In the matter of

Marine City

and

FILE COPY

Fraternal Order of Police
MERC Act 312 Case No. D88 0-1104

The proceedings were held in accordance with provisions of Act 312. A pre-hearing conference was held on February 1, 1989 and hearings on June 2 and 8, 1989. The Employer was represented by Mr. Brian S. Ahearn, Attorney, and the Union by Mr. David K. Sucher, Attorney. Other members of the panel were Mr. Joe Fremont for the Employer and Mr. Jerry Caster for the Union. A record of the proceedings was taken and transcribed by Mr. Philip Liburdi (June 2nd) and Ms. Susan Beale (June 8th). Last best offers were submitted August 9, 1989 and post-hearing briefs August 30, 1989. The parties waived time limits specified in the statute. They acknowledged the panel's jurisdiction in the dispute.

Witness for the Union:
Nancy Ciccone
Paul McAlpine

For the Employer:
Glen E. McBride
George Joachim
Joe Fremont
John Kelly
Loretta Vandric

INTRODUCTION

This Act 312 arbitration addresses and resolves the various terms of the parties 1988-91 collective bargaining agreement.

At the pre-hearing conference, the parties stipulated the outstanding issues were those covered in the Union's petition for arbitration with the addition of the Employer's position on cost-of-living allowance.

1. Court Time Minimum
2. Shift Selection by Seniority
3. Vacation Increase
4. Vacation Pay Off
5. Orthodontics Coverage
6. Wages including Retroactivity
7. Hospitalization Coverage (retiree)
8. Longevity
9. Shift Premium
10. Cost-of-Living Allowance

All issues were stipulated as economic with the exception of No. 2, Shift Selection by Seniority.

"STATUTORY AUTHORITY

Act 312 of 1969 provides for compulsory arbitration of labor disputes in municipal police and fire departments. Section 8 of Act 312 states in relation to economic issues that:

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

Section 9 of Act 312 contains eight factors on which the Arbitration Panel shall base its opinions and orders.

The factors are as follows:

(a) The lawful authority of the Employers.

(b) Stipulation of the parties.

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

(d) A comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services with other communities 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 presented during the pendency of arbitration proceedings.

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

Section 10 of Act 312 provides that the decision of the Arbitration Panel must be supported by competent, material, and substantial evidence on the whole record.

This is supported by the Michigan Supreme Court's decision in City of Detroit v Detroit Police Officers Association, 408 Mich 410 (1980). In this case the Court commented on the importance of the various factors as follows:

> The Legislature has neither expressly nor implicitly evinced any intention in Act 312 that each factor in Section 9 be accorded equal weight. Instead, the Legislature has made their treatment, where applicable, mandatory in the Panel through the use of the word "shall" in Section 8 and 9. In effect then, the Section 9 factors provide a compulsory checklist to ensure that the arbitrators render an award only after taking into consideration those factors deemed relevant by the Legislature and codified in Section 9. Since the Section 9 factors are not intrinsically weighted, they cannot of themselves provide the arbitrators with an answer. It is the Panel which must make the difficult decision of determining which particular factors are more important in resolving a contested issue under the singular facts of the case. Although, of course, all "applicable" factors must be considered. 408 Mich at 484."

COMPARABLES

Prior to the hearings, the parties exchanged lists of their proposed comparables. The Union selected Algonac, St. Clair, Marysville, New Baltimore and Utica. The Employer Algonac, St. Clair, Richmond, Yale and Capac. The parties agreed on Algonac and St. Clair and differed on the remaining.

The Union presented statistics on ten different characteristics to support its selection of communities as most comparable to Marine City.

1. Population
2. Land Area
3. Department Composition
4. Officers per Square Mile
5. Officers per Capita
6. State Equalized Valuation
7. Per Capita Income
8. Crime Statistics
9. Taxes
10. Housing

The Union in its brief asserts that no characteristic was given more weight than another. Each characteristic was examined and the cities selected were those most closely clustered around Marine City. It acknowledges that the Employer's comparables may cluster more closely on some characteristics but when considered as a whole, they do not cluster as closely as Marysville, New Baltimore and Utica, the Union's comparables.

