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STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION

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~~8-17-87~~  
8/17/87

IN THE MATTER OF THE ACT  
312 ARBITRATION BETWEEN:

CITY OF MANISTEE,

Case No. 685 H-875

-and-

Ruth E. Kahn, Chairperson

POLICE OFFICERS ASSOCIATION  
OF MICHIGAN

ACT 312 ARBITRATION AWARD

The arbitration panel having convened and reviewed the stipulations of the parties, the evidence presented, and the statutory criteria, the following award is issued:

1. The new collective bargaining agreement shall be comprised of the compilation of tentative agreements attached hereto and the matters set forth in this award.

2. Indemnification. Section 3.5. Indemnification shall read as follows:

Section 3.5. Indemnification. The Union agrees to indemnify and hold the City harmless against any and all claims, demands, suits, or other forms of liability that arise out of or by reason of action taken by the City pursuant to Sections 3.2, 3.3 and/or 3.4.

3. Management Rights. Section 4.1 Management Rights shall read as follows (old CBA language):

Section 4.1 Management Rights. The City retains and shall have the sole and exclusive right to manage and operate the City in all of its operations and activities. Among the rights of the City, included only by way of illustration and not by way of limitation, is the right to determine all matters pertaining to the services to be furnished and the methods, procedures, means, equipment, and machines required to provide such service; to determine the nature and number of facilities and departments to be operated and their location; to determine the number of personnel required; to direct and control operations; to discontinue or reorganize any part or all of its operations; to continue and maintain its operations as in the past; to study and use improved methods and equipment and outside assistance either in or out of the City's facilities; and in all respects to carry out the ordinary and

*Manistee, City of (Arb.)*

customary functions of management, provided however, these rights shall not be exercised in violation of any specific provision of this Agreement. The City shall also have the right to hire, promote, assign, suspend, discipline, and discharge for just cause, layoff and recall personnel; to establish work rules and to fix and determine reasonable penalties for violations of such rules; to make judgments as to ability and skill; to establish and change work schedules; to establish classifications of work and to maintain order and efficiency, provided, however that these rights shall not be exercised in violation of any specific provision of this Agreement.

4. Rules and Regulations. Section 4.2. Rules and Regulations shall read as follows (old CBA Section 16.6):

Section 4.2. Rules and Regulations. The City reserves the right to establish, from time to time, reasonable rules and regulations governing the conduct of its employees and to fix and determine penalties for such rules. The Chief of Police shall cause such rules, including any deletions or amendments, to be published in a Departmental manual. Employees covered by this Agreement shall receive a copy of the manual and any deletions or amendments thereto. Employees shall sign a statement indicating that they have received a copy and an explanation of the manual and any subsequent deletions or amendments. This Agreement shall take precedence over any conflict that may arise between this Agreement and the manual published by the Employer. The Union reserves the right to grieve the reasonableness of any rule or regulation at the time such rule or regulation is enforced.

5. Arbitrators Powers. Section 6.3. Arbitrator's Powers and Jurisdiction shall read as follows:

Section 6.3. Arbitrator's Powers and Jurisdiction. The arbitrator's powers shall be limited to the application and interpretation of this Agreement as written. The arbitrator shall at all times be governed wholly by the terms of this Agreement and shall have no power or authority to amend, alter or modify this Agreement either directly or indirectly. If the issue of arbitrability is raised, the arbitrator shall only decide the merits of the grievance if arbitrability is affirmatively decided.

6. There shall be no section on multi-forum waiver or arbitration after termination of agreement.

7. Paid Sick Leave. Section 9.1. Paid Sick Leave shall read as follows:

Section 9.1. Paid Sick Leave. It is agreed that employees shall earn and be granted sick leave of absence with pay under the following conditions and qualifications:

- (a) Upon completion of one (1) year of service, each full time employee shall be credited with six (6) days of sick leave and will thereafter earn sick leave at the rate of one half (1/2)

working day for each full month of employment, exclusive of leaves of absence unless otherwise specifically provided to the contrary. Paid sick leave and sickness and accident insurance payments may be used to achieve a full month of employment for a period of up to thirty (30) consecutive days.

(b) Each day of sick leave credits shall equal eight (8) hours' pay at the employee's regular hourly rate of pay when he takes his sick leave.

