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In the matter of

City or Melvindale

and

Fraternal Order of Police
MERC Act 312 Case No. D87 H-1974

The proceedings were held in accordance with Act 312. A pre-hearing conference was held on May 20, 1988 and hearings on September 19 and 20, 1988. The Employer was represented by Mr. Anthony Guerriero, Attorney, and the Union by Mr. John Lyons, Attorney. Other members of the panel were Mr. Antonio Calderoni for the Employer and Mr. Chet Opolski for the Union. A record of the proceedings was taken and transcribed by Ms. Susan Beale. Post-hearing briefs and last best offers were submitted by the parties December 15, 1988. The parties waived time limits specified in the statute. They acknowledged the jurisdiction of he panel in the dispute.

INTRODUCTION

This Act 312 arbitration addresses and resolves various terms of the parties' 1987-1990 collective bargaining agreement.

At the beginning of these proceedings, the following issues were submitted by the parties:

1. Seniority including length of probationary period and out of class pay.
2. Wages
3. Uniform Allowance including Maintenance Allowance
4. Gun Allowance

5. Overtime/Call-in Time
6. Holidays
7. Vacations
8. Sickness and Accident Insurance
9. Personal Leave Days
10. Pensions
11. Jury Duty
12. Medical Insurance
13. Workers Compensation Supplemental Pay
14. Training Costs

The parties agreed that all issues are economic with the exception of seniority. The sub-issue of step-up or out of class pay is contended by the City to also be economic.

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 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, both parties presented seven communities to be used as comparables -- Allen Park, Ecorse, River Rouge, Riverview, Southgate, Woodhaven and Wyandotte. The Union additionally presented data on Lincoln Park and Trenton. The City also furnished data on Brownstown, Flat Rock, Gibralter, Grosse Ile, Hamtramck, Highland Park, Inkster, Plymouth and Wayne.

For subsequent discussion purposes the seven shared comparables will be adequate especially in view of the observations that follow regarding internal comparables.

GENERAL COMMENTS

Section 8 of Act 312 together with the Supreme Court's decision quoted earlier, mandates that certain factors be considered but is silent on the weight to be assigned each. Accordingly it is perfectly proper for decisions to be made singling out one factor for particular weight providing, of course, that the fact situation warrants.

Of central concern in this case is factor (c) specifically the "financial ability of the unit of government to meet those costs." This is a common thread running through the City's position on each economic issue. By contrast, the Union's brief stresses the reasonableness of its modest demands and the inferior position of the City with respect to benefits in comparable communities.

The City claims it is now in a deficit position so severe as to make receivership imminent. It is levying the maximum number of mills authorized by the Charter. This rate is approximately double the state-wide average according to Mr. Tom Doescher, a municipal finance expert from the Plante & Moran CPA firm, in testimony.

State law requires that a municipality with a fund balance deficit such as exists for Melvindale to develop a plan to work out of such a position in a two-year period. This deficit position adversely affects the City's capacity to borrow. Mr. Doescher also observed that the City's deficit is

understated because of using a calendar year-end rather than aligning it with the tax year as most cities do. In addition, he pointed to an unfunded contingent liability for accumulated sick and vacation day pay-outs for police and fire amounting to some $483,000. Mr. Doescher also sees no prospects in terms of changes in future revenues or expenses that would provide any grounds to believe the current situation would improve. Mr. Doescher's firm represents over a hundred municipalities throughout the State, some 60 in the Detroit metropolitan area. He testified, "I can only think of two that have deficits in their general funds. So I would say that the current state of the financial status (of Melvindale) would be poor."

The City's financial plight is caused by two major factors: one, a court decision requiring the City to fund a pension plan for certain of its police and fire personnel (Pension I). This necessitated a 10 mill tax increase. The second factor was a combination of increased costs - some from labor contracts - and decreased revenues.

In response to this predicament, the City took several measures. These were the subject of testimony by Mr. Tony Minghine, the City Controller. No provision has been made in the budget for contingencies including anticipated repairs to the City's infrastructure - sewer and water lines, sidewalks, etc. as well as drastic limitations on capital expenditures.

Of particular interest here is that the City has frozen the wages of non-union department heads and appointees. Moreover, it has negotiated three-

year wage freezes and certain other cost-savings with the Firefighters and AFSCME Local 511 representing DPW, Water Department and General Office employees. THe City's plan is that it's proposals on the issues here in combination with the foregoing will resolve the deficit problem in the two-year time span called for by state law.

