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11/18/88

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ACT 312 OF PUBLIC ACTS OF 1969 AS AMENDED
COMPULSORY ARBITRATION

In the Matter of the
Act 312 Compulsory Arbitration
Between:

THE CITY OF FRASER, MICHIGAN

MERC Case No. D87 L-2556

-and-

POLICE OFFICERS ASSOCIATION
OF MICHIGAN

ARBITRATION PANEL'S FINDINGS OF
FACT, OPINION AND ORDERS

APPEARANCES:

FOR THE CITY OF FRASER:

FOR THE POLICE OFFICERS
ASSOCIATION OF MICHIGAN:

Micahel J. Piatek, Attorney
Jeffrey Bremer, City Manager

William Birdseye, Advocate
Ann Maurer, Labor Economist

The Police Officers Association of Michigan (POAM),
since certification in August, 1977, has represented a
bargaining unit within the City of Fraser Public Safety
Department consisting of:

All full time dispatchers and clerical
employees of the City of Fraser, Department
of Public Safety excluding all other
employees of the Public Safety Department.

Through the years, the POAM has negotiated successive
Collective Bargaining Agreements. The most recent Agreement
expired on June 30, 1986. Although the parties engaged in
collective bargaining for the successor Agreement, they were not
able to reach agreement amongst themselves. As a result, they
sought and received the services of a mediator appointed by the

LABOR AND INDUSTRIAL
RELATIONS COLLECTION

Michigan State University

Bowman, George T

STATE OF MICHIGAN
DEPARTMENT OF LABOR
INDUSTRIAL RELATIONS
DIVISION
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Fraser, City of

Michigan Employment Relations Commission. Mediation likewise did not produce an agreement and an impasse was declared. On April 28, 1988, POAM petitioned for the convening of an Act 312 compulsory arbitration panel, alleging that the following issues were in dispute:

1. Duration
2. Wages
3. Clothing and Cleaning Allowance
4. Shift Differential
5. Pension
6. Vacations
7. Women's Locker Room

In addition, the City had some pending issues, including the issue of overtime.

The petition for Act 312 arbitration was granted. By letter dated June 14, 1988 from David S. Tanzman, Chairman of the Michigan Employment Relations Commission, George T. Roumell, Jr. was advised that he had been appointed Chairman of the Panel. The City designated Frank Rubino, Director of Public Works, as its Panel Member. POAM designated Patrick J. Spidell, Business Agent for the Police Officers Association of Michigan, as its Panel Member.

A telephone conference was held between the Chairman and the parties to discuss preliminary matters on Wednesday, July 6, 1988. Thereafter, a pre-trial conference was held at the City of Fraser on September 28, 1988 at 5:00 p.m., with all parties present as well as the Panel. The issues that remained were discussed; the Panel urged the parties to narrow the issues; procedures were set for exchanging exhibits. It was agreed between the parties and the Panel that the hearing on the

issues and the presentation of evidence concerning same would be held on Wednesday, November 2, 1988.

THE REMAINING ISSUES

By the time the hearing commenced on November 2, 1988, the parties had narrowed the issues to wages and pensions; all other issues had been settled. The parties also reached an agreement that the duration of the Collective Bargaining Agreement would commence July 1, 1986 and end June 30, 1989. On this basis, the Panel proceeded to conduct the hearing.

HISTORICAL FACTORS

The City of Fraser, with a population of 14,560, is located in Macomb County. It covers 4.2 square miles, 35% is residential, 4% is commercial and 12% is industrial. The City has a total general fund expenditures, based upon the 1987-1988 fiscal year, of \$6,508,314. Of this amount, \$3,091,761, or almost half of its budget, is earmarked for the Public Safety Department. The tax rate is \$72.93 per thousand dollars of assessed valuation.

The City of Fraser has a consolidated Police and Fire Department known as the Public Safety Department. There are five bargaining units among the City employees, namely, the Public Safety Officers, the Public Safety Command, the City Hall Clerical Employees, the Dispatchers and the Department of Public Works. Within the Dispatcher Unit, there are five dispatchers and two clerical employees. The two clerical employees were members of the Clerical Unit at one time. However, effective

July 1, 1981, the two clerical employees were added to the Dispatcher Unit.