(c) Medical certification will not generally be required to substantiate sick leave of absence of three (3) consecutive working days or less; however, medical certificates, or, in lieu thereof, a signed written statement from the employee setting forth the reasons for the sick leave, may be required for each absence, regardless of duration, if the City has reason to believe the employee is abusing his sick leave privileges.

(d) At the end of each calendar year, all accrued but unused sick leave in excess of six (6) days shall be multiplied by the employee's straight time rate of pay, and one-half (1/2) that amount shall be paid to the employee.

(e) All accrued but unused sick days in excess of six (6) days as of June 30, 1987 shall be multiplied by the employee's straight time rate of pay in effect as of June 30, 1987 and placed in the monetary bank. The amounts in this shall be eligible for payment to the employee in accordance with the following:

(1) To supplement workers compensation or sickness and accident insurance benefits paid to an eligible employee, provided, however, the sum of any such sickness and accident insurance benefits and supplemental workers compensation payments shall not exceed one hundred percent (100%) of the employee's normal gross weekly wages (based upon forty (40) hours of work per week).

(2) Following exhaustion of the sickness and accident insurance benefits provided by the Employer's insurance carrier, the employee may draw from his "bank" a weekly amount not to exceed one hundred percent (100%) of his normal gross weekly wages (based upon forty (40) hours of work per week).

(3) To pay for continuation of insurance benefits after the completion of the periods set forth in Section 14.5. Obligation to Continue Payments.

(4) Upon death or retirement under the City's retirement system, the employee or his designated beneficiary will be paid any amounts remaining in this monetary bank, up to a maximum of four hundred eighty

(480) times the employee's straight time rate of pay in effect at the time of the employee's death or retirement.

8. Disability Leave. Section 9.3. Disability Leave shall read as follows:

Section 9.3. Disability Leave. A disability leave of absence will be granted to employees who have been absent for more than five (5) consecutive working days and are unable to work for the City because of a non-work related injury, illness, pregnancy or other disability, subject to the City's right to require a physician's certificate establishing to the satisfaction of the City that the employee is incapacitated from the performance of work due to illness, injury or other disability. During a disability leave, an employee shall receive paid sick leave under Section 9.1. Paid Sick Leave and sickness and accident insurance payments under Section 14.2. Sickness and Accident Insurance, but otherwise the leave shall be without pay or benefits except as provided in Section 14.5. Obligation to Continue Payments. This disability leave will continue for the period of the employee's disability; provided, however, that an employee may not be on a disability leave for a period of more than twelve (12) consecutive months. The City may request at any time, as a condition of continuance of a disability leave of absence, proof of a continuing disability. In situations where the employee's physical or mental condition raises a question as to the employee's capacity to perform the job, the City may require a medical examination by a physician chosen by the City at its cost, and, if appropriate, require the employee to take a leave of absence under this Section. Employees are required to notify the City of any condition which will require a leave of absence under this Section together with the anticipated date for commencement of such leave. This notice shall be given to the City by the employee as soon as the employee is first aware of the condition. Employees who are anticipating a leave of absence under this Section may be required to present a physician's certificate recommending that the employee continue at work and in all cases, the employee's attendance and job responsibilities must be satisfactorily maintained. All employees returning to work from a disability leave of absence must present a physician's certificate establishing to the City's satisfaction that the employee is medically able to perform the employee's job.

9. Sickness and Accident Insurance. Effective 7-1-87 or such later date if such coverage has not yet been secured Section 14.8. Sickness and Accident Insurance shall read as follows:

Section 14.8. Sickness and Accident Insurance. All full-time employees shall be eligible for sickness and accident insurance coverage in an amount equal to seventy percent (70%) of their normal gross weekly wage (based upon forty (40) hours of work per week). These benefits shall be payable from the first (1st) day of disability due to accidental bodily injury or hospitalization or the eighth (8th) day of disability due to sickness, for a period not to exceed twenty-six (26) weeks for any one (1) period of disability. Except as provided in subsection (e) of Section 9.1. Paid Sick Leave, no employee shall duplicate or pyramid paid sick leave and sickness and

accident benefits. The City agrees to pay the total premiums required for eligible employees.

10. Holidays. Section 10.3. Holiday Work and Section 10.5. Holiday Benefit shall read as follows (old CBA sections 10.3 and 10.5):

Section 10.3. Holiday Work. An employee who works on a holiday shall be paid at the rate of double time, provided he was not regularly scheduled to work that day. Any employee who works overtime on a holiday shall be paid at the rate of double time.

