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In the Matter of Act 312 Arbitration Between:

THE CITY OF LIVONIA

and

LIVONIA FIRE FIGHTERS UNION
MERC CASE NO. D90-G-1154

Impartial Arbitrator and Chairperson: Jack Stieber
City Designee: Raymond Pomerville, Director, Labor Relations
Union Designee: Paul DeNapoli, Secretary, Fire Fighters Union

Background

The undersigned was notified by letter dated April 30, 1991, by the Michigan Employment Relations Commission (MERC) that he had been appointed impartial arbitrator and chairperson of the Act 312 arbitration between the City of Livonia and the Livonia Fire Fighters Association. A Pre-Hearing Conference was held with representatives of the parties: George T. Roumell, Jr., for the City, and George H. Kruszewski for the Union on June 10, 1991. At that meeting the City designated Raymond Pomerville as its panel member and the Union designated Paul DeNapoli to serve as its member of the arbitration panel.

Hearings were held on the following dates: July 17, August 6, 8, September 5, 6, 1991, January 9, 1992. The parties submitted into evidence 26 Joint Exhibits, 117 City Exhibits and 46 Union Exhibits. A transcript was taken comprising 918 pages. Nine witnesses testified.

Final offers were filed under date of September 16, 1991 and post-hearing briefs were filed under date of November 18, 1991.

The Panel met in executive session on: December 27, 1991 and February 11, 1992.

The parties stipulated that the following issues were in dispute:

- I. Wages
 - A. Effective December 1, 1990 to November 30, 1991.
 - B. Effective December 1, 1991 to November 30, 1992.
 - C. Effective December 1, 1992 to November 30, 1993.
- II. EMT Allowance, Effective December 1, 1992 to November 30, 1993.
- III. Food Allowance, Effective December 1, 1992 to November 30, 1993.
- IV. Cleaning Allowance, Effective December 1, 1992 to November 30, 1993.
- V. Dental Allowance, Effective December 1, 1992 to November 30, 1993.
- VI. Computation of Final Average Compensation.
- VII. Minimum Manning Eligibility.
- VIII. Health Insurance Carrier.

The parties agreed to the following comparable communities as relevant to this arbitration.

Ann Arbor
Canton Township
Clinton Township
Dearborn
Dearborn Heights
LIVONIA
Pontiac
Royal Oak
St. Clair Shores
Southfield
Sterling Heights
Taylor
Westland

Act 312 as amended provides that the arbitration panel shall base its "findings, opinions and order upon the following factors, 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 those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (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 arriving at his decision, the undersigned has considered the above-noted factors insofar as they were deemed relevant to the issues in dispute.

The opinion, interpretation and analysis which follows is solely that of the impartial chairperson and does not necessarily reflect the views of panel members designated by the parties. The Award alone indicates the votes of the panel members on each issue.

OPINION, INTERPRETATION AND ANALYSIS

Wages

The parties have agreed on a three-year contract with increases to be effective on December 1 in the years 1990, 1991, 1992. Each year is to be considered as a separate issue. The parties disagree on the amount of the increase in each year. Their final offers are:

Effective December 1, 1990: the Union proposes that wages be increased by 5.0 percent; the City proposes 3.0 percent.

Effective December 1, 1991: the Union proposes an increase of 6.0 percent; the City proposes 4.5 percent.

Effective December 1, 1992: the Union proposes an increase of 6.0 percent; the City proposes 5.0 percent.

The issue of parity between Fire Fighters and Police has been a source of controversy between the parties, especially as it applies to the wage increase effective December 1, 1990, to November 30, 1991, the first year of the three-year contract. The Police contract which expired November 30, 1991, and has not yet been renegotiated, includes a 3.0 percent increase for the 1990-91 year. The City argues most strenuously that the Police-Fire Fighter parity, which has been maintained since at least 1973, must be continued. The Union argues just as vigorously that fire fighters perform unique duties which are entirely different from those performed by police and that 1990-91 wages should be decided with no regard whatsoever to parity with the police.

In support of its position, the Union refers to an Act 312 decision by Arbitrator George Bowles in 1978 in which he rejected parity as controlling. Bowles wrote: "In essence it is urged (by the City), parity was re-initiated on December 1, 1969, and has remained until the expiration of the last contract December 30, 1976." (U-1, p. 7)* He said that parity is really part of bargaining history and:

"Certainly, it must be conceded that any arbitration panel would want to know, and would wish to consider, bargaining history between the parties and internal comparisons generally. The bargaining history is only part of the picture and is not an exclusive consideration, or indeed necessarily a controlling consideration on individual issues." (U-1, p. 11)

*Union exhibits are designated "U" followed by the exhibit number.
City exhibits are designated "C" followed by the exhibit number.
Joint exhibits are designated "J" followed by the exhibit number.

Arbitrator Bowles's comments were made in 1978, at which time, there was a history of some nine years during which parity had been maintained. By December 1, 1990, the parties had had an additional 12 years of bargaining history and a total of some 21 years during which police-fire fighter parity on wages had been maintained. (City and Union exhibits in this case do not go back earlier than 1973. It is not clear whether wages prior to 1973 were negotiated through collective bargaining or were instituted unilaterally by the City during the period 1969-1973.) To the extent that bargaining history and internal comparisons are relevant, and I agree with Arbitrator Bowles that they are factors to be considered, the duration of such factors add to their significance.

The City points out that Arbitrator Bowles, notwithstanding his views on parity, awarded a wage increase which maintained parity between the police and fire fighters. In addition, the City notes that Arbitrator Leon Herman in an Act 312 decision involving Livonia Police in 1978, the same year as the Bowles decision, awarded wage increases which maintained parity with the fire fighters. The City further notes that in 1983, Arbitrator Benjamin Stanczyk issued an award in a Police Act 312 case which maintained parity between police and fire fighters on wages and other benefits. (City Brief, p. 26) Arbitrator Stanczyk specifically noted in several places that his panel's award would maintain parity between the police and fire fighters. (C-111)

My own view with respect to the issue of parity is part and parcel of my approach to interest arbitration generally. Arbitration is a poor alternative to collective bargaining. Agreements reached through negotiations by the parties are better indicators of the values placed by unions and managements on the various issues to be included in their agreements than awards arrived at through arbitration. In this respect I agree with Clark Kerr who wrote:

There is no magic formula for wage adjudication. Consequently one of the compelling considerations must be what has happened in free and successful collective bargaining. This indicates how experienced bargainers have evaluated the wage influencing factors which have evidenced themselves and what they consider to be "just." (Quoted in Elkouri and Elkouri, How Arbitration Works, 4th ed., p. 804)

The Livonia Fire Department has a total of 90 employees who are represented by the Fire Fighters Union, 86 of whom are in fire suppression and four in fire prevention. Fire suppression consists of 62 employees (40 classified as Fire Fighters, 12 as Assistant Drivers, 10 as Engineers) and 24 officers (2 Battalion Chiefs, 2 Senior Captains, 10 Captains, 10 Lieutenants). There are four officers in Fire Prevention (1 Fire Marshall, 1 Training Officer, 1 Senior Inspector, 1 Inspector). (C-9) Only the Chief is excluded from the bargaining unit.

