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

In the Matter of the Arbitration
between:

CITY OF GROSSE POINTE
and

MERC Act 312
Case No. D87 C-509

LABOR COUNCIL, MICHIGAN
FRATERNAL ORDER OF POLICE

OPINION AND AWARD
OF ARBITRATION PANEL

Appearances:

For the City:

William L. Hooth, Esq.
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Troy, Michigan 48084

For the Union:

John A. Lyons, Esq.
6735 Telegraph Rd. Suite 330
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LABOR AND INDUSTRIAL
RELATIONS COLLECTION
Michigan State University

Panel Members:

Raymond A. Shemke, Chairman
Thomas Kressbach, City Designee
Michael Somero, Union Designee

The Petition for Arbitration in this case was filed on
December 7, 1987 by Labor Council, Michigan Fraternal Order of
Police (hereafter referred to as Union) which represents all
Grosse Pointe City Supervisory Public Safety Officers. At the
present time all of the unit members are either sergeants or lieu-
tenants.

Grosse Pointe, City of

The attachment to the Petition for Arbitration listed twelve unresolved issues. A pre-hearing conference was held on March 23, 1988 in an effort to determine whether or not it might be possible to reduce the number of issues which would have to go to hearing. There was some optimism expressed by the representatives of the parties; and, therefore, an order was issued requiring the parties to resume negotiations for a three-week period. At the end of that time very little progress had been made, and hearing was scheduled for and held on June 28, 1988.

At the hearing the Union withdrew its demand for an increase in the number of police trustees on the board which was responsible for the administration of the retirement system. This left eleven issues to be resolved, and the parties agreed that all of these issues were economic issues within the meaning of the Act. The parties also agreed that, for the purposes of these proceedings, the following communities are comparable to the City of Grosse Pointe within the meaning of Section 9(d) of the Act: Grosse Pointe Shores, Grosse Pointe Park, Grosse Pointe Woods. While the parties did not explicitly agree that Grosse Pointe Farms was also a comparable community, the City took the position that it was comparable; and, on the record, the representative of the Union stated that he had no serious objection to that, pointing out that the Farms did not have a public safety department. The panel concludes that the Farms should be considered comparable.

The evidence at the June 28th hearing was restricted to

a statement of the eleven (11) unresolved issues, nine (9) Union exhibits, five (5) joint exhibits, and twelve (12) City exhibits. Because of complexities involved in arguing with respect to eleven (11) issues, the parties were given until August 12, 1988 to submit their written arguments. These arguments were subsequently timely filed. The parties agreed to submit their last offers of settlement not later than July 12, 1988, and both did submit these offers as agreed. Both parties requested the opportunity to make an oral presentation with respect to their last offers of settlement. These requests were granted, with the date set being August 17, 1988. Inasmuch as the Union, in its last offer of settlement, withdrew its objection to a three (3) year term of agreement, the oral presentations involved only ten (10) remaining issues. No additional exhibits were offered, and, as in the hearing on June 28, no oral testimony was offered.

The last offer of settlement of each party is here set forth, verbatim.

For the City of Grosse Pointe

**CITY OF GROSSE POINTE
CONTRACT PROPOSAL PER ACT 312 ARBITRATION
(Last Best Offer)**

1. **ARTICLE XIII - SICK LEAVE**
(Pages 20-24, Contract; Paragraph 9)
Retain current contract provisions; sick days payout up to maximum of 37 1/2 duty days (900 hrs.) upon retirement.

2. ARTICLE XVIII - UNIFORM ALLOWANCE

(Page 31, Contract)

Increase annual cleaning allowance to \$150 and annual uniform allowance to \$275 (\$500 maximum accumulation) effective July 1, 1988 (Year 2) of the contract.

3. ARTICLE XXII - HEALTH INSURANCE - RETIREES

(Pages 34-36, Contract)

Retain current contract coverage: hospital, medical insurance including master medical for retiree and spouse; \$2.00 prescription rider not included (reimbursement for drugs provided for under master medical).