The Employer argues that Algonac and St. Clair as the unanimous selection of the parties should be given particular weight. Their geographic proximity adds support to this conclusion. The Employer presents a detailed analysis of Richmond's ranking on the Union's characteristics to support its contention that by the Union's "clustering" model that it has the next highest comparability after Algonac and St. Clair.

The Employer goes on to argue that Marysville's characteristics markedly differ from Marine City on such measures as population, land area, state equalized evaluation, its high percentage of commercial property and tax rate. In a similar vein, the Employer argues against the inclusion of Utica as being outside the county, smaller in land area

yet much larger in population. It has experienced a rapid population growth, has a larger police force and a significantly higher proportion of its state equalized valuation is in commercial/industrial property.

In making a determination as to the communities most comparable one starts with the two on which both parties agree, Algonac and St. Clair. For further comparables one looks for some systematic way to make such determination. While the Union's method of clustering has some intuitive appeal, it has a significant subjective element as the Employer's detailed analysis reveals. Yet the Employer does not offer a system that can equally apply to all the communities in question. It relies on a selective examination on a case by case basis without one set of criteria being used to test each community.

If there were one such system for selecting comparables in Act 312 cases, it would now be accepted and in common use. Such is not the case.

While perhaps not universally applicable in all cases, there is a system that is derived from principles shared by the parties. It incorporates the ten characteristics used by the Union and also the clustering idea. Both parties are not essentially at odds on these two points but disagree on the conclusions derived. The difference is that the system incorporates a fixed measuring stick to be applied to all communities. Subjectivity is minimal.

One begins with the eight cities in question and ranks each on how close it is to Marine City on each of the ten characteristics. (Note: Plus or minus signs are ignored). The rankings are added up to a total score. The lower the score, the less

the community deviates from Marine City, or to put it differently, the more comparable to Marine City. For instance, if a community was closest to Marine City on all ten characteristics, its total score would be 10. Conversely, the community that differed the most on all the characteristics would have a total of 80.

Note that the system weights all ten characteristics equally as the Union proposes and also implicitly incorporates the clustering idea. The difference is that a fixed measurement technique is used throughout.

Using this system the order from most to least comparable communities in terms of ranking totals is St. Clair (30), Richmond (34), Algonac (37.5), Utica (41.5), Yale (46.5), New Baltimore (48), Capac (56), Marysville (64.5) (Note: Ties give rise to the .5's).

The Union's figures have been used for this purpose. One assumption had to be made inasmuch as the Union did not provide SEV data for Utica in the "Industrial" category because it was not available. The "Total Real and Personal" is therefore artificially low. The Union witness, Ms. Ciccone, acknowledged that Utica does have significant industry. The question remains as to what estimate to use, for without it, this measuring stick breaks down. The arbitrator has used the average "Industrial" figures used in the Union's exhibit. This results in the ranking of Utica with respect to its closeness to Marine City on Total SEV as No. 2.

It should be noted that if the "Industrial" SEV in Utica has been underestimated, then its total comparability ranking would slip from fourth place behind St. Clair, Richmond and Algonac. Even if it were found to be overestimated and was ranked No. 1 in

closeness to Marine City in Total SEV, it would still remain in fourth place in terms of total comparability rankings.

It is appropriate to step back from these results based on statistics and assess their overall reasonableness. It is noted at the outset that the parties' mutual selection of Algonac and St. Clair as comparable is supported convincingly. The two are contiguous to Marine City as is Richmond. The selection of Richmond was argued by Employer witness Fremont and is consistent with the statistical results. Utica suffers from being in another county and experiencing a dramatic surge in population which is reflected in commercial growth and tax base. This growth has not been true for Marine City nor most of the other communities in question.

The remaining communities - Yale, New Baltimore, Capac and Marysville - are definitely a second tier of comparables – Yale on the basis of population, department size, crimes and taxes; New Baltimore on the basis of population, department size, total SEV, and taxes; Capac on the basis of being a township plus population, department size, total SEV, crimes and taxes; and Marysville on the basis of population, total SEV, per capita income, taxes and housing. All these four communities show significant deviations from Marine City on these characteristics mentioned.

