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Arb. 2/10/93

STATE OF MICHIGAN
STATUTORY LABOR ARBITRATION PANEL
(Pursuant to Act 312, PA 1969, as Amended)

In the matter of Arbitration between:

CITY OF GROSSE POINTE PARK (GPP)

and

LABOR COUNCIL, Michigan Fraternal
Order of Police (FOP)

OPINION AND AWARD

<u>Arbitration Panel</u>:

Arbitrator and Chairman: [redacted]

Delegate of City: Dale M. Krajniak, GPP City Manager

Delegate of Union: John A. Viviano, Chief Steward, GPP
Public Safety Officers Association

<u>Appearances</u>:

For the City: James J. Walsh, Esq.
Megan M. Brennan, Esq.

For the Union: John A. Lyons, Esq.

<u>Pre-Hearing Conference</u>: July 27, 1992

<u>Pre-Hearing Briefs</u>: September 11, 1992

<u>Pre-Hearing Reply Briefs</u>: October 2, 1992

<u>Hearing</u>: November 9, 1992

Witnesses: John A. Viviano and Nancy L. Ciccone, for FOP
Dale M. Krajniak, for City

<u>Last Best Offers</u>: November 20 (FOP) and November 23 (City), 1992

<u>Arbitration Panel Executive Sessions</u>: December 15, 1992
February 3 and 10, 1993

<u>Post-Hearing Briefs</u>: Waived by Parties

<u>Date of Opinion and Award</u>: February 10, 1993

Grosse Pointe Park, City of

OPINION

The undersigned, Mark L. Kahn, was appointed June 11, 1992, by the Michigan Employment Relations Commission (MERC), pursuant to Public Act 312 of 1969, to serve as Arbitrator and as Chairperson of the Arbitration Panel for a contract dispute between the City of Grosse Pointe Park ("City" or "GPP") and the Labor Council, Michigan Fraternal Order of Police ("Union"). The Union designated John A. Viviano, Chief Steward of the GPP Public Safety Officers Association, as its delegate on the Arbitration Panel. City Manager Dale M. Krajniak was designated by the City as its delegate.

The Pre-Hearing Conference took place on July 27, 1992. Both parties then stipulated and agreed, among other things, that:

> The collective bargaining agreement emerging from this proceeding will be a three-year agreement effective July 1, 1992, and terminating at midnight on June 30, 1995.
>
> All statutory time limits shall be and are waived in connection with this case.

The hearing, which took place on November 9, 1992, was completed in one day because of the substantial consideration of the issues by the parties in their pre-hearing briefs and reply briefs and the proposed exhibits included in these briefs. Post-hearing briefs were waived by the parties, who submitted their Last Best Offers later in November. Executive sessions of the Arbitration Panel took place on December 15, 1992, and on February 3, 1993.

There are thirteen issues: twelve involve nine Articles of the parties' 1989-92 Agreement; the thirteenth is a proposed <u>new</u> Article XVIII-A. In Article XI, the pay scale for each fiscal year is a separate issue. There are two issues under Article XVIII, Pensions, and two under Article XIX, Vacations. Every issue is deemed "economic" except for the FOP's proposed new Section C on Vacation Selection under Article XIX. Here is a summary of the issues and each party's Last Best Offer (LBO):

I. ARTICLE XI - PAY SCALE

	A. 92-93	B. 93-94	C. 94-95	
FOP	4.02 %	4.00 %	4.21 %	Common % at each step.
MAX	$38,750	$40,300	$42,000	PSO II = 93% of PSO I.
City	3.5 %	3.3 %	3.3 %	Plus $1,000 for 0-24
MAX	$38,550	$39,820	$41,130	months.

II. ARTICLE XIII - SHIFT DIFFERENTIAL

<u>Present</u>: $550 per year for all employees on 12-hour shift, pro-rated by number of 12-hour shifts worked.

FOP: $0.55 for each hour worked between 7:00 P.M. and 7:00 A.M.

City: Pay $200 quarterly to permanent midnight shift employees only.

III. (A) ARTICLE XIX-B - VACATION (FURLOUGH) BUY BACK

City: Delete XIX-B (permits up to 84-hour buyback by employees with five or more years of service).

FOP: Reduce 84-hour limit to 72 hours.

(B) ARTICLE XIX (NEW §C) - VACATION SELECTION (NON-Econ.)

FOP: Vacation selection within bargaining unit by seniority independent of selections by employees not in bargaining unit.

City: Status quo (no new provision).

IV. ARTICLE XVIII - PENSION

(A) <u>Present</u>: Full pension at age 55 with 25 years of service. Employee MERS contribution: 5% of gross pay.

FOP: Full pension at 50 with 25 yos, and increase MERS employee contribution to 6% of gross pay.

City: Status quo.

(B) <u>Present</u>: 2.25 % FAC/year of service (80% FAC maximum).

FOP: 2.50 % FAC/year of service (80% FAC maximum).

City: 2.50 % FAC/year of service (80% FAC maximum) with increase of MERS employee contribution to 5.75% of gross pay.

V. (NEW) ARTICLE XIII-A - DEFERRED COMPENSATION

The City will allow employees to participate in the payroll deduction Deferred Compensation Plan. Any such withholdings shall be forwarded within thirty (30) days of the withholding.

FOP: City will match an employee's withholdings up to annual maximums of:
1-1-93 to 6-30-93 . . . 0.0%
7-1-93 to 6-30-94 . . . 1.0%
7-1-94 to 6-30-95 . . . 2.0%

City: City will match an employee's withholdings up to:
Effective 7-1-93 . . . 0.5% of base wage
Effective 7-1-94 . . . 1.0% of base wage

VI. ARTICLE XX - HOLIDAYS (Status quo: eight (8) holidays.)

FOP: Three additional holidays: Presidents' Day
December 24th
December 31st

City: Effective July 1, 1993, Christmas Eve (December 24th) will also be a holiday.

