

**STATE OF MICHIGAN
DEPARTMENT OF LABOR
MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

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In the Matter of the Statutory Arbitration
Pursuant to Act 312 (Public Acts of 1969) as amended
between:

CHARTER TOWNSHIP OF PLYMOUTH

Public Employer,

-and-

**POLICE OFFICERS ASSOCIATION
OF MICHIGAN,**

Labor Organization.

MERC Act 312 Case No. D14 F-0537

Stanley Dobry, Impartial Chair
Gregory T. Schultz, Township Designee¹
Kevin Loftis, Union Designee

ARBITRATION PANEL'S OPINION AND AWARD

I. APPEARANCES

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Dated: July 22nd 2016

¹By stipulation, the identities of the delegates has been changed. Shannon Price was at one time the Township Designee. Thomas Funke was at one time the Union Designee.

II. STATEMENT OF THE CASE

The Charter Township of Plymouth (“Plymouth Township” or “Township”) and the Police Officers Association of Michigan (“POAM” or “Union”) are parties to a collective bargaining agreement that expired on December 31, 2014. After lengthy bargaining and extended mediation, the Township filed for 312 Arbitration.² The Employer asserted in its petition dated August 21, 2015, that it had engaged in good faith bargaining with the labor organization and an impasse in negotiations had been reached. The Michigan Employment Relations Commission (M.E.R.C.) appointed Stanley T. Dobry as the impartial Chairperson of the Arbitration Panel. At a prehearing conference conducted on September 18 and October 13, 2015, the parties stipulated and established the hearing procedures to be followed. Final Offers of Settlement were exchanged on January 11, 2016 and were introduced at the hearing as Joint Exhibits 206 (Union’s Offers) and 207 (Township’s Offers).

The hearings were held at the Plymouth Township Hall on January 13, 15, 26, 27 and February 23, 2016.

A complete record was duly made. The panel has carefully and full reviewed that voluminous record, including he disputed testimony (which differs mainly on the weight specific facts are given. The Arbitration Panel, thus, must issue an award based upon the applicable factors, in the judgment of panel, as prescribed by §9 of the Act (see pages 5-7 hereafter).

The parties have stipulated to the extension of time limits for the issuance of this award.

²Pursuant to Act 313, P.A. of 1969 as amended (M.C.L.A. 423.231 et seq.)

III. COMPARABLES

This is *not* the first time that wage rates were established for this bargaining unit. We are trying to determine a fair wage and benefit rate for the renewal, based on the bargaining history and labor market factors and conditions. In doing this the panel bears in mind the total compensation packages (and changes thereto) of the agreed comparables.

A. Internal Comparables

In July 2011, the State Legislature made modifications to the Act 312 Statute. One of the changes was to specifically include *internal comparables* as a named factor for the arbitration panel to consider. Their inclusion in the revised statute reinforced their impact as a 312 factor.

It is to be noted, however, that since the dawn of public sector interest arbitration arbitrators have customarily looked at the employer's pay structure and history with other employees, that being within the first line of comparison. The interest arbitration panel must try to establish a fair rate in the context of the parties' historical relationship, and take into account the labor economics concept of "orbits of coercive comparison" in a labor economics sense.³

There are six bargaining units in the Township. The Police Officers Association of Michigan also represents Township Dispatchers/PSAs ("Dispatchers").⁴ The Command Officers Association of Michigan ("COAM") represents the Command Officers in the Township Police Department.⁵ The Charter Township of Plymouth Professional Firefighter's Association, IAFF,

³A concept first coined by Arthur M. Ross. Arthur Max Ross, (1956) *Trade Union Wage Policy* (Los Angeles, Berkeley: University of California Press). See Otto Eckstein and Thomas A. Wilson. "The Determination of Money Wages in American Industry" *The Quarterly Journal of Economics* (1962) 76 (3): 379-414. doi: 10.2307/1879627 <http://qje.oxfordjournals.org/content/76/3/379.abstract>. See, e.g., *City of Adrian and POLC*, MERC Case No. D-08-A-0098, Kovinsky, 2011.

⁴ The POAM Dispatcher Collective Bargaining Agreement expires on December 31, 2016.

⁵ The COAM Collective Bargaining Agreement expired on December 31, 2014.

Local 1496 (“IAFF”) represents the Township firefighters.⁶ The Technical Professional and Office Workers Association of Michigan (“TPOAM”) represents general Township employees including clerical positions and other positions throughout Township Hall.⁷ The International Brotherhood of Teamsters (“Teamsters”) represents employees who work in the Township’s Department of Public Works.⁸ There is also a group of employees not represented by a union who the Township maintains should also be considered in this matter.

B. External Comparables

At the urging of the Chair, the parties agreed on a method to determine the external comparables for the Act 312 hearing process. The following alphabetical list of stipulated comparable communities and bargaining units resulted:

- Bloomfield Township
- Canton Township
- Huron Township
- Northville Township
- Redford Township
- West Bloomfield Township

External comparables can be used to demonstrate the pattern of wage and benefit settlements. If *rank orders* are used and historical data is put into the record, it enables the panel to make meaningful objective comparisons. Unlike some of the other Act 312 criteria, this data can provide a clear direction as to what decision to make, not just a cited justification for a particular result.

⁶ The IAFF Collective Bargaining Agreement expired on March 31, 2016.

⁷ The current TPOAM Collective Bargaining Agreement expires on December 31, 2018.

⁸ The current Teamsters Collective Bargaining Agreement expires on December 31, 2018.

IV. THE ACT 312 CRITERIA

In resolving such disputes the panel will give consideration to a multiplicity of standards, to ‘mix the porridge.’⁹ Internal and external comparable communities and bargaining united should be given some real weight, and serve to inform “a workable solution satisfactory to both sides.”¹⁰ Benefits issues are particularly difficult, and involve consideration of internal comparables, risk pooling, net effect on take home pay and employee expectations, costs of administration, access to information, etc.¹¹ Wage patterns,¹² historical differential, labor markets, the cost of living, the amount of a living wage, job security, and ability to pay are all metal for this forge, depending upon the particular context and their weight on a designated issue.¹³

The criteria to be considered by the Panel resolving the disputes here are set forth in §9 of Act 312 of Public Acts of 1969, MCLA 423.239, which reads:

MCL 423.239 Findings, opinions, and orders; factors considered; financial ability of governmental unit to pay.

Sec. 9.

⁹See Howlett, Robert G. (October 1984) “Interest Arbitration in the Public Sector - The Kenneth M. Piper Lectures” *Chicago-Kent Law Review* Volume 60 Issue 4 Article 3.

<http://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?article=2549&context=cklawreview>

¹⁰Ruben, Alan Miles, Ed. In Chief, *Elkouri & Elkouri, How Arbitration Works* (6th Ed.), (2003) (Washington D.C.: BNA) p. 1402.

¹¹Ruben, *supra*, pp. 1413, 1419-1419.

¹²But see, *Signal Five*, Official Bulletin of the Ohio State Troopers Association, “The Elephant In the Tent, The case Against Pattern Bargaining.” [[http://webcache.googleusercontent.com/search?q-cache:nG_PRfvdIJQJ:WWW.ohiotroopers.org/files/Signal%2520Five.The Elephant in the Tent](http://webcache.googleusercontent.com/search?q-cache:nG_PRfvdIJQJ:WWW.ohiotroopers.org/files/Signal%2520Five.The+Elephant+in+the+Tent)].

¹³In the case of creation of a health care plan, benefits experts can deal with such issues as creating a formulary for prescription drugs, ways to maximize benefits relative to costs, etc. This has been done for years in the public sector. See for example BOARD OF TRUSTEES OF THE UNIVERSITY OF TOLEDO and UNIVERSITY OF TOLEDO CHAPTER, AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, and COMMUNICATION WORKERS OF AMERICA Local 4530 and UNIVERSITY OF TOLEDO POLICE PATROLMEN’S ASSOCIATION, Local No. 70 , SERB Case Nos 01-MED-10-0983, 01-MED-08-0704, and 01-MED-12-1107. [[http://www.utppa.utoledo.edu/octUpdate/Toledo_Report%20of%20Fact-Finder%20\(11-07-2005\)_dnj.pdf](http://www.utppa.utoledo.edu/octUpdate/Toledo_Report%20of%20Fact-Finder%20(11-07-2005)_dnj.pdf)] See also, City of Rossford and Ohio Patrolmen’s Benevolent Association, SERB Case No. 02-MED-1131 and 02-MED-1132 and [<http://www.serb.state.oh.us/sections/research/WEB%20FACT-FINDING/2002-MED-10-1131.pdf>].

(1) If the parties have no collective bargaining agreement or the parties have an agreement and have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions, and order upon the following factors:

(a) The financial ability of the unit of government to pay. [Emphasis added.] All of the following shall apply to the arbitration panel's determination of the ability of the unit of government to pay:

(I) The financial impact on the community of any award made by the arbitration panel.

(ii) The interests and welfare of the public.

(iii) All liabilities, whether or not they appear on the balance sheet of the unit of government.

(iv) Any law of this state or any directive issued under the local government and school district fiscal accountability act, 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 generally in both of the following:

(I) Public employment in comparable communities.

(ii) Private employment in comparable communities.

(e) Comparison of the wages, hours, and conditions of employment of other employees of the unit of government outside of the bargaining unit in question.

(f) The average consumer prices for goods and services, commonly known as the cost of living.

(g) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(h) Changes in any of the foregoing circumstances while the arbitration proceedings are pending.

(I) Other factors that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary

collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service, or in private employment.

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

The panel is required to consider each of these Section 9 criteria, although it has substantial discretion in determining the weight to be accorded to them. *City of Detroit v DPOA*, 408 Mich 410 (1980).

On each issue, the Panel has considered every §9 criteria as they are supported by the record – based upon a preponderance of the credible evidence.

V. ABILITY TO PAY

The employer asserts that it has a diminished ability to pay, and that its prospects require contractual reform.

The Union counters that the issue is a misnomer and a ‘red herring’ misdirection based upon a distorted view of the relevant data. It concludes that a more appropriate interpretation is the employer’s unwillingness to pay a fair wage and benefits.

To be sure, ability to pay is nothing new; it has been considered by Act 312 panels since the inception of the act.

Nevertheless, in 2011, the State Legislature modified the Act 312 Statute.¹⁴ The statutory language further memorialized a legal position giving precedence to limitations based on the concept of ability to pay. The modification resulted in the following statutory language:

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:

¹⁴ 2011 Public Act 116

(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 the state or any directive issued under the local government and school district fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, that places limitations on a unit of government's expenditures or revenue collection. [Emphasis added.]

The phrase in Section 9(a) of the Act – “the financial ability of the government to pay” is not self-defining.¹⁵

In modifying the 312 Statute to expressly recognize that non-balance sheet liabilities – most notably pension and other long term benefit costs – are included in the concept of ability to pay, the State recognized that merely looking at an employer's balance sheet and/or annual budget failed to take into account a major component of a public employer's overall financial situation. As such, the State established that such liability must be considered when addressing the ability to pay issue. The panel recognizes that it should look at the gestalt of the employer's finances, not just small pieces or the short term.

Temporally, this is a parallel track with changes in the Governmental Account Standards Board's reporting rules, especially Statements 67 and 68.¹⁶ In that connection, the actuaries and

¹⁵See, *City of Muskegon Heights and Command Officers Association of Michigan*, MERC Case. No. L-12 A-0009 (Falvo, Chair) (January 18, 2013) <http://archive.lib.msu.edu/LIR/awards/r2439.pdf>

¹⁶“For many public sector retirement plan sponsors, the Governmental Accounting Standards Board's new pension reporting rules couldn't have come at a worse time. The changes, effective June 20 and encapsulated in GASB Statements 67 and 68, mandate that governmental balance sheets reflect unfunded pension liabilities. This has been met with grave concern by plan sponsors.” Lastee, Mark; Lieberman, Marc. “Impact of GASB's new pension rules on government bond ratings” (April 14, 2014). <http://www.pionline.com/article/20140414/PRINT/304149996/impact-of-gasbs-new-pension-rules-on-government-bond-ratings>

plan administrators have also changed the expected rate of return on investments, which has the expected effect of upping the employer's current contribution for pensions.

Nevertheless, the changes in account reporting did not create new liabilities. Instead, it required more transparent reporting of preexisting liabilities. While it may change the apparent face of the Township's finances, at least to the casual observer, it left the reality of the promises and the indebtedness untouched. This is not news to those working with pensions on a day-to-day basis.

The 2014 audited Financial Report shows a General Fund Balance of \$3.8 million, which equals 31% of total expenditures. The Township's 31% General Fund Balance is higher than most of the surrounding communities, including those serviced by Plante Moran. It exceeds the State of Michigan Treasury Department's standard recommendation.¹⁷ Township auditor Olejnik said the township's fund balance was "okay," but affirms that long term prospects and liabilities reveal significant underlying deficits that need attention.

The Union, on the other hand, notes that Township revenues exceeded expenditures by \$673,374.¹⁸ It urges that the CAFR also documents that home sale prices continued to rise, state-shared revenue continued to increase, as did building permits. Unemployment in Plymouth Township ended the year at 2.8%.