Based on the foregoing analysis and discussion, particular attention to the data from St. Clair, Richmond and Algonac will be given in the consideration of each issue. Utica will also be considered but it will not be granted equal weight both because of the differences in characteristics discussed earlier such as out-county location, dramatic population increase, commercial growth and housing but also because the statistical basis for its No. 4 position in comparability rests on an assumption

regarding missing data. Any under estimation in the missing data will tend to cause Utica's position to deteriorate in terms of total comparability. The second tier of communities while not to be ignored will not be given equal consideration to these four.

Before turning to an examination of the issue, it is helpful in setting a framework by examining the financial position of Marine City.

Marine City's Financial Position.

One of the decision criteria in the Act is 9(c) dealing with the employer's ability to pay. Because this has an influence on the later examination of all the economic issues, it is discussed here.

The Union acknowledges that the City has its share of financial problems but is nonetheless in a position to grant the Union's modest demands. The Union notes that the City's CPA, Mr. McBride, stated that after his cost-saving recommendations to the City were implemented, he anticipated the 6/30/89 audit would, upon completion, be "close to being in balance." As an additional source of financial resources, the Union points to various pool accounts. Of the pool accounts not limited by legal constraints according to McBride, the total is $85,372.90. The Union compares this to the $15,000 cost estimated by McBride for a 5% increase as proposed by the Union. The Union urges that both the anticipated general fund balanced state and the availability of pool account monies be considered in assessing the City's ability to pay.

The Employer, while not denying the possibility that the City may be able to show a

general fund balance in the black as of 6/30/89, points to McBride's letter to City Manager Vandric. The letter states that assuming expenditures at current budget levels, it "could still result in minor erosions to the already depleted fund balance in the General fund." He goes on to say, "In considering its fiscal year ending June 30, 1990 budget, the City must provide for a surplus to start rebuilding its General fund balance to acceptable levels over the next few years." Threatening this restoration of an acceptable General Fund balance the Employer points to anticipated substantial expenditures including related engineering studies in conjunction with the upgrading of the City's waste-water treatment plant mandated by State DNR orders. In addition, substantial increases in employee health care insurance provisions are anticipated as well as the possible impact of the award in this matter on the negotiations involving the Teamsters union representing the City's DPW employees. The Employer observes that in terms of possible additional revenues from taxes that the tax rate in Marine City is the highest in the County with the exception of Richmond.

The Union's contention that some $85,000 in various pool accounts is available – and more than enough – to pay for the Union's wage proposal needs to be qualified. Mr. McBride's testimony was that in a legal sense they are available but practically, no, inasmuch as they would have a negative impact on the recommended surplus of $150,000 to start out with on June 30th and the City would run out of money before September when tax revenues flow in.

Clearly while the City's financial position is not robust, it is not at the threshold of bankruptcy either. The Employer stops short of unequivocally stating adoption of the Union's proposals would throw the City into receivership. Additionally, one must assume the City's last best offers have been framed in such a manner as to be

financially feasible within the City's resources.

In weighing the competing offers of the parties then it is appropriate to determine insofar as possible the additional impact of the Union's proposals over and above the presumed prudent offers of the City.

Attention is now directed to an examination of the issues in the order they appear in the petition.

Issue I. Court Time Minimum

Union Offer:

"The Union is requesting the following modification of Article 28:

(e) All officers will receive four (4) hours minimum at time and one-half for all court appearances and all expenses, subpoena fees and mileage received by the officer will be returned to the City Treasurer. However, officers will receive a minimum of two (2) hours at time and one-half on the signing and issuance of complaints and warrants."

City Offer:

Article 28 Section 1(e) modified to read:

"All officers will receive three (3) hours minimum at time and one-half for all court appearances and all expenses, subpoena fees, and mileage received by the officer will be returned to the City Treasurer."

The Union's offer reflects a willingness to accept a two-hour minimum at time and a half for signing and issuance of complaints and warrants. Other court appearances wold still call for a four (4) hour minimum. The Union comments that the signing of

warrants has been changed as of January 1, 1989. The result has been to reduce the hours and compensation related to this activity. The Union observes that its comparables show an average minimum court time of 3.2 hours.