Section 10.5. Holiday Benefit. Each employee shall be granted eight (8) hours' compensatory time off with pay, or eight (8) hours' pay, at the employee's option, for each of the recognized holidays for which he is eligible.

11. Workweek. Section 12.1. Work Period shall read as follows:

Section 12.1. Work Period. The normal work period for employees shall consist of twenty-eight (28) consecutive days. The normal tours of duty for employees shall consist of one hundred sixty (160) hours in a work period. These tours of duty shall be arranged in shifts by the Chief of Police and will normally consist of eight (8) hours per day.

12. Call Back Pay. Section 12.4. Call Back Pay shall read as follows (Old CBA section 12.4):

Section 12.4. Call Back Pay. Whenever an employee is called back to work after having completed his regular shift, he shall receive a minimum of four (4) hours' pay at his base rate (wage) or time and one-half (1-1/2) for the hours worked, or whichever is greater. For work performed in the excess of four (4) hours on call-in time, the employee shall receive eight (8) hours of pay at his base rate or time and one-half (1-1/2) for the hours worked, or whichever is greater.

13. Shift Premium. Section 12.5. Shift Premium shall read as follows:

Section 12.5. Shift Premium. In lieu of the shift premiums previously paid, \$350 was added to the salary structure on July 1, 1987 after the salary increases effective on that date were computed.

In addition, the following sentence from Section 12.2. Work Schedule is to be deleted:

Should an employee's shift be temporarily changed, the employee will receive the shift premium of the shift to which he is transferred or the shift premium the employee was receiving prior to the temporary change, whichever is higher.

14. Overtime Pay. Section 12.8. Overtime Premium Pay shall read as follows:

Section 12.8. Overtime Premium Pay. Time and one-half (1-1/2) the employee's straight time regular rate of pay shall be paid for all hours worked over eight (8) in a day and/or one hundred sixty (160) in a twenty-eight (28) day work period. For purposes of this section, hours would include hours compensated.

15. Retiree Insurance. Section 14.5. Retiree Insurance shall read as follows:

Section 14.5. Retiree Insurance. The following shall apply to employees who retire after July 1, 1985: Upon receipt of retirement benefits until age 62, the retiree shall be entitled to the same health and dental insurance coverage as is provided to employees, including dependent coverage, so long as the retiree pays 50% of the premium for said coverage; the City shall pay the remaining 50% of the premium for said coverage. From age 62 until age 65 or eligibility for Medicare, whichever comes first, the City shall pay 100% of the premium for said coverage.

16. Obligation to Continue Payments. Section 14.6. Obligation to Continue Payments shall reflect a twelve (12) month insurance premium continuation while on Workers Compensation Leave.

17. Health Insurance Payments. Section 14.7. Health and Dental Insurance Payments shall read as follows:

Section 14.7. Health and Dental Insurance Payments. The City agrees to pay the entire premium for single subscriber, two person and family coverage for eligible employees who elect to participate in the hospitalization and dental insurance plans. The City's liability under this section shall be limited to these payments.

18. Eyeglasses. Section 15.5. Eyeglasses shall read as follows:

Section 15.5. Eyeglasses. The City agrees to replace eyeglasses if such items are damaged while in the line of duty. Replacement will be allowed at the employee's regular optometrist.

19. Shoes and Flashlight. Section 15.6. Shoes and Flashlight shall read as follows (old CBA section 15.6):

Section 15.6. Shoes and Flashlight. The City shall furnish or pay for one (1) pair of shoes per year for each employee. The City shall furnish a flashlight as part of the required equipment.

20. Residency. Section 16.4. Residency shall read as follows (old CBA section 16.5):

Section 16.4. Residency. An employee may reside anywhere within the City of Manistee or within any of the four (4) named townships of Manistee County: MANISTEE, FILER, STRONACH, and BROWN TOWNSHIPS. Employees hired after July 1, 1987 must reside in the

City of Manistee for the first 24 months after completion of their probationary period.

