer action is not reasonable under the circumstances, the Union may grieve. An arbitrator shall give appropriate deference to the Employer’s determination as to reasonableness.”)

Based upon the record evidence and the criteria established by Section 9 of Act 312, a majority of the panel finds that the Union’s status quo demand concerning the inclusion of a provision on the Affordable Care Act more closely corresponds to the applicable Section 9 factors.

Maintenance of Standards (City Issue)

Section 21.0 of the collective bargaining agreement is the following.

Maintenance of Standards

Conditions: The CITY agrees that all conditions of employment relating to the wages, hours of work, and general working conditions shall be maintained at not less than the highest standards in effect at the time of the signing of this agreement. If the LABOR COUNCIL believes any benefit in existence prior to the signing of this agreement has not been maintained subsequent to its execution, the LABOR COUNCIL shall give the CITY written notice thereof and the CITY shall have ten (10) days to respond thereto in writing. If the matter is not amicably resolved, the issue shall be framed by the LABOR COUNCIL as a grievance and taken immediately to the third step of the grievance procedure.

The City's LBO is to delete the provision. The Union's LBO is to retain the provision.

CITY'S POSITION ON MAINTENANCE OF CONDITIONS PROVISION

The agreement covering Firefighters contains a provision identical to the provision the employer proposes to delete. The agreement covering the Electric Department employees contains a shorter version of the same provision. However, although the bargaining unit involved in this case would likely be the first employee group affected by the change, there is no dispute that the employer intends to make the same change for its other employees groups.

With regard to the external comparables, the record shows unequivocally that a "maintenance of conditions" provision, which is designed to extend the binding effect of the CBA beyond the express terms that the parties have mutually negotiated and agreed on, is an outdated concept that has been eliminated from most CBAs. Six of the seven comparable cities have no such provision. Moreover, even the one relevant provision in the Three Rivers agreement gives the employer the right to revoke a condition identified by the union if the condition is not provided for in the agreement.

UNION'S POSITION ON MAINTENANCE OF CONDITIONS PROVISION

The parties meet and negotiate new collective bargaining agreements through good faith negotiations. The parties express those negotiations in writing in the collective bargaining agreement. Maintaining the wages, hours and conditions of employment expressed in the collective bargaining agreement is all that is required by the Maintenance of Standards language.

DISCUSSION ON MAINTENANCE OF CONDITIONS PROVISION

The parties disagree on the effect of this provision. The City's view is that it extends the binding effect of the collective bargaining agreement beyond the express terms the parties have mutually negotiated and agreed upon. The Union maintains that all that the provision requires is to maintain wages, hours and conditions of employment expressed in the agreement.


The panel concludes that the City's interpretation of the provision is correct. If any term of the contract is expressly stated it is enforceable during the period the contract is in effect. Enforceability does not depend on a separate clause requiring express terms to be honored. The provision does not limit maintenance of conditions to wages, hours of work, and general working conditions expressly set forth in the agreement. None of the comparables contain a comparable clause.

Based upon the record evidence and the criteria established by Section 9 of Act 312, a majority of the panel finds that the City's demand concerning the deletion of the Maintenance of Condition provision more closely corresponds to the applicable Section 9 factors.

The chairperson would like to express his appreciation to all of the participants. The quality of the presentations and the thoroughness of the post-hearing briefs were extraordinary.

ORDER OF THE PANEL

A majority of the panel votes to adopt the last offer of settlement on each issue as set forth at the conclusion of each issue.



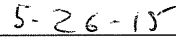
Micheal J. Falvo, Chairperson



Date



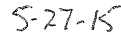
Peter H. Peterson, Employer Delegate
I concur in all awards in favor of the City.
I dissent in all awards in favor of the Union.



Date



Thomas R. Zulch, Union Delegate
I concur in all awards in favor of the Union.
I dissent in all awards in favor of the City.



Date