The Employer argues that the testimony from an attorney representing the City indicates an officer's actual time in court averages two hours. Chief Kelly agrees. The Employer points out that overtime was a prime cause for exceeding the budget in 1987-88 and court time was a major component. It asserts that most officers live within a few minutes of the courthouse. Additionally, it states that its proposed three (3) hour minimum is in line with its comparables.

It is noted that the preferred comparables discussed earlier indicate that St. Clair pays three (3) hours minimum, Richmond three (3), Algonac (3), and Utica (2). Clearly the Employer's proposal is more in line with the preferred comparables.

Attention is turned to a Union exhibit involving a letter from Chief Kelly to City Manager Vandric which includes a breakdown of overtime attributable to court time for the entire force for the first three months of 1989. The court time is broken down into overtime associated with signing and issuance of complaints and warrants and all other court activities.

If one extrapolates the time associated with complaints and warrants for the entire force, one arrives at 224 hours for 1989 which is about one-half the hours for 1988 as shown in an exhibit prepared by Officer McAlpine. This represents a significant reduction in compensation.

Neither of these items of evidence were challenged by the Employer.

If one applies the Union's court time proposal to the annualized figures from Chief Kelly, one arrives at a total overtime hours figure of 3824 hours for the entire force (224 X 2 plus 844 X 4).

If one applies the Employer's court time proposal to Chief Kelly's figure, one arrives at 3204 hours (3 X 267) or 620 hours less than derived from the Union proposal.

It is noted that the Employer's changes in the handling of complaints and warrants has already reduced significantly the compensation attributable to this element of court time. The Union's proposal reduces the court time compensation linked to warrants and complaints further. Adoption of the Employer's proposal would represent an additional significant reduction (602 hours for the entire force) beyond that associated with the Union's proposal.

Despite the clear pattern in the preferred comparables, the reduction in compensation for the officers associated with the changed practice coupled with the Employer's proposal is considerable. The Union's proposal indicates a movement to bring the Marine City benefit more in line with neighboring communities.

As the Employer indicated in its brief on another issue a modest gradual movement in a benefit is preferable to a large abrupt one. That reasonable proposition applies here.

In light of the pattern of the other decisions included here, the reduction in compensation involved, a general sense of equity and giving consideration to decision criteria 9(h), the Union's proposal is preferred.

Decision: The Union's proposal is accepted.

Issue 2: Shift Selection by Seniority

Union Offer:

(New Language)
"The Union requests the following language be added to the

Collective Bargaining Agreement:

> Officers shall select their shift assignments. Conflicts in requested shift assignments shall be resolved solely on the basis of seniority. The scheduled shift assignments shall be posted no later than three days prior to their effective date."

Employer's Offer:

Continue current practice. No new language.

The Union argues that the Employer's claimed practice of assigning shifts principally on the basis of seniority is not being followed. It points to the experience of Officer McAlpine who has received his preferred shift assignment to which his seniority would entitle him on only two occasions during the period 12/29/88 to 6/14/89. It points out that on one occasion a junior officer received his preferred shift almost in its entirety over a more senior officer. The Union argues that its proposed language would only put in contractual language the practice the City claims it follows now.

The Employer views this as within its discretionary powers authorized by the management rights clause. It points out that no comparables have such contractual language. It contends that the Chief considers officers' shift requests and accommodates them to the degree possible given such factors as operating requirements, competence and personal preferences wherever possible. Conflicting requests are resolved on the basis of seniority where possible given the foregoing factors. It points to testimony by Chief Kelly refuting Officer McAlpine's claims. It contends that given the size of the force, seven officers, and the shifts to be manned on a 24-hour a day basis that the Chief must retain some flexibility in assigning shifts within those constraints.

Amongst the preferred comparables, there is no instance of contract language governing shift selection such as the Union proposes. Some have permanent or rotating shifts.

According to detailed testimony and documentation by Chief Kelly concerning shift assignments given to Officer McAlpine, the latter's claims are exaggerated. Despite only being granted his shift selection for a month's duration twice during the period in question, in the other periods his requests were substantially fulfilled. No other officers appeared to share his concerns in this regard. The problem does not appear to be widespread.

Given the significant constraints of department size and shift assignments to be filled, changing operating requirements, differences in officer competence, it appears unreasonable to assume that seniority can be the sole determinant in shift assignments.