4. ARTICLE XXI - HEALTH INSURANCE BENEFITS - ACTIVE EMPLOYEES

(Pages 32-34, Contract)

Retain present Blue Cross/Blue Shield coverage, MVF-1 with master medical; \$2.00 prescription rider. Continued Blue Cross/Blue Shield coverage to include MSO (Mandatory Second Surgical Opinion), hospital preadmission review, and FSP (Foot Surgery Predetermination) riders, effective July 1, 1988 (Year 2) of the contract.

Continued Health Insurance For Dependents (New Provision)

For an officer who dies in the line of duty, the City will continue to provide the same coverage as received by active employees for the officer's spouse until the spouse has remarried or the spouse obtains employment which provides for health insurance coverage. The City will also continue to provide the same health insurance coverage as received by active employees for dependent children of the officer until the dependent child reaches age 19, or obtains coverage from another source, whichever occurs first.

Continued health insurance for dependents to be effective July 1, 1988 (Year 2) of the contract.

5. ARTICLE XXIV - WAGES AND COST OF LIVING ALLOWANCE

(Page 36, Appendix A, B and C, Contract)

Increase Sergeant's Annual Base Salary as follows:
(Level 1 - Command)

\$34,880 (effective July 1, 1987)

\$36,265 (effective July 1, 1988)

\$37,720 (effective July 1, 1989)

Increase Lieutenant's Annual Base Salary as follows:
(Level 2 - Command)

\$37,165 (effective July 1, 1987)
\$38,950 (effective July 1, 1988)
\$40,515 (effective July 1, 1989)

6. COST OF LIVING ALLOWANCE

(Page 36, Appendix A, B, C, Pages 45-46, Contract)

Year 1 (7/1/87 - 6/30/88) = \$1000 Annual Payment
Year 2 (7/1/88 - 6/30/89) = \$ 750 Annual Payment
Year 3 (7/1/89 - 6/30/90) = \$ 750 Annual Payment

Officer Compensation (Salary and COLA)

	<u>Sergeant</u> (Level 1)	<u>Lieutenant</u> (Level 2)
Year 1 (1987-1988)	\$35,880	\$38,165
Year 2 (1988-1989)	\$37,015	\$39,700
Year 3 (1989-1990)	\$38,470	\$41,265

7. RETIREMENT BENEFITS

(Page 48, Appendix E, Page 48, Contract)

Retain present provisions (Paragraph 2); 2.5% for each year of service for first 25 years, 1% for years thereafter, to a maximum 70% of final average compensation.

8. RETIREMENT BENEFITS - FINAL AVERAGE COMPENSATION (FAC)

(Page 48, Appendix E, Contract)

Retain present provisions (Paragraph 3); best five of last ten years of service.

9. DUTY DISABILITY RETIREMENT BENEFITS

Amend contract to provide:

- (1) An employee who is otherwise eligible for a disability retirement pursuant to the Employees' Retirement System shall receive a benefit in the amount of 66 2/3% of the employee's base rate of pay which the employee was

receiving at the time of disability.

(2) The disability retirement benefit provided for above shall be reduced by the following:

- (A) an amount equal to any worker's compensation benefit received by the employee;
- (B) social security disability benefits;
- (C) any other type of disability benefit received;
- (D) any earnings from employment to the extent that said earnings, when added to payments under paragraphs (1) and (2)(A) through (2)(D), exceed 100% of base pay as defined in paragraph (1).

For purposes of this section, worker's compensation benefits shall include weekly benefits, redemptions of weekly benefits and settlements in lieu of weekly benefits, but shall not include amounts paid for reimbursement of medical expenses. Any lump sum payments received for redemption of weekly benefits or settlement in lieu of weekly benefits shall be allocated, on a weekly basis, in amount of the weekly benefit the employee would be entitled to receive.