VII. ARTICLE XV - LONGEVITY (FOP proposes Status Quo)

Continuous Service	Status Quo Longevity Pay	City's Proposed Longevity Pay
Less than 2 years	- 0 -	- 0 -
Less than 5 years	0.5% base wage	- 0 -
6 - 10 years	1.0% base wage	$ 300.
11 - 15 years	2.0% base wage	500.
16 - 20 years	2.5% base wage	700.
21 - 25 years	3.0% base wage	900.
Above 25 years	3.0% base wage	1,100.

VIII. ARTICLE XVI - ACTIVE EMPLOYEE INSURANCE

City: A 50% - 50% sharing of premium increases after 7-1-93 for hospital-medical-surgical coverage. (Current optical coverage will be retained.)

FOP: Status quo on hospital, medical and surgical coverage. Drop optical insurance coverage.

IX. ARTICLE XVII-B - RETIREMENT DENTAL INSURANCE

Status Quo: DENTAL INSURANCE: The City will provide each employee with 50-50-50-50 Dental Insurance Coverage with a cap of $1,000 per year per person for each retiree and each family member to include dentures and braces.

City: DENTAL INSURANCE: Employees retiring during the term of this contract may receive, at their own expense, 50-50-50-50 Dental Insurance Coverage with a cap of $1,000 per year per person for each retiree and each family member to include dentures and braces. [Does not affect fourteen current retirees.]

FOP: Status Quo (see above).

Criteria

Public Act 312 of 1969 specifies in Section 9 the factors to be considered by the Arbitration Panel, "as applicable":

(a) The lawful authority of the employer.

(b) Stipulations of the parties.

(c) The interests and welfare of the public and the financial ability of the unit of government to meet these costs.

(d) Comparison of the wages, hours and conditions of 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.

(i) In public employment in comparable communities.
(ii) In private employment in comparable communities.

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

(f) 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.

(g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(h) 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 regard to Factor (a), the authority of the City to provide any and all of the proposed compensation changes and benefits is not challenged. Under Factor (b), the parties have stipulated that all issues have been withdrawn or settled by them except for the thirteen issues identified above. As to Factor (c), the City does not rest its opposition to the Union's proposals on a claim that it lacks "the financial ability . . . to meet these costs."

As for Factor (d), the Union urges as comparable communities the other four Grosse Pointes (City, Farms, Shores, Woods) and the City of Berkley. The City provides some data for various Michigan communities it views as similar to GPP in terms of population range and tax base, rejects Berkley as a "comparable", and focuses heavily on the four other Grosse Pointe communities as comparables. Although the Panel has not overlooked any of the data provided by either party on all communities cited, it has concluded that primary reliance should be placed on the four other Grosse Pointe communities as comparables for purposes of this case.

This conclusion is buttressed by many considerations, but recognizes chiefly the geographic proximity and heavily residential character of all five Grosse Pointes; the fact that all have Public Safety Departments rather than separate Police and Fire Departments (GPP converted to Public Safety in 1986); and because, with only one exception, all Grosse Pointe Patrol and Command units are represented by the Michigan FOP Labor Council.[1] There is no indication that the parties, in prior collective bargaining, have relied significantly on comparisons with Berkley

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[1] The sole exception is the Grosse Pointe Farms Public Safety Patrol unit, which is represented by the Police Officers Association of Michigan (POAM).

or any other Michigan communities.[2] Accordingly, Berkley will not be considered a "comparable" community by the Panel.

Consumer prices, Factor (e), as reflected by the Detroit Area Consumer Price Index of the U.S. Department of Labor, have risen since June 1989 by about the same percentage as the pay of GPP Public Safety Officers.

The Panel has considered a mass of comparable data relating to the components of compensation cited in Factor (f), and has utilized such comparisons, especially among the Grosse Pointes, in deriving its choices among the LBOs. In regard to Factor (g), relating to "Changes . . . during the pendency of the arbitration proceedings", the Panel has given appropriate consideration to the terms of a settlement reached between the GPP Command Officers bargaining unit and the City and ratified in November 1992.

Under Section 8 of Michigan Act 312, as amended in 1972, the Arbitration Panel is directed, inter alia:

> . . . As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in Section 9. The findings,

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[2] Berkley emerged as most comparable to GPP in a Union statistical test of all public safety departments in the tri-county area, and the Michigan FOP Labor Council also represents Berkley public safety officers. On the other hand, there are substantial pertinent differences, e.g.: GPP has 24 % fewer residents; 1,600 fewer residents per square mile; 700 fewer housing units; a much smaller commercial/industrial tax base (2.67 % as compared to 15.36 %); a significantly lower crime rate; and yet more public safety officers -- 43, or 1 per 299 residents, compared to Berkley's 32, or 1 per 530 residents. Berkley is about fifteen miles northwest of GPP. As the crow flies, Detroit, Warren, Hazel Park, Ferndale and Royal Oak lie between GPP and Berkley.

> opinions and orders as to all other issues shall be based upon the applicable factors prescribed in Section 9.

This Opinion will now consider each issue in accordance with the factors and procedures specified in Act 312. As noted above, only one issue is deemed non-economic: III(B) relating to vacation selection. All other issues are economic.

Issues I (A), (B) and (C): ARTICLE XI - PAY SCALE

Although GPP is bounded by the City of Detroit on both the north and the west, neither party regards Detroit as a comparable for purposes of this case. An older suburb of Detroit, founded in 1907 and becoming a home rule city in 1950, GPP contains no significant industry. GPP is bounded by Grosse Pointe City on its east, with a southern (really, south-eastern) border on the shore of Lake St. Clair. Only 2.67 percent of its total property value is non-residential. GPP's 1992 population, which declined by 13 percent in the 1970s and by eight percent in the 1980s, is 12,857 as of 1992.