Percentage wage increases proposed by both the Union and the City have been the same for all ranks and most of the evidence and discussion has been based on the base wage of a full-paid fire

fighter, reached after five years. This wage was \$34,029 per year from December 1, 1989 to November 30, 1990. Accordingly, the following discussion will be based on the base wage of a full-paid fire fighter.

Positions of Parties

The Union notes that the wage for the period 12/1/89 to 11/30/90 of a full-paid Livonia fire fighter was \$34,029, ranking tenth among the 13 comparable cities.* The Union proposal of a 5.0 percent increase effective 12/1/90, would advance Livonia fire fighters to No. 5. The City proposal of a 3.0 percent increase would place Livonia at No. 6. (U-16, Union Brief, p. 8) (This compares the Livonia fire fighter wage after a 12/1/90 increase with fire fighters in nine other cities who have received increases in 1990, six who received increases in both 1990 and 1991, and three cities whose contracts beyond 1989 had not been settled at the time of this arbitration.)

The Union argues that its proposal for 12/1/90 is justified on the following grounds: Livonia City officials such as the Mayor, Council Members and others are higher paid than officials in comparable cities; Livonia's ranking has deteriorated since 1978 when it was No. 1 among the five cities considered comparable in 1978 (U-1, p.13); Livonia fire fighters work 56 hours per week which is longer than weekly hours worked in comparable cities,

*Not all the comparables are cities. Some are townships. For ease of presentation, all will be referred to as cities.

putting Livonia No. 12 in its hourly rate of \$11.69 (U-18); based on total cash compensation, consisting of the base wage plus cash benefits, less required deductions, such as the 7.65 percent for Social Security, Livonia ranks last among comparable cities; when differing fiscal years are considered, Livonia ranks "merely" No. 5 under either the Union or the City proposal, but under the Union offer Livonia's base wage would be \$490 above the average, while under the City's offer it would be \$200 below average; increases in the cost of living since December 1, 1987, have caused Livonia fire fighters to lose ground to inflation. (Union Brief, pp.8-14)

The City places primary emphasis on bargaining history over a period of 18 years since 1973, which resulted in the first year increase in the Fire Fighters contract being identical to the last year increase in the Police contract; and the first two years in the Police contract tracking increases in the last two years of the Fire Fighters contract (C-39).

With regard to increases in the comparable cities, the City notes that the average increase for the nine cities in which 1990-91 wages have been agreed upon is 3.67 percent. While acknowledging that its 3.0 percent offer is below the average, the City argues that it must be considered in the context of its second and third year offers which exceed the average of other cities which have agreed on wages for those years. In any event, the City notes that its first year offer is only .67 percent lower than the

average while the Union's 5.0 percent offer is 1.33 percent above the average for comparable cities.

The City argues that Livonia is the only City that adheres to the automatic bloc promotion system. This results in every fire fighter with 12 years of seniority being promoted to Assistant Driver with a 5.0 percent increase and after an additional four years to Engineer with another 5.0 percent increase. Thus, fire fighters in other cities perform the same functions as Assistant Drivers and Engineers in Livonia at lower pay. (The Union points out that the bloc system also can be a disadvantage because fire fighters in other cities can be promoted after as little as five years while Livonia fire fighters must wait 12 years for promotion.)

Finally, the City states that the Union argument on the cost of living increase since 1987 deserves little credence. It contends that Livonia fire fighters are at or ahead of the cost of living, using 1982 as a base, and that for the year dating from December 1, 1990, the economy has been in recession and there has been no significant increase in the consumer price index during that period.

With respect to the second contract year, the Union proposes an increase of 6.0 percent. If its 5.0 percent increase were accepted for the first contract year, this would bring a Livonia fire fighter's annual wage to \$37,874 effective 12/1/91, with a rank of No. 4 among the 13 comparable cities. The City offer of

4.5 percent effective 12/1/91 would result in an annual wage of \$36,627, assuming its offer of a 3.0 percent increase for the first contract year were accepted, placing Livonia No. 5 among the comparable cities. (Union Brief, pp. 20-21)

For the third contract year, the Union proposes a 6.0 percent increase, yielding an annual fire fighter wage of \$40,147 effective 12/1/92, assuming its first and second year offers were accepted. This would place Livonia fire fighters below Sterling Heights and above Clinton Township, the only comparable cities that have settled 1992-93 contracts. The City's offer of a 5.0 percent increase for the third contract year would result in an annual wage of \$38,459, assuming its first and second year offers were accepted. This would place Livonia below both Sterling Heights and Clinton Township. (Union Brief, pp. 20-21)

The City argues that its 4.5 percent second year increase exceeds the 3.84 percent average increase for the six cities that have agreed upon 1991-92 wages.* Only one city, Dearborn Heights has received a higher increase of 5.0 percent but its annual fire fighter wage of \$35,018, would still be lower than Livonia's \$36,627. (City Brief, p. 28)

The City notes that in 1992-93 Livonia's 5.0 percent offer is identical to the only two other cities with contracts extending to 1993: Sterling Heights and Clinton Township. The three-year total

*This includes a 4.03 percent increase for Sterling Heights, computed by the City from increases of 3.0 percent on 7/1/91 and 2.0 percent on 1/1/92. (C-7)

increase offered by the City of 12.5 percent is more than the 11.53 percent agreed to in Sterling Heights and only 0.5 percent less than the three year total of 13.0 percent in Clinton Township. On the other hand, the Union offer totaling 17.0 percent is far in excess of both of these other cities. The City further notes that there are no 6.0 percent increases, as proposed by the Union for 1991 and 1992, on the record for any of the comparable cities. (Brief, p.29)

Analysis

Act 312 as amended has been in effect in Michigan since 1969. Many arbitration proceedings involving fire fighters have been conducted during the ensuing 22 years. Most contracts have been resolved by the parties through collective bargaining. Each negotiation and arbitration proceeds with full knowledge of what parties have agreed to in previous year settlements. Thus, the parties and arbitration panels do not start each negotiation and arbitration with a blank slate. Contract provisions and matters that are not in dispute, such as salaries of other officials, hours worked, bloc promotion, etc., that have been referred to above by both parties, should have little or no influence on the issues to be decided in the instant arbitration.

The important questions to be considered are the bargaining history of the parties as it affects the issues in dispute, comparisons with other comparable cities, agreements reached in comparable cities during the contract period to be covered in this

case, and major developments which have occurred during the arbitration proceeding.