Notwithstanding, about 70% of the Township's revenue is derived from property taxes and State shared revenue, with property taxes making up more than 50% of the Township's

¹⁷The Treasury Department for the State of Michigan recommends at least a 10%-15% General Fund Balance. The Government Finance Officers Association (GFOA) recommends maintaining at least a two month General Fund Balance, which equates to 16.67%. Whether the Township loaned or advanced \$500,000 to the Golf Fund is an occulted issue on this record. In any event, that is a small issue in the grander fiscal picture.

¹⁸The Township has maintained its financial rating of AA with Standard and Poor's (p. 4), the actual expenditures were \$1.2 million less than the amended budget, and the Township's assets exceeded its liabilities by \$58.2 million,

revenue. The result of the elimination of the statutory revenue is that the Township has experienced just a small increase in state shared revenue on the whole from 2009 to the present, resulting in a significant decrease in the overall amount of combined property tax and state shared revenue to the Township since 2009.

The two largest cost items for the Township are Police and Fire services. These two items combine to make up more than 60 percent of the cost of providing government services for the Township. The major component of all those expenses are fringes and salaries and wages, which comprise over 75% of the total expenses

In a document called “Financial Results,” the employer made a side-by-side comparison of Township revenues and expenses. Mr. Olejnik explained:

So this shows the overall revenues versus expenses for the years for the Township starting with 2010 and 2014. The expenses have been higher than the revenue in all of those years. And a big contributor for that is just legacy costs that the Township is paying kind of on a pay-as-you-go basis versus being prefunded. [Tr. 3, p. 18-19].

As to the significance of the unrestricted net asset line, Olejnik testified:

The unrestricted assets show how much the Township has at the present day – or kind of rewinding back, as well, from 2010, at any point in time how much cash excess is for other expenses. **And you can see that the Township has been in a deficit position from 2010 through 2014; a 3.1 million deficit in 2010, increasing to 2014 at a 4.7 million deficit.** [Emphasis added.] [Tr. 3, p 19].

Olejnik next turned his attention to the most critical component of the ability to pay argument – legacy costs. He explained that in addition to the \$4.7 Million deficit,¹⁹ there is another \$6.2 Million in unfunded pension costs²⁰ and an additional \$15.7 Million in other post-

¹⁹ The \$4.7 Million deficit is shown in blue on page 8 of Township Exhibit 106.

²⁰ The \$6.2 Million in unfunded pension costs is shown in orange on page 8 of Township Exhibit 106.

employment costs, representing the Township's retiree health care liability.²¹ Although legacy costs do not appear in the annual budget, they are real and an important long term indicator.

As of December 31, 2014, the Township had an actuarial value of pension assets of \$20.2 Million and an actuarial accrued pension liability of \$26.4 Million, resulting in the \$6.2 Million of unfunded liability detailed on page 8 of Township Exhibit 106. Interestingly, the Township's funded ratio actually improved from 2013 to 2014, which Olejnik indicated resulted from a number of factors, which could have included changes to the pension benefit level of other Township employees.²² Likewise, page 43 of the CAFR provides that the actuarial value of the Township's retiree health care assets is zero while liability is \$15.7 Million.²³

The Township also presented ability to pay issues with respect to its annual budget. The Township's revenue sources have declined over the past few years while expenses, including employee wage and benefit costs, have continued to rise. The Township, like many municipalities in this area, is still adjusting to life with reduced revenue. These are the result of general economic woes, the effect of Headlee and Proposal A²⁴, the downturn in taxable values and tax revenues, and a series of adverse actions by the Michigan legislature, including

²¹ The \$15.7 Million in unfunded post-employment benefits costs is shown in brown on page 8 of Township Exhibit 106.

²² The Township has successfully achieved changes to the pension plan of other bargaining unit members, some of which were in effect at the time of the last actuarial report.

²³ These long term legacy costs, which include the cost to provide pension and retiree health insurance benefits to current Union members, is a huge consideration regarding ability to pay. As the new State legislation mandates consideration of "All liabilities, whether or not they appear on the balance sheet of the unit of government." [Township Exhibit 105; Sec. 9(a)(3)].

²⁴ MCL. 211.34d.

sporadic and declining revenue sharing.²⁵ The Township struggles daily to adjust to these new realities.

The Southeast Michigan Council of Governments (SEMCOG) reports that in 2010 the median household income was \$91,087 and the median housing value was \$253,300.

Township Treasurer Ron Edwards testified that Plymouth Township is an affluent community and a desirable place to live. Mr. Edwards also wrote in the CAFR (E. ex. 104) that “Plymouth Township prides itself with having one of the lowest overall tax rates in southeastern Michigan while providing necessary quality of life services citizens and businesses desire and demand.”

Edwards prepared an article in a Plymouth Township newsletter which was mailed to the residents in December, 2015. He compared several financial factors with those of Canton Township and Northville Township. The newsletter reports that the tax rate for Plymouth Township is 4.0000, while Canton Township has a rate of 10.90000 and Northville Township has a rate of 8.6564. The taxes on a \$300,000 residence in Plymouth Township are \$600, while the taxes in Canton Township are \$1,635 and Northville Township are \$1,298. The

²⁵The wisdom and politics of these changes is beyond the panel’s mantle or authority. We can’t change it here. Like a weatherman, it is enough for the panel to note that these conditions exist, and they are beyond the power of the two parties to change. Indeed, the record made was not directed toward assigning blame.

But pundits do observe and report on this economic ‘weather.’ See Lawrence, Eric D. (February 29, 2016) “Evans: System for financing local government 'broken'” *Detroit Free Press*

<http://www.freep.com/story/news/local/michigan/wayne/2016/02/29/evans-blasts-michigan-local-tax-limitations/81124048/>; Henderson, Stephen, Editorial Page Editor (November 23, 2015) “How Michigan's cities are set up to fail” *Detroit Free Press*

<http://www.freep.com/story/opinion/columnists/stephen-henderson/2015/11/21/cities-reflect-states-problem-cost-value/76037152/>.

The conundrum may also be the result of alleged legerdemain by the Michigan Department of the Treasury on the amount and identity of funds being paid by the state to satisfy its revenue sharing obligation under the Headlee constitutional amendment. See Mogk, John E. guest writer (Wayne State University Law School professor). (May 28, 2016) “State's dereliction in funding cities violates constitution” *Detroit Free Press*

<http://www.freep.com/story/opinion/contributors/2016/05/28/states-dereliction-funding-cities-violates-constitution/84586842/>.

bonded debt in Plymouth Township is \$10,383,559, while in Canton Township it is \$65,803,585 and Northville Township is \$35,461,408. The unfunded pension costs in Plymouth Township are \$6,185,587, in Canton Township it is \$27,427,690 and Northville Township is \$10,079,966. The unfunded retiree health costs in Plymouth Township are \$15,695,066, while Canton Township is \$72,627,621. Mr. Edwards also testified that Northville Township made a lump sum payment to pay off unfunded retiree health care costs in recent years. Mr. Edwards also admitted that paying down the unfunded retiree health care costs was an option that Plymouth Township could have chosen but decided against it.

Nonetheless, the Township's economic situation is serious. The synergy between conditions, valuations (market and taxable) expenses, revenues and adverse actions (which are beyond the parties' control) is severe. The whole is worse than the sum of the parts. It is a situation that needs to be addressed. The long term outlook and legacy costs (particularly health care) create real budgetary pressure. The lengthy journey must require sacrifice by all. There is a shared community-of-interest in having the enterprise succeed. Default on the Township's debts is not an acceptable option.

VII. DISCUSSION OF SPECIFIC ISSUES

The parties stipulated that all issues are deemed to be “economic” within the meaning of Act 312. Therefore, the panel is required to choose from the parties’ offers, issue-by-issue, and may not modify the parties’ language. The overriding goal is to come up with a set of solutions that reflect what the parties should have freely negotiated at the bargaining table in light of generally recognized criteria in collective bargaining agreement formation.

ISSUE 1 – Duration

The Issue of duration was resolved by the Arbitrator in a decision issued prior to the start of the 312 Hearing. The Arbitrator’s decision provided that the at-issue collective bargaining agreement will have a term of 4 years, effective January 1, 2015 through December 31, 2018.

ISSUE 2 – Wages: Effective January 1, 2015

ISSUE 3 – Wages: Effective January 1, 2016

ISSUE 4 – Wages: Effective January 1, 2017

ISSUE 4.a – Wages: Effective January 1, 2018

Although wages in each of the four years of the at-issue Agreement represents its own independent issue for the Panel’s consideration, the justifications for the Township’s final offers on each issue intersect. Thus, the four wage issues will be addressed together below in order to avoid repetition.

On the issue of wages in the first year of the parties’ Agreement, the Union seeks a 2% wage increase; the Township is proposing a 0% wage increase. The parties’ respective wage proposals are as follows in years two, three and four of the Agreement:

- For 2016, the Township proposes 2% wage increase, while the Union proposes a 2.25% increase.
- For 2017 and 2018, the Township proposes 2% wage increases, while the Union proposes a 2.5% wage increase in each of those years.

Focusing on long-term liability, the Township has taken the position leading up to and throughout this proceeding that it is willing to pay wages in exchange for savings on the costs associated with pension and retiree health insurance.

Little, if any, of the critical long-term savings for pension and retiree health care will be achieved during the first year of the parties' Agreement.

In 2012, Plymouth Township officers received a 2% wage increase in addition to the reinstatement of a 5% wage concession. During that same year, only one other comparable community - Northville Township - paid a wage increase to its officers. Officers in each of the other five comparables received 0% increases. In 2013, officers in four of the six comparable communities received 0% wage increases, while Plymouth Township officers received a 2% wage increase. These wage increases allowed officers in Plymouth Township to jump in their ranking among the external comparable units. In 2012, Plymouth officers were ranked 5th among the six comparable units. After wage increases in 2013 and 2014, their ranking jumped to 4th and 3rd, respectively, with the Township passing both West Bloomfield Township and Canton Township.

The POAM insists that the adverse changes in health care premium contributions are a heavy burden that must be mitigated by increased wages. Bargaining units in comparable communities have lower contributions. The members of the POAM incurred a substantial increase in their health care premium sharing. To be sure, they did not "agree" to pay 20 percent of their healthcare. Rather, this contribution was a direct result of a legislative preemption of collective bargaining. PA 152 of 2011 mandated premium sharing by all public sector employees in Michigan in a stated effort by the Legislature to limit public employer expenditures on health

care. While this was not a voluntary concessionary move, it is a basic truth that their take home wages were reduced substantially. The \$3,279.48 health care premium share currently paid by this bargaining unit is equivalent to 4.77% of base wages.

While there is truth that the Plymouth Township Police Officers are paying more in 'premium sharing,' the other side of the story is that other comparable units have higher co-pays, deductible and/or higher office visit, emergency room and prescription co-pays.

As the Union sees it, even if the Union's Final Offer of Settlement for wages is granted for each year, the Union is still not maintaining its wage pattern of bargaining position due to the loss of 4.77% of base pay to health insurance premium sharing.

This fact has been taken into account by the panel.

The employer claims that the members of this bargaining unit received higher wage increases in their last CBA than the external comparables: a 7% wage increase in 2012. The Union submits this is a misleading read of the wage increases. The facts are that the members of this bargaining unit made concessions in 2010 by not receiving wages for the extra 2 hours per week worked due to the 12 hour shifts. This was a 5% wage concession by the members which expired at the end of the previous CBA on December 31, 2011. In 2012 the compensation was reinstated by agreement. There was *not* a 7% wage increase, but rather the reinstatement of agreed-upon concessions which equaled 5% along with a 2% wage increase. In the Union's view, this is a perverse use of a cooperative effort.

Th only other external comparable that made wage concessions since 2010 was Redford Township, which agreed to a 2% concession in 2011.

Members of this bargaining unit agreed to pay a 20% premium share for their health insurance in exchange for the wage increases. Members of this bargaining unit are currently paying \$3,279.48 per year for a family plan health care coverage. The \$3,279.48 per year is the result of the Board of Trustees electing to require the members to contribute 20% of the annual costs of the medical benefit plan as allowed by P.A. 152 of 2011. None of the external comparables pay a 20% premium share for their health care. Bloomfield Township members pay \$200 per year for a family plan health care coverage. In Canton Township, members hired prior to January 1, 2011 do not pay any premium share and members hired after January 1, 2011 pay a 5% premium share. Huron Township members do not pay any premium share. Northville Township members pay a 7% premium share, Redford Township members pay a 10% premium share, and West Bloomfield Township members pay \$600 per year for a family plan. The Township has attempted to justify the 3% per year wage increases to the Dispatchers for five years by claiming that the dispatchers also agreed to increase their pension contributions from 7% to 10%. The Union notes that even though the Dispatchers agreed to pay an additional 3% pension contribution, their net increase for the duration of the CBA is 12% (5 years x 3% – 3%), which is an average increase of 2.4% per year for the 5 year CBA. The Union notes that its Final Offer of Settlement on wages for the four year duration of the CBA is 2%, 2.25%, 2.5% and 2.5% which equals 9.25%, or an average of 2.31% per year, which is lower than the average wages provided to the Dispatchers.