In view of the absence of support for the Union's proposal in the preferred comparables, its limited scope, and operating considerations, the current practice should be continued.

Decision: The Employer's offer is accepted.

Issue 3. Vacation Increase

Union's Offer:

"The Union requests the following modifications of Article 33:

Section 1. An employee will earn credits toward vacation with pay in accordance with the following schedule:

Employment	Vacation
1-2 years	12 days
3-5 years	14 days
6-10 years	17 days
11 years or over	25 days"

Employer's Offer:

"The City proposes that Section 1 of Article 33 of the current contract be changed to read:

Section 1. An employee will earn credits toward vacation with pay in accordance with the following schedule:

Employment	Vacation
1-2 years	12 days
3-5 years	14 days
6-10 years	17 days
11-14 years	22 days
15 years or over	23 days"

The Union argues that its comparables show more vacation days at the top level than Marine City. It does not seek another step as the Employer proposes. It contends its proposal is reasonable and in line with comparable communities.

The Employer argues that the impact of the Union's offer is substantial in that given the service of the current officers it would amount to twenty-one (21) days of paid absences per year. This cost would be increased by retroactivity of such a benefit. It also follows that to absorb these absences in a small department in terms of operations would have an adverse impact on public safety.

The Employer's analysis of its comparables indicates that the City's vacation schedule compares favorably with all but Algonac's. With respect to the latter, it notes that Algonac's officers fare much worse than Marine City on the basis of total compensation. In recognition that its vacation schedule is less than Algonac and St. Clair at the twenty (20) year level it proposes to add a new step providing for twenty-three (23) days after fourteen (14) years of service. This proposal, says the Employer, would permit it to gradually adjust its operations to such an improvement.

For convenience the discussion is focused on the service requirements in other communities that result in twenty-five (25) days of vacation. The preferred comparables show that St. Clair grants twenty-six (26) days after twenty-one (21) years of service. (Note: This is the benefit nearest to the twenty-five (25) days proposed by the Union.) Richmond provides twenty-five (25) days after thirty (30) years. Algonac gives twenty-five (25) days after eleven (11) years. Algonac has an additional step providing thirty (30) days after sixteen (16) years. Utica offers twenty-five (25) days after twenty-five (25) years of service.

On the basis of this analysis, three of the four preferred comparables require at least twenty (20) years of service before giving twenty-five (25) days. The evidence is convincing that the Union's offer is significantly more liberal than the majority of the preferred comparables. In the second tier of comparables, three out of four do not provide for more than twenty (20) days. The other, Marysville, has a two-tier system. For more senior employees hired before 7/1/85, the schedule is more liberal than Algonac's. It should be noted that Marysville is the least comparable community according to earlier analysis.

Regarding the Employer's offer of twenty-two (22) days after eleven (11) years and twenty-three (23) days after fifteen (15) years. St. Clair requires sixteen (16) years of service for twenty-two (22) days and the next step is twenty-six (26) days after twenty-one (21) years. Richmond requires twenty-seven (27) years of service for twenty-two (22) days and twenty-eight (28) years of service for twenty-three (23) days. Algonac gives twenty-five (25) days -- the nearest break in its schedule to twenty-two (22) -- after eleven (11) years. Utica requires twenty-two (22) years of service for twenty-two (22) days. Three of the four second tier comparables do not provide for more than twenty (20) days vacation. The Employer's offer is superior to three of the four preferred comparables.

This evidence from all comparables clearly indicates the Employer's offer is more in line with the vacation benefits offered in similar communities.

Decision: The Employer's offer is accepted.

Issue 4. Vacation Pay-Off

Union Offer:

Article 35 modified to read:

(b) An employee who is laid off, retired or otherwise terminated will receive any unused vacation credit as of the date of termination.

Employer's Offer:

No change

The Union argues that under the current practice an officer "earns" vacation credits during the year and doesn't receive payment for unused credits until January 1st of the following year. Should he be laid off or retire during the preceding year, he is not paid for the unused vacation credits.

In commenting on the Employer's objections that the issue is not properly before the panel, the Union contends the Employer has, in effect, waived its right to assert this inasmuch as it has not been raised prior to the filing of the last best offers.