GPP's Public Safety Officer (PSO) bargaining unit has 27 members. There are 16 Command Officers (11 in platoons) in a separate bargaining unit also represented by the Michigan FOP Labor Council. This 43-member work force has four platoons, each composed of nine PSOs and Command Officers. Each platoon works a twelve-hour shift (7:00 A.M. to 7:00 P.M. or 7:00 P.M. to 7:00 A.M.), and shifts rotate every ten weeks. On an annual basis, all patrol officers are scheduled to work an equal number of day and night shifts.

The Union proposes annual pay increases for each year of the three-year contract of, respectively, 4.02%, 4.00%, and 4.21%. Under this proposal, PSO salaries at each step would be determined as a percent of the "Full Pay" (above 60-month) rate:

0-12 months = 60% Full Pay	12-24 months = 70% Full Pay
24-36 months = 80% Full Pay	36-48 months = 90% Full Pay
48-60 months = 95% Full Pay	Above 60 mo. = Full Pay

PSOs hired prior to January 1, 1990, would continue to reach Full Pay after 48 months, with a 36-48 month rate equal to the 48-60 month rate for PSOs hired after January 1, 1990.[3]

The City proposes annual pay increases for each year of, respectively, 3.5%, 3.3%, and 3.3%. In addition, the City's Pay Scale LBO proposes an additional increase of $1,000.00 for PSOs in the 0-12 and 12-24 months categories.[4] The pay rates under these LBOs for PSOs hired after January 1, 1990, are:

MONTHS OF	1992-1993		1993-1994		1994-1995	
SERVICE	UNION	CITY	UNION	CITY	UNION	CITY
0-12	$23,250	23,870	$24,180	24,650	$25,200	25,460
12-24	27,125	27,800	28,210	28,720	29,400	29,660
24-36	31,000	30,790	32,240	31,800	33,600	32,850
36-48	34,875	35,500	36,270	36,670	37,800	37,880
48-60	36,813	36,530	38,285	37,730	39,900	38,970
Maximum	38,750	38,550	40,300	39,820	42,000	41,130

[3] This Opinion omits all references to the PSO II (fire trained only) because there are no PSO II GPP employees and the City has affirmed that it does not intend to hire any personnel in this category. All PSO references in the Opinion refer to the PSO I (police and fire trained).

[4] I have followed the notation of the parties in regard to length-of-service pay scales. Thus, 0-12 months means through to the end of the twelfth month, while 12-24 months means from the beginning of the thirteenth month through to the end of the 24th month.

The Arbitration Panel has carefully considered all of the data in the record relating to pay levels, pay changes and other compensation and benefits among the comparables. We note that the City's pay proposals equal the annual increases that have been negotiated for the GPP Command Officers bargaining unit for the same three-year period. On the other hand, each of the other four Grosse Pointe communities has provided a 4.0 percent pay increase to its PSOs for 1992-93. Moreover, Grosse Pointe Farms and Grosse Pointe Shores are each committed under their current PSO agreements, which expire 6-30-94, to pay increases of 4.0 percent effective July 1, 1993. The PSO contracts for Grosse Pointe City and Grosse Pointe Woods expire 6-30-93.

It should be noted that the the two sets of pay LBOs are not far apart. This is because the percentage increases proposed by the City are augmented by its proposed addition of $1,000.00 per year, over and above these percentages, to the pay scale for PSOs during their first two years of employment.

The Arbitrator has concluded that, for all three years, the LBO of the Union on pay scales complies "more nearly" with the factors set forth in Section 9 of Act 312. Certainly for 1992-93, probably for 1993-94, and perhaps for 1994-95, these annual pay increases of roughly 4.0 percent should be comparable to those among the other Grosse Pointes. Another consideration, that will become more evident below, is that some of the other LBO selections by the Arbitration Panel will represent compensation losses to the GPP PSOs. Factor (f) of Section 9 refers to "overall compensation" as a consideration for the Panel.

Issue II: ARTICLE XIII - SHIFT DIFFERENTIAL

The shift differential, under the prior Agreement, constituted an annual lump-sum payment of $550.00 for all PSOs on a twelve-hour shift. The twelve-hour shift is now standard for all PSOs. The Union proposes to revise the shift differential to provide a premium of $0.55 per hour for hours worked between 7:00 P.M. and 7:00 A.M. Given the standard work-year of 2,184 hours (the average work-week is 42 hours) but no shift premium during vacations, and the rotation of shifts every ten weeks, each PSO would, under the Union's LBO, receive an average annual shift premium of roughly the same amount as during 1989-92. Such a premium, says the Union, would encourage younger PSOs to remain on night shifts, which older PSOs find particularly onerous.

The City emphasizes that shift differentials evolved as an incentive for acceptance by employees of night work and as compensation for the negative effects of such work. Typically, says the Company, such differentials are paid only for fixed evening and night shifts as in Grosse Pointe Farms, which pays a premium of 15 cents per hour for its afternoon shift and 25 cents per hour for its midnight shift. Where there are rotating shifts, says the City, the rationale for a shift diffential disappears. Thus, no shift differential is paid to PSOs by Grosse Pointe City (which has 24-hour shifts), or by Grosse Pointe Woods or Grosse Pointe Shores (which rotate shifts).[5]

The Panel Chairman is persuaded that under established work schedule arrangements no useful purpose is served by a shift diffential payment and will therefore support the City's LBO that it be eliminated except for employees (presently two) who are assigned to Directed Patrol. This decision was a factor in the Chairman's decision to select the Union's pay increase LBOs.

Issue III (A). ARTICLE XIX-B - VACATION BUY BACK

Article XIX, Section B, reads as follows:

> B. Any employee with five (5) years or more of service may, at his option, elect to receive up to 84 hours pay in lieu of the equivalent vacation hours. Payment prior to December 15th.