21. Maintenance of Conditions. Section 16.8. Maintenance of Conditions shall read as follows:

Section 16.8. Maintenance of Conditions. Mandatory conditions of employment in effect at the execution of this Agreement not otherwise covered by this Agreement shall be maintained during the term of this Agreement, provided, however, that this clause shall not be used to enforce any practice not known and allowed to exist as a practice by the City. The City will make no unilateral reduction in wages, hours, or changes in conditions of employment provided for in this Agreement during the term of this Agreement.

22. Term of Agreement. Section 17.1. Term of Agreement shall read as follows:

Section 17.1. Term of Agreement. This Agreement shall become effective on the date executed and shall remain in full force and effect through June 30, 1988, at 11:59 p.m. and thereafter for successive periods of one (1) calendar year unless either party shall on or before the ninetieth (90th) calendar day prior to expiration deliver written notice to the other party of a desire to terminate, modify, alter, negotiate, change or amend this Agreement. A notice of desire to modify, alter, amend, negotiate or change or any combination thereof shall have the effect of terminating the entire Agreement on the expiration date in the same manner as notice of desire to terminate.

23. Extension of Agreement. Section 17.2. Extension shall read as follows (old CBA section 17.2):

Section 17.2. Extension. In the event that negotiations extend beyond the said expiration date of this Agreement, the terms and provisions of this Agreement shall remain in full force and effect pending agreement upon a new contract.

24. Pension Multiplier. The current pension plan in the City of Manistee Charter Section 12-17.1(a) shall be modified effective as of July 1, 1987 to provide the following benefit levels:

(a) A non-covered police member shall receive a straight life pension equal to 2% of the member's final average compensation multiplied by the first 25 years of service credited to the employee, plus 1.50% of the member's final average compensation multiplied by the number of years and fraction of a year of service rendered in excess of 25 years but less than 31-2/3 years, plus 1.0% of the member's final average compensation multiplied by the number of years and fraction of a year of service rendered in excess of 31 2/3 years. In the event that a member has years of service at 1.65% as of July 1, 1985 that would entitle the member to a straight life pension of more than 50% of the

member's final average compensation, then that member's pension shall be equal to the number of years and fraction of year of service rendered prior to July 1, 1985 multiplied by 1.65% of the member's final average compensation plus the number of years and fraction of a year of service rendered after June 30, 1985 multiplied by 2.0% of the member's final average compensation, the provisions of the foregoing concerning 2%/1.50%/1.0% pension crediting notwithstanding.

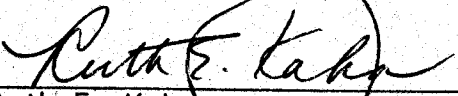
This pension change shall not be effective unless it is determined in City of Manistee v POAM, Court of Appeals No. 98611, that the City of Manistee has the legal authority to modify its charter pension plan without a vote of its citizens, subject to the right of either party to appeal an adverse ruling to the Michigan Supreme Court, or if the citizens of the City of Manistee approve removal of the substantive provisions of the pension plan out of the City Charter. In the event that it is determined that the City does not have legal authority to modify the pension plan without a vote of the public, the proposed change shall be placed for approval by the electorate at the next election availability or at a special election, at the option of the Union.

25. Wages. Appendix A shall be modified by increasing all steps 3.0% as of the first full pay period on or after July 1, 1985, 3.0% as of the first full pay period on or after July 1, 1986, and 4.0% as of the first full pay period on or after July 1, 1987.

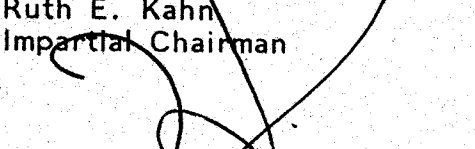
The City shall make wage payments to all employees at the rates called for in this proposal retroactive for all hours compensated to the first full pay period on or after 7-1-85, and the parties stipulate to withdraw that issue from the present appeal in City of Manistee v POAM, Court of Appeals No. 98611.

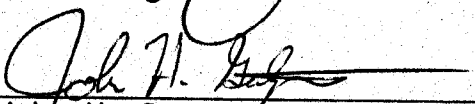
26. Appendix B will be modified to add PREVENT.

27. Modify Section 13.2. Longevity. to change \$15 to \$25 and raise the cap to \$500, effective 7-1-87.

  
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Ruth E. Kahn  
Impartial Chairman

Date: August 7, 1987

  
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William Birdseye, POAM Delegate  
concurring in award

  
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John H. Gretzinger, City of  
Manistee Delegate concurring  
in award