The Township gave 3.0% wage increases for 2015 to the Police Lieutenants who are not covered by any CBA, but are included in the same pension division as members of this bargaining unit. Ms. Coobatis testified that the Lieutenants were not requested or required to

make any additional pension contributions in exchange for the 2015 wage increase. The exhibit also shows that all of the other non-union employees also received a 3.0% wage increase in 2015. As Ms. Coobatis acknowledged, no additional concessions were requested or required of the non-union employees in exchange for receiving their 2015 wage increase.²⁶

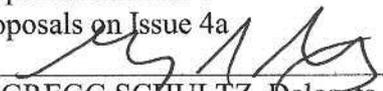
- On the issue of wages in the first year of the parties' Agreement, the panel adopts as its award the Union's offer of a 2% wage increase and rejects the Township's proposal of a 0% wage increase.
- On second year wages for 2016, the Panel adopts as its award the Township's proposed 2% wage increase, and rejects the Union proposal of a 2.25% increase.
- On third and four year wages for 2017 and 2018, the Panel adopts as its award the Union's proposed 2.5% increase in each of those years. The Township's proposals are rejected.

AWARD ON ISSUES 1 - 4a

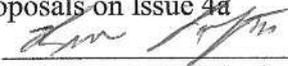
I adopt all the foregoing as my award as specified

 02/22/2016
STANLEY T. DOBRY, Chairperson

- I adopt the Union's Employer's proposals on Issue 1
- I adopt the Union's Employer's proposals on Issue 2
- I adopt the Union's Employer's proposals on Issue 3
- I adopt the Union's Employer's proposals on Issue 4
- I adopt the Union's Employer's proposals on Issue 4a

 7/25/16
GREGG SCHULTZ, Delegate

- I adopt the Union's Employer's proposals on Issue 1
- I adopt the Union's Employer's proposals on Issue 2
- I adopt the Union's Employer's proposals on Issue 3
- I adopt the Union's Employer's proposals on Issue 4
- I adopt the Union's Employer's proposals on Issue 4a

 7-25-16
KEVIN LOFTIS, Delegate

²⁶In passing, these non-public safety employees participate in a defined contribution plan and have an age requirement for full access to retiree health insurance.

ISSUE 5 – Wage Retroactivity

On the issue of wage retroactivity, the Township proposes that any wage increases awarded to POAM unit members take effect on the date of the Act 312 Award and not be retroactive to January 1, 2015.

The Union proposes full retroactivity of all wage increases to January 1, 2015, the result of which would be a lump sum payment to POAM members upon issuance of the Award.

The Township maintains that its position is much more reasonable, as most, if not all, of the savings that will be achieved through the award of Township positions on pension and other issues will not be achieved retroactively. The Township says it is not in a position to benefit retroactively from the Award. Nor should the Union have the opportunity to benefit retroactively.

The Township's offer on this issue is also in line with recent contracts for the internal comparables. Consistent with PA 54 of 2011 in its original form, public employers were prohibited from agreeing to, and Act 312 panels were prohibited from awarding, retroactive wage and benefit increases. The wage increases agreed to in the current contract between the Township and the Dispatch/PSA unit were effective on May 28, 2014, more than two years after the effective start date of the collective bargaining agreement. As Mr. Funke testified, they "lost a lot of money... ."

Members of the IAFF bargaining unit likewise did not receive retroactivity of the wage increases awarded in its last contract.²⁷

²⁷The terms of the contract between those parties were awarded pursuant to an Act 312 Arbitration Award, which was issued on June 19, 2014, more than 14 months after the contract's April 1, 2013 effective date.

P.A. 322 of 2014 was enacted on October 15, 2014 and amended P.A. 54 to allow retroactive wage increases for Act 312 eligible employees. Until P.A. 54 was amended, Act 312 arbitrators were prohibited by statute from awarding retroactive wage increases. Therefore the Arbitrator is permitted to award retroactivity in this matter.

The October 2014 amendments to PA 54 exempted employees who are Act 312 eligible from the prohibitions relating to retroactivity of wage and benefit levels post contract expiration. The Township argues that even though Act 54 was modified to permit retroactivity, there was an implicit recognition that retroactive wages are not a foregone conclusion. It says that the financial benefit of changes in the pension, if granted, are delayed, so that symmetry in wage increases should be delayed, too. Even though Act 54 was modified, there was obviously some recognition that retroactive wages need not always be granted. Rather, retroactivity is like any other issue. Its allowance or disallowance by an Act 312 panel depends upon the total context and settlement, and application of the § 9 factors.

Hypothetically, if the Employer's Last Offer of Settlement of no retroactivity for 2015 through the date of the award is granted, the bargaining unit will effectively have a 0% increase in disposable wages for years 2015 and half of 2016.

That situation is not remotely consistent with the external or internal comparables. No internal or external comparable was denied retroactivity for wage increases in 2015.²⁸

The work was performed, and the employer has had the use of the employees' money.

Adopting the employer's offer is bad for long term labor relations, and could be expected to have an adverse impact on departmental morale.

²⁸A review of the wage exhibits presented by both parties shows that every internal and external comparable, with the exception of Huron Township, which has an expired CBA, received a wage increase for 2015 and 2016.

It is instructive that the Township leadership got substantial raises during this time frame.

The panel gave serious consideration to the Employer's argument. However, in light of the record as a whole, retroactivity of wages is appropriate.

The Panel, therefore, adopts the Union's Final Offer of Settlement that wages be retroactive for both 2015 and 2016, be granted. This resolution of the wage package is part of the larger resolution of all the outstanding issues.

AWARD ON ISSUE 5

I adopt the Union's Last Best Offer.

 09/22/2016
STANLEY T. DOBRY, Chairperson

I adopt the Union's Employer's proposal on Issue 5.

 7/25/16
GREGG SCHULTZ, Delegate

I adopt the Union's Employer's proposal on Issue 5.

 7-25-16
KEVIN LOFTIS, Delegate

ISSUE 6 – Retiree Health Insurance: Eligibility Age

Under the language of the parties' expired Agreement, bargaining unit members who have 25 years of service are eligible for retiree health care, irrespective of age at the time of retirement. The Township has proposed to include language which would limit eligibility for lifetime health insurance benefits to retirees under either one of the two following circumstances:

- Attainment of 25 years of service and attainment of 52 years of age; or
- Attainment of 27 years of service (no age requirement).²⁹

²⁹Under the Townships proposal, employees who are less than 52 years of age who have attained at least 25 years of service but less than 27 years of service are entitled to health insurance only upon the attainment of age of 52. In other words, if an employee chooses to retire between 25 and 27 years of service but prior to his/her attainment at age 52, retiree health care will be deferred until the retiree reaches age 52, at which time the retiree will be entitled to

The Township's proposal on this issue would be effective for retirements occurring after the date of the Award. The Union proposes to maintain the status quo.

The Township argues that under the current plan, retirees, who could hypothetically retire as early as age 47, would probably be getting employment with health care. This is a plan to reduce the employer's long term liability and reduce its legacy costs and unfunded liability. It states: "The reality is the 15.7 million dollar unfunded OPEB liability facing the Township cannot be diminished or ignored."

The Township's proposal on retiree healthcare eligibility would not impact every unit member. It varies based upon age and length of service.³⁰

The Township urges that the internal comparables support the Township's proposal to move toward implementation of an age requirement (or alternatively an increased service requirement) for its police officers. Another Act 312 eligible bargaining unit – the POAM represented dispatch unit – agreed to an age 55 retirement healthcare eligibility requirement. The actual effect and context of that agreement is hotly disputed on this record.

In its effort to diminish the importance of the age requirement agreed to by the members of the dispatcher unit, the Union suggested that the agreement was made based on the higher wage increases awarded to that group. The Township agreed to five 3% wage increases with the dispatcher unit, while it is proposing relatively lesser increases here. Like the dispatchers,

full retirement health care coverage.

³⁰Of the 14 unit members eligible for retiree health insurance, three would not be impacted, as they will be at least 52 years old when they obtain 25 years of service. The eleven members of the unit who would be impacted if the Township's proposal were awarded would be impacted in varying degrees. For example, four of the eleven will be at least 51 years old when they reach 25 years of service meaning, even if they retired at 25 years of service, they would be eligible for retiree health insurance within months of retirement. Of course, the largest impact that could possibly be felt by any member as a result of the proposal would be the requirement to work two additional years to attain 27 years of service.

members of the TPOAM and Teamsters bargaining units, as well as non-represented employees³¹, must attain age 55 prior to becoming eligible for full retiree healthcare.

The POAM points out that three full-time elected officials have a 20 year service requirement and no age requirement for retiree healthcare. One can argue the consequences of this differential. Police officers may be (and typically are) hired earlier than elected officials, so they may finish their service requirement at an earlier age.

The external comparables likewise demonstrate movement toward the implementation of an age requirement for retiree health care.

The Union attempted to attack the language with a hypothetical involving the untimely death of a retiree during the gap between retirement and attainment of age 52. The application of contract language is subject to the Agreement's grievance and arbitration procedure. No contract language can address every contingency. To the extent a dispute arises about the rights conferred by this provision, as any other, between the parties, the dispute would be subject to the interpretation of a grievance arbitrator.

Of the 21 members of this bargaining unit, only 14 are still eligible for retiree healthcare. This number will continue to diminish. The Union agreed in the last CBA that any members hired after April, 2013 would not receive any retiree health care, but would instead participate in a Retiree Health Reimbursement Account (RHRA). Currently there are seven members in the

³¹There was some discussion at the hearing surrounding recently retired Police Lieutenant Cal Loria and his entitlement to retiree health insurance upon his retirement at age 47. While he is unrepresented by a Union, benefits provided to police lieutenants mirror those provided to COAM unit members, which is the Unit Lieutenants promote from. The Township's three Police Lieutenants are distinguishable from all other non-represented Township employees as it relates to retiree healthcare eligibility, who must reach age 55 before retiring with lifetime health care.

RHRA. Of the 14 members eligible for retiree health care, 11 of those members would be adversely affected by increasing the age to 52 or the years of service to 27 years.

Township Ordinance C-2008-02 allows full-time elected officials in the Township (Supervisor, Clerk and Treasurer) to receive health insurance benefits after five (5) full terms, which equals 20 years of service. The ordinance also allows health insurance benefits after 25 years of service with at least two consecutive terms as a full-time elected official. Employees in the Defined Contribution pension plan are eligible to receive retiree health care at age 55 with only 20 years of service.

The Township has neither requested nor required elected officials or non-union employees, including Police Lieutenants, to accept these limitations.

It is arguable that this bargaining unit has a less generous retiree health care benefit package than all of the external comparables. The retired members of this bargaining unit still pay 20% of their health care premium, which is not capped. Retiree health care for members of this bargaining unit covers only the retiree and spouse. Upon becoming Medicare eligible, the retired members of this bargaining unit do not receive supplemental coverage from the Township but rather receive an annual stipend so they can purchase supplemental coverage on their own. Four external comparables allow retirement after 25 years of service. One allows retirement at age 50 with 25 years service. And one requires any age over 50 years old (West Bloomfield, age 52). All of the external comparables receive health care at the time of retirement.

Union members have been making higher pension contributions throughout their careers to allow them to retire after 25 years of service. Retiree health care has always been linked to pension benefits at the time of retirement. If members were required to work for 27 years or be

52 years of age, the number of members who would retire without health insurance would be small indeed.

While the Township suggests that there will be “substantial savings” if its offer is adopted, the record has no specific information on projected savings. Indeed, the savings depend on specific hypothetical future choices of employees – so even on an actuarial basis it is near impossible to make meaningful prognostications. This illustrates that the legislatively-mandated report requirement is misguided in this context.

This bargaining unit has a less generous retiree health care benefit package than all of the external comparables. The retired members of this bargaining unit still pay 20% of their health care premium, which is not capped.³² Retiree health care for members of this bargaining unit covers only the retiree and spouse.

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³²Upon becoming Medicare eligible, the retired members of this bargaining unit do not receive supplemental coverage from the Township but rather receive an annual stipend to try and buy their own supplemental coverage. Four of the external comparables allow retirement after 25 years of service, one allows retirement at age 50 with 25 years of service, and only one (1) requires any age over 50 years old (West Bloomfield, age 52).

four (4) of the comparables (Bloomfield Township, Canton Township, Huron Township, and West Bloomfield Township) retirees pay no premium share for their health care benefits.³³ Redford Township pays an 8% premium share with a maximum amount of \$1,500 per year, and Northville Township pays 10%.

In any event, this proposal lacks specificity and fails to address obvious and inherent issues such as the vesting period to receive retiree health care if a member should become disabled (or are forced to take a disability retirement after suffering an injury in the line of duty) or die. Surviving spouses should not be required to initiate costly and lengthy litigation to determine if they are eligible for health care benefits if the member dies prior to age 52.

As the proponent of change the Employer had the burden of proof.

On balance, the panel rejects the Employer's proposal on ISSUE 6 and adopts the Union's proposal to maintain the status quo.

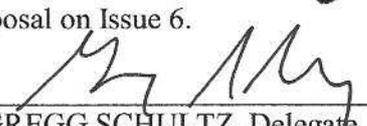
AWARD ON ISSUE 6

I adopt the Union's Last Best Offer.