The City proposes the deletion of this provision.

The City points out that the present liberal vacation buy-back policy was instituted in 1986, during the transition to a public safety department, when heavy training requirements often left the Department short-staffed and large overtime payments were needed to provide replacement coverage. Vacation buy-backs helped to reduce overtime payments.

Now, says the City, that rationale no longer exists. Today, the City wants to encourage the actual use of vacation time by PSOs as part of the effort to have a healthy and productive work

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[5] Grosse Pointe Shores has agreed to a shift differential for PSOs who are on a special, non-rotating swing shift (3:00 P.M. to 3:00 A.M.) of $200.00 per quarter.

force. The City also wants to eliminate the needless expense of vacation buy-backs, which cost the City about 3.85 percent of average base pay per employee per year. Among the other Grosse Pointe communities, the City notes that no vacation buy-backs exist in Grosse Pointe City, Farms or Shores. (Grosse Pointe Woods permits vacation buy-back up to 25 percent of annual plus accumulated vacation leave.) The City disagrees with a Union claim that without vacation buy-back rights, PSO's would have difficulty using all vacation time within one year.

The Union points out that PSOs work 182 days a year (7 shifts every two weeks x 26 = 182), and asserts that with 20 vacation days and up to four personal time days it will be difficult to schedule for full vacation utilization (24 days x 9 PSOs and Command Officers/shift = 216 days). The Union's LBO proposes a reduction of the current 84-hour buy-back limit to 72 hours. On the basis of twelve-hour shifts, this represents a reduction in the annual buy-back limit from seven to six days of vacation.

The Panel Chairman opts, on this issue, for the LBO of the Union. A total abrupt elimination of vacation buy-back rights appears to be less reasonable than a move in that direction and an opportunity to observe the results of such a reduction. (The Chairman would have preferred a reduction to sixty hours, but that option does not exist.)

Issue III (B). (NEW) ARTICLE XIX-C - VACATION SELECTION

The Union proposes the addition to Article XIX of a new Section C:

> C. VACATION SELECTION: Vacation selections by employees covered under this agreement shall be by seniority. Employees covered by this agreement shall not be required to select vacation days in unison with employees not covered by this agreement. Furthermore vacation selections by employees not covered by this agreement shall have no bearing on vacation selections by employees covered by this agreement.

The Union points out that an acceptable vacation selection policy authored by the Union, covering both Patrol and Command officers, was in effect from 1986 into 1989. Under this procedure, there was: (1) selection of a 7-day vacation block by rank and then by platoon seniority; (2) a second round of bidding, also by rank and then by platoon seniority, with this proviso: "No limit on maximum amount of days, however draw must be consecutive."; and (3) remaining furlough days on first-come first-served basis regardless of rank or seniority.

On September 26, 1989, the above policy was revised by General Order 179, issued by the City's Director of Public Safety. All vacation selection remained on the basis of rank and then by platoon seniority for the First and Second Draw, but the previous requirement that Second Draw days be consecutive was eliminated. Since Command Officers select vacation times first, the Union asserts that now, on some shifts, "there are 3 to 4 Command Officers forcing a 25-year patrolman to end up with vacation time in a non-prime slot."

The City asserts that this Union proposal would cause patrol and command vacations to overlap, burdening the City "with significant and unexpected increases in overtime payments . . ." The City notes that a review of 1992 data shows that each Patrol Officer in the four GPP platoons "actually received his or her 'first choice' in vacation time." The City also points out that patrol officers in Grosse Pointe City, Grosse Pointe Farms and Grosse Pointe Woods do not select vacations independently of their Command Officers. As to Grosse Pointe Shores, where PSOs do select vacations independently of Command Officers, the City observes that it has only seven Command Officers compared to sixteen in GPP, so that the problem of overlaps is much smaller in Grosse Pointe Shores.

Elimination of the Second Draw "consecutive" constraint by administrative fiat did provide Command Officers with an additional competitive edge in vacation selection. The Union has failed, however, in the Chairman's judgment, to make a persuasive case that separate vacation bids for PSOs would provide a viable remedy for the Union's concern.[6] There was no showing of significant inconvenience for PSOs, and the Chairman is persuaded that vacation selection by PSOs wholly independent of Command Officers

[6] The record indicates that the November 1992 settlement between the City and the Command Officers includes a "Letter agreement that the results of patrol unit negotiations <u>or arbitration</u> will not change current procedure for selection of vacation by command unit." [Emphasis added.] The Chairman's decision on this issue was in no way affected by this commitment of the City to the Command unit. It is the Chairman's judgment that, while such a commitment is binding on the City, it cannot bind the Arbitration Panel.

could readily create gaps in coverage that only costly overtime would cover. The Chairman has therefore concluded that the LBO of the City on this issue, the status quo, should be adopted.

Issue IV: ARTICLE XVIII - PENSION

A. Retirement Age

The Union seeks full retirement at age 50 (instead of age 55) with 25 years of service, together with an increase of the employee's MERS contribution by one percent (from 5.0% to 6.0%) as an employee share of the cost of this improved benefit. The City wants the status quo.

Grosse Pointe Shores and Woods currently have full retirement for PSOs at age 50, whereas it remains at age 55 for Grosse Pointe City and Farms, as well as for GPP Command Officers. Both parties accept the actuarial estimate of Gabriel, Roeder, Smith & Company, Ann Arbor, Michigan, of the cost at GPP of moving to full retirement at age 50 (as of December 31, 1990, data):

> Note: Due to your present high funding level, the adoption of the above benefit will increase your required 1992/93 MERS contribution by $8,832 (instead of $27,604). As your funding level decreases, the above full additional cost will eventually be reflected in your quarterly MERS billings. The long-range level cost of the proposed benefit is computed to be 2.6% of active member payroll.
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> Comment A: The above cost of reducing the age requirement for retirement eligibility does not include the cost, if any, associated with other fringe benefits provided to retirees (such as health insurance).
>
> Comment B: The increase in actuarial accrued liabilities associated with the above benefit change is $248,617. If all other benefits are unchanged, the adoption of the above benefit would reduce your December 31, 1990 "percent funded" from 99% to 97%.