- (3) Any employee receiving a disability benefit shall prior to May 1 of each calendar year submit to the City Treasurer a verified statement of earnings from employment during the preceding calendar year in a form requested by the City. In the event such statement is not received, payment of the disability benefits shall be suspended.
- (4) An employee who qualifies for and receives a duty disability retirement benefit shall not be eligible to receive any other retirement benefit under the City Employees' Retirement System.
- (5) The provisions of the contract providing for retirement benefits shall supersede any contrary provisions of the Employees' Retirement System.
- (6) The foregoing provisions shall apply to any employees who retire after July 1, 1987.

10. RETROACTIVITY

Wages and COLA retroactive to July 1, 1987.

11. TERM OF AGREEMENT

Three-year agreement effective July 1, 1987 through June 30, 1990.

For the Union

LAST OFFER OF UNION,
LABOR COUNCIL, MICHIGAN
FRATERNAL ORDER OF POLICE

1. ARTICLE XIII - SICK LEAVE:

In addition to the current accumulated sick leave payout at retirement policy (fifty percent (50%) cash payout of up to 37½ days) a new benefit should be added, that would allow an officer to use the other fifty percent (50%) of accumulated sick leave days toward retirement.

2. ARTICLE XVIII UNIFORMS:

Effective July 1, 1987, the Union is requesting an increase in uniform allowance from \$250 to \$500 annually, and an increase in the cleaning allowance from \$75 to \$150 annually. These amounts would remain payable each July 1 for the remainder of the contract.

3. ARTICLE XXII - HEALTH INSURANCE FOR RETIREES:

That a \$2.00 prescription rider be added to the current health insurance coverage available for retirees.

4. ARTICLE XXI - HEALTH INSURANCE:

Health insurance provisions and benefits remain status quo for active members, i.e., retain the current coverage. Add a benefit for the dependents of deceased active members: that they be provided with the same health insurance as an active member.

5. ARTICLE XXIV - WAGES AND COST OF LIVING ALLOWANCE:

- A. Effective July 1, 1987, Sergeants base rate:
10% above Public Safety Officer maximum base rate.
- Effective July 1, 1987, Lieutenants base rate:
18% above Public Safety Officer maximum base rate.
- B. Effective July 1, 1988: As to both classifications,
continue the same percentage differential as above.
- C. Effective July 1, 1989: As to both classifications,
continue the same percentage differential as above.

6. COST OF LIVING ALLOWANCE:

The cost of living allowance under its current formula shall be retained in the Collective Bargaining Agreement.

7. RETIREMENT BENEFITS:

That the annuity factor for the computation of retirement benefits, 2.5%, be applied to all years of service to a maximum rate of 70%.

8. RETIREMENT BENEFIT FAC:

The method of computing final average compensation be changed to the best three (3) out of the last ten (10) years of service.

9. DUTY DISABILITY RETIREMENT BENEFITS:

That members retired because of duty incurred injury shall receive 66-2/3% of an active member's base salary, at the rate of the rank held at the time of the duty disability retirement until eligible for regular retirement benefits.

11. RETROACTIVITY:

The Union requests retroactivity on all benefits effective July 1, 1987.

12. TERM OF AGREEMENT:

The Union would withdraw their objection to a three year term and concur with the Employer in this regard.

It is to be noted here that following resolution of original Issue No. 10, the Union did not renumber Issues 11 and 12 in submitting its last offer of settlement. For the purposes of this decision the issue of Retroactivity may be referred to as Issue No. 10. Actually, Union's Issue No. 12 has been resolved and will require no further reference herein.

Findings of Fact

The parties have stipulated that all of the facts necessary to a decision in this case are contained in the exhibits offered and received during the hearing. They further stipulated that there is no contention that the City is unable to pay the demands of the Union; and that the decision should be based on a comparison of the collective bargaining agreements entered into by the comparable communities, taking into account, of course, the various factors set forth in the exhibits which affect the size and composition of the units in the various communities.