STANLEY J. DOBRY, Chairperson

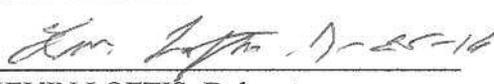
07/22/2016

I adopt the Union's Employer's proposal on Issue 6.


GREGG SCHULTZ, Delegate

7/25/16

I adopt the Union's Employer's proposal on Issue 6.


KEVIN LOFTIS, Delegate

³³Four of six external comparables (Bloomfield Township, Canton Township, Redford Township and Northville Township) cover the retiree, spouse and dependents. In four comparables (Bloomfield Township, Canton Township, Huron Township, and West Bloomfield Township) retirees pay no premium share for their health care benefits. Redford Township pays an 8% premium share with a maximum amount of \$1,500 per year, and Northville Township pays 10%.

ISSUE 7 – Retiree Health Insurance: Availability of PPO to Retirees

The Township elected to withdraw this issue from the Panel’s consideration.

ISSUE 8 – Retiree Health Insurance: Availability to Spouse Who has the Ability to Obtain Insurance from Another Source

The Employer’s Last Offer of Settlement is that if the spouse of a retiree is able to obtain comparable health insurance from his or her employer and is not required to pay more than 20% of the cost of the premium for that insurance, the spouse shall not be eligible for health insurance from the Township during the time that he or she is able to obtain such alternative health insurance.

The Township proposed new language in Article XXXV, Insurance:

E.If the spouse of a retiree is able to obtain comparable health insurance from his or her employer and is not required to pay more than 20% of the cost of the premium for that health insurance, the spouse shall not be eligible for health insurance from the Township during the time that he or she is able to obtain such alternative health insurance.

The Union proposes status quo.

Township Supervisor Shannon Price explained the Township’s proposal on this issue:

Q.... And this would only apply if the spouse is paying 20 percent or less for their insurance?

A.Right, if it’s a better option.

Q.And it still has to be comparable health insurance?

A.It has to be comparable.

Q.Okay. Now, under the Township’s proposal, if a spouse who was not being insured by the Township under this proposal were to lose his or her insurance, would the spouse then have the ability to return to the Township?

A.Of course. [Tr. 3, p. 114].

The Township maintains that the language is clear and unambiguous with respect to the timing of coverage and other issues raised by the Union. Moreover, determinations about comparability of health insurance coverage are commonly required to be made by employers in

the application of contract language. To the extent there is any disputed issue as to the application or interpretation of the language, it would be submitted to the grievance procedure outlined in the parties' Agreement.

From the Township's viewpoint this is a needed single step toward reducing the 15.7 million dollar OPEB liability.

The Township's proposal only requires the spouses of its retirees to select health insurance from alternative sources where the insurance is comparable to that being offered by the Township and where the spouse would only be responsible for payment of premiums that are less than or equal to those the spouse would be required to pay for Township-provided insurance. Township retirees are required to continue paying 20% of health care premiums into retirement. No other bargaining unit, elected official, or non-union employees are subject to the language in this proposal. Mr. Price's only explanation: "But we've got to start somewhere." None of the external comparables have this language in their CBA's.³⁵

In the panel's view this language is problematical. It poorly papers over real ambiguities, in light of known and foreseeable problems in implementation. While these things do happen in negotiations, the parties have had months to change course, and this is motoring into an ice field.

Truly, one can compare an elephant to a mouse; but comparability does not make them the "same," "equivalent" or "identical" coverage. Moreover, premiums are but one relevant measure. Amount and extent of co-pays and contributions, classification of services and products (*e.g.*, as 'services' or 'pharmaceuticals') and the formulary for prescription drug coverage are all components.

Act 312 is a substitute for negotiating and writing a contract. It is supposed to create reasonably bright lines, and head off disputes, not create them.

As much as the Chair would like a chance to recraft the proposals, the statute and the parties' choices at the beginning of this proceeding, completely took away that option. This is an economic issue, and it must be decided by adopting one party's or the other's proposal.

On balance, the Union's proposal is closer to the mark than the Employer's. Therefore, the Panel rejects the Employer's proposal on ISSUE 8 and adopts the Union's proposal to maintain the status quo.

AWARD ON ISSUE 8

I adopt the Union's Last Best Offer.

Stan T Dobry 07/22/2016
STANLEY T. DOBRY, Chairperson

I adopt the Union's Employer's proposal on Issue 8.

Gregg Schultz 7/25/16
GREGG SCHULTZ, Delegate

I adopt the Union's Employer's proposal on Issue 8.

Kevin Loftis 7-25-16
KEVIN LOFTIS, Delegate

INTRODUCTION TO PENSION ISSUES

Background Information

The issue of pensions is the most divisive and significant item between the parties.

The Township has brought four separate pension issues to this arbitration. While the issues are separate, the Township claims its final offers are part of an overall plan to help reduce both short-term and long-term costs to the Township in a fair and equitable manner, and should all be adopted by the Panel.

Currently, the Township maintains a defined benefit pension for members of the Union. The pension plan currently in effect is very generous, providing employees a maximum pension of 80% of final average compensation, utilizing a 2.8% multiplier. Under this pension plan, an employee is eligible to retire at any age with 25 years of service. An employee who retires with 25 years of service would be eligible for an annual pension payment of 70% (25 years times 2.8%) of the employee's average compensation. An employee who works beyond the 25-year requirement is able to continue to increase the percentage of his or her final average compensation to 80%, which would occur once the employee worked 28.6 years. With respect to firefighters, the Township obtained a reduction in the defined benefit pension plan multiplier from 2.8% to 2.5%, a closing of the defined benefit plan for new employees and an increase in the employee contribution toward the pension plan from 7% to 10%. The Township increased the employee contribution of dispatchers to the defined benefit plan from 7% to 10% and obtained a closing of the defined benefit plan with that group.³⁶

The Township notes that it previously attempted to obtain an actuarial statement as to the effects of changes sought in this matter. Edwards stated that while these long-term liability

savings were being addressed with respect to the dispatchers and firefighters, there was an attempt to make similar changes with the police units. The Township brought these issues up during the last round of bargaining, but the Union rejected the changes based in part on moratorium language in the parties' Agreement.³⁴ The Township disagreed with the Union's interpretation that the moratorium prevented the pension changes sought by the Township, but decided pragmatically the Township the costs were not justified by potential benefits.³⁵ The Township took the position that the moratorium only addressed benefit improvements. The contract being negotiated was going to expire in another year and half. Thus, the moratorium would soon expire of its own accord.

The Township's Pension Concerns

The Township has two main concerns with the defined benefit plan. One of those concerns involved the uncertainty that naturally comes with funding of a defined benefit pension. This uncertainty with the cost of a defined benefit plan was on full display during the negotiations leading up to this 312 hearing and during the hearing itself. During the course of the negotiations and 312 hearing, MERS prepared numerous reports detailing the costs of the pension plan. These reports displayed the volatility of the defined benefit plan.

The second main issue the Township had with the defined benefit plan was the steadily increasing costs to fund the plan. The Township's cost has skyrocketed, however, since the plan's inception. As recently as 2014, the Township was paying 16.64% of payroll toward the

³⁴While not a pension issue, Edwards also testified that the Township obtained long-term liability savings through a change in the eligibility of dispatchers for retiree health insurance from 25 years of service to age 55.

³⁵The moratorium language at issue appears on page 41 of Joint Exhibit 201 and states "[t]he parties agree that there shall be no duty to bargain **improvements to the MERS defined benefit plan** and that negotiations to such an extent shall be deemed a permissive subject of bargaining from the date of this Agreement through the contract year expiring December 1, 2014" [Emphasis added.]

plan. Currently, the Township is paying 18.72% of payroll, a rate which will undoubtedly increase next year based on numerous factors discussed in greater detail below, one of which is an approximate negative 1% rate of return for the 2015 calendar year, a rate which was approximately 9% less than the assumed 8% rate of return from the last annual actuarial report. When the plan was first put in place, the Township was contributing 13.5% of payroll.

Based on these two main concerns, the Township seeks various changes to the pension plan with respect to all of the employees who participate in a defined benefit plan. First, a proposal that all new employees would participate in a defined contribution plan. The Township recognizes that it would be unfair to force current employees to give up their defined pension plan, and so the second category of pension proposals seek to reduce the Township's cost to fund the plan for current employees. These proposals take the form of twins: an increase in the employee contribution to the plan; a reduction in the multiplier.

MERS Supplemental Valuations

To assist the parties in understanding the pension cost issues, the Township took testimony from James Koss, who is a senior consultant and vice president of CBIZ. CBIZ provides actuary services for MERS.

Koss provided insight into some of the key assumption modifications that were made by MERS. They changed the assumed rate of investment return from 8% to 7.75%. This would increase future pension contributions. The 8% rate had been in effect for at least as long as Koss has been performing services for MERS, which is 14 years.

Another recent change to the assumptions utilized by MERS involves the issue of mortality rates. Since pension recipients are projected to have increasing life expectancies, thereby drawing on pensions longer, there is an increased cost.

The Union noted that the rates of return from 2014 and the previous 4 years were generally over 8% and that MERS 30-year return was 9.17% on December 31, 2014.

To counter, the employer also argued anecdotally from recent years' returns on investment. It said that even if MERS performed well for a few years prior to 2015, the investment return of approximately negative 1% for the 2015 calendar year dramatically changed that trend.

However, MERS makes its contribution determinations based on actuarial assumptions, and those are broader based and longer termed than all that: actuaries specifically have a concept for "smoothing" – which looks past short term results.

The Union's Criticism of the MERS Supplemental Valuations

During the hearing, the Union was critical of the MERS valuations for numerous reasons. There was much made about the timing, sharing and content of the reports. The Township disagrees that it was legally required to produce new reports. MCL 38.1140h reads as follows:

(5) A system shall provide a supplemental actuarial analysis before adoption of pension benefit changes. System assets shall not be used for any actuarial expenses related to the supplemental actuarial analysis under this subsection. **The supplemental actuarial analysis shall be provided by the system's actuary and shall include an analysis of the long-term costs associated with any proposed pension benefit change.** The supplemental actuarial analysis shall be provided to the board of the particular system and to the decision-making body that will approve the proposed pension benefit change at least 7 days before the proposed pension benefit change is adopted. For purposes of this subsection, "proposed pension benefit change" means a proposal to change the amount of pension benefits received by persons entitled to pension

benefits under the system. Proposed pension benefit change does not include a proposed change to a health care plan or health benefits. [Emphasis added.]

The Township adheres to its argument that there is no requirement that a supplemental valuation be provided within any specific time frame in the statute. The statute only requires supplemental valuations for proposals that would be classified as “pension benefit changes.” The change in multiplier is such a change.

The other proposed changes may not literally fall within the scope of that provision. Legal question aside, the Township agreed with the Union that new reports could assist the parties. For that reason an updated report was ordered as the hearing progressed.

The Union complained that the Arbitration Panel should not consider the MERS valuations because non-bargaining unit members were included in the analysis. This is an overly technical argument. It is true that it distorts the picture. Nevertheless, it is a valuation. While it does not bar them based on admissibility, it does impact their weight and sufficiency.

The Township says that non-bargaining unit members were included because they are part of the same group and have always been included in valuations involving members of the Union. The 2014 annual actuarial report contain the same non-union bargaining members that were included in this report, which allows for an “apples to apples” comparison between the previous costs of the defined benefit and the projected costs of the plan based on the Township’s proposals.

Equally important, as recognized by the actuary who testified in regard to the report, the supplemental valuations are merely projections on what the plan would cost if every single assumption falls completely in line with stated assumptions. In other words, the valuations are guesses as to future costs. While removing non-bargaining unit members from the analysis might

change the numbers in some non-significant manner, it would not change the fact that the Township will achieve cost savings from these proposals.

More importantly though, the Township points out that on this issue, both testimony and documentary evidence was provided by MERS which established that MERS was capable, and did in fact, break out the two proposals to allow for an understanding of the impact of both individually.

Nonetheless, the Union maintains there are numerous errors contained in the Supplemental Valuations for the Employer pension issues.

The testimony shows that this bargaining unit consists of 21 employees. The additional employees listed in the Supplemental Valuation exhibits are Sergeants and Lieutenants who are not members of this bargaining unit. The Sergeants earn a base wage 16% higher than the members of this bargaining unit, and the Lieutenants earn a base wage 42.3% higher than the members of this bargaining unit. The Sergeants and Lieutenants have a higher average seniority and higher average age than the members of this bargaining unit. Thus, the Union affirms that including them in pension valuations skews the numbers in the supplemental valuations. It is possible to carve out the members of this bargaining unit from the Sergeants and Lieutenants. Carving out the bargaining unit members could have provided an accurate analysis of the proposed Employer changes.

Mr. Koss testified that the 21 bargaining unit members could have been carved out from the 27 active members, separate valuations could be done to determine only the impact of reducing the multiplier from 2.8% to 2.5%, determine only the impact of changing the FAC from "Termination" to "Frozen," determine only the impact of raising the pension contribution from

7% to 10%, and determine only the impact of closing the Defined Benefit Plan and to replace the plan with a Defined Contribution plan for new hires.