It is not clear from the record whether the actuaries assumed that all eligible PSOs would actually elect to retire at age 50.

The Union, citing a number of published studies and research reports, emphasizes that police work is a young person's job: the twelve-hour shifts, switching between day and night every ten weeks; eight-ten hours daily on patrol; fighting fires on the front lines; and (for those EMT-qualified) responding to emergency runs as primary care-giver. The Union also notes that older PSOs are rarely promoted: of the 18 PSOs promoted by the City to command positions, 15 were promoted prior to their 40th birthday.

The importance of age 50 retirement, says the Union, is demonstrated by the PSOs willingness to accompany this change by a one percent increase in the employee MERS contribution rate. The Union points out that this one percent will fully cover the cost of this pension improvement in the near-term future, even though that cost, according to the actuary, will eventually rise to 2.6 percent.

The Union emphasizes that when any officer retires, the replacement starts off at 60 percent of maximum pay and remains below maximum for five years. The amount saved by the City on a new hire for that five-year period is 105 percent of the maximum PSO rate (40% + 30% + 20% + 10% + 5%). The Union suggests that this saving more than offsets the additional cost of the Hospital/Medical/Surgical (H/M/S) insurance that PSOs continue to receive after retirement.

The City observes that reducing the eligibility requirement for retirement from age 55 to age 50 will increase by eight the number of PSOs who will be eligible for immediate retirement. The true cost of this change, says the City, is 2.6 percent of pay or $27,604 per year. The City asserts that because this kind of new benefit could not be anticipated, "its pension system is simply not funded adequately to absorb the tremendous cost of these immediate additional payments."

The City also points to the annual cost of a retiree's H/M/S insurance of about $5,000. For eight retirees, this would mean an expenditure of about $40,000 a year. The City notes that the long term costs of retiree H/M/S insurance will rise, since these PSOs will be retiring at a younger age and will receive H/M/S insurance for a larger number of post-retirement years.

The equities support a judgment that a PSO should be able to retire after twenty-five years on the job. Indeed, two of the Grosse Pointe communities already permit normal retirement at age 50. The question thus becomes a matter of cost and whether the City should now assume its share of the burden.

The Chairman is convinced that the actual longer-run costs are extremely difficult to predict. We do not know, for example, how many of the eight PSOs who could opt for age 50 retirement now will do so. Remaining on the job an additional five years, for example, raises one's pension (at 2.50% per year) by 12.50%. For those who elect to retire before age 55, there is a short-term saving from the below-maximum rates of their replacements that more than offsets the cost of their H/M/S insurance. This kind of saving takes place, of course, at whatever age a PSO retires; but a lower average retirement age does mean that a somewhat higher proportion of the PSO group will be at a below-maximum pay rate at any given time.

The actuary tells us that the near-term cost of this change (exclusive of retiree H/M/S insurance) is roughly one percent of payroll. The Union's LBO includes an increase of one percent in each PSO's MERS contribution, which offsets the increased cost at this time. And, as noted, the lower pay levels (for five years) of replacements for PSOs who elect to retire between ages 50 and 55 is a saving that will offset the cost of H/M/S insurance for these additional retirees.

This is an appropriate time, under all the circumstances, for a shift to MERS Benefit Program F50, permitting full retirement (with 25 years of service) at age 50, along with an increase in the MERS member contribution rate to 6.0%. Accordingly, I support the Union's LBO on this issue.

B. FAC x 2.5% x Years of Service

The LBO of each party specifies an increase of the multiplier used to calculate a retiree's pension amount from 2.25% to 2.50%. The issue is whether this improvement will be accompanied by a rise of 0.75% in the MERS employee contribution, as the City proposes, or whether this improvement will be solely at the expense of the City. The actuarial estimate by Gabriel, Roeder, Smith & Company states:

> Note: Due to your present high funding level, the adoption of the above benefit [MERS B-4] will increase your required 1992/93 MERS contribution by $4,076 (instead of $12,740). As your funding level decreases, the above full additional cost will eventually be reflected in your quarterly MERS billings. The long-range level cost of the proposed benefit is computed to be 1.2% of active member payroll.
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> Comment: The increase in actuarial accrued liabilities associated with the above benefit change is $87,600. If all other benefits are unchanged, the adoption of the above benefit would reduce your December 31, 1990 "percent funded" from 99% to 98%.

On this basis, the near-term annual cost of this pension improvement will be about 0.4 percent of the Active Member payroll. The change to a 2.50% multiplier will increase the pension of a 25-year retiree by 6.25% over the current formula with its 2.25% multiplier.

Among the Grosse Pointes, the City, Farms and Shores already have a multiplier of 2.50% for the first 25 years of service, but a reduced multiplier (1.00% or 1.50%) thereafter. (GPP does not have and did not propose a reduced multiplier after 25 years.) Grosse Pointe Woods' multiplier is only 2.00% under a community-wide retirement program, but a supplemental annuity for PSOs adds $400.00/month after 25 years of service, equal to roughly 0.50%. Under the GPP Command Officers settlement in November 1992, their multiplier rose from 2.25% to 2.50%. The City notes that the GPP Command Officers lost a COLA (cost of living allowance) with a cap of $200 every six months, although this concession was not expressly linked to their pension multiplier increase.