Of added significance, the City negotiated a provision with the AFSCME bargaining unit that any increase granted to either the police and fire units in terms of wages or payment of pension contributions be granted its members also.

This extensive detailing of its financial plight by the City is not challenged by the Union. The latter, particularly in its brief, stresses the City's position relative to the comparables on the various issues. This is a valid approach, one clearly mandated by factor (d) in Section 9 of the Act. It can not be ignored.

However, outside comparables figure more appropriately in decision-making only where the Employer's financial picture is more robust. In the case here, the ability to pay is clearly and pre-eminently central. The Union did not attempt to mount a serious challenge to this assumption rather it looks to a claim of equity with employment conditions in other communities.

The conclusion to be derived from the foregoing discussion is that the City's finances are real, undisputed and of extreme gravity. It follows

that the ensuing examination of the issues properly will weight heavily the City's ability to pay. Internal comparables, i.e. internal equity, must receive particular weight. Thus special attention must be given to the settlements and benefits for other City employees especially those incorporated in bargaining agreements with AFSCME and the Firefighters. The weight accorded external comparables, i.e. external equity, must bear some relationship to the vigor of an Employer's financial condition which, in this case, is grave.

This then provides an overall perspective in approaching the decision process. In no way should it be viewed as applying to each separate issue in a blanket fashion which forecloses further analysis.

It should be noted that the Union has not been insensitive to the City's precarious finances in prior years. It's 1982-1984 contract with the City incorporated a wage freeze. According to Mr. Minghine, however, the succeeding contract incorporated raises which effectively provided 3 2/3% annual increases over six years.

ISSUE 1A. Seniority - Probationary Period

Union Proposal: Article 8.1 include the following:
"Seniority of a new officer shall commence after the officer has completed his/her probationary period of one (1) year. The one (1) year period shall be calculated from the date the new officer enters the Training Academy or retroactive to the date of hire for these purposes."

City Proposal: No change

The Union points out that its proposal was, in effect, five and one-half years ago i.e. prior to the preceding contract. It argues that time spent in the Academy should be considered as "part and parcel of the duties performed by patrol officers." It offers no further argument.

The City argues the police chief needs one year after completion of the Academy to evaluate a probationary police prior to a hiring decision. The City cites a provision of Public Act 78 which incorporates this idea precisely. It goes on to point to the Recognition Clause which authorizes the Union to represent "all police officers below the rank of sergeant." The City argues from this that the Union is not authorized to represent individuals who are not fully certified police officers i.e. who've not completed the Academy. Lastly, the City claims there's no showing of any difficulties arising from the current language.

The Union's argument in support of its proposal is minimal and not persuasive. It offers no basis to return to the earlier language after the current language has been in effect over five years with no evidence of difficulties. The City, in contrast, advances several reasons for retaining the current language.

Ruling: The City's proposal is adopted.

ISSUE B. Step-Up (Out-of-Class) Pay

Union Proposal: (New Language)
"The Employee shall not, except on a voluntary basis, request a patrol officer to step-up and/or work out of classification."

City Proposal: Current section 13.5 be re-numbered 14.5 and following paragraph be added:

"A police officer working in a higher classification after a minimum of two (2) hours shall be paid at the rate of the higher classification for all hours worked in the higher rank while on that shift. This shall be limited to one (1) employee per shift. Voluntary trading of days between employees shall not entitle an employee to out-of-classification pay."

The Union points out there is not provision governing this situation in the current contract. It assumed the step-up condition was temporary in nature until additional officers were promoted to sergeant. The Union claims that a patrol officer stepping up to fill a sergeant's position shortens the road patrol strength. This is seen as a health and safety issue. The stepped-up patrol officer is impeded in trading time. It similarly affects his selection of days off.

The City indicates this practice has been going on for over twenty years. The language it proposes codifies the past practice and is taken directly from the recently negotiated contract with the Firefighters. The City acknowledges this step-up situation is in lieu of creating two (2) new sergeant positions. Mr. Minghine estimated that the added cost to the City were the step-up procedure abandoned would be at least $50,000 per year. Police Chief Brophy testified he has been very flexible on the matter of trading time. He denies any instances where the road patrol has been short-handed.