During cross-examination, Mr. Koss was asked to explain numerous variances in the reports dated March 25, 2015 and February 10, 2016. The variances include Active Member Count, Active Payroll, Projected Unfunded Accrued Liability, Employer Contribution Percentage, Projected Employer Contribution For Existing Employees and Projected Employer Contribution For New Employees which were contained in Employer exhibit 125 but are not contained in Employer exhibit 132. The Chair agrees with the Union that Mr. Koss had no convincing explanation for the differences in information analyzed in the two supplemental valuations, even though they were prepared less than eleven months apart.³⁶ The Union asserts that the information failed to meet the threshold statutory requirements. It claims they are just “garbage in – garbage out” misinformation.

To be sure, the actuarial reports conflated changes in this bargaining unit with other bargaining units and non-represented employees. They assume the granting of these Employer proposals will proceed in lock step to them.

The Employer could have chosen to obtain a supplemental actuarial valuation for each Employer issue on each group of employees to determine the costs/benefits of that proposed change independent of its other proposals, but simply chose not to.

³⁶Mr. Koss was asked to explain how he reached the Total Employer Contribution Inflated Dollars of \$401,000 for 2014 in Employer Exhibit 132 when the Payroll and Employer Contribution Percentage are not listed in the exhibit. Mr. Koss admitted that he could not explain how the \$401,000 was calculated. Nor could he explain why Employer Exhibit 132 would list dollar amounts for 2014, 2015 and 2016 for Employer Contribution For New Hires to DC when there were no members of this bargaining unit in the Defined Contribution plan in 2014, 2015 or until this date in 2016.

Were these perfect reports? Probably not. Were they tardily provided? Probably so. Although the delay was not willful, and there was a belated exchange with an opportunity to study the data and move for a continuance if one was needed.

The statute requires reports to be provided to the Board of the municipality, but doesn't specify the form or content. In any event, the reports were reasonably accurate, given the limitations imposed by the subject matter, and were close enough³⁷ (with one exception noted hereafter) to be used by the panel.

ISSUE 9 – Employee Contribution to Defined Benefit Pension

The Employer's Last Offer of Settlement seeks to increase the member's contribution rate from 7% to 10%. The Union seeks to maintain the status quo.

The parties' Agreement provides the following with respect to union members' contribution to the defined benefit pension:

Unit members shall pay the initial 2.0% of salary contributions necessary to fund the Plan. The Employer shall then be responsible for future contributions to the Plan (subject to above) up to 13.5% of payroll as defined by MERS (excludes bonuses, sick time payouts and benefit opt outs). Should the actuarially determined cost of this Plan exceed 15.5%, unit members will be responsible for additional contributions up to a total contribution of 7.0%. Employee contributions shall not exceed 7.0% of MERS payroll, the Employer remaining responsible for funding any actuarially determined costs that exceed 20.5% of payroll.

Under this arrangement, members pay the first 2% of payroll costs and an additional 5%, if necessary, once the Township has paid 13.5%. The Township pays all costs above 20.5% of

³⁷As in horseshoes and hand grenades.

payroll. Currently, pursuant to this language, union members are paying the maximum 7% of payroll costs toward their pension, while the Township is paying 18.72%.

Due in part to increasing pension costs, the Township began to seek changes to the employee contribution to the defined benefit plan. Supervisor Price explained the Township has been successful with two other bargaining units, the IAFF and the POAM Dispatcher unit. Members of both of these units now contribute 10% toward their defined benefit pension, effective for firefighters on July 1, 2014³⁸ and for dispatchers on May 13, 2014.

When the MERS defined benefit plan first came into effect for this Union, the Township was contributing a much smaller percentage to the plan. The Township maintains that at that time, a 7% employee contribution seemed reasonable. However, circumstances since the plan was put into effect have greatly increased the Township's cost. Currently, the Township is contributing 18.72% of payroll while the employees continue to pay just 7% of pension wages.

The Employer highlights that the costs associated with the defined benefit plan will continue to rise in the immediate future. MERS has reported that the estimated rate of return for the 2015 calendar year is a negative 1%. That amount is not reflected in the 2014 annual actuary report, but will be reflected in the 2015 annual report, announcing the Township's contribution beginning January 1, 2017. The 2014 MERS annual report assumed an 8% rate of return for the 2015 calendar year.

Changes in MERS assumptions can be expected to result in increased contributions moving forward. That includes a reduction in the rate of return from 8% to 7.75% and changes in

³⁸ Fire Department members pay 10% as a pension contribution. However, testimony of Plymouth Township Treasurer Ron Edwards indicated that the 10% contribution rate was the IAFF's Final Offer of Settlement in their most recent Act 312 hearing, which was granted by the Arbitrator. The IAFF members were contributing a far larger percentage due to disputes between MERS and the Township as to the method of calculation used. The IAFF actually received a reduction in their required pension contribution by capping their contributions at 10% .

the mortality tables to reflect that retired employees are living longer. Barring some unexpected event, it assumed they will be paid more for their pension over time, which will also result in increases in Township pension liabilities. As Mr. Koss explained, these new assumptions will have a significant impact on projections moving forward. He testified another potential problem that could further increase contributions to the plan moving forward is “smoothing.” Smoothing has left the plan with a “6 percent difference of unrecognized losses that has to work its way through the system.” Members of this bargaining unit currently make a 7% contribution to the pension plan. This 7% contribution is higher than five of the six external comparables whose contributions range from 0% to 6.83%. The only external comparable which pays more than 7% is Huron Township, which has never been used as a comparable to Plymouth Township in the past and was proposed by the Employer in this matter, solely due to its pension contribution rate. Testimony revealed that the high rate paid by the employees in Huron Township is currently in dispute due to a difference in figures between MERS and the Township. There is litigation looming in that matter. Huron Township acknowledged that the contribution rates are incorrect and has reimbursed the members for some of the overcharged amounts.

Four of the six external comparables receive annual Cost Of Living Allowance (COLA) increases in the pension payments to the retired members. The COLA pension escalators increase the pension payments on an annual basis; Plymouth Township members do not receive any increases from their initial pension amount.

The Union flatly states there is a vast difference in pension payments currently received by members of this bargaining unit over a 30 year period in comparison to the payments received by the external comparables with the inclusion of COLA. The base amount is the actual

amount received by one of the most recent retirees from this bargaining unit. The calculations for the comparables start with the same base amount received by the Plymouth Township retiree. From the Union's view, over a 30 year retirement period, Bloomfield Township receives \$253,327 more than Plymouth Township and their annual pension payments increase by 33.45%. Huron Township and Northville Township receive \$575,928 more than Plymouth Township and their annual pension payments increase by 72.52%. West Bloomfield Township receives \$553,463 more than Plymouth Township and their annual pension payments increase by 77.47%.

The Township insists that internal comparisons are especially relevant on the issue of employee contributions. This is because they have the same funding mechanism, the same financial situation and the same pension plan performance as the plan provided to police officers. Other than the COAM unit, which awaits the conclusion of this negotiation process before resuming its negotiations with the Township, *all* other Township employees who are participating in the MERS defined benefit plan are already contributing 10% toward the plan. Dispatchers, represented by the POAM, agreed to increase the employee contribution from 7% to 10% effective almost two years ago on May 13, 2014.³⁹

Likewise, members of the IAFF have been paying 10% of wages toward the defined benefit plan since July 1, 2014.

The pensions that were promised need to be honored. This is a contract. Manifestly, it is deserving of protection.

The panel also recognizes that this is an extraordinary shift of some of the employer's liability onto the pocket book of the police employees. The misfortunes of the economy, the

³⁹Dispatchers have a 10% pension contribution. However, the Township agreed to 3% per year wage increases for five years in the current Dispatcher CBA. The 15% wage increase over the life of the CBA was a major offset for the increase in their pension contributions from 7% to 10%.

decline in revenues and the penurious conduct of the state are all beyond the parties' control. The inexorable march of health care costs is a direct contributor to the budgetary shortfall.

The continued solvency of the pension plan is a shared interest of the Employer, the Union, the public and the employees.

On balance, based upon all of the §9 criteria, the panel finds that the Employer's offer on ISSUE 9 is adopted as the panel's award.

AWARD ON ISSUE 9

I adopt the Employer's Last Best Offer. _____
STANLEY T. DOBRY, Chairperson

I adopt the Union's Employer's proposal on Issue 9.

GREGG SCHULTZ, Delegate

I adopt the Union's Employer's proposal on Issue 9.

KEVIN LOFTIS, Delegate

ISSUE 10 – Pension: Reduction of Multiplier to Participants in the Defined Benefit Plan

The Employer's Last Offer of Settlement is that the pension shall consist of a bridged benefit with a 2.8% multiplier for service prior to the date of the 312 Award, Frozen FAC for that service period, and a 2.5% multiplier for service beginning on the date of the 312 Award.

The Union's Final Offer of Settlement is to maintain the status quo.

When the Union and Township originally agreed to a defined benefit plan, the plan included a very generous multiplier of 2.8%, without any reduction during the employee's career

or at social security. With a 2.8% multiplier, employees max out their pension at 28.6 years of service (80% maximum FAC divided by 2.8%).

Due to the rising costs of pensions, the Township recently undertook to reduce the pension multiplier, making this change with the IAFF effective July 1, 2014.⁴⁰ This proposal seeks an identical reduction with this Union.

The Township's proposal reduces the current 2.8% multiplier to 2.5%, prospectively for all members of the defined benefit plan. All years of service earned prior to the effective date of an Award granting the Township proposal would still be calculated using the 2.8% multiplier. Only future years of service would be calculated using the 2.5% multiplier.

MERS actuary Koss explained the concept of a bridged benefit. Reducing the multiplier prospectively from 2.8% to 2.5% would offer the Township some relief from the rising cost of pension that it has experienced.

MERS addressed the savings that would be obtained from the Township's multiplier proposal. In preparing this report, MERS utilized the previously discussed assumptions. Adopting these two Township proposals will result in a decrease in the "Actuarial Accrued Liability" and "Unfunded Accrued Liability" of \$1,496,870. This reduction in the liability of the pension plan would result in a change in the percentage of the pension plan funded from 73.3% to 81.7%. These changes will result in a reduction of the employer annual contribution from \$430,368 to \$251,856 and reduce the Township's annual contribution from 21.12% to 12.36%.

The Union strenuously objected to admission of the report. In addition to objections as to timing and form, it pointed out that MERS commingled two pension proposals.

⁴⁰See Township Exhibit 122.

However, the Township did produce a corroborative and explanatory e-mail. Therein, MERS identified that with a 2.5% multiplier and a 7% employee contribution, the Township's cost subject, which remains subject to the negative 1% rate of return, would be 14.49% of payroll if the defined benefit remains open. The cost would be \$316,080 annually (\$26,340 per month) if the defined benefit was closed.

In response to the Union's concerns, Mr. Koss testified combining the two pension proposals. He said that backing out the employee contribution from the total costs "[i]f we're talking about just simply a change in the member contribution rate ... MERS does do that independent of the actuary."

The savings from the reduction of the multiplier would provide the Township relief with respect to its unfunded pension liabilities. While the Township would still have an unfunded accrued liability of over \$2.3 million, the unfunded liability would be decreased to 81.7%.

The change in multiplier would have the effect of bringing the Township contribution back in line with the amount that the Township was contributing before the recent surge in costs to the Township for the defined benefit plan. Through the adoption of the reduced multiplier, the Township's contribution would be reduced to 14.49%.

Employees will still continue to accrue 2.5% toward their final average compensation each year, which will cause the employee a slight increase in the amount of time it will take the employee to reach the maximum 80%. However, the employee can make up the difference in maximum pension by working additional time.

Plymouth Township employees are entitled to social security at retirement on top of their Township pension. This differs from many other municipal employees, who do not get social security or have their pension reduced at social security age.

MERS actuary Koss testified that the bridged benefit – a relatively new concept arising in the last 2 - 3 years – has been increasingly requested by other employers.

In its recent 312 with the IAFF, the Township sought a reduction in the multiplier from 2.8% to 2.0%. The IAFF, apparently recognizing a bridged benefit would assist in reducing costs of the pension plan, proposed a reduction from 2.8% to 2.5%. The context of this settlement is important. The 2.5% multiplier was part of a proposal to reduce their pension contribution payments. The Firefighters were paying approximately 20% in pension contributions in 2014, due to the language in their previous CBA. The Act 312 Arbitrator awarded the Firefighter LBO.

The multipliers for some other communities provide further support for the Township's position. Northville Township utilizes a 2.5% multiplier beginning in year 1.⁴¹ Bloomfield, Huron, Redford and West Bloomfield Townships have pension multipliers higher than the 2.5% proposed by the Employer. Northville Township has a 2.5% multiplier but also has a 2.5% annual COLA increase which Plymouth Township does not receive. One external comparable went to a bridged benefit: Canton Township is the only external comparable that bridged the multiplier down to 2.5%.⁴²

⁴¹West Bloomfield Township has a multiplier slightly less than Plymouth Township at 2.75%. However, West Bloomfield has a provision in its pension plan that results in a reduction of the multiplier to 2.25% once an employee reaches social security age. This is not the case in Plymouth Township where employees are eligible for social security and do not have a social security reduction like West Bloomfield Township.