THE CENTRAL ISSUE

With two issues remaining -- wages and pensions -- it may seem curious to the reader that this portion of the Opinion is captioned "The Central Issue." Obviously, wages are of concern to the parties. But what is central is the issue of pension. The importance of the pension issue can be highlighted by the fact that the five Dispatchers are the only unionized employees in the City who do not have a pension plan. In fact, the Chairman is advised that even the non-union employees have a pension plan.

The pension plan of the Public Safety Officers and Command differ from the pension plan of the Clericals. The pension plan of the Clericals is based upon a money purchase plan. In addition, based upon Ordinance No. 183, the City has provided a deferred compensation plan for its employees to which employees may contribute "a portion of their unearned salary."

Act 312 in Section 9 (MSA 17.455(39)) provides a "basis for findings, opinions and orders." Besides utilizing, among other criteria, comparables with other employees in comparable communities, Subsection (h) provides:

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

In addition to applying the comparable criteria of Subsection (d), the Panel may also consider, pursuant to Subsection (h), the internal collective bargaining history for this is a criteria generally considered by fact finders and arbitrators in resolving disputes concerning the terms and conditions of a proposed collective bargaining agreement. This means that this Panel can consider the history of bargaining in the City of Fraser, prior to June 30, 1986 and the bargaining that took place between POAM, on behalf of the Dispatchers, and the City in attempting to reach a successor to the expired Collective Bargaining Agreement.

The comparable criteria, both as enumerated in Section 9, Subsection d, and as recognized in Section 9(h) as traditional factors "taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining," could include comparing the bargaining history as among the various bargaining units within the City of Fraser.

The City does have settled Collective Bargaining Agreements with the Clerical employees as well as the Public Safety Officers and the Public Safety Command. The wage settlement for the Public Safety Officers and the Public Safety Command amounted to approximately 9.8% over three years. The wage settlement for the Clerical Unit amounted to 11.5% over three years.

During bargaining, the City had offered the Dispatchers a settlement at 9.8%, similar to the settlement with the Public Safety Officers and the Public Safety Command. There was also a

suggestion that the City was prepared to increase this offer.

The problem the parties had in reaching a wage settlement was caused by concerns over the pension issue. At the time the two clericals were transferred from the Clerical Unit to the Dispatcher Unit, effective July 1, 1981, all of the other bargaining units had a pension plan, including the two transferring clericals. Yet, the Dispatchers did not. After this point, the wage rates were negotiated between the various groups. Union Exhibit 17 gives a synopsis of the history of negotiations between the various bargaining units from July 1, 1982 through June 30, 1989, which provides in part:

HISTORY OF PERCENTAGE INCREASES

IN FRASER

	<u>Dispatchers</u>	<u>Public Safety Officers</u>	<u>Public Safety Command</u>	<u>Clerical</u>
July 1, 1982	7%	5.6%	5.2%	7%
July 1, 1983	0 + 750 bonus	0 Effective 4-1-84 employee contribution of 6% to pension system picked up by Employer	0	0 + \$600 bonus
July 1, 1984	5%	3% Effective 6-30-85 pension multiplier increased from 2.0% to 2.25%	3%	5%
July 1, 1985	4%	3%	3%	3%
April 1, 1986	1.5%	2%	2%	--
July 1, 1986	Expired 0-86	3%	3%	4%
July 1, 1987		1.6%	1.6%	3.5%
January 1, 1988		1.6%	1.6%	--
July 1, 1988		1.9%	1.9%	4%

January 1, 1989	1.8%	1.8%	--
June 30, 1989	1.2%	1.2%	Expires
	Expires	Expires	6-30-89
	6-30-89	6-30-89	

Two points become apparent from this Exhibit which is similar to City Exhibit 11C. The Dispatchers' wage increases parallel the Clerical increases to a point. On July 1, 1983, the Dispatchers received a \$750 bonus, whereas the Clericals received a \$600 bonus. On July 1, 1985, the Clericals received a 3% increase, whereas the Dispatchers received an increase of 4%. On April 1, 1986, the Dispatchers received another 1.5% increase near the expiration of the Agreement, whereas the Clericals did not receive any increase at that time. Thus, it could be argued that the Dispatchers, from July 1, 1982, including the difference between a \$600 bonus and a \$750 bonus, received approximately a 3.2% increase in wages over that of the Clericals.