As to the calculation of Final Average Compensation (FAC), the City emphasizes that only Grosse Pointe Shores (at 3/10) is as generous as GPP (3/5). The other Grosse Pointe formulas produce a lower FAC: 5/10 at Grosse Pointe City and Farms; the 4 highest years at Grosse Pointe Woods. All employees in the other Grosse Pointe communities make MERS contributions of 5.0% except for 6.0% in Grosse Pointe Shores. Finally, the City points out that each of the other Grosse Pointes has a maximum benefit of 70.00%, whereas the GPP maximum is 80.00%.

The Chairman finds, under all the circumstances, that the rise in the multiplier at this time to 2.50% should not require an increase in the MERS contribution rate of the GPP PSOs. In part, this is because their contribution rate is rising to 6.00% from 5.00% under the preceding LBO selection (Issue IV-(A)). Among the Grosse Pointes, only the Shores has a contribution rate for employees as high as 6.00%. The near-term cost of this improvement, about 0.40%, will be offset by other options to be selected by the Chairman, particularly for Issue VIII (Active Employee Health Insurance). Accordingly, the Chairman selects the Union's LBO on this issue.

<u>Issue V: ARTICLE XIII-A (NEW) - DEFERRED COMPENSATION</u>

Article XXXII of the Agreement, <u>Miscellaneous</u>, states in Section D: "The City will allow employees to participate in the payroll deduction Deferred Compensation Plan." There is no provision in the 1989-1992 Agreement, however, for any matching contribution by the City.

The 1989-1992 GPP Command agreement provided, in its Article XXXI, for City matching funds, increasing from 1% of employee base pay during 1989-1990, to 1.5% during 1990-1991, and to 2% during 1991-1992. The new 1992-1995 Command agreement, as negotiated in November 1992, provides an increase in the City's matching limit to 2.5% for 1993-1994 and to 3.0% in 1994-1995.

The LBO of the GPP PSO unit proposes to institute matching of deferred compensation by the City on July 1, 1993, with a limit of 1.0% during 1993-1994 and of 2.0% during 1994-1995. The City agrees to institute such matching as of July 1, 1993, but its LBO proposes a limit of 0.5% during 1993-1994 and a limit of 1.0% for 1994-95. Hence, the differences between these LBOs amount to 0.5% of base pay in 1993-1994 and 1.0% of base pay in 1994-1995.

Among the Grosse Pointe communities, each offers a Deferred Compensation Plan to its PSOs except for Grosse Pointe Shores; but only Grosse Pointe Farms provides a matching contribution, and this contribution is limited to 1.0%.

Given the status of this benefit among the Grosse Pointe "comparables", the Chairman finds that the City's LBO -- which equals the increases obtained by the GPP Command unit -- corresponds "more nearly" to Section 9 criteria. Accordingly, the Chairman selects the City's LBO on this issue.

Issue VI: ARTICLE XX - HOLIDAYS

Article XX of the 1989-1992 GPP PSO Agreement lists eight holidays in Section A. Section B states: "Any employee scheduled to work on any of the above holidays shall be paid at the rate of double time for the hours actually worked on that day."

The Union now seeks three additional holidays, specifically: President's Day, December 24th, and December 31st. The City's LBO would provide one additional holiday effective July 1, 1993: December 24th (Christmas Eve). The City's LBO is identical to the negotiated change on holidays in the 1992-1995 GPP Command agreement: the addition of December 24th to the previously listed eight holidays.

The GPP PSOs do not actually take holidays off, nor are they paid for holidays for which they are not scheduled to work and do not work. A PSO who is scheduled to work on a holiday does so and is paid double time for that holiday shift. The City sees the Union's proposal as "merely a request for a pay enhancement equal to a total of three more days of pay for those employees scheduled to work on those days anyway." The City characterizes the Union's comparative data as misleading "because it fails to standardize the figures to account for the length of the shifts in the various communities." Thus, Grosse Pointe City has a 24-hour shift; Grosse Pointe Woods and Farms have 8-hour shifts; and Grosse Pointe Shores (like GPP) has a 12-hour shift.

The Union points out that each of the other Grosse Pointes has more holidays for PSOs than GPP: Grosse Pointe City, 9;

Farms, 11; Shore, 12; and Woods, 12. The Union also notes that there are thirteen holidays in the contract between GPP and the Teamsters. Finally, the Union disagrees with the City's view of the significance of shift lengths, since PSO holiday pay must cover the 24-hour holiday regardless of the number of PSO shifts operating during that period.

The Chairman does not find, in the record, any substantial basis to increase from eight to eleven the number of holidays per year. What is here involved is a money issue, not access to more leisure. The most compelling comparison, in this case, is with the recent settlement of the GPP Command unit, which is matched by the City's LBO for the PSO unit. The Chairman opts for the City's LBO on this holiday issue.

Issue VII: ARTICLE XV - LONGEVITY

As noted above (p. 4), the City proposes to replace longevity pay as a percent of base pay by a schedule of specified money amounts. Under the 1989-1992 GPP PSO Agreement, longevity pay began after two years of service as 0.5% of base wage, with step increases after 5, 10, 15 and 20 years of service to a maximum of 3.0% of base wage. The City's LBO would start longevity pay at $300 per year after five years of service, increasing in five-year steps to $1,100 after 25 years of service.

The GPP Command unit's 1989-92 agreement provided the same longevity pay as the PSO unit. In addition to retaining this formula for 1992-1995, the Command unit obtained one additional step effective July 1, 1994: an additional $400 after 25 years of service.

All of the other Grosse Points provide longevity pay, but none of them uses a percentage formula or commences longevity pay until the sixth year of service. The City's LBO, while somewhat below its 1989-1992 percentage formula, adds an "Above 25 years" increment of $200. Without presenting needless detail here, it can be said that the City's LBO is clearly comparable to current practice in all of the other four Grosse Pointe communities. The Chairman finds, on balance, and in light of the economic package as a whole, that the City's LBO on longevity pay is the more appropriate option.