Since 1973 the parties have agreed to six contracts, five through direct negotiations and one through Act 312 arbitration. During this same period, the police have been involved in Act 312 twice and negotiated agreements four times. Every one of these contracts maintained parity in wage increases between the fire fighters and the police. Particularly significant are the nine contracts (five Fire Fighter and four Police) arrived at by the parties through collective bargaining. While parity in wages and wage increases were maintained as part of negotiations which undoubtedly involved give and take on other parts of the agreements, the fact remains that the parties in both sets of negotiations ended up with parity on wages and wage increases between the Fire Fighters and the Police. For this bargaining history to be discontinued through arbitration, there would have to be evidence that Livonia fire fighters were being placed at a substantial disadvantage vis-a-vis fire fighters in other cities by adherence to wage parity with Livonia police.

The Union has argued that the full-paid fire fighter base wage of \$34,029 effective 12/1/89 put Livonia No. 10 among the 13 comparable cities. But this compares Livonia's wage before any increase with nine cities that had already increased wages in 1990 and six that had increased wages in 1990 and 1991. Only Southfield, Sterling Heights, Clinton Township, and Royal Oak paid

higher wages than Livonia in 1989. (C-27) By 12/1/90, nine cities had increased wages and Livonia fire fighters, who had not yet received an increase, ranked No. 8. The Union offer of 5.0 percent would raise fire fighters to \$35,730 and the City offer of 3.0 percent would yield a wage of \$35,050. Both offers would raise Livonia to No. 5, though the Union increase would do so at a higher wage. (C-28)

By 12/1/91, six other cities had increased wages. The Union offer of 6.0 percent would raise Livonia wages to \$37,153 ranking it No. 4 (behind Sterling Heights, Clinton Township and Southfield), if the City's first year offer was accepted, and \$37,874 if the Union's first year offer was accepted, ranking Livonia No. 3 behind only Sterling Heights and Southfield. If the City offer of 4.5 percent was accepted on top of its 3.0 percent offer on 12/1/90, wages would rise to \$36,627, ranking No. 5. If the City offer followed the Union's first year offer, wages would be \$37,338 ranking No. 4 among the comparable cities.

By 12/1/92 only two cities had settled their 1992 contracts: Sterling Heights with a 5.0 percent increase raised wages to \$40,713 and Clinton Township raised wages by 5.0 percent to \$39,710. The Union proposal of 6.0 percent would result in a wage of \$38,825 if it followed the City's offer in the first two contract years, putting it behind both Sterling Heights and Clinton Township. The City offer of 5.0 percent would yield a wage of \$38,458, if its offers for 1990 and 1991 were accepted, also

ranking No. 3. The following table shows all possible wages and rankings. (Based on Union Brief, p. 22)

12/1/90	Rank	12/1/91	Rank	12/1/92	Rank
35,730 (U)	5	37,874 (UU)	3	40,147 (UUU)	2
		37,338 (UC)	4	39,767 (UUC)	2
		37,153 (CU)	4	39,578 (UCU)	3
35,050 (C)	5	36,627 (CC)	5	39,380 (CUU)	3
				39,205 (UCC)	3
				39,009 (CUC)	3
				38,825 (CCU)	3
				38,458 (CCC)	3

U=Union; C=City

The wage differential, without any difference in ranking among comparable cities, that would result from the Union's last offer as compared to the City's for 12/1/90 cannot be justified by bargaining history at Livonia or by the 1990-91 wage increases negotiated by other cities. The average increase for these other cities was 3.67 percent. This is .67 percent higher than the City's offer of 3.0 percent and 1.33 percent below the Union's last offer of 5.0 percent.

None of the Union's reasons enumerated above can justify its offer in view of the fact that they all pertain to the situation that existed prior to the contract currently under discussion. Nor can the Union offer be justified by an increase in the cost of living since November 30, 1990. The Consumer Price Index for urban wage earners and clerical workers for the 12-month period

December 1, 1990 to November 30, 1991, increased by 2.7 percent which is less than the City's 3.0 percent offer for the same period. This is more relevant to the 1990-91 increase than the Union's citation of cost of living increases since 1987 (U-17), which shows a decrease in real earnings for fire fighters, or the City's citation of Consumer Price Index figures showing that real earnings of fire fighters would increase if its offer is accepted. (C-78, C-78A)

Since the panel must select one or the other last offer, the City's offer effective 12/1/90 comes closer to being reasonable than the Union's and is accepted.

The City's offer for 12/1/91 is also more reasonable than the Union's. The average increase for 1991-92 for the six cities that have settled was 3.84 percent. The City offer of 4.5 percent is much more consistent with increases in other cities than the Union's offer of 6.0 percent. For the two years 1990-91 and 1991-92, other city increases averaged 7.51 percent, which was almost identical with the City's combined offers of 7.50 percent and far below the Union's offers for the two years of 11.0, percent and also lower than a combined City and Union offer of 9.0 percent.

For the 1992-93 year the average for the two cities reporting increases was 5.0 percent. This was identical with the City's 5.0 percent offer and 1.0 percent lower than the Union's 6.0 percent offer. For all three years, Sterling Heights increases totaled 11.53 percent and Clinton Township's 13.0 percent. The average for

the two cities was 12.27 percent. The three City offers totaled 12.5 percent and the three Union offer 17.0 percent. However, since the City's offers for the first two contract years have been accepted, the more appropriate comparison is with the Union offer for 1992, following on the accepted 1990 and 1991 City offers. This makes the Union total for the three years 13.5 percent.

In considering the 1992 increase, we must also take into account the relative standing of Livonia vis-a-vis Sterling Heights and Clinton Township, in terms of both percentage increases and actual wage levels over the entire contract period of three years 1989-1992. The relevant figures are as follows:

Sterling Heights Increase 1989-92 = 13.1% (\$40713-:\$36006)
 Clinton Township Increase 1989-92 = 13.6% (\$39710-:\$34966)
 Two City Average = 13.3% (\$40212-:\$35486)

Livonia (CCC) Increase 1989-92 = 13.0% (\$38458-:\$34029)
 Livonia (CCU) Increase 1989-92 = 14.1% (\$38825-:\$34029)

The above comparison shows a difference between acceptance of the City's total offer for the three contract years to be .3 percent less than the Sterling Heights-Clinton Township average total increase, and acceptance of the City's offers for the first two years and the Union offer for 1992 to be .8 percent more than the two-city total.

A comparison of actual wage levels shows that if the City's 1992 offer is accepted, Livonia fire fighter annual wages would fall further behind both Sterling Heights and Clinton Township wages as of 1989: by \$278 and \$315 respectively. Acceptance of

the Union 1992 offer would still leave Livonia behind both of the other cities, but would narrow the difference by \$89 for Sterling Heights and by \$52 for Clinton Township. The difference between the average Sterling Heights-Clinton Township wage over Livonia during the three-year contract period would increase by \$297 (from \$1457 in 1989 to \$1754 in 1992) if the City's 1992 offer is accepted, while it would decrease by \$70 (from \$1457 in 1989 to \$1387 in 1992) if the Union 1992 offer is accepted, following acceptance of the City offers in 1990 and 1991.