⁴²Canton Township went from a 2.8% to a 2.5% multiplier per an agreement reached with the POAM effective January 1, 2013.

The employer proposal also includes a major change in the way the value of pensions based on “Final average Compensation” accrued service is calculated. Previously, the amount of the pension would increase due to future wage increases – which are likely if not inevitable – as they would be a component of “Final average compensation” based on the highest three years of service. This has a foreseeable, direct and material impact on the size of the pension. Indeed, as constructed, the valuation of prior service is frozen as of the date of this award, so it would not include wage increases that accrue under the last two years of the contract being decided in this proceeding.

This feature is a “sea change.” The retrospective change in the tide diminishes the value in the already earned implicit potential value of retirements for the years these officers have previously worked. They are being asked to give up a major component of their earned pension.

To be sure, this feature is part of Article 23 of the Plymouth Township/IAFF contract. It uses the phrase “frozen FAC” as of July 1, 2014.

The Employer included the additional component of “Frozen FAC” in its Last Offer of Settlement.

The Union characterizes this as an extreme change which was belatedly included in the fine print of the Township’s Last Offer of Settlement with little explanation of the effect on the employees during its direct testimony of its witnesses if this component of FAC was awarded.⁴³ Indeed, the employer downplayed its consequence.

The Union urges that the new position was punitive and retaliatory.

⁴³Mr. Price acknowledged that he does not recall any information provided by MERS or the Employer to the employees advising them of the effects of the “Frozen FAC” during negotiation or mediation. Even in the Employer’s Opening Statement, the Employer’s attorney advised the panel that the Employer issue was to reduce the multiplier from 2.8 to 2.5, but he left unmentioned the inclusion of the “Frozen FAC.”

The Union offered the following illustration as to the true effect on the employees' pension payments if the Employer's Final Offer of Settlement was granted on this issue.

If the current negotiated multiplier of 2.8% were to remain in effect and a current 10 year employee retired in year 2030, his pension would be calculated on the purported base wages of \$92,557.

$$25 \text{ years at } 2.8\% = 70\% \quad 70\% \times \$92,557 = \mathbf{\$64,789.90}$$

Under the present CBA and the MERS Plan Document, "Termination FAC" is used to determine the amount of a member's retirement benefit. "Termination FAC" is calculated by taking the highest three consecutive years of earnings during the member's tenure with the Department and multiplying that number by the years of service and the pension multiplier to determine the pension amount. Using the base wage figures provided by the employer, if the multiplier was reduced from 2.8% to 2.5% effective the date of this Act 312 award, a current 10 year employee would have his retirement benefit calculated on 10 years at the 2.8% multiplier and thereafter 15 years at a 2.5% multiplier.

The "Termination FAC" scenario was the belief of the Union during the negotiation process.

$$\begin{aligned} 10 \text{ years at } 2.8\% &= 28\% \\ 15 \text{ years at } 2.5\% &= 37.5\% \quad 28\% + 37.5\% = 65.5\% \\ 65.5\% \times 92,557 \text{ (year 2030)} &= \mathbf{\$60,624.84} \end{aligned}$$

However, under the Township's Last Offer of Settlement, a "Frozen FAC" is used to determine the amount of a member's retirement benefit. Using the base wage figures provided by the Township, if the multiplier was reduced from 2.8% to 2.5% effective the date of this Act

312 award, a current 10 year employee would have his retirement benefit calculated on 10 years at the 2.8% multiplier and “frozen” at the wages in effect on the date of the Act 312 award, and

15 years at a 2.5% multiplier.
10 years at 2.8% = 28% X \$68,771 (year 2015) = \$19,255.88
15 years at 2.5% = 37.5% X \$92,557 (year 2030) = \$34,708.88
\$53,964.76

The monetary difference between the Union’s proposal to maintain the status quo and the Employer’s Last Offer of Settlement, using the Employer’s wages would be:

\$64,789.90 (Current benefit)
\$53,964.76 (Employer proposed benefit)
\$10,825.14 Annual reduction in pension payments.
\$ 902.09 Monthly reduction in pension payments.

The above numbers are based on base wages. When overtime payments are included, the reduction in pension payment numbers would increase. Vastly.

The long term effect on pensions and future negotiations also is a material factor. If any of the Employer’s proposals for a reduction in pension benefits are granted, the Union says it might be prohibited from attempting to negotiate or arbitrate increases in the pension benefits in the future. The prohibition is due to a MERS requirement that the pension system of the municipality must be 100% funded before any pension increase can occur. While acknowledging that MERS has unilaterally imposed such a rule, the Township argues that it is illegal and could be overruled by a vote of the people, a vote of the Board, or an award from an Act 312 Arbitrator.

In any event, the legal effect of such a provision has yet to be determined by a court of competent jurisdiction.

Thus, a downward change – in multiplier and the way final average compensation is calculated – is likely to have a continuing and potentially irreversible impact on future pension negotiation.

Effectively, this is a direct transfer of already earned benefits – the promised value of accrued years of service – from the pockets of the employees to reduce the existing liability of the employer. It negatively impacts on the legitimate expectations of employees. In fact, it is retroactive effect of such a reduction, and its synergy with the multiplier, that makes possible the spectacular reduction in the employer's accrued liabilities.

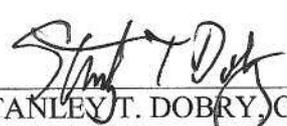
While a prospective change in the multiplier has much to recommend it, the change in the method of computing Final Average Compensation for accrued years is a Draconian solution that impairs existing contractual obligations. Because this is an economic issue, the panel must adopt one party's position, and cannot modify the language.

Act 312 awards should ordinarily be evolutionary, not revolutionary. As the proponent of change, the employer had the burden of proof.

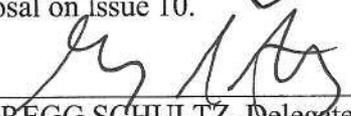
The panel is of the opinion that on balance the status quo is the better option. Therefore, the Union's Final Offer of Settlement is adopted, and the Employer's offer is rejected.

AWARD ON ISSUE 10

I adopt the Union's Last Best Offer.

 07/22/2016
STANLEY T. DOBRY, Chairperson

I adopt the Union's Employer's proposal on Issue 10.

 7/25/16
GREGG SCHULTZ, Delegate

I adopt the Union's Employer's proposal on Issue 10.

 7-25-16
KEVIN LOFTIS, Delegate

ISSUE 11 – Pension: Removal of Overtime from FAC of the Defined Benefit Pension for Special Unit work.

The Employer’s Last Offer of Settlement is that overtime obtained from special unit work shall not be part of the pension benefit for all purposes including the determination of FAC. The Union’s Final Offer of Settlement is to maintain the status quo.

The Employer’s proposal states “Effective on the date of the Award, **overtime obtained from special unit work shall not be part of the pension benefit for all purposes including the determination of FAC.**” [Emphasis added.].

Currently, overtime is a part of the employee’s defined benefit pension plan and is included in final average compensation. In a further effort to reduce costs, the Township has proposed a minor adjustment to the impact of overtime on pension costs. Supervisor Price explained the Township proposal on this issue:

“The Township's proposal is that we would not include overtime incurred during special unit duty in the final average compensation. So if you were an officer assigned to drug forfeiture, that's kind of out of our control on the overtime and that that overtime would not be included in your final average compensation.”

Supervisor Price explained that one basis for the origin of this issue was his experience as a Wayne County Commissioner where he witnessed enhanced final average compensation based on the manipulation of overtime toward the end of an employee’s career. The proposal was limited to overtime for work on special units because this was the one area of overtime that was outside the control of the Township. Under the Township’s proposal, all other overtime would continue to be counted toward final average compensation.

The Union argues that this proposal would cause members of a special unit to be treated in a different manner than employees who were not working in special units. It creates second class work.

The Township rejoins that Employees volunteer to perform special unit work, so if an employee is concerned about losing an economic benefit based on a situation where overtime performed would not be included in FAC, that employee has the option to remain in positions free of the impediment of this proposed language.

However, officers have to be authorized to work overtime and cannot work the overtime on their own volition. The current drug unit generates income for the Township through drug forfeiture funds.

The Union also complains that there is ambiguity in the phrase special units. Supervisor Price explained that “special unit work” refers to work performed outside the command of Plymouth Township. As a matter of fact, the Union has a point. The Employer’s proposal is ambiguous and lacks specificity. If they wanted to include only the drug unit they could have listed the drug unit, but instead lists “overtime from special unit work.” This is a carte blanche. It is more generic language invites further expansion, application and dispute. The language may be subject to different interpretations by successor administrations, and not given the same construction as the Township now offers.

To be sure, contractual language is subject to interpretation by an arbitrator. The lack of specificity is a factor to be considered by the panel.

Fundamentally, the Township seeks to require some members to work overtime but refuse to include that overtime in their FAC as every other Department member is allowed to do.

Assignment of employees is a management right, subject to limitation by the CBA. If management does not want these employees to do this kind of work it has easy remedies. But creating two-tiered wage and benefit systems should be limited as much as possible; they divide the union and create tension in the work place that will only have to be addressed at a later time.

The Employer failed to present a supplemental actuarial valuation on this issue. There was insufficient credible evidence on the projected savings if their proposal was granted.

It is worth noting that MCL 38.1140h(3) requires:

“A system shall provide a supplemental actuarial analysis before adoption of pension benefit changes. **The supplemental actuarial analysis shall be provided by the system’s actuary and shall include an analysis of the long term costs associated with any proposed benefit change.**” [Emphasis added.]

§ 10 of Public Act 312 states “A majority decision of the arbitration panel, if supported by competent, material, and substantial evidence on the whole record, **shall be final and binding upon the parties ...**” [Emphasis added.]

Based upon the §9 factors, which implicitly includes the good of the public and department morale, the panel adopts the Union’s final offer to maintain the status quo. The Employer’s proposal is rejected.

AWARD ON ISSUE 11

I adopt the Union’s Last Best Offer. *Stan T. Dobry* 07/22/2016
STANLEY T. DOBRY, Chairperson

I adopt the Union’s Employer’s proposal on Issue 11.
Gregg Schultz 7/25/16
GREGG SCHULTZ, Delegate

I adopt the Union’s Employer’s proposal on Issue 11.
Kevin Loftis 7-25-16
KEVIN LOFTIS, Delegate

ISSUE 12 – Pension: New Employees to Participate in a Defined Contribution Pension

The Employer's Last Offer of Settlement seeks to close the existing defined benefit plan and to replace the plan with a defined contribution plan for new hires. The Union's Final Offer of Settlement is to maintain the status quo.

Currently, all members of the bargaining unit participate in a defined benefit plan. The Township recently undertook to make a change with all of the unions whose members participate in a defined benefit plan. Those unions included the IAFF and all 3 police units. For all such bargaining units, the Township proposed that new employees would participate in a defined contribution plan with the Township contributing 15% of the employee's payroll into the employee's defined contribution account. This is the same defined contribution plan that is in effect for other Township unions (TPOAM and Teamsters) and all non-represented employees.⁴⁴ Under the Township's proposal, all employees who were participating in the defined benefit plan prior to the effective date of the defined contribution plan would remain in the defined benefit plan.

The Township's plan to have all new employees participate in a defined contribution plan was adopted with the IAFF through a 312 arbitration. As a result, all firefighters hired after May 6, 2012 participate in the defined contribution detailed above.

The Township also reached agreement on this issue with the dispatcher unit represented by POAM so that its members hired after May 14, 2014 all participate in the same defined contribution plan. The only union besides the police officer unit which has not yet agreed to the

⁴⁴Non-union employees who were previously employed in the public safety unions have continued to participate in the defined benefit plan after leaving their union position.

defined contribution plan is the COAM. And while the concept of new employees participating in a defined contribution does not have the same impact with the Command unit, whose members are generally promoted from the police unit, the Township is currently seeking that change with the COAM. As Supervisor Price testified, the COAM is waiting for the completion of the police negotiation process to begin bargaining.

Supervisor Price provided testimony as to why the Township is seeking to move all new employees to a defined contribution pension plan. Specifically, he explained that the change is being sought for consistency and so the Township knows on a year-to-year basis what their contribution is going to be. Price provided the following explanation for what he meant by consistency and how a defined contribution would assist the Township in preparing an annual budget:

“With our defined contribution plan, our long term liability, so we know on a year-to-year basis what our contribution is going to – what we have to budget for and plan for.” [Tr. 4, p. 155].

The Township claims the most recent annual actuarial report, provides a perfect illustration of the volatility associated with a defined benefit plan. Koss testified that in preparing the report he utilized the 8% assumed rate of return that was part of MERS assumptions at that time. That document illustrates how the contribution to the pension plan would be impacted in scenarios where different rates of return actually occur. Koss explained that MERS asked CBIZ to prepare the different scenarios to provide the reader with a range of possible outcomes depending on the different rates of return. The chart shows that a rate of return 1% less than the assumed 8% rate would result in an approximate 50% increase in the

Township's annual contribution, while a rate of 2% less than the assumed 8% would result in an approximate 100% increase in the annual contribution.