Issue VIII: ARTICLE XVI - ACTIVE EMPLOYEE INSURANCE

The full cost of Hospital/Medical/Surgical (H/M/S) insurance is paid by the City. The City's LBO proposes that the cost of any increase in premiums for H/M/S insurance after July 1, 1993, be shared equally between the City and the PSOs. The Union's LBO proposes the status quo.

All of the Grosse Pointe communities are rated by BC/BS as a single group for H/M/S insurance purposes. Grosse Pointe City and Farms provide each PSO, spouse and dependents with BC/BS MVF-1 with master medical coverage (GP City has a $2 drug rider). Grosse Pointe Woods provides BC/BS Trust 15-Plus 15 PPO, while the Shores provides BC/BS PPO coverage, master medical, and a $3 drug rider. GPP, for both its PSO and Command units, provides

BC/BS PPO (Blue Preferred) with an in-house drug rider. The GPP Command unit retained the status quo for 1992-1993, but agreed to "re-open entire article for second and third years." None of the Grosse Pointes requires any PSO contribution to H/M/S insurance premiums or any sharing of future cost increases.

The City maintains that the time has come for a sharing of future H/M/S insurance costs, which for 1986 amounted to $3,314 per employee for active PSOs. By 1992, the annual cost had risen to $5,427 per employee, 63.7 percent above 1986.[7] Although there is as yet no cost-sharing among the Grosse Pointes, the City notes that there have been substantial increases in cost-sharing in the United States, where part-payment of health insurance costs rose from 51 percent of employers in 1984 to 70 percent in 1989. The U.S. Department of Labor reported that, in 1990, 37 percent of full-time state and local government employees contributed to the cost of single coverage, while 66 percent shared in the cost of family coverage. The City comments: "The idea behind requiring employees to pay more for health care is to encourage them to be more thoughtful buyers and to help stop rising health care costs by putting something at stake."

The Union observes that all of the Grosse Pointes have experienced comparable increases in H/M/S insurance costs, yet none of these communities requires cost-sharing by its PSOs. The

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[7] A relevant consideration, in the City's view, is the cost of the separate Prescription Drug Reimbursement Program instituted in 1990-1991, which cost the City a total of $7,800 for the PSO unit during that first year and rose 37.2% to $10,700 for 1991-1992.

Union also points out that, under the last two three-year PSO agreements, it has "reluctantly agreed" to various concessions sought by the City in order to cooperate in curtailing the growth of these expenses. These concessions have included replacing traditional BC/BS coverage by BC/BS Preferred Provider Organization (PPO) coverage; a charge on active employees who elect to remain under traditional BC/BS coverage (15% of the premium); elimination of prescription drug coverage for retirees; and the replacement of a BC/BS $2.00 co-pay drug rider by a designated pharmacy list. Hence, in the Union's view, the status quo should be retained for 1992-1995.

The Chairman is persuaded that some sharing of H/M/S insurance costs is an appropriate part of the 1992-1995 contract package. This judgment has played a role in the Chairman's decisions on other economic issues, particularly in connection with pay improvements during 1992-1995. The City's reasonable formula will surely promote the concern of PSOs as citizens about the critical national problem of health care costs, although it leaves the major burden of such costs on the City. To the extent that the nation succeeds in bringing health care costs under control, the ultimate cost increases shared by the PSOs will be restrained. Meanwhile, the City's LBO will leave untouched the content of the present H/M/S insurance protection for the PSO unit. The Chairman, in light of these considerations and bearing in mind Section 9 of P.A. 312, especially (c) and (f), selects the City's LBO on active employee H/M/S insurance.

Issue IX: ARTICLE XVII-B - RETIREMENT DENTAL INSURANCE

The City proposes to eliminate dental insurance as provided for retired PSOs under Article XVII, Section B, by deleting this section from the Agreement. Under the City's LBO, this deletion would apply only to future retirees and would not affect the 14 PSOs who have already retired with dental insurance. The Union opposes the elimination of this retirement benefit, and its LBO supports the status quo on this issue. Dental insurance for active and retired PSOs has hitherto been the same.

The City reports that the annual cost of its dental insurance is $294 for two-person coverage and $547.92 for family coverage. The City asserts that it "seeks to delete dental coverage for its retirees simply to help reduce the overall burden of retiree health insurance, which has increased five-fold in the last six years" as the number of PSO retirees increased from four to fourteen. The City points out that Grosse Pointe City and Farms do not provide dental insurance to their retired PSOs, so that a similar denial to future GPP PSO retirees would not be "out of line". Dental insurance is provided to their PSO retirees by Grosse Pointe Shores and Woods. Dental insurance remains in effect for retirees under the 1992-1995 GPP Command Officers agreement unless it is affected after July 1, 1993, by the health insurance re-opener in the Command agreement.

The established past practice has been to provide active and retired GPP PSO and Command officers with the same package of health insurance protection, including dental insurance. The

City's LBO on retiree dental insurance, however, would change that relationship. The Chairman might have supported a prospective sharing by retirees of increases in health insurance costs, such as has been adopted for active PSOs, but that option is not available. The Chairman has not been persuaded that prospective retirees should be deprived of a significant component of health care insurance that active PSOs will continue to enjoy, and he selects the Union's status quo LBO on this issue.

* * * * *

The Award of the Arbitration Panel appears on the following page. On each of the thirteen issues (listed under nine headings), each party's delegate dissented to the selection of the other party's Last Best Offer (LBO). Their signatures on the Award verify that on each issue the decision of the Panel was supported by a majority of its members. The references in the Award correspond to the schedule of LBOs that appears above on pages 2 through 4 of the Opinion.

Mark L. Kahn

Mark L. Kahn
Arbitrator

NOTE: A Dissenting Opinion by the Union on Issue VIII, Active Employee Insurance, is appended to this decision.