Given the desirability of minimizing wage level differences between Livonia fire fighters and fire fighters in comparable cities over the entire contract period, and the very small difference in the effect of the City and Union percentage increases from 1990 to 1992, the Union offer of a 6.0 percent increase effective 12/1/92 is found to be more reasonable and is accepted.

E.M.T. Allowance

The parties have agreed to increase the allowance for the Emergency Medical Technician certification from \$700 to \$800 per year effective 12/1/90 and from \$800 to \$850 effective 12/1/91. The issue before the panel is whether there should be a further increase from \$850 to \$900 effective 12/1/92, as the Union proposes. The City opposes any increase in 1992.

Livonia fire fighters respond to medical emergencies which, according to the Union, have increased from 3,497 in 1987-88 to 3,873 in 1989-90, an increase of 11 percent. (U-6, 8) Each station

has a rescue squad which employs an ambulance to respond to calls in emergencies. The EMS (emergency rescue squad) evaluates the patient's condition, takes the necessary steps to stabilize the patient, and transports the patient to a hospital. All Livonia fire fighters are certified as EMT-D. The EMT certification requires a 15-week college-accredited course that includes basic life support systems, CPR, trauma care, oxygen therapy, childbirth. (Tr., II, 88) The EMT license is good for three years, and continuing education amounting to approximately 15 additional hours each year are required to maintain the certification.

The next level of certification is EMT-D which qualifies fire fighters to use a defibrillator to shock the heart in case of a heart attack and to insert an airway device into the esophagus-larynx area. (Tr. II, 90) The "D" certification requires an additional 30 hours of training. All Livonia fire fighters are certified at the EMT-D level.

The next higher level of certification is the LALS (Limited Advance Life Support system) which requires additional training. Finally, there is the ALS certification, a full paramedic, which calls for still further training.

Of the 13 comparable cities six, including Livonia, provide transport service to a hospital. The others use private ambulance services. The fire fighters in seven of the comparable cities are certified at the basic EMT level, one (Dearborn Heights) has LALS certification, and three (Pontiac, Southfield, and effective 1/1/92 Sterling Heights) are certified at the ALS level. (U-21)

The City argues that its position is supported by the history of parity with the police education allowance which was increased from \$700 to \$800 for 1990-91. The City expects that the police education allowance will follow the fire fighter EMT allowance for the last two years of the Fire Fighter contract as it has in the past. (C-40)

The Union notes that all cities, with the exception of Dearborn and Royal Oak, that provide emergency medical services pay a bonus for EMTs. The bonus, according to the Union, ranges from \$200 plus a salary increase of \$1,056 in Taylor, whose fire fighters have a basic EMT certification, to \$500 in Ann Arbor and Canton Township where fire fighters have basic EMT certification, to St. Clair Shores which pays \$700 for a basic EMT certification, to \$800 in Dearborn Heights where fire fighters have an LALS certification. The largest premiums, according to the Union, are paid by Pontiac - \$2,765, and Southfield - \$3,915, both in the form of salary increases for fire fighters with an ALS certification. (U-21, 22, 23) In Sterling Heights, which the Union considers to be the "logical comparison" with Livonia, fire fighters who soon will be providing EMT-D services, the same as Livonia, will receive an increase equivalent to five percent of salary or \$1,939. (Brief, pp. 24-25)

The City argues that nine of the twelve comparable cities do not pay EMT allowances for all department employees, as does Livonia. It points out that Southfield, Pontiac, and Taylor, do

not pay lump-sum allowances and pay higher salaries as part of base pay to a limited number of employees who are within the paramedic classification. Promotion and an ALS certification are required for fire fighters to receive additional pay. Livonia, on the other hand, pays a premium to all fire fighters and to the four fire prevention personnel. (Brief, pp. 43-44)

The varying certifications and methods of payment employed in the comparable cities are so different from one another as to make them of little relevance to the issue before the panel, namely the Union proposal for a \$50 increase in the third year of the contract. The City argument of parity with the Police is not relevant because the parties have already agreed to an increase from \$700 to \$800 in 1990-91 which, incidentally is higher than the Police Education Allowance of \$750 for that year according to the City's own exhibit. (C-40) The City expectation that the police education allowance will follow the fire fighter EMT allowance for the last two years of the Fire Fighter contract, is of no concern to this arbitration panel whose jurisdiction is limited to the Livonia-Fire Fighter contract.

The argument that Livonia pays all Fire Department personnel the EMT allowance while other cities pay such allowance only to certified personnel is also not persuasive, since all Livonia fire fighters are certified as EMT-D and this has not deterred Livonia from increasing its EMT allowance in the past.

City exhibit C-40 shows the bargaining history of the Livonia EMT/Police Education Allowance. Over the last two contracts the EMT allowance increased by \$150 for 1984-87, and \$200 for 1987-90. (The earlier contracts are too far removed from the current period and are less relevant.) The average increase over the two previous contracts was \$175. This is mid-way between the City offer of \$150 and the Union offer of \$200 for the three years of the contract in dispute. Considering that the cost of the Union proposal would be minimal--\$4,500 for the entire unit, it is found to be more reasonable than the City offer of no increase for 1992-93. The Union offer is therefore accepted.

Food Allowance

The parties have agreed to increase the food allowance from \$700 to \$800 effective 12/1/90, and from \$800 to \$850 effective 12/1/91. The Union proposes increasing the allowance to \$900 in the third contract year effective 12/1/92. The City proposes no increase for the third year.

Fire fighters work a 24-hour shift and are required to eat lunch and dinner at the station. Each fire fighter is required to contribute to a common fund for purchasing meals. Assistant Driver Paul DeNapoli testified that each fire fighter puts from \$6 to \$10 into a daily fund for meals for each of approximately 110 working days. In addition, each fire fighter contributes about \$7 a month into a fund for staples. (Tr. II, 92-94)

The Union calculates that, based on DeNapoli's testimony, each fire fighter spends about \$964 per year on food (\$8 per day average x 110 days = \$880; plus \$7 per month x 12 = \$84; \$880 plus \$84 = \$964). (Brief, p. 27) Thus the Food Allowance is regarded by the Union as a reimbursement for the actual cost of food. The Union notes that the Food Allowance has not been identical with the Police Gun Allowance over the years, noting variations in 1979-80, 1987-88, 1988-89, and 1989-90. (C-42)

The City contends that the Livonia Food Allowance is superior to that paid by comparable cities. (C-35, 36) Only Clinton Township which has agreed to an \$871 food allowance for 1992-93 exceeds the agreed upon \$850 1991-92 allowance which the City proposes to be carried forward to 1992-93. The City notes that only three other cities pay a food allowance to fire prevention personnel. The cost of food, according to the City, is irrelevant. The Food Allowance is merely another method of compensation as evidenced by the fact that it is also paid to fire prevention personnel who are not required to eat at fire stations.