Discussion By Issue

1. Sick Leave

In their arguments to the Panel, the parties disagree as to the maximum number of hours for which the City would pay a retiring public safety officer for unused sick leave. This dis-

agreement is the result of confusion as to what constitutes a "duty day". The expired agreement does not spell out the definition. The Union, using a 16-hour duty day arrives at a total of 600 hours as the maximum. The City contends that the maximum payout would be for 900 hours, a figure which would be obtained by using 24 hours as the length of a "duty day". The Panel accepts the City's figure of 900 hours as factual, since it certainly would not be to the City's advantage to claim the higher figure as unit employees apply for retirement benefits.

In its brief the Union mistakenly states that Grosse Pointe Woods (hereinafter Woods) allows a maximum accumulation of 120 days. This was true, but effective July 1, 1986 the maximum was reduced to 75 days. The Woods agreement defines the standard work day as consisting of 8 hours. Using this figure for 25% of of maximum days plus the premium cost of a paid-up life insurance policy in the same amount would place the Woods payout far below that of the City. The Union contends that Grosse Pointe Farms (hereinafter Farms) provides more hours than the City; but here again the Panel concludes that the City provides for 900 rather than 600 hours, and therefore that the City provides more hours than Farms. Both parties agree that the City is superior to Grosse Pointe Park (hereinafter Park) with respect to this benefit. The City admits that Grosse Pointe Shores (hereinafter Shores) pays out one-third more in this benefit.

None of the comparable communities provides the Union-

demanded benefit of applying the unpaid sick leave accumulation toward retirement.

The Panel concludes that as to this issue the City's last offer more nearly complies with the Section 9 factors.

2. Uniforms

The Union is asking for a uniform allowance of \$500 and a cleaning allowance of \$150 per year for a total of \$650. The City is offering \$275 for uniforms and \$150 for cleaning.

The average being paid for uniforms by the comparable communities excluding Farms but including the City is \$412.50. If Farms is included, the average would probably remain nearly the same because Farms supplies the uniforms rather than paying a uniform allowance. The cleaning allowance average for all the "Pointes" excluding Farms is \$100. Including Farms the average would be \$105. It must be noted here that the figures just cited are somewhat misleading because Woods pays one sum of \$400 for uniforms and nothing for cleaning. A better comparison is obtained by using the total figure for uniform and cleaning. These totals for all the Pointes average \$418.75. Excluding Farms the average would be \$412.50.

The Panel concludes that the total of \$425 offered by the City more nearly complies with the Section 9 factors. The panel concurs with the Union that this benefit shall be effective

July 1, 1987.

3. Health Insurance For Retirees

A review of the exhibits establishes that Woods and Shores have a prescription rider in their agreements, while City and Park do not have such a benefit. It is not possible to determine from Joint Exhibit #5, nor from any other part of the file just exactly what Farms provides. From just so much information, it would seem that the Panel should adopt the Union's last offer. However, in oral argument, City pointed out that inasmuch as the master medical provided prescription coverage, the benefit to the retirees of the drug rider would be negligible while very costly to City. On the record, the Union accepted City's figures with respect to this benefit. Accordingly, the Panel concludes that City's offer should be adopted as being more nearly compatible with the interests and welfare of the public.

4. Health Insurance Benefits for Active Employees and for Dependents of Deceased Active Employees

There does not appear to be any difference between the last offers of the two parties with respect to health benefits for active employees. What the Union seeks is a provision which would provide the same benefits to dependents of deceased active employees regardless of the cause of death. City's last offer would provide the same health benefits to dependents if the officer dies in the line of duty. The dependents' benefits would

cease for a spouse who remarries or obtains employment which provides for health insurance benefits. Coverage for dependent children would cease when the child reaches age 19.

According to the exhibits and briefs, it appears that Park, Shores, and Woods all limit dependents benefits to those situations where the officer's death is duty-related. The Panel, therefore, concludes that the last offer of the City should be adopted.