The Union does not support its position with either quantitative or anecdotal evidence. The City's cost estimate is unchallenged. In view of the cost and absence of any evidence of widespread inequities, the City's proposal is preferred. The City's cost estimate is persuasive in concluding this is an economic issue.

Ruling: The City's proposal is accepted.

ISSUE 2. Wages

Union Proposal:

Effective January 1, 1988, an increase of three (3%) percent over the 1987 wage rates shall be applied across the board for all classifications.

Effective January 1, 1989, an increase of three (3%) percent over the 1988 wage rates shall be applied across the board for all classifications.

Effective January 1, 1990, an increase of five (5%) percent over the 1989 wage rates shall be applied across the board for all classifications.

City Proposal:

Effective January 1, 1988, zero percent increase of base wage
Effective January 1, 1989, zero percent increase of base wage
Effective January 1, 1990, zero percent increase of base wage
(Remove five (5%) employee pension contribution.)

The Union proposal is clear and unambiguous. The City' proposal in the third year warrants explanation. It proposes to no longer require the officers to pay a pension contribution of five (5%) percent. In effect, the officers would have that amount added to their take-home pay. Their base pay would remain unchanged. Mr. Minghine testified this would be equivalent to an increase in the base wage of over 6%. The City would pick up the pension contribution. This would be done at the same time as other improvements in the pension plan discussed later.

Using the wage data in comparable communities, the Union demonstrates how Melvindale wages for police officers will decline relative to others on which there is data over the life of the contract were the City's freeze to be adopted. It points out that other communities are in the process of negotiations and it reasonably can be assumed that Melvindale's ranking will remain constant or decline further.

The Union urges that its case be considered independently and not linked to other City Unions. It points out it has assisted the City in past financial difficulties. The purchasing power of its members will suffer with respect to the rising cost of living without a modest wage increase. The Union's last best offer on wages has been reduced from its original position in consideration of the City's financial difficulty.

The City, in support of its proposal, recites the financial problems the City faces. This has been covered earlier. It stresses the weight it feels should be given internal comparables. This was done by Arbitrator Roumell in a prior Act 312 case involving the City's Police Supervisor's Union. Although this decision was done in early 1984, the City contends the same conditions prevail in this case. Its third year offer amounts to an increase in excess of 6% while giving relief to the City by not increasing additional costs associated with an increase in base wages. It stresses the linkage of any wage increases granted to this unit with those of the AFSCME unit. The latter, along with the Firefighters, have settled for a wage freeze as covered earlier. The City also argues the impossibility of raising additional taxes through a millage increase.

Attention is turned to the wage data for the external comparables the parties share in common. The ranking of the City's wages was sixth out of eight in 1986 and fifth out of seven in 1987.

Wage data on only five communities are known for 1988. Data for one of the missing communities however was higher in 1987 than either of the

parties' proposals for 1988. Considering this, the City's 1988 proposal ranks sixth out of seven, the Union's fifth out of seven. Given virtually any increase for River Rouge, the City's proposal would rank seventh out of eight.

Although data on only four communities are available for 1989, the same reasoning permits the conclusion that the City's 1989 proposal would rank no better than sixth out of seven and likely seventh out of eight. The ranking of the Union's 1989 offer is impossible to determine because of the lack of other data.

There are only two communities on which there are data for 1990. it is clear that the City's proposal - considering base pay only - can be no better than seven out of eight. As in the foregoing, it is impossible to determine the ranking using the Union's offer.

In all cases, the lowest ranked community is Ecorse, a City now in receivership. The City's 1990 wage proposal would exceed that of Ecorse by only $88.00.

This analysis has used rankings. Using the average base wage of the five common comparables on which there are data, the City's proposal is $2207.00 below for 1988. Of course, this discrepancy will increase for 1989 and 1990.

This reasoning leads to the conclusion that based on external comparables

alone, the Union's proposal would be preferred over that of the City. Were the City to be in a normal financial posture, this would be the more equitable position.

It should be stressed that the only obstacle to the acceptance of the Union's proposal on wages is the City's bleak financial status.

But the Act mandates other factors be considered and does not specify the weighting to be given each. The grave financial plight of the City has been discussed earlier and is unrebutted. While no cost figure has been placed on the Union's proposal, wages would be the most costly item at issue and the cost significant. Testimony from Mr. Minghine made clear that police compensation is one of, if not the largest single item in the City's budget.