The evidence indicates that the negotiated Food Allowance for 1991-92 for Livonia is far more than for any of the comparables except Clinton Township. This is evident from both City and Union exhibits. (C-35, U-26) The Union estimate that Livonia fire fighters spend \$964 per year for food or \$114 more than the \$850 agreed upon for 1991-92, is not sufficiently persuasive to overcome the wide disparity in food allowances paid in other cities where

there is no reason to believe the cost of food is lower than in Livonia. Furthermore, there is undoubtedly some saving in food costs that fire fighters would be spending if they ate at home rather than at the station.

The City offer of no increase for 1992-93 Food Allowance is considered more reasonable than the Union offer and is accepted.

Cleaning Allowance

The parties have agreed to increase the Cleaning Allowance from \$200 to \$250 effective 12/1/90, and from \$250 to \$300 effective 12/1/91. The Union proposes an increase to \$350 effective 12/1/92. The City proposes no change for the third year of the contract.

Livonia furnishes work uniforms to fire fighters and replaces them as necessary. Fire fighters are responsible for maintenance and cleaning of uniforms for which they receive an annual Cleaning Allowance. The average cost of uniforms to the City has been \$64.50 per fire fighter per year over the last five years. (U-45)

Comparable cities provide either a clothing allowance, a cleaning allowance, or both. According to the Union, the median combined allowance for fire suppression employees in the other cities is \$475 per year. (U-24) The Union notes that in other cities, which provide a clothing allowance, money not spent on uniforms can be retained by fire fighters.

The Union submits that since uniforms are furnished in Livonia but not in other communities, an accurate comparison requires adding the cost of furnished uniforms to the Cleaning Allowance in Livonia. This would result in a total cost to Livonia of \$364.50 (\$300 clothing allowance plus \$64.50 uniform cost). This would place Livonia No. 11 in clothing/cleaning allowance in the 13 comparable cities, or more than \$100 below the average computed by the Union. The Union proposed increase of \$50 would still leave Livonia below the average and would place it at No. 8 among the comparables.

The City submits that bargaining history has established a parity relationship between the fire fighters and the police. (C-41) The City takes issue with the Union's comparing the combined cost of clothing and cleaning allowance in other cities with the cleaning allowance plus the cost of uniforms to Livonia. When the cleaning allowance alone is used for comparison purposes, Livonia fire suppression employees rank in the top third of the comparable communities. (C-38, Brief, p. 47) In fact, the City notes that eight of the twelve comparables provide only a clothing allowance and no cleaning allowance for any employees. (Brief, p. 48)

The Union comparison of combining the cost of clothing and cleaning allowance for all cities is more appropriate than the City's argument that only the cleaning allowance should be compared. Obviously the clothing allowances in other cities of

\$300 to \$700 per year must assume that fire fighters will use whatever portion of those funds are necessary for replacement, maintenance and cleaning of uniforms. To the extent that they spend less than the allowed amount, employees can retain leftover funds as pointed out by the Union.

Once the Union's approach of considering total cost to the City of clothing plus cleaning is accepted, there is no question that Livonia employees are well below the average in comparable communities and that a \$50 increase effective 12/1/92 is justified. The Union offer is therefore deemed more reasonable and is accepted.

Dental Allowance

The parties have agreed to increase the maximum reimbursement for dental care from \$400 to \$425 effective 12/1/90, and to \$450 effective 12/1/91. Maximum accumulations have been increased to \$825 for 1990-91 and \$875 for 1991-92. The Union proposes a \$25 increase to \$475 effective 12/1/92 and a \$50 increase in the maximum accumulation of \$925. The City proposes no increase for 1992-93.

Livonia is the only city among the comparables that provides a dental reimbursement program. All other communities provide dental insurance which pays varying percentages for Class I (Diagnostic, Preventive), Class II (Prosthetic Appliances) and Class III (Orthodontics) coverages. Insurance coverage also has

annual and lifetime maximum caps ranging from \$600 to \$1,500. Both the Union and the City agree that because the Livonia program is unique, comparison with the comparable communities cannot be made.

The Union notes that the Livonia reimbursement program has advantages and disadvantages, depending upon the level and type of dental treatment utilized. It is not possible to determine actual cost of the Union's proposed increase because one cannot predict the extent to which employees will use the full reimbursement available. The maximum cost to the entire bargaining unit would be \$2,250 if each member used the full reimbursement.

The City, after stating that "comparison of the Livonia dental program must be made not with the comparable communities, but within the City itself, because it is a program unique to Livonia," proceeds to make such a comparison. We consider the City's initial observation valid and therefore will not detail its attempt at making a comparison.

Within Livonia, the City notes that there has been an established history of parity between fire fighters, police, and other employees "with little exception." (C-43, Brief, 51) But parity was broken by the parties' increase of dental reimbursement to \$425 in 1990-91 when other units had agreed on \$400, and again by agreeing to \$450 in 1991-92 when locals 192 and 1917 had agreed to \$425.

Most relevant is the fact that the Fire Fighter dental reimbursement has increased by \$25 each year since 1984-85. (C-43) Given the growing cost of dental care and the fact that this is a reimbursement program with a maximum cost of only \$2,250, the Union proposal is reasonable and is accepted.

Final Average Compensation

Under Section 25 of the parties' agreement, fire fighters eligible for Workers' Compensation (WC) benefits also receive, in addition to such benefits, an additional amount from the City, sufficient to bring their salaries to 100 percent of the salary after taxes that they would have received if they were not on Workers' Compensation. Under Section 29 (H), any WC benefits received are counted as part of Final Average Compensation (FAC) ultimately used to determine the individual's pension upon retirement. (Union Brief, p. 33)

The Union proposes that Section 29 (H) be modified to read:

An employee in receipt of on duty injury benefits pursuant to Section 25, shall have the wage component of final average compensation for pension purposes computed for the period that the employee is in receipt of such benefits based upon the gross bi-weekly salary rate that the employee would have received had the employee not been injured, instead of based upon the workers' compensation and supplemental benefits actually received. (Emphasis added.)

The City proposes that Article 29 (H) be modified to read:

For pension calculation purposes, Final Average Compensation (FAC) for a retiring employee who received worker's compensation benefits during one or more of his

FAC years shall be based upon the amount the worker received from his worker's compensation payment plus the amount of his worker's compensation supplement paid by the City.

The Union's proposal would change the existing arrangement by basing a worker's retirement benefit upon his salary before taxes rather than after taxes. The City proposal would maintain the status quo under which a retiring employee's final average compensation is based upon salary after taxes plus workers' compensation. The City's proposed language would clarify the existing language of Section 29 (H).