This difference came about by the fact that on July 1, 1983, the Clericals negotiated a change in vesting of the pension from 7.5 to 6 years. The Chairman again notes that there was no pension for Dispatchers. Likewise, during the time that the City was giving wage increases to the Clericals, it did not incur the 7% cost of a pension plan for Dispatchers that the City was paying for the Clericals.

The Public Safety Officers and Public Safety Commands' history of negotiations also emphasizes this point. On July 1, 1983, the Safety Officers received no increases. Instead, effective April 1, 1984, the City picked up the total contribution to their pension plan. On July 1, 1984, there was only a

3% increase for the Public Safety Officers and Public Safety Command as compared to the Dispatchers and Clericals' increase of 5%. This came about because the pension formula was increased from 2% to 2.25% of final average compensation times years of service. In other words, what the City was suggesting, and the facts so demonstrate, that where there were improvements in the pension plan among the other bargaining units, those units either took less wage increases or no wage increases as contrasted to the Dispatchers who usually had the highest wage increase. The purpose of doing so was to recognize the City's cost of providing increased benefits to the other units with pension plans.

The City also points out that as compared to Clericals, Dispatchers received additional benefits over the years. For example, effective July 1, 1981, the comparison of the benefits received by the two groups, Dispatchers and Clericals, revealed:

DISPATCH

CLERICAL

Effective 7-1-81

Effective 7-1-81

- | | |
|--|--|
| 1. Public Safety Clerical added to Dispatch Unit | 1. Short Term Disability Clause 60% of Pay for 1st 90 days |
| 2. Grievance response period to 14 days/City Council deleted | 2. Personal leave days from 2 to 3 |
| 3. Holidays increased from 12 to 13 | 3. Add employee's birthday -- from 12 to 13 |
| 4. Life Insurance increased from \$15,000 to \$20,000 | 4. Mileage from \$.18 to \$.22/mile |
| 5. Clothing & Cleaning Allowance from \$125 to \$150 each | 5. C.O.L.A. roll-in retained for 1st year of contract |
| 6. Shift Differential from \$330 to \$420 | 6. Wages - 6.5% (\$16,677) |

- 7. Call back from 2 hours 3 hours
- 8. Long Term Disability Insurance from \$1,500 to \$2,000 max.
- 9. Loss of personal property language to parallel P.O.A.M.
- 10. C.O.L.A. roll-in retained for 1st year of contract
- 11. Add grandparent-in-law to funeral leave language
- 12. Wages - 6.5% (\$17,111)

Effective July 1, 1983, the comparisons between Dispatchers and Clericals were as follows:

DISPATCH

- 1. \$750 signing bonus
- 2. School tuition reimbursement
- 3. Cleaning allowance from \$150 to \$200
- 4. New language - union must notify of intent to arbitrate within 14 days of City Manager's answer

CLERICAL

- 1. \$600 signing bonus
- 2. New language under layoffs - on who is laid off first
- 3. 30 day notice of layoff
- 4. Columbus Day exchanged for Good Friday
- 5. Letter of Understanding to allow flex time
- 6. Short term disability from 50% to 75%
- 7. Personal leave days from 4 to 5
- 8. Pension vesting from 7.5 to 6 years
- 9. Grievance procedure to parallel D.P.W. Contract
- 10. Mileage from 22 to 23.5 cents/ml.

In makin these comparisons, the City notes that the Dispatchers receive more life insurance than the Clericals; they receive a shift differential and a clothing and cleaning allowance, cost items that were not available to the Clericals. The City suggests that these cost items could in part compensate for the lack of a pension plan for Dispatchers. The City also notes that the Dispatchers receive opportunities for overtime work that is not normally available to the Clericals.

POAM, though recognizing such differences, argues that items such as uniform allowance and shift differentials, as well as overtime opportunities, are common in dispatch work as evidenced by the existence of same for dispatch units throughout the various comparable communities.

The bottom line is that for whatever reason, the Dispatchers have not had a pension plan for some years, even though the other bargaining unit employees have had one, including the Clericals. The Dispatchers now wish to correct what they consider to be an inequity.

The City has expressed no opposition to providing pensions to the Dispatchers, but suggests that the Dispatchers must recognize the cost of providing a pension plan by modifying their wage demands. As the City correctly points out, the bargaining history among other units in Fraser establishes that those units have taken less wage increases or have made other adjustments in order to recognize the cost element of providing pensions.