AWARD OF ARBITRATION PANEL

Issues I (A), (B) and (C), Article XI - PAY SCALE: the LBOs of the Union are adopted.

Issue II, Article XIII, SHIFT DIFFERENTIAL: the City's LBO is adopted.

Issue III (A), Article XIX-B, VACATION BUY BACK: the Union's LBO is adopted.

Issue III (B), Article XIX, proposed Sec. C, VACATION SELECTION: the City's LBO (status quo) is adopted.

Issue IV (A), Article XVIII, PENSION, RETIREMENT AGE: the Union's LBO is adopted.

Issue IV (B), Article XVIII, PENSION, BENEFIT MULTIPLIER: the Union's LBO is adopted.

Issue V, Proposed new Article XIII-A, DEFERRED COMPENSATION: the City's LBO is adopted.

Issue VI, Article XX, HOLIDAYS: the City's LBO is adopted.

Issue VII, Article VII, LONGEVITY: the City's LBO is adopted.

Issue VIII, Article XVI, ACTIVE EMPLOYEE INSURANCE: the City's LBO is adopted.

Issue IX, Article XVII, Section B, RETIREMENT DENTAL INSURANCE: the Union's LBO (status quo) is adopted.

Dale M. Krajniak, City Manager
Delegate, Grosse Pointe Park

John A. Viviano, Chief Steward
Delegate, GPP Public Safety
Officers Association, FOP

Mark L. Kahn

Mark L. Kahn, Chairman
Arbitration Panel

February 10, 1993

STATE OF MICHIGAN

STATUTORY LABOR ARBITRATION PANEL

(Pursuant to Act 312, PA 1969, as Amended)

In the matter of Arbitration between:
CITY OF GROSSE POINTE PARK (GPP)
and
LABOR COUNCIL, Michigan Fraternal
Order of Police (FOP)

MERC Case
No. D92 A-0157

UNION DISSENTING OPINION

Page five (5) of the attached award lists the CRITERIA in points "a thru h". Page six (6) of the attached award clearly states the City does not lack "the financial ability . . . to meet the costs" of the Union's proposals and that the panel "has concluded that primary reliance should be placed on the four (4) other Grosse Pointe communities as comparables for the purpose of this case". Page seven goes on to state that "the panel has given appropriate consideration to the terms of a settlement reached between the GPP Command Officers bargaining unit and the City and ratified in November 1992".

Issue II: ARTICLE XIII - SHIFT DIFFERENTIAL

A SHIFT DIFFERENTIAL has been in effect in GPP for both the patrol and command units for over 20 years. The Police Dept., Fire Dept., and Public Safety Dept.(formed in combining police & fire in 1986) have always rotated shifts around a 24 hour clock with all employees covered by the shift differential, working all shifts equally. The shift differential was paid once a year (in June) a $550 lump sum. The City argued that a true shift differential is one that would be paid only for hours worked in a less desirable time period and petitioned for a total elimination of the existing shift differential.

The Union responded by modifying the existing shift differential to pay $ .55 per hour in the employees bi-weekly pay only for hours worked 7pm - 7am, complying with the City's argument, of premium pay for working in a less desirable time period. The Chairman awarded this issue to the City defering the Union's compliance with the City's only argument and citing this decision is associated to his award to the Union on it's proposal on wages even though he cites in his wage award that the Union's wage proposal "complies more nearly with the factors set forth in Section 9 of act 312". The Chairman also makes no comment of the GPP command unit which still enjoys a $550 shift pay for it's members who work shifts alongside patrol.

Issue VI: ARTICLE XX - HOLIDAYS

The Union requested three additional Holidays stating that employees who have to work on recognized holidays when other city employees are off should be compensated for that inconvenience by a double time pay rate only for those hours actually worked. The Chairman clearly states the number of Holidays recognized in comparable communities: City (9), Farms (11), Shores (12), and Woods (12). The Chairman then goes on to state that the city itself recognizes 13 holidays and is closed for business on those dates. The four (4) external comparable communities average 11 recognized holidays, identicle to the Union's request. The City itself internally recognizes 13 holidays, however the Chairman states "the most compelling comparison, in this case, is with the most recent settlement of the GPP Command Unit,". It would seem the preponderance of comparisons were not weighed by the Chairman in his decision.

Issue VIII: ARTICLE XVI - ACTIVE EMPLOYEE INSURANCE

Clearly this single issue has more impact than any other issue in this arbitration. The Chairman writes " The U.S. Department of Labor reported in 1990 37 percent of full-time state and local government employees contributed to the cost of single coverage, while 66 percent shared in the cost of family coverage" and "None of the Grosse Pointes requires any PSO contribution to H/M/S insurance premiums or any sharing of future cost increases". However only one community within the Tri- County area shares in the cost of health insurance. No other Union within the City internally has a sharing of health insurance costs. All of the Grosse Pointe communities are rated by BC/BS as a single group for H/M/S insurance purposes. The Union noted that it has agreed to numerous concessions on coverage over the last six years to assist the city in holding down the cost of H/M/S insurance. Again the Chairman states his decision in this issue reflects upon his award to the Union on wages stating "This judgement has played a role in the Chairman's decision on other economic issues, particularly in connection with pay improvements during 1992-1995".

The Chairman has made rulings on pay improvements or other economic issues where he has stated that the findings "complies more nearly " with the comparables. He has completely disregarded all comparable data on this issue as none of the external, nor more importantly, internal comparisons used by the parties support this award. Moreover, the City did not argue an inability to pay, therefore Factor (c) of P.A. 312 set forth on Page 5 was ignored. The award on this issue can only be viewed by the Union as incredibly unfortunate because the Chairman ruled without regard to the criteria set forth in Section 9 of P.A. 312, especially Factors (c) and (d)[i].

John A. Viviano

John A. Viviano
Chief Steward GPPPSOA