The Employer contends that the panel lacks jurisdiction in this matter because the Union did not identify this issue in its petition. Further, the arbitrator determined at the pre-hearing conference that only those issues on the petition plus the cost-of-living allowances were in dispute.

The confusion on this issue involves the nomenclature involved. The content of the contractual provision the Union seeks to modify is contained in the current contract under the heading "Pay Advance" whereas in the petition it is titled "Vacation Payoff." In a list of Union proposals presented to the City during negotiations, the provision in question was identified under the proper heading "Pay Advance."

While the confusion is understandable, both parties became aware of the nature of the confusion during the hearing as is reflected in the transcript. The arbitrator sees no persuasive reason to conclude the Union's proposal is not appropriately before the panel especially on such technical grounds.

Despite the Employer's claim that the Union's proposal should be turned down because no evidence was advanced to support it the proposal is clear on its face. The contracts of the preferred comparables are silent on this matter. The Union's proposal for a pay-off of unused vacation credits, previously earned, at the time of lay-off, retirement or termination is a reasonable one. In the light of the other decisions made here and considering decision criteria 9(h) in the Act, the Union's proposal is preferred.

Decision: The Union's proposal is accepted.

Issue 5. Orthodontics Coverage

Union Offer:

"The Union requests the following modification of Article 36:
(c) The City shall provide dental insurance Class I and II 75/25 coverage for full family coverage, and pay the cost of such dental benefits. The City shall also provide orthodontic coverage as follows: 50/50 co-pay; $1,500 lifetime max per covered plan member."

Employer's Offer:

Add the following sentence to Article 36 Section 1(c).
"Effective July 1, 1990 the City shall provide 50% of Class IV Dental Services with a lifetime maximum of $1,000 per member as described in the policy for the employee and his dependents."

The Union, upon reviewing the City's last best offer urges the panel to adopt the City's position.

Decision: The Employer's offer is accepted.

Issue 6. Wages including Retroactivity

Union Offer:
Effective 7/1/88 - 5% all classifications
Effective 7/1/89 - 5% all classifications
Effective 7/1/90 - 5% all classifications

Employer's Offer:
Effective 7/1/88 - 3.5% all classifications
Effective 7/1/89 - 3.5% all classifications
Effective 7/1/90 - 3.5% all classifications

The Union argues a top paid City officer's salary is in the bottom third of its comparables. Using the Union's proposed increase in 1988, the City's top paid officer's salary would be fourth among six comparables, in 1989 with another 5% it would be third among the comparables for which 1989 data is available. In 1990 with an additional 5% increase it would be third among comparables on which 1990 data is available. The Union also contends that inasmuch as data is not available for 1989 and 1990 on several comparables, the City's salary position will remain the same or deteriorate. In contrast the City's offer would be below the average per cent increase but also put the officers significantly below the average for the contract year. The Union asserts its offer is reasonable and within the City's ability to pay.

The Employer argues the Union's offer is misleading in that it does not reflect the "roll-in" impact of the cost-of-living adjustment. This would increase the base wages

upon which the Union's proposed increases would be applied. It adds that the total money compensation of the City's officers exceeds that of any comparable community. Coupled with the Union's offer of COLA roll-in the effect of the Union's wage offer would increase officer's salaries by 7% in 1988 and 18% over the contract.

The City's COLA roll-in proposal plus its wage offer would meet the Union's wage offer for 1988 and slightly exceed it for 1989. The Employer argues that its combined COLA and wage proposals would make the City's officers the highest paid of its comparables. Further, even before the wage increases Marine City officers' total compensation exceeds those of St. Clair, Algonac and New Baltimore.

Given the financial impact of its COLA and wage increases coupled with the immediate impact of retroactivity payments, the City argues that the burden on the City's fragile financial position is strained and to exceed it would be counter to its ability to pay as covered in Section 9(c) of Act 312.

Clearly the examination of this issue can not be done in isolation inasmuch as COLA roll-in of differing amounts is proposed by both parties and thus influences the base rates against which wage increase proposals are applied.

Using the Union's wage increase proposal coupled with its COLA roll-in proposal of $450, the 7/1/88 base wage of the top paid officer in Marine City would be $27,196 or 104% of St. Clair's salary, 107% of Richmond's, 112% of Algonac's and 87% of Utica's.