The parties agree that the existing language was developed through collective bargaining for the 1984-87 and 1987-90 contracts. In the 1984-87 agreement, the parties provided that the City would supplement an on-duty injured fire fighter's WC benefit by an amount equal to the difference between his WC benefit and his normal gross wages. Because WC benefits are not taxable, this had the unintended result of an injured fire fighter's net pay exceeding the net pay of an uninjured fire fighter at the same wage level.

There was also an effect upon the retirement pay of an injured fire fighter. A fire fighter's pension is computed on a percentage (depending on years of service) of FAC based on his highest three years earnings out of his last ten years of service. The 1984-87 contract provided that FAC for a fire fighter injured during one or more of his FAC years was based only on the City's supplement

without regard to WC benefits. This resulted in significantly reducing his retirement pension.

In order to avoid this outcome, the parties agreed in 1987 negotiations to include WC benefits as part of FAC, thereby increasing the pension of an injured retiring employee. At the same time, the parties also agreed to decrease the supplement paid by the City to any fire fighter suffering an on-duty injury by paying him the difference between regular weekly earnings, after taxes, and WC benefits rather than the difference between income before taxes and WC benefits. This arrangement also resulted in the net pay of injured employees not exceeding the net pay of non-injured employees.

The Union points out that under the 1987 agreement, an injured fire fighter would still be worse off upon retirement than a fire fighter who had not been injured. It therefore proposes to revise Section 29 (H) to provide that an injured fire fighter would have his FAC based on the salary he would have received if he had not been injured. It further notes that a fire fighter's actual supplemental pay would not be affected since it would still be based on net pay. However, his regular yearly income before taxes would be used to compute FAC just as it is for non-injured employees.

The Union points out that its proposal would only benefit a fire fighter who was injured during his last three years of service prior to retirement and that the City would still benefit from

paying supplemental pay based on net income to all injured fire fighters. The cost to the City, according to the Union, would be minimal and could even be nothing depending on the number of fire fighters injured during the last three years before retirement. Ann Arbor has an arrangement similar to the Union proposal. The practice in other Cities is not known.

The City does not take issue with the purpose and consequences of the Union proposal. However, it argues that the existing arrangement was arrived at through collective bargaining and represented a compromise whereby both parties benefitted. The Union now wishes to "substitute a fictitious accounting practice that was never previously contemplated" in their negotiations. (Brief, p. 54) "It's an imaginary sum . . . that was never paid him," according to testimony by Personnel Director Pomerville. (Tr. III, p. 77)

With regard to Ann Arbor, the City argues that the fact that only one of the twelve comparable cities follows the Union proposed procedure is hardly persuasive. "Furthermore, the Ann Arbor agreement is most specific in its contract language, representing the bargain struck in Ann Arbor." (Brief, pp. 55-56) The City claims that it is living up to its bargain while the Union is attempting to renege on the 1987 agreement.

Over the years since 1984, the parties have tried to equalize the income of a fire fighter injured in the line of duty with non-

injured fire fighters at the same wage level. They did this first by having the City supplement WC benefits by paying an injured fire fighter the difference between such benefits and what he would have received if he had not been injured. This had the unintended result of an injured fire fighter being paid more than an uninjured fire fighter because WC benefits are not taxable. To correct this outcome, the parties provided in their 1987-90 agreement to pay a supplement to an injured fire fighter based on earnings after taxes rather than before taxes. While this change achieved equality between the income of an injured and an uninjured fire fighter, it had the effect of creating a new inequality: it reduced the retirement income of a fire fighter who was injured during the last three years of service, which would usually be used to compute final average compensation, below that of a non-injured fire fighter at the same earnings level.

Given the parties laudable objective of trying to remove the disadvantage resulting from an on-duty injury, it seems only fair to do so not only prior to retirement but also after retirement. The Union proposal would have this effect. Furthermore, it would only affect fire fighters who are injured during the last three years prior to retirement. The Union proposal is therefore accepted.

Minimum Manning Eligibility

After the conclusion of the hearings, the parties reached a settlement on this issue and withdrew it from the arbitration.

Health Insurance Carrier

Pursuant to its authority under Section 423.238 of Act 312 as amended, the Panel decided to treat this issue as non-economic.

The Union has proposed that Section 23, Hospitalization Coverage, be modified as follows:

The City may fulfill its obligation under this article for providing hospitalization medical coverage by adopting a self insured program provided that the third party administrator of the program be Blue Cross/Blue Shield. Said self insured shall provide the same benefits as set forth in this Article.

During the term of this agreement, the City may ask to re-open the agreement for the purpose of negotiating a change in the third party administrator from Blue Cross/Blue Shield, so long as the benefits provided remain the same as set forth in this Article. The City agrees to provide the Union with written notice of a proposed change in the third party administrator at least 90 days before the proposed effective date of such change and shall provide the Union with any information requested concerning the proposed administrator. If a dispute arises between the parties concerning the change, the dispute shall be resolved through the negotiation/mediation/arbitration procedure set forth in the 1969 PA 312, MCLA 423.231, et seq., with implementation of the proposed change awaiting the final outcome of arbitration.

The City has proposed that the following language be added as a sub-part to Section 23 of the contract:

The City may fulfill its obligation under this Section 23 for providing hospitalization/medical coverage by adopting a self-insured program with a third-party administrator as selected by the City. Said self insured program shall provide the same benefits as set forth in this Section 23.


The Panel has agreed that the following language be added to
Section 23 of the Agreement:

The City may fulfill its obligation under this article for providing hospitalization medical coverage by adopting a self insured program which shall provide the same benefits as set forth in this Article.

During the term of this Agreement, upon request of the City, the parties agree to reopen the Agreement for the sole purpose of negotiating a change in the third party administrator from Blue Cross/Blue Shield, so long as the benefits provided remain the same as set forth in this Article. The City agrees to provide the Union with written notice of a proposed change in the third party administrator at least 90 days before the proposed effective date of such change and shall provide the Union with any information requested concerning the proposed administrator. If a dispute arises between the parties concerning the change, the dispute shall be resolved through the negotiation/mediation/arbitration procedure set forth in the 1969 PA 312, MCLA 423.231, et seq., with implementation of the proposed change awaiting the final outcome of arbitration.