What this means is that when the City presented an offer of 9.8% over three years, the City was suggesting that the

9.8% could be taken in wages or, alternatively, could partly be used for funding pensions, as long as the total cost was equivalent to 9.8%.

There is merit to the City's position because since 1982, the Public Safety Officers, as well as Public Safety Command and the Clericals, have modified their wage gains in favor of increased benefits. The Dispatchers should do the same. Thus, when the Clericals are getting 11.5% increase and no change in pensions, if there was a pension benefit for the Dispatchers, then the Dispatchers could not expect to receive an 11.5% increase for the three year period commencing July 1, 1986. This particularly follows when, as noted, since July 1, 1982, the Dispatchers have received approximately 3.2% increases over the amount the Clericals have received.

Yet, if there is a 7% pension contribution and the City is offering 9.8%, it would mean that for three years the Dispatchers would only be receiving a 2.8% wage increase when the Clericals are receiving an 11.5% increase over three years and Public Safety Officers in the same period are receiving approximately a 9.8% increase. A statement of the proposition shows the inequity in such a situation, particularly when during part of the same period, Dispatchers in nearby communities such as Roseville received a 5.8% increase in 1986 and in 1987, a 4.67% increase, though they were making less in total wages than in Fraser. However, in Warren, the Dispatchers received a 13.6% increase (July 1, 1986), a 4.2% increase (July 1, 1987) and a 6%

increase (July 1, 1988).^{1/} These factors suggest that a 2.8% increase would be inadequate.

The basic problem is that the Dispatchers and the Clericals' wages have tracked each other except for the 3.2% from July 1, 1982, noted by the Chairman at page 7 of this Opinion. In fact, even on July 1, 1981, both units received the same wage increase, namely, 6.5%, although, as already indicated, the Dispatchers received additional benefits not made available to the Clericals.

It would seem that the wage package should be similar to the Clericals, namely, 11.5%, though some recognition must be given to the 3.2% that the Dispatchers have already received over the Clericals if a pension plan is going to be introduced.

Likewise, a pension plan is in order. The question remains as to how such a plan should be funded. There is also one other factor. Through the years since July 1, 1982, the Dispatchers and Police Clerical Secretary and City Hall Clerical Secretary units have had the following wage comparisons:

	<u>DISPATCHER</u>	<u>POLICE CLERICAL SECRETARY</u>	<u>CITY HALL CLERICAL SECRETARY</u>
July 1, 1982	\$18,309	\$17,844	\$17,844
July 1, 1983	18,309	17,844	17,844
	+ <u>750</u> bonus	+ <u>750</u> bonus	+ <u>600</u> bonus
	19,059	18,594	18,444

^{1/} In addition, both Roseville and Warren Dispatchers are covered by City pension plans.

July 1, 1984	19,224	18,736	18,736
July 1, 1985	20,000	19,298	19,298
April 1, 1986	20,300	--	--
July 1, 1986	Expired 6-30-86	[20,070]	20,070
July 1, 1987		[20,772]	20,772
July 1, 1988		[21,603]	21,603
June 30, 1989			Expires 6-30-89

The above chart indicates that at least until July 1, 1986, the Dispatches received a higher salary. From July 1, 1982 - July 1, 1984, Dispatchers received between \$465 and \$488 more than Police and City Hall Clerical Secretaries. By April 1, 1986, the difference was \$1,002. However, the difference came about, as the Chairman has emphasized, by the Dispatchers apparently taking more wage increases than the City Hall Clericals and yet, not receiving the 7% contribution to pensions that the City made on behalf of the Clerical unit.

It is against this background and analysis of the collective bargaining history that the Panel now turns to the last best offers of the parties.

CITY'S LAST BEST OFFER

The City has made the following offers: 4% effective July 1, 1986; a 3-1/2% wage offer effective July 1, 1987; a 5% contribution to a money purchase pension plan, full vesting after six years of employment, effective July 1, 1988, the same plan that the City Hall Clerical Secretaries have and no wage

increase. Full vesting in the plan would be immediate for all employees who presently have six years or more of service to the City. Those with less than six years would have credit towards vesting. In other words, if an individual has worked two years, those years would count towards the six years full vesting requirement.