Using the Employer's wage increase proposal coupled with its COLA roll-in proposal of $370, the 7/1/88 base wage of the top paid officer in Marine City would be $26,725 or

102% of St. Clair's, 105% of Richmond's, 110% of Algonac's and 85% of Utica's.

This series of calculations indicates that the Employer's wage increase and COLA proposals results in salaries that are more similar to those in communities found to be most comparable to Marine City -- Utica having a more fragile claim on comparability.

But these calculations, as helpful as they are, are insufficient unto themselves to resolve this issue. An examination of comparative wage increases is helpful.

The impact of the Union's combined proposals would increase Marine City salaries 7% from 1987 to 1988. St. Clair's increase was 3% (reflecting the 10/1/88 effective date), Richmond's 5.8%, Algonac's 5%, and Utica's 5%. The impact of the Employer's proposal would be 5% over the same period.

Clearly the Employer's combined proposals produces a per cent salary increase closer to the increases experienced in the preferred comparable communities.

In absolute figures, the average 1988 salaries of the four preferred comparables is $27,037. The combined Union wage increase and roll-in proposal ($27,196) is closer to this figure than the comparable Employer figure ($26,725). (Note: This average reflects St. Clair's 10/1/89 salary figure.)

Clearly this comparison is heavily influenced by the Utica data. As previously discussed, Utica's inclusion depends heavily on certain assumptions. Its statistical support is less firm.

The average 1988 salaries of the other three comparables is $25,267. The Employer's combined wage increase and roll-in proposal is considerable closer than the Union's to this figure. Moreover, the Employer's figure is well above the salaries of the other three comparables.

Because of the shaky basis for Utica's comparability and the radical deviation from the similar salary pattern of the other three, more weight is given to the second set of comparisons. Accordingly from the standpoint of absolute figures, the Employer's proposal is also supported.

In terms of total compensation for 1988, the Employer's combined wage and COLA proposals exceed but are closer to the salaries paid in Algonac and St. Clair than the Union's combined wage and COLA proposals. No total compensation figure is available for Richmond. The Union's combined proposals are closer to Utica's salary figure. A considerable handicap is experienced in that no data is available for 1989 and 1990 salaries in the preferred comparables other than Utica. In the latter case a 4% increase has been negotiated in each year. This is closer to the Employer's proposal of 3.5% than the Union's 5%. As mentioned earlier, Utica's 87-88 increase was 5%, also closer to the Employer's proposal.

From the various statistical perspectives presented, it is concluded that the Employer's combined wage increase and COLA proposals are more in keeping with the salaries and salary movements for similar positions in the preferred comparable communities than those of the Union. It is of secondary importance but nonetheless significant that this conclusion accommodates the City's precarious financial position.

It should be noted that while it is general knowledge that the CPI index has been increasing neither party presented any specific evidence on this score.

Decision: The Employer's wage increase proposal is accepted.

Issue 7. Hospitalization Coverage (Retiree)

Union's Offer:

"The Union requests the following modification of Article 36: Section 1.

(a) The Employer agrees to pay the full premium for hospitalization medical coverage for the employee and his family, the plan to be Blue Cross/ Blue Shield, MVF-1, with Master Medical as well as the rider D45 NM. This coverage shall be applied to all members of the bargaining unit. Effective July 1, 1988, this benefit shall also apply to employees who retire subsequent to July 1, 1988."

Employer's Offer:

Status quo.

The Union argues that only one officer would become eligible for this benefit during the life of the contract. It asserts that three of its comparables, Marysville, Utica and St. Clair, provide this benefit. St. Clair provides 50% of the health insurance premium on a case-by-case basis until the employee is eligible for Medicare. The Union asserts the cost for this benefit for one retiree is minimal.

The Employer argues the City just received a 60% rate increase for its health insurance. The Employer cites various articles that speak of post-retirement health insurance as a "time bomb."

Amongst the four preferred comparables, only Utica has this benefit in its contract. Utica pays for health insurance coverage for retirees and spouses until eligible for Medicare. St. Clair pays 50% of the premium on a case-by-case basis.

There was no evidence this benefit was provided any other City employees.