February 14, 1992

Dated



Jack Stieber

Arbitrator and Chairperson

AWARD**Act 312 Arbitration: City of Livonia - Livonia Fire Fighters Union****Panel Members' Votes on Issues**

<u>Economic Issues</u>	<u>Chairperson</u>	<u>Union Delegate</u>	<u>City Delegate</u>
I. Wages			
A. 12/1/90 Increase City Offer of 3.0% Accepted	<u> X </u>	<u>Dissent</u>	<u>Concur</u>
B. 12/1/91 Increase City Offer of 4.5% Accepted	<u> X </u>	<u>Dissent</u>	<u>Concur</u>
C. 12/1/92 Increase Union Offer of 6.0% Accepted	<u> X </u>	<u>Concur</u>	<u>Dissent</u> <i>See Dissent</i>
II. EMT Allowance 1992-93 Union Offer of Increase from \$850 to \$900 Accepted	<u> X </u>	<u>Concur</u>	<u>Dissent</u> <i>See Dissent</i>
III. Food Allowance 1992-93 City Offer of No Increase Accepted	<u> X </u>	<u>Dissent</u>	<u>Concur</u>
IV. Cleaning Allowance 1992-93 Union Offer of Increase from \$300 to \$350 Accepted	<u> X </u>	<u>Concur</u>	<u>Dissent</u>
V. Dental Allowance 1992-93 Union Offer of Increase from \$450 to \$475 with Maximum of \$925 Accepted	<u> X </u>	<u>Concur</u>	<u>Dissent</u>
VI. Computation of Final Average Compensation. Union Offer of Using Gross Bi-Weekly Salary Accepted	<u> X </u>	<u>Concur</u>	<u>Dissent</u>
VII. Minimum Manpower. Settled by Parties			

Non-economic Issue

VII. Health Insurance
Carrier
Union offer as modified
on Page 34 is accepted.

XConcur
as modifiedConcur
as modified


Chairperson


Union Delegate

February 14, 1992
Dated

City Delegate

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the Matter of Act 312
Arbitration Between:

THE CITY OF LIVONIA

MERC Case No. D90 G-1154

-and-

LIVONIA FIRE FIGHTERS UNION

Impartial Arbitrator and Chairperson: Jack Stieber
City Designee: Raymond Pomerville
Union Designee: Paul DeNapoli

CITY DELEGATE DISSENT

In the midst of a recession, with increasing unemployment, interest and inflation rates at a thirty-year low, and the City losing millions of dollars in state-shared revenues, the majority has opted to award a 6% pay increase for the 1992-93 contract year. Such an increase has no factual basis. I therefore respectfully dissent from this part of the Panel's decision.

At page ¹²⁻¹³ 9, the Panel writes:

The important questions to be considered are the bargaining history of the parties as it affects the issues in dispute, comparisons with other comparable cities, agreements reached in comparable cities during the contract period to be covered in this case, and major developments which have occurred during the arbitration proceeding.

The evidence on all of these points is undisputed. From a comparable perspective, the City's 5% offer for the 1992-93 contract year is unquestionably the only acceptable one. It is identical to the agreements of both Sterling Heights and Clinton Township, the only other communities with contracts extending through 1993, and the highest offer for any single

year. There are no 6% increases for any comparable community anywhere in the record, for any year. 5% is the maximum for everybody, and 5% is exactly the City's offer for 1992-93.

The same conclusion readily follows when "major developments" are factored into the equation. It is difficult to imagine any more compelling major developments than the vastly deteriorating economy and its devastating impact on municipal government. In the midst of a state-wide property tax freeze and severe indefinite limitations on all other meaningful revenue raising options, the City has lost hundreds of thousands of dollars in business taxes and state-shared revenues. This is not a mere projection, but the painful reality! City Finance Director David Preston explained to the Panel as recently as a month ago that the City has experienced "about a \$1,460,000 shortfall of expenses over revenue," since last December alone. (Tr. Vol. 6, pgs. 43-44).

Unless the economy improves dramatically overnight, which is more than even the most optimistic are willing to predict, significant cuts in all areas of City government are inevitable. This means that services could be cut and employees could be laid off.

Without support by the comparables and major developments, the majority rationalizes the 6% increase in 1992-93 on "the desirability of minimizing wage level differences between Livonia fire fighters and fire fighters in comparable cities". (Opinion at page ¹⁸14). Comparing only initial firefighter-level wages, the majority reason that "if the City's 1992 offer is accepted, Livonia fire fighter annual wages would fall further behind both Sterling Heights and

Clinton Township wages". (Opinion at page ¹⁷13).

At page ⁸8 the Panel Chairman writes:

My own view with respect to the issue of parity is part and parcel of my approach to interest arbitration generally. Arbitration is a poor alternative to collective bargaining. Agreements reached through negotiations by the parties are better indicators of the values placed by unions and managements on the various issues to be included in their agreements than awards arrived at through arbitration. In this respect I agree with Clark Kerr who wrote:

There is no magic formula for wage adjudication. Consequently one of the compelling considerations must be what has happened in free and successful collective bargaining. This indicates how experienced bargainers have evaluated the wage influencing factors which have evidenced themselves and what they consider to be "just." (Quoted in Elkouri and Elkouri, How Arbitration Works, 4th ed., p. 804)

And this is the point. Over the years, the parties have recognized a block system in which the fire fighters are automatically promoted. As a result, fire fighters retire at a minimum at the rank of lieutenant, if not battalion chief. With this phenomena, the parties have always negotiated across-the-board wage increases, namely, the same wage increase for every rank. As a result, from the rank of engineer up, Livonia has always been number two or number one in pay. Importantly, almost half of the bargaining unit are of the rank of engineer and above. Thus, when the Chairman makes the comparisons at pages ¹⁶12A and ¹⁷13, the Chairman ignores this bargaining history. He recognizes that the City's three-year offer, including 5% effective December 1, 1992, is 12.5% and as such is higher than Sterling Heights' 11.53% and a half point

less than Clinton Township and above the average of Clinton Township and Sterling Heights of 12.27%. By adopting the Union's 6% last best offer for the third year of the Agreement, the total wage increases for three years will be 13.5% which is higher than any comparable community. When one applies the City's last best offer for the third year, those at the rank of engineer or above will continue to be number one or two. This is the pattern of bargaining in Livonia. By the analysis at page 13, the Chairman ignored this pattern of bargaining, though recognizing at pages 3 and 4 the need to consider the parties' bargaining history. The 12.5% is above the two city average and it was designed this way recognizing the realities of bargaining in Livonia.

The table at page ¹⁷13 of the majority's Opinion takes into account the compounding effect of the yearly raises, and in doing so confirms the fact that the City's compounded offer of 13% is closer to the two city average (Sterling Heights-Clinton Township) of 13.3%. While the City's offer is .3% below this two city average, the majority opinion is .8% higher than said average. Yet, a majority of the City's fire employees under the City's offer, wage-wise, would be ranked at one or two when contrasted with the comparables. Clearly, the City's offer is more reasonable.