The employer asserts this chart provides further evidence to support the Township's desire for cost certainty. As was noted throughout the hearing, these annual reports simply provide the Township with an annual required contribution based on projections formed assuming numerous factors. Slight changes in these assumptions can cause dramatic changes in the funding requirements from year to year. With the proposed defined contribution plan the Township will have a very good estimate of what employee pensions will cost from year to year because the cost can be computed by simply multiplying payroll by 15%.

The Township's desire to gain cost certainty would absolutely be served through its proposal to provide new employees a defined contribution plan. As was evident throughout this hearing, the Township is dependent on actuaries to provide information on costs associated with the defined benefit plan. MERS actuary Koss explained that the 14-pages of assumptions laid out in Township Exhibit 130 would not be needed to determine the costs associated with the defined contribution plan. With the defined contribution, the Township will know how much to budget for a particular year, without any concern over the rate of return, how long employees will work for the Township or how long employees will live following their retirement from the Township. It is true that, based on its proposal to allow employees in the defined benefit to stay in the defined benefit plan throughout their careers, the Township will still be required to deal with assumptions and actuary reports for the near future, but with each retirement and new hire, the Township will be closer to being done altogether with the uncertainty attached to a defined benefit plan.

The Union does not and cannot deny that the a conversion to a defined contribution plan would address the Township's concerns with cost certainty, but maintains that converting to a defined contribution plan for new employees merely shifts the uncertainty to the employees. The Township disagrees with this basic premise because the employees in the defined contribution plan will have their own fund to control, so assumptions such as rate of return and mortality rate will have no impact whatsoever on funding of the defined contribution plan. Also, employees will have control over their own funds, able to make investments in a manner that suits their individual needs. This is not the case with the MERS defined benefit pension plan that is currently in effect, where MERS makes the investments and the Township has virtually no say in the level of risk built into the investment strategy.

More importantly, though, the Employer sees a defined contribution plan as a common method of providing retirement benefits to employees in this country. A 15% employee contribution represents a generous plan. The revisions to 312 related to ability to pay specifically recognized the importance of the public welfare as Section 9.a.ii of the statute provides:

(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.

The Township submits its residents are better served by having a retirement plan in place that allows its representatives to more effectively budget for the needs of the Township in general.

Per the employer, the internal comparables offer immeasurable support for its proposal. At this point, every single non-police officer employee who is hired into a position at the Township will participate in a defined contribution plan. This includes members of the TPOAM, members of Teamsters and unrepresented employees, all of whom have always participated in a defined contribution plan throughout their career. So, all employees in these groups, not just new employees, participate in the same defined contribution plan proposed by the Township, which includes a 15% Township contribution into the employee's defined contribution pension account.

Likewise, new IAFF and POAM Dispatch members will participate in a defined contribution with a 15% Township contribution to the employees' defined contribution plan accounts. The Township sought a defined contribution plan for new employees to these bargaining units for the same reasons it is seeking the changes with the police officers – addressing increasing pension costs and obtaining cost certainty. The matter went to a 312 Arbitration with the IAFF and an arbitrator agreed with the Township's proposal for a defined contribution pension for new members of the bargaining unit. A defined contribution was implemented for the IAFF almost 4 years ago, so all employees hired after May 16, 2012 now participate in a defined contribution plan proposed in this matter.

The Township sees the fact that new dispatchers are now participating in a defined contribution to be particularly compelling. Dispatchers are represented by the same union (POAM) as the police officers. In fact, the same POAM representative bargains on behalf of both groups. Throughout the hearing the Union attempted to distinguish the dispatchers, claiming that it is a different makeup than police officers. The Township adamantly disagrees

with any such assertion. Dispatchers have the same need for a pension as police officers. In fact, dispatchers make less money than police officers, so a need for post retirement benefits is arguably even greater for dispatchers than it is for police officers.

Importantly, the Township's proposal on this issue is reasonable. It was crafted so as not to impact members of the bargaining unit who were hired prior to the effective date of the collective bargaining agreement currently being addressed in this 312 hearing. Also, the 15% contribution is a very generous amount and will clearly offer employees the opportunity to build a substantial retirement fund over the course of their career. The Township is proposing a generous contribution to achieve its goal of cost certainty and clarity in terms of its cost and budget.

The logic underlying the Employer's last offer of settlement in seeking a defined contribution plan is seriously flawed according to the Union, which says it has the opposite effect, financial instability, as a result. When financial factors are evaluated, the evidence reveals that the Employer will not experience cost savings but, instead, will experience in both the short term and long term, higher costs by establishing a defined contribution plan. In addition, imposing a defined contribution plan will have a devastating impact on employees who will not have a pension for retirement protection. The Employer called as its witness Jim Koss, Actuary for CBIZ, which provides the actuaries for MERS. The Union submits that Mr. Koss provided testimony which undercut the employer's position or logic in wanting a defined contribution plan. Mr. Koss testified that by closing the defined benefit plan and opening a defined contribution plan, financing is still required for the unfunded liability of the defined benefit plan, with an accelerated amortization, resulting in an increase in the employer contribution rate. Mr.

Koss indicated that when the actuarial valuation was performed, a 24-year amortization period was utilized with a 7.75% investment return assumption.

According to the Union, Mr. Koss acknowledged that a defined contribution plan is, in essence, not a retirement plan at all given that “the employer is shifting the investment and longevity risks for future new hires from the employer to the employee.”

On cross-examination, Mr. Koss admitted that the Employer’s cost after closing the defined benefit plan and creating a defined contribution plan is actually higher than if it only continued with the defined benefit plan. He also admitted that if the employer simply invested the difference in added cost by closing the defined benefit plan and establishing a defined contribution plan, and letting the money grow at the assumed 7.75% rate, a calculation could be made indicating how the dollars would grow. Focusing directly on the period of the contract in this compulsory arbitration proceeding, being 2015 through 2018, Mr. Koss acknowledged that the cost to the Employer by going to a defined contribution plan and closing the defined benefit plan is greater during that period of time than if the employer simply kept the defined benefit plan in place.

Mr. Koss testified and agreed that Exhibit 132 states “The long term employer cost of the proposed DC plan is much higher than the long term employer cost of the DB plan with the bridge benefits.” The graph on page 6 shows that the Employer’s proposed DC plan will be costlier than the current DB plan. The table on page 6 shows that the Employer long term cost in the current DB plan will be 7.77% while the Employer’s proposed DC plan will be 15%.

Under cross-examination, Township Supervisor Shannon Price admitted that with a defined contribution plan, employees are not allowed to leave employment until age 55 without

incurring a financial penalty upon withdrawal of their money. Testimony and pension exhibits of both parties are in agreement that under the current defined benefit plan, an employee can retire with a true pension after 25 years of service.

The Union submits that while the Employer indicates that it will make the 15% contribution, its last offer of settlement states “The terms of the Plan Document for this pension plan and any Adoption Agreements adopted by the Township shall be controlling as to all matters concerning contributions, eligibility and other required matters.” [Emphasis added.]. The Employer’s offer provides it the opportunity to amend the contribution percentage and eligibility at its whim. Changing the contribution percentage and eligibility requirements could obviously have a devastating financial impact to the employees.

One of the objections of the Union is that closing the defined benefit plan to new employees actually increases costs to the Township. The Township maintains that the ultimate cost of the pension is more of a concern to the Township than it is to the Union. Even if closing the defined benefit plan to new employees has the effect of increasing overall costs to the Township, the benefits to the Township such as the cost certainty of a defined contribution plan, make the increased costs worth it to the Township. However, the Township maintains that the Union’s claim that closing the plan would increase costs to the Township is not correct. The Union is correct that there is an acceleration of funding brought on by the closing of the plan. Mr. Koss explained this acceleration:

“If the plan is closed and new entrants are going into a MERS or non-MERS defined contribution plan, MERS funding policy requires that the unfunded accrued liability for the now closed defined benefit plan be paid off over a shorter period of time. The reason being that the board would like, by the time the last active person becomes a retiree, that the plan be fully funded. So currently as an open plan, I believe the Township is using a 24-year

amortization of unfunded accrued liability. Once the plan becomes closed, that 24-year amortization period becomes accelerated. It doesn't change the unfunded accrued liability. It just changes the period of time over which it has to be paid off." [Tr. 4, p. 31].

Where the Union errs, however, is in their claim that the change to a defined contribution will increase the cost of the defined benefit plan to the Township. In fact, the opposite is true.

Mr. Koss clarified this point, explaining that while closing the defined benefit plan has the impact of accelerating the amount required to fund the plan on an annual basis, closing the plan does not increase the overall costs to the Township. Mr. Koss explained:

"But again, closing the plan or leaving it open doesn't change the unfunded accrued liability, it just changes the period of time over which it has to be paid off. So by closing the plan and shrinking the amortization, period, the employer's contribution will be larger over that smaller period than they would be over a longer period. We tend to use the example of a home mortgage. It's paying it – you can have a 30-year note on your mortgage or a 15-year note on your mortgage. If it's the same house that you're buying, your payments are going to be higher for the 15-year note but then they're going to be zero for year 16 through 30 relative to a 30-year." [Tr. 4, p. 32].

So, the Township's view completely contrary to the Union's claim that the closing of the plan would have the effect of increasing the cost to the Township, closing the plan would have the effect of decreasing the overall cost of the pension plan to the Township.

As a result of concerns raised by the Union during negotiations, MERS prepared a report, which provided detailed information with respect to the long-term impact of closing the defined benefit pension plan. During the hearing process, the Township sought and obtained an updated analysis from MERS. Koss provided testimony which gave a "projection of the employer contributions and funded ratios" based on the adoption of the three main pension proposals put forth by the Township. As Koss explained, this document included employee data from

December 31, 2014, but the new MERS assumptions that will be effective January 1 2015. The chart also includes a 0% rate of return for the 2015 calendar year.

The chart provides information comparing the long-term impact over a period of 10 years based on an adoption of the Township's main pension proposals.⁴⁵ The employer cost for the portion of the document, which includes proposed changes, also incorporates the cost of the defined contribution for new employees into the analysis. As would be expected, even accounting for the acceleration of the contributions resulting from closing the defined benefit plan, there is some long-term savings in the projection found in the analysis. While there is a slight increase in fiscal year beginning January 1, 2016 in the proposed changes when comparing the "Total Employer Contribution Inflated Dollars" column for the baseline and the proposed changes, beginning in fiscal year 2017, under these projections, the Township will appreciate savings over the remaining period of time covered by the chart. While the projections indicate an annual savings for all of the changes of \$125,000 in fiscal year 2017, that annual savings is reduced over time and by the end of the period of time covered by the projections, that annual savings would only be \$58,000.

Exhibit 13 shows that if the amount of money per year which the Employer would be willing to spend by closing the DB plan and creating a DC plan were annually invested at the actuarial assumed rate of return of 7.75% interest, that the money would actually grow after 20 years to \$5,712,840.

Koss provided an explanation as to why the employer contributions in the 2016 report were higher than the employer contributions in the 2015 report.

⁴⁵ The Township's proposal to remove overtime from FAC with respect to special unit work is not reflected in this document or any of the documents prepared by MERS.

Township Exhibit 132 provides the following:

We used the following assumptions and funding methods in our projections:

- The annual investment return on market value of assets is 0.00% during calendar year 2015 and 7.75% each year thereafter.

This information provided in the report settles the dispute between the parties' advocates.

Clearly, MERS used a 0% rate of return in preparing Township Exhibit 132. In contrast, Township Exhibit 125 used an 8% rate of return for the 2015 calendar year. As actual numbers had not been realized at the time of the report's preparation, the report obviously used the assumed rate of return that was in effect at that time. Once again, it is easy to see how a rate of return 8% less than expected would cause a significant increase in the employer cost to the plan.

The Township submits that the combination of the change in assumptions, the fact that the more recent analysis, included updated rate of return assumptions and the fact that the more recent reports included updated data, provide adequate support for the increase in costs from the 2015 report to the 2016 report. Further, the employer submits Exhibits 12 and 13 offer no assistance to the Union's position in this matter. Exhibit 12 utilizes outdated data that does not present an accurate illustration of costs moving forward based on new assumptions, new data and recent rates of return. The Union maintains that this document illustrates that it is cheaper for the Township to stay in the defined benefit plan. The Township disagrees. According to Exhibit 132, in year 2025, the last year of the chart, the inflated cost of the current plan would be \$901,000 while the cost of the proposed plan would be \$843,000.

Likewise, the employer argues Exhibit 13 provides no assistance to the Union's argument against the Township's proposal to go to a defined contribution plan for new employees. Once

again, the Union seems to be taking the position that the Panel should reject the conversion because it will cost more than staying in the defined benefit plan. It appears to summarize the information from Union Exhibit 12, listing the annual savings the Union maintains would be accomplished from staying in the defined benefit plan. The Township does not agree that there is a savings from staying in the defined benefit. More importantly though, whether the costs go up or down, the From the Township's perspective, it is offering a very generous defined contribution plan that would undoubtedly help the Township achieve the cost certainty which has been advanced as a crucial reason for the Township's proposal.