In the absence of clear evidence of a similar contractual benefit in the preferred comparables other than Utica, the Employer's proposal is accepted.

Decision: The Employer's offer is accepted.

Issue 8. Longevity

The Union in its post-hearing brief withdrew this issue consequently this provision remains unchanged.

Issue 9. Shift Premium

Union Offer:

Modify Appendix A to read:

"The following shift premium shall be paid:
4% of base wage for 4PM to midnight
4% of base wage for 12 midnight to 8AM
Split shift assignments shall receive four (4%) per cent of base wage premium when working afternoon hours and a four (4%) of base wage premium for working midnight hours."

Employer's Offer:

No change

The Union argues that the current provision which is 25 cents and 30 cents per hour has remained constant over the years irrespective of salary increases. It seeks a shift differential that will reflect salary increases.

Applying the 4% to the hourly wage effective 7/1/88 using the Union's wage increase proposal and its COLA proposal, the shift differential would amount to 52 cents per hour.

This figure markedly exceeds all the preferred comparables, the highest being St. Clair at 35 cents per hour. Richmond and Utica pay no shift premium. Algonac's premium is less than Marine City's for afternoon and the same for midnights. It represents approximately a 100% increase over the current figure.

Despite the reasonableness of a percentage approach, the Union's specific proposal is excessive compared to all the preferred comparables.

Decision: The Employer's offer is accepted.

Issue 10. COLA

Union's Offer:

"The Union requests the following modification of Appendix A:
Effective July 1, 1988, COLA in the amount of $450.00 shall be rolled into the base annual wage rate prior to any wage increase.

Effective July 1, 1989, the annual COLA payment shall be eliminated."

Employer's Offer:

"The City proposes that the following language be substituted for the cost of living provision in Appendix A of the current contract:

> Effective July 1, 1988, a cost of living allowance of $370 will be incorporated into the base wages of all employees in the classifications covered by the Agreement. The incorporation of this allowance into base wages will be completed before the calculation of the general wage increase to be granted effective July 1, 1988 as provided elsewhere in the Agreement. After July 1, 1988, no further cost of living payments will be made."

The Union argues that in the face of losing a benefit of $450 annually at maximum, a reduction in total compensation, its request is a reasonable one. It's a one-time pay-out and one that causes no severe hardship for the City.

The Employer argues that COLA payments are not provided by any comparable community. No contractual obligation exists to continue the COLA payments after the expiration of the previous contract. There is also no evidence that the COLA would have reached the $450 had it been continued. The Employer says it realizes that COLA is a form of wages and its offer is a reasonable one that it can afford.

None of the preferred comparables has COLA. Previous discussion on wages has been focused on the comparison of each party's wage and COLA proposals as combined packages. Inasmuch as these are separate issues the panel is not precluded from considering these separately.

It is observed that the $80 increment by which the Union's COLA offer exceeds the Employer's results in a first-year salary of only $83 more than that incorporating the Employer's combined wage increase and COLA proposals. This is a minimal differential and one well within the Employer's financial resources.

It is noted that combining the City's roll-in proposal with the Union's wage increase proposal as an alternative consideration results in a 1988 salary of $27,112. This is only $84 less than the Union's combined COLA roll-in of $450 and its proposed 5% increase. This figure of $27,112 does not alter the conclusions reached in the wage section.

It is well recognized that Act 312 proceedings are a substitute for collective bargaining. Panels are not required to examine and decide every issue in isolation from the total package. This notion is supported by Section 9(h) in the Act which authorizes the consideration of "Such other factors....traditionally taken into consideration....through collective bargaining...."

In this regard, and in the light of other decisions covered earlier, the Union offer is preferred.

Decision: The Union offer is accepted.

Except for the issues submitted to the panel and addressed in this document, the parties stipulate that no dispute exists as to any or all of the terms and conditions of their collective bargaining agreement for the term July 1, 1988 to June 30, 1991. All tentative agreements entered into by the parties and described to the panel are included herein.

Gordon F. Knight

Gordon F. Knight
Panel Chairman

October 19, 1989
Concurrence:

Joseph W. Fremont

Joseph Fremont, Employer Delegate

Jerry Caster, Union Delegate