The obvious fallacy of the majority's reasoning is that it arises from an assumption inapplicable to over half of the Livonia Fire Department. It was undisputed throughout this proceeding that base-classification fire fighters comprise only 40 of the City's 90 total fire employees -- or less than 45% of all employees. (See Exhibit C-10). A forthright evaluation using the City's 5% proposal for 1992-93 and comparing wages of

all Livonia employees to their counterparts in Clinton Township and Sterling Heights, as reflected in Exhibits C-15 and C-19, actually reveals the following:

	<u>Livonia^{1/}</u>	<u>Sterling Heights</u>	<u>Clinton Township</u>	<u># in Livonia Class</u>	<u>Class Rank</u>
Firefighter	38,458	40,713	39,710	40	3
Sr. Firefighter	40,381			0	1
FF Asst. Driver	40,433			12	2
FF Engineer	42,384	41,934		10	1
FF EMT		42,749		0	2
Sergeant			42,887	0	2
Lieutenant	46,168	45,598	46,318	10	2
Captain	50,800	49,045	50,023	10	1
Sr. Captain	54,607			2	1
Batt. Chief	58,392	53,184		2	1
Asst. Chief		57,440			
Inspector	46,168	50,228	46,318	1	3
Sr. Inspector	50,800			1	1
Marshall	58,392	54,245	51,524	1	1
Training Officer	58,392	54,245	51.524	1	1

This breakdown readily shows that the wages of 49 of 90 total Fire Department employees, almost 55%, rank either first or second within their respective classifications. The majority's desire to minimize expanding wage differentials by accepting the Union's 6% increase therefore is more counterproductive than productive. Since nearly 55% of all Livonia Fire Department employees are paid more than certain or all of their counterparts elsewhere, the 6% increase, which is higher than any other, only serves to further exaggerate Livonia's existing wage superiority. Moreover, the City's 5% increase actually even improves its employees' positions as compared to their counterparts in Sterling Heights and Clinton

^{1/} Figures based upon City's last best offer of 5% for 1992-93.

Township. When the City's proposed 5% increase is evaluated on a department-wide basis, the majority of Livonia fire fighters gain.

Acceptance of the Union's 6% proposal for the majority-stated reasons actually flies in the face of established bargaining history. Livonia's various job and wage classifications, as well as their comparative positions vis-a-vis comparable communities such as Sterling Heights and Clinton Township, have evolved through years of collective bargaining. Any initial wage disparity experienced by entry level fire fighters is more than made up at the higher classifications. Unlike all of the other comparable departments, promotion in Livonia is automatic because the parties have agreed that it would be. Obviously, any minor initial disparity is part of a larger trade off that affords all employees with an enormous long-term benefit. Again, this is true not only with respect to Livonia as an entire department, but also true as Livonia compares to all other comparable communities, such as Clinton Township and Sterling Heights.

The majority is therefore rejecting a wage relationship that the parties have been willing, through collective bargaining, to mutually accept for years. The Union has never elected to make a bifurcated wage offer as between entry level fire fighters and those with rank. The Union has been willing to accept this result of collective bargaining. The Panel should not reverse this bargaining history.

Because none of the Panel's "important questions" are answered in the Union's favor on this issue, it is difficult to resist the obvious. Although the union has not made any

acceptable wage proposals, the majority nevertheless feels obliged not to agree with all of the City's. This is even apparent from language in the Opinion at page 12¹⁷A:

However, since the City's offers for the first two contract years have been accepted, the more appropriate comparison is with the Union offer for 1992, following the accepted 1990 and 1991 City offers.

However, it is not the Panel's position to accommodate for either party's shortcomings. The fact that all of the Union's wage proposals are manifestly unreasonable is simply not the Panel's fault. The Panel is only responsible for selecting the most reasonable position in light of all of the relevant facts and circumstances.

The difficulty with awarding 6% in the third year not only ignores the higher ranks in Livonia and the effect that, at 5%, half of the Department is number one and two, but in a depressed economy with many cities having financial difficulty, the 6% will be looked at as a guide whereby 6% has not been awarded by anyone in these economic times. The City, by having parity, will be faced with higher costs in negotiating with the police. The City is currently in negotiations with the police for the years beginning December 1, 1991. The 6% award sets a difficult precedent for hard-pressed municipalities in the hard-pressed Michigan economy. It sets the basis for potential layoffs in Livonia. The City's last best offer at 5% continues the City of Livonia fire fighters at a favorable comparable position.

Recognizing that the Panel Chairman has agreed that the dynamics in collective bargaining must be considered, it is difficult to believe that the parties in bargaining would have

reached an agreement at 6% for 1992-93 when the fire fighters have not established that they have in comparable communities reached, at any point in the last three years, a 6% annual increase in across-the-board wages. Furthermore, it is doubtful that the fire fighters, or any other bargaining unit in the City, would successfully negotiate wage increases that are substantially ahead of the cost of living and will set the foundation for layoffs of City employees. This entire tri-county area, as well as the State, is still in a shock and expects further shocks with the unprecedented layoffs in the auto industry which dictates that public employees in a city such as Livonia, that is paying most comparable wages, would have arrived at an agreement that sets the stage for layoffs.

If the Panel should award the City's last best offers for all three years, it would encourage more realistic bargaining on the part of all cities if this happened in this case. Otherwise, a 6% increase in the third year would have a chilling effect on future offers from the City because it would discourage honesty and candor at the bargaining table.

I must therefore respectfully DISSENT from the award of 6% in wages for the 1992-93 contract year.

I also DISSENT, for essentially the same reasons, from the majority's decision to accept the Union's proposed EMT-allowance increase from \$850 to \$900 for the 1992-93 contract year. The evidence on this issue was similarly undisputed. Of all comparable communities offering allowances to all employees, the Livonia allowance was the absolute highest! (Exhibits C-33 and C-34). In light of the City's existing superiority and the

staggering economy, the status quo is the only logical alternative on this subject.

To the majority, however, the Union's position apparently is more reasonable because the allowance has always increased in the past and the \$4,500 total cost "would be minimal". (Opinion at pgs. ²²15, 16). As noted in the quotation set forth at page 1 of this Dissent, the Panel refers to "important questions". And minimal amounts is not listed as one of the important questions by the Panel to be considered. The Panel emphasizes comparables and bargaining history. The comparables do not justify any increase in the EMT. The EMT increases that did come about came about in the first or second year of the contract by bargaining before this matter reached Act 312. Neither the bargaining history nor the comparables would justify further increases in the third year of the contract.

As a group, Livonia Fire Fighters are already paid more than any of their counterparts. The City is losing hundreds of thousands of dollars in business and property taxes and state-shared revenues. And nearly half of all other comparable communities do not pay any allowance at all, although their fire fighters do basically the same thing as Livonia's! An increase of any amount under these circumstances is simply illogical.

The City Delegate recognizes that the Chairman, for reasons set forth in the Opinion, on behalf of the majority, has accepted the last best offers of the Union as to clothing allowance, dental, cleaning allowance and computation of final average compensation. Although the City Delegate disagrees with such awards, the error in those areas is not as obvious as to

the 6% offer acceptance for the 1992-93 year and the EMT
acceptance for the 1992-93 year.

Raymond Pomerville
RAYMOND POMERVILLE
City Delegate

February 12, 1992