5. Wages and Cost of Living Allowance

The Union's demands for Wages and Cola for the unit members in its last offer are couched in terms of percentage differentials between the wages of unit members and those of line public safety officers. The Union wants the Sergeants and Lieutenants to receive base wage rates which would be respectively 10% and 18% above the Public Safety Officer maximum base rate, regardless of what that base rate might become. On the other hand, the City's last offer is expressed solely in dollar amounts of base salaries for the years beginning on July 1, 1987, 1988, and 1989.

Part of the problem involved in this issue is the fact that the City has only two levels of supervisors in the unit, whereas other comparable communities have three levels or two levels, but with different titles. The Union wants the pay rates of its Sergeants and Lieutenants to be comparable to those of sergeants and

lieutenants in the other communities regardless of the fact that there are corporals below the level of sergeants supervising line officers in such other communities. The City argues that pay levels should reflect the duties and responsibilities of the supervisors rather than their titles.

One is inclined to doubt that William Shakespeare had the Public Safety Department of the City of Grosse Pointe in mind when he wrote Romeo and Juliet, but the words he had Juliet speak to Romeo seem very appropriate in this situation. "What's in a name? That which we call a rose, by any other name would smell as sweet." To some degree, Public Safety Departments are paramilitary in nature, and they are inclined to use military titles, especially for their supervisory employees. These titles, however, do not necessarily reflect exactly the level of responsibility which the titleholders carry. It is the conclusion of the Panel that in making comparisons of unit members in comparable communities, it is necessary to compare levels of supervision rather than the titles held. Accordingly, the Panel recognizes the first level of supervision in each comparable community as equivalent to the Sergeant; and the second level as equivalent to the Lieutenant in the City's unit.

A comparison of the figures in the exhibits establishes that in the agreements between the comparable communities and the unions for 1986-1987, 1987-1988, and 1988-1989, the differential between public safety officers and the first level supervisors

varied from a low of 6.7% to a high of 8% in base wages. The average differential was 7.35%. The differential for second level supervisors varied from 13.6% to 17%, with the average being 15.3%. The spread in the City's base rates was 7% and 14%.

With Cola added to the base rates, the percentages were similar. For comparables, the differentials for the first level ranged from 6.7% to 7.8%; with the average being 7.2%. For the second level the range was 13.4% to 16.7%, with the average being 14.8%. The City's spread was 6.8% and 13.5%.

Because the agreement with the Public Safety Officers is still being negotiated, the Panel is unable to ascertain the spread being offered by the City for the period beginning in 1987; but a comparison of the actual wages being paid to first and second level supervisors in the comparable communities and the base rates now being offered by the City indicate that the rates will be very similar, and that the spread will be very close to 7% and 14%.

Accordingly, the Panel concludes that as to this issue the City's last offer more nearly complies with the Section 9 factors.

6. Cost of Living Allowance

The City has been and is currently paying its sergeants and lieutenants the sum of \$1000 annually as a cost of living allowance without reference to any cost of living index or percentage thereof. With its last offer it seeks to continue that.

amount through June 30, 1988; but to reduce that amount to \$750. annually for the next two years. The Union wants the amount to continue at \$1000.

Each of the comparable communities provides for a cost of living allowance based on a formula depending on actual increases in the cost of living in the Detroit area. Farms and Park have a maximum limit of \$400. Shores has a limit of \$1200. Woods limits its payment to not more than 5% of each individual's base pay. The actual payout by Shores for fiscal year 1986-1987 was \$658.52. For Woods, it was \$563.76.

Clearly, the last offer of the City more nearly matches what the comparable communities are doing with respect to this issue than does that of the Union.

7. Retirement Benefits

Currently the City's retirement plan provides that eligible employees will receive 2.5% for each year of service for the first 25 years of service, and one percent per year thereafter, to a maximum of 70% of final average compensation. The City's last offer would maintain these same provisions. The Union asks that this benefit be changed to make the 2.5% factor apply to all years of service to a maximum rate of 70%.