Also to be weighed are the internal comparables, specifically the acceptance by the other two City Unions, the Firefighters and AFSCME to accept a wage freeze. The linkage of AFSCME benefits to the wage decision here also can not be ignored. The City is also unable to raise more tax revenue.

In short, despite the preference for the Union's wage proposal based on external comparables, the countervailing factors discussed above, particularly the City's convincing financial crisis, make the City's proposal more persuasive.

Ruling: The City's proposal is accepted.

ISSUE 3. Uniform Allowance including Maintenance Allowance

Union Proposal: Language as follows:
"The City agrees to pay for the replacement of uniforms damaged or destroyed in the course of duty."

New article: Uniform Maintenance Allowance
The Union is requesting that effective January 1, 1989 a new section should be added to the current contract language to allow an annual payment of $200.00 per year per employee for uniform maintenance.

City Proposal: Changed language as follows:
"12.1 The annual clothing allowance for each employee shall be four hundred ($400) dollars payable on the employee's anniversary date. Effective January 1, 1990, the annual clothing allowance shall be increased to five hundred ($500) dollars payable on the employee's anniversary data. Said uniform allowance shall be used for uniform maintenance as well as replacement."

The Union contends that because reimbursement for uniforms damaged or destroyed in the course of duty are currently on a pro-rated basis, it does not cover replacement cost. It also points to the fact that eight out of ten of its comparable communities pay a uniform cleaning allowance.

The City acknowledges its uniform allowance is low compared to external comparables. It defends its proposal based on the City's grave financial picture. It argues that the current uniform allowance should be used for cleaning and maintenance as well as replacement. It offers the $100 increase in 1990 in an attempt to bring the City's officers in line with those of the surrounding communities but argues that this precludes the necessity of a separate uniform maintenance allowance.

The City supplied data showing the added cost of the maintenance allowance would be $5,000 per year with the likelihood it would have to be extended to the other police command officers as well. It is noted that the

Firefighters receive a $400 uniform allowance with no maintenance allowance.

On the other hand, the City's benefits are considerably below the common comparables. Because two communities combine the uniform allowance with a maintenance allowance whereas others separate them, they are combined for purposes of comparison. The average combined uniform and maintenance allowance for the common comparables is $627.50. It is clear that based on external comparables alone, the City's proposal for a 2-year freeze at $400 and even a third year increase of $100 is below the similar benefit for surrounding communities. Conversely, the Union's proposal is eminently reasonable.

However, this benefit despite its modest cost must be considered against the City's critical financial position. Of particular importance, the sister 312 Unit, the Firefighters, have settled for the $400 figure. The importance of internal comparables and equality of sacrifice has been stated previously. These factors make the City's proposal preferable in terms of the Act's decision criteria.

Ruling: The City's proposal is accepted.

ISSUE 4. Gun Allowance

Union Proposal:
The Union requests that effective January 1, 1988, the current gun allowance of $300 be increased by $50 for a total of $350 annually.

City Proposal: No change

The Union points out that seven out of ten of its comparables receive a gun allowance in excess of $350. It argues its demand is well within the bounds of reasonableness.

The City argues that it issues police officers a necessary handgun and the gun allowance is not required for the maintenance or purchase of a weapon.

Two of the seven shared comparables pay no gun allowance. Four of the five remaining all pay $365 per year. The remaining comparables, Ecorse, is significantly higher at $668 per year. Mr. Minghine testified this Union benefit would cost the City $2750 over a three-year period or $917 per year.

The external comparables support the Union's proposal. There are no internal comparables within the Firefighters or AFSCME units. Inasmuch as the cost is so minimal and well-supported, the Union proposal is preferred.

Ruling: The Union offer is accepted.

ISSUE 5. Overtime/Call-In Pay

Union Proposal: No change in provisions of current Article XIII Union is requesting language be added to the current Collective Bargaining Agreement to allow the establishment of a compensatory time bank.

City Proposal:

"The City proposes that current Article XIII of the Collective Bargaining Agreement be redesignated as Article XIV and that a new Section 14.9 be added so that Sections 14.2, 14.3, 14.4, 14.6, 14.7, 14.8, and 14.9 shall read as follows:

14.2 Overtime pay shall not apply, however