THE UNION'S LAST BEST OFFER

The Union's last best offer is a 4.3% wage increase effective July 1, 1986; a wage increase of 4% effective July 1, 1987; and effective July 1, 1988, no wage increase, but a 7% City contribution to a money purchase pension plan, the same plan provided to the City Hall Clerical employees, with immediate vesting, namely, those employees who have worked for the City for more than six years would receive full vesting. Those employees who have worked less than six years will be given credit for the years of service towards the full six year vesting. Full vesting will be at 6 years.

MAJORITY PANEL CONCLUSIONS

A majority of the Panel has made the following selections as to each year of the Agreement. The City's offer, effective July 1, 1986, will be adopted, namely, a 4% increase. The Union's offer for the second year, effective July 1, 1987, will be adopted, namely, a 4% increase. The Union's offer of a pension, effective July 1, 1988, will be adopted, namely, a 7% contribution by the City to a money purchase plan with immediate full vesting for those employees who have worked for the City

for more than six years and those employees with less than six years will have the years of their employment count towards the eventual six years full vesting requirement.

Frank Rubino, the City delegate, would concur with the adoption of the City's offer for the first year, effective July 1, 1986. The Union delegate, Patrick Spidell, would dissent. As to the adoption of the Union's offers for the second and third year, Frank Rubino would dissent. Patrick Spidell would concur.

RATIONALE FOR ADOPTION

The wage rates, based upon the internal comparisons, did have to include some increase. In addition, for reasons already stated, this Agreement should establish a pension plan.

What the 4% increase for each of the first two years of the Agreement will do is to place the Dispatchers at the wage rate of approximately \$21,112, effective July 1, 1986. This would increase the differential between Dispatchers and City Hall Clericals, at least as of July 1, 1986, to \$1,042 as compared to the April 1, 1986 differential of \$1,002. This is a factor of mathematics.

As of July 1, 1987, the 4% increase would raise the Dispatcher's salary to \$21,956 (rounded off) with a differential of \$1,184. However, when the pension plan is adopted as of July 1, 1988, with no wage increase, the Dispatchers will remain at \$21,956 and the differential between Dispatchers and Clericals will be \$353, the approximate figure that it was back in July 1, 1982.

The differential between the two groups will be closer together. This would be appropriate because now, the Dispatchers are also obtaining a pension plan. In addition, there is a limit to the wage increases and the wages that can be given. For example, even using the City's comparables, and recognizing, based on the Exhibits submitted to the Panel, all have pension plans for their Dispatchers, the following is revealed:

COMPARATIVE WAGES FROM 7-1-85 TO 7-1-88

	7-1-85	7-1-86	7-1-87	7-1-88
FRASER	\$20,000	\$20,300 (4-1-86)	\$20,300 Expired 6-30-86	\$20,300 (N)
CLINTON TWP.	21,600 4-1-85)	22,500 (4-2-86)	22,340	22,457 Expired 3-31-87
STERLING HGTS.	20,378	20,482 21,902	22,340 23,457	22,457 Expired 6-30-88
ROSEVILLE	18,511	19,592	20,507	20,507 (N) Expired 6-30-88
GROSSE PT. PK.	15,288	16,016	17,680	18,200
MOUNT CLEMENS	17,576	18,283	19,011	19,573
GROSSE PT. WDS.	17,618 18,408	17,846 19,198	17,846 Expired 6-30-87	17,846 (N)
CENTERLINE	14,709	14,709 15,886	15,023 16,521	16,521 17,182
GROSSE PT. SHRS.	14,040	14,560	15,080	15,080 (N)
GROSSE POINTE	15,142	15,824	15,824 Expired 6-30-87	15,824 (N)

WARREN	20,321 18,645	20,570 21,187	22,080	23,670 23,405
HARPER WDS.	Unknown	21,840	22,456	22,568

(N) UNDER NEGOTIATIONS

Historically, some communities, such as the Grosse Pointes, Mount Clemens and Roseville, paid less to Dispatchers than in Fraser. Others paid more such as Clinton Township, Sterling Heights and Harper Woods. With an increase to \$21,956, effective July 1, 1987, the wages would keep Fraser Dispatchers within their comparable wage positions. As Fraser historically has been among the higher paid Dispatchers, with this adoption, the Fraser Dispatchers will continue to be so.