All of the Pointes have pension plans, no two of which are exactly alike. In each case the difference has a significant impact on the benefits to be received. It is, therefore, very dif-

difficult to make a comparison between the offer of the City and the plans in effect in the comparable communities. In order to make such a comparison, the panel computed the total amount of money which would be paid out under each separate plan to an employee hired at the age of twenty, who worked until entitled to 70% of final average compensation and collected the pension until age seventy. The panel assumed that the employee's salary in the fifth year before retirement was \$30,000, and was increased by 5% in each of the last four years. It also assumed that the salary in the last five years before retirement was the highest of any similar period of employment.

Having made these computations, the panel found that the Park employee would receive the most. Farms was next, followed by Shores and then the City. Woods was last. When figuring the average amount received by each retiree, however, the City employee's total return would be \$36,081 less than the average. Using the figures obtained by applying the formula of the Union's last offer, the City's retiree would receive \$68,353 more than the average.

Based on the above described computations, the Panel concludes that the last offer of the City more nearly complies with the Section 9 factors.

8. Retirement Benefit Final Average Compensation (FAC)

The City's last offer is to continue the current formula,

that is, that the average be computed on the basis of five of the last ten years of service. The Union asks that the basis be changed to three of the last ten years.

From the computations and discussion set forth under issue No. 7 immediately above, which also involved the use of FAC in determining the amount of pension, it is clear that with the Union's formula being used the City employee would receive an even greater differential as compared with the average of the comparable communities. The Panel finds, therefore, that the City's last offer more nearly complies with the Section 9 factors.

9. Duty Disability Retirement Benefits

Having reviewed the labor agreements entered into by the comparable communities and the City with the unions representing their public safety employees as set forth in the various exhibits, the Panel concludes that the most favorable agreements for the employees are those of Park and Farms; that City and Shores rank next; and that Woods is least favorable. These findings are based on comparisons of benefits available immediately after the duty disability was incurred; on the various amounts of benefits the employees are entitled to based on length of service and final average compensation (FAC), the basis on which the FAC is computed; and the provisions for setoff of Workers Compensation.

There is insufficient information in the record to enable the Panel to determine precisely how much better the Union's

proposal would be for the employees than the City's final offer, because the setoff amounts of Workers Compensation are not set forth. Indeed, it is possible that, at least in some cases, there might be no difference. It is clear, however, that none of the comparable communities has the 66-2/3% provision asked by the Union. Inasmuch as the City has offered the 66-2/3%, even though with some limitations, the Panel concludes that the City's offer with respect to this issue more nearly complies with the Section 9 factors.

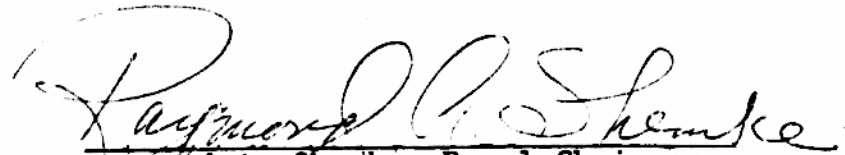
10. Retroactivity

The labor agreements of Park and Shores have been in effect since July 1, 1986. That of Farms has been in effect since January 1, 1986. That of Woods has been in effect since July 1, 1988. Accordingly, the Panel concludes that as to this issue, the Union's last best offer more nearly complies with the Section 9 factors.


The Award

The Panel adopts the City's last best offer as to Issues 1 through 9 and the Union's last best offer as to Issue 10.

Dated this 30th day of November, 1988.


Raymond A. Shemke, Panel Chairman


Thomas W. Kressbach, City Designee


Michael Somero, Union Designee

The Union panelist dissents on the following issues:

- | | |
|---|------------------------|
| #1 SICK LEAVE | #7 RETIREMENT BENEFITS |
| #2. UNIFORM ALLOWANCE | #8 RETIREMENT BENEFITS |
| #3. HEALTH INSURANCE - RETIRES | #9 SECTION 1 |
| #4. HEALTH INSURANCE - ACTIVE EMPLOYEES | |
| #5. WAGES | |
| #6 P.O.L.A. | |