The Township introduced a document to put into perspective the long-term costs associated with the Union's wage proposal. Exhibit 129 is a simple document prepared, as detailed in sworn testimony by the Township's advocate at the hearing, to show the value of difference in the long term cost of the parties' respective wage proposals, to put proper perspective on the savings/costs associated with the pension proposals.

As detailed above, the Union's wage proposal includes a 9.25% increase over the life of the contract. The Township's wage proposal includes a 6% increase over the life of the contract. Township Exhibit 129 illustrates the long term effect of the difference in these proposals, caused in large part by the compounding effect of the different wage proposals, by inserting the parties' respective proposals for the years of the at-issue agreement and including a presumed 2% annual increase in the years 2019 through 2033, the years chosen by the Union in its preparation of Union Exhibits 11, 12 and 13. According to the Township, Exhibit 129 shows that under the scenarios presented, an individual police officer will see annual improvement in the Union's wage package by the year 2033 of \$3,197.03, and a cumulative improvement of \$49,198.75.

With respect to the full complement of 27 employees included in the pension information, this would amount to a total of \$1,328,366.34 through 2033.

These numbers become even more noteworthy when one considers the dramatic impact this difference, if granted to the Union, would have on pensions, for both members of the defined benefit plan through a higher final average compensation and members of the defined contribution plan through higher annual contributions. It is important to remember that these numbers merely represent the difference between the parties' wage proposals for this agreement, so this is the additional pay that would be provided to members of the police department if the Union's wage package is accepted. The numbers would grow even faster and higher when one considers the additional 6% wages that are part of both parties' wage proposals.

Exhibit 11 shows that the difference in Employer contributions between Exhibit 125 (dated 3-25-15) and Exhibit 132 (prepared on 2-10-16) is \$4,129,000. The supplemental valuations used different information for the two valuations conducted 11 months apart. The valuations also relied on admittedly skewed information to prepare the exhibits.

Union Exhibit 12 shows that the Employer would save money if it continued with the defined benefit plan and took the added money that it was willing to spend for a defined contribution plan and invested it over the next 20 years. Exhibit 12 is a calculation relying on data from Employer Exhibit 125, showing the extra cost per year to the Employer if it closed the DB plan and put a DC plan into place. The calculation revealed that during the next 20 years the employer would spend \$1,919,600 more than if it simply stayed with the existing DB plan.

This document was admitted over the Union's objection to the introduction of this document for the reasons given on the record. The Exhibit illustrates that while there will be

savings to the Township from the changes to the pension as proposed herein, those changes will be offset by wage increases – wage increases that will have a dramatic positive effect on the employee’s pension.

Another concern raised by the Union was that there is no disability component to the defined contribution plan.

The current defined benefit plan has a disability component contained in the pension plan which provides for a disability pension for a member who is disabled from a duty related injury or illness. Per the Union, the most egregious part of the Employer’s proposal is that the proposed defined contribution plan does not have a disability pension plan. Testimony revealed that Officer Michael Lego, a member of this bargaining unit, suffered gunshot wounds in the line of duty and was permanently disabled. Mr. Lego has retired on a duty disability and receives a duty disability pension under the defined benefit plan.

During cross-examination, Mr. Price admitted that there is no disability provision in the Employer’s defined contribution proposal. Mr. Price also acknowledged that if the Employer’s defined contribution plan was awarded and a five year employee was disabled in the line of duty, the employee would not receive any pension, but rather only the amount of money he had accumulated in his 401k during his five years of employment. Mr. Price also stated that the 5-year disabled employee would not receive retiree healthcare from the Employer since he did not have the age or years of service required for retiree healthcare.

The Township maintains that the external comparables do support the Township’s position to create a second tier for pension benefits. According to the Union, notwithstanding the alleged adverse financial impact to the Employer if it established a defined contribution plan

as well as the negative impact to employees, the external comparables do not support the employer's Last Offer of Settlement. Bloomfield Township is the only external comparable in which new hires have a defined contribution plan.

One of the comparables, Bloomfield Township, converted to a defined contribution in 2006, with a 14% employer contribution. Canton Township went to a hybrid pension for new employees in 2001, which provides a reduced multiplier of 1.5% for new employees and a mandatory employee contribution to a defined contribution plan of 6%. There is no employer contribution to the defined contribution plan for officers in that community. Redford Township reduced its multiplier for employees hired after September 1, 2011 from 2.8% to 2.25%, while West Bloomfield reduced its multiplier for employees hired after January 1, 2011 from 2.75% to 2.25%. So the only comparable with a current contract that has not created a second tier for pension benefits is Northville Township. One could plausibly argue that Plymouth Township is actually late to make this change.⁴⁶

Like these other municipalities, the Township has to do something with respect to pension costs for new employees. Based on its funding mechanism and long-term financial status, Plymouth Township decided to go the route of a defined contribution plan for new employees. Such a plan was always in effect for all of the non-public safety units in the Township, and based on recent changes, new firefighters and dispatchers are now participating in a defined contribution plan as well. The Township submits that the fact that employees in the internal comparables are participating in a defined contribution plan and the fact that external

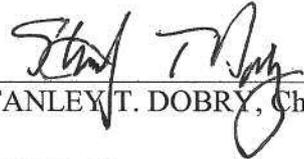
⁴⁶Huron Township has yet to agree to a successor agreement to the agreement that expired on December 31, 2013.

comparables are making changes to new employees's pensions provide compelling support for the Township's position on this issue.

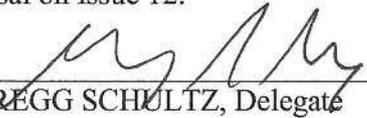
On balance, based upon all of the §9 criteria, the panel find that the Employer's offer on Issue 12 is adopted as the Panel's award. Provided, however, that the effective date of this award does not effect any employees hired prior to the date of this award.

AWARD ON ISSUE 12

I adopt the Employer's Last Best Offer.


STANLEY T. DOBRY, Chairperson 07/22/2016

I adopt the Union's Employer's proposal on Issue 12.


GREGG SCHULTZ, Delegate 7/25/16

I adopt the Union's Employer's proposal on Issue 12.


KEVIN LOFTIS, Delegate 7-25-16

ISSUE 13 – Pension: Effective Date of Defined Contribution Plan

ISSUE 13 – Pension: Effective Date of Defined Contribution Plan

Issue 13 deals with the effective date of the Township's proposal to convert to a defined contribution plan, which is discussed above in Issue 12. The Township proposes that its proposal that new employees participate in a defined contribution plan should be effective on the effective date of this new contract, which is January 1, 2015. There is one member of the Union who was hired between January 1, 2015 and the current date, so this is the only employee impacted by this proposal.

The Employer's last offer of settlement is to retroactively place current employee(s) hired after January 1, 2015 into a defined contribution plan from their current defined benefit plan. The Union's proposal is to maintain the status quo.

Section 10 of Act 312 states:

... Increases in rates of compensation or other benefits *may be awarded retroactively* to commencement of any period(s) in dispute, any other statute or charter provisions to the contrary notwithstanding. [Emphasis added.].

The Panel finds that the DC plan will be effective the date of this award. The Employer will get its requested change, and the legitimate, and already earned, expectations of present bargaining unit members are left untouched.

On balance, based upon all of the §9 criteria, the panel finds that the Employer's offer on ISSUE 13 is adopted as the panel's award.

AWARD ON ISSUE 13

I adopt the ~~Employer's~~ ^{Union's} Last Best Offer.

Stan T. Dobry 07/22/2016
STANLEY T. DOBRY, Chairperson

I adopt the Union's Employer's proposal on Issue 13.

Greg Schultz 7/25/16
GREGG SCHULTZ, Delegate

I adopt the Union's Employer's proposal on Issue 13.

Kevin Loftis 7-25-16
KEVIN LOFTIS, Delegate

SID
07/24/2016

The Employer's last offer of settlement is to retroactively place current employee(s) hired after January 1, 2015 into a defined contribution plan from their current defined benefit plan. The Union's proposal is to maintain the status quo.

Section 10 of Act 312 states:

... Increases in rates of compensation or other benefits *may be awarded retroactively* to commencement of any period(s) in dispute, any other statute or charter provisions to the contrary notwithstanding. [Emphasis added.].

The Panel finds that the DC plan will be effective the date of this award. The Employer will get its requested change, and the legitimate, and already earned, expectations of present bargaining unit members are left untouched.

On balance, based upon all of the §9 criteria, the panel finds that the Employer's offer on ISSUE 13 is adopted as the panel's award.

AWARD ON ISSUE 13

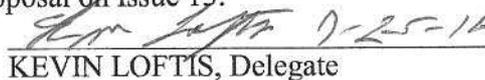
I adopt the Employer's Last Best Offer.

 07/22/2016
STANLEY T. DOBRY, Chairperson

I adopt the Union's Employer's proposal on Issue 13.

 7/25/16
GREGG SCHULTZ, Delegate

I adopt the Union's Employer's proposal on Issue 13.

 7-25-16
KEVIN LOFTIS, Delegate

ISSUE 14 – Health Insurance: Office Visit Co-Pay for PPO

The Township elected to withdraw this issue from the Panel’s consideration.

ISSUE 15 – Health Insurance: Emergency Room Co-Pay for PPO

The Township elected to withdraw this issue from the Panel’s consideration.

ISSUE 16 – Health Insurance: Urgent Care Co-Pay for PPO

The Township elected to withdraw this issue from the Panel’s consideration.

ISSUE 17 – Health Insurance: Single, Two-Person and Family

Deductibles/Co-Insurance for PPO

The Township elected to withdraw this issue from the Panel’s consideration.

ISSUE 18 – Health Insurance: Prescription Co-Pays for PPO

The Township elected to withdraw this issue from the Panel’s consideration.

ISSUE 19 – Health Insurance: Date of Eligibility for New Employee

The Township elected to withdraw this issue from the Panel’s consideration based on Agreement of parties to language in the Township’s Preliminary Position Statement.

ISSUE 20 – Limited Duty

The Township elected to withdraw this issue from the Panel’s consideration.

ISSUE 21 – Discipline: Removal of Oral and Written Reprimands

The Township elected to withdraw this issue from the Panel’s consideration.

B.Union Issues

ISSUE 22 – Duration

The Issue of duration was resolved by the Arbitrator in a decision issued prior to the start of the 312 Hearing. The Arbitrator's decision provided that the at-issue collective bargaining agreement would have a term of 4 years, effective January 1, 2015 through December 31, 2018.

ISSUE 23 – Wages

The wages issues have been resolved above.

ISSUE 24 – Sick Leave

The Union has proposed to include language in the parties' Agreement which would award "bonus vacation days" to POAM members who have utilized three or less sick days during the year. Under the Union's proposal, an officer who has used 3 sick days will receive 2 bonus vacation days, and an officer who has used 2 or less sick days will receive 3 bonus vacation days. The Township's proposal is to maintain the status quo.

The Union proposal seeks to align this unit with the directly comparable internal unit. This the exact language contained in the Command Officers' agreement.⁴⁷ This might result in overtime savings when positions have to be backfilled.

Under the Union's proposal the bonus days that are not used during the year are lost and have no cash value. The Union submits that this proposal is a "win-win" for both the Union and the Employer. If members received an incentive and came to work on days that they are "borderline" ill instead of calling in sick, this would save the Employer monies by not having to pay overtime to staff the shift.

⁴⁷Besides the Command Officers receiving sick leave bonus days, the Teamsters bargaining unit also receive sick leave bonus days.

Supervisor Price explained the Township's opposition to the Union's proposal could result in "double-dipping," He also feels that the language is problematical in that it uses the word "days" – a concept that may be confusing given 12 hour schedules of most officers.

Article § 20.2 already provides:

All days over sixty (60) days on January 1st of each year shall be paid off in accordance with the following formula:

A. One-half ($\frac{1}{2}$) of each excess sick day will be paid for at the daily rate, as of December 31st of the preceding year.

In fact, in the external comparables, no other community provides this type of double benefit for limited sick time use.

To be sure, police officers in the Township already receive generous allowances for paid time off. The Township maintains that a vacation policy which allows for 25 vacation days in the case of a more senior officer such as Officer Cheston is already very generous. Police officers in Plymouth Township simply do not have any shortage of available leave time.

The only justification presented by the Union for its proposal on this issue is that a similar provision exists in the Command unit collective bargaining agreement. This is thin gruel for a change. The great majority of other employees in the Township do not have such a provision.

As the party seeking change, the Union has the laboring oar. The situation being addressed in Issue 24 is not broken, and there is no reason to fix it. Therefore, the panel adopts the Township's final offer in its award.

AWARD ON ISSUE 24

I adopt the Employer's Last Best Offer.

Stan Dobry 07/22/2016
STANLEY T. DOBRY, Chairperson

I adopt the Union's Employer's proposal on Issue 24.

Gregg Schultz 7/25/16
GREGG SCHULTZ, Delegate

I adopt the Union's Employer's proposal on Issue 24.

Kevin Loftis
KEVIN LOFTIS, Delegate

This concludes the panel's award. We retain no further jurisdiction.

Stan Dobry 07/22/2016
STANLEY T. DOBRY, Chairperson

Gregg Schultz 7/25/16
GREGG SCHULTZ, Delegate

Kevin Loftis 7-25-16
KEVIN LOFTIS, Delegate