The reason why the Chairman opted for the 4% offered by the Union in the second year is because the comparables so require. In communities such as Sterling Heights, Dispatchers received 8.71% and 7.1% respectively; in the last two years of their contract, Warren Dispatchers received 4.2% and 6% respectively. Roseville, for example, was receiving 5.8% and 4.67% respectively. It would seem that in order to be competitive and remain in a relatively comparable position, the 8% increase would be more appropriate for the first two years; a 7-1/2% increase would cause Fraser to fall behind the comparables for the reasons just explained.

There are two other points. Under normal circumstances, a total wage package of 15% in these economic times would not be appropriate. The City has concluded that an 11.5% increase would be appropriate for Clericals. The Chairman

would agree. There are different factors involving Public Safety Officers. The unique problem here, however, was the pension issue; a problem that had to be resolved. It has been solved now and the Dispatchers will have contributed to the cost of the plan, as have the other units in the past, by obtaining no wage increase in the 1988-89 year.

There is one other point. The parties have eliminated the previous shift differential and placed the amount represented by the previous shift differential into the base rate. This action will cause a distortion of the facts as to the future wage comparisons between the Clerical unit and the Dispatchers. As now adjusted, the comparison should be a difference of about \$353, as the Dispatchers now have a pension plan, excluding the amount represented by the rolled in shift differential. When the City Hall Clerical employees begin negotiating for a successor to their Collective Bargaining Agreement expiring June 30, 1989, it should be understood that the Clerical unit should not, for comparison purposes, include the shift differential that was rolled into the Dispatchers' base salary. Historically, the differential should be limited to comparing the base wages between the two groups less the differential that was factored in.

As a result of this Award, this differential is now about \$353, exclusive of the differential roll in.

As to the clericals in the Dispatcher unit, this Opinion and the resulting Orders do not bind them. The Chairman has been advised that the clericals in the Dispatcher unit have


been receiving a pension plan for some time and that the City intends to give these clericals the pay raises that were given to the City Hall Clericals. On this basis, there is no reason for the Panel to address the issue.

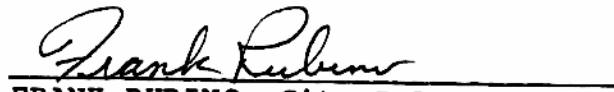
The Order that follows is based upon the findings of fact and the analysis in this Opinion. As indicated, the Order is in three parts to highlight the different members' decisions.

Finally, the comments in this Opinion were prepared and drafted by the Chairman. Though individual delegates may concur in some of the awards, the statements made herein do not necessarily represent the complete view of either of the delegates.

ORDER

1. Effective July 1, 1986, the Dispatchers shall receive a 4% pay raise over existing base rates.


GEORGE T. ROUMELL, JR.
Chairman

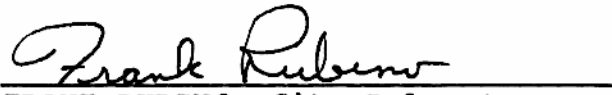

FRANK RUBINO, City Delegate
Concurring


PATRICK SPIDELL, Union Delegate
Dissenting

2. Effective July 1, 1987, the Dispatchers shall

receive a 4% pay raise.

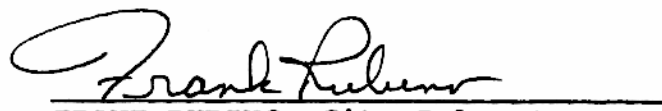

GEORGE T. ROUMELL, JR.
Chairman


FRANK RUBINO, City Delegate
Dissenting


PATRICK SPIDELL, Union Delegate
Concurring

3. Effective July 1, 1988, the City, on behalf of each Dispatcher, will contribute 7% of wages towards a money purchase pension plan of the same type purchased for the Clerical employees. There shall be immediate vesting with full vesting at six years of employment which means that employees who have worked for the City as Dispatchers for more than six years will be fully vested and employees who have worked for less than six years shall have each year of service counted toward the vesting requirement of six years.


GEORGE T. ROUMELL, JR.
Chairman


FRANK RUBINO, City Delegate
Dissenting


PATRICK SPIDELL, Union Delegate
Concurring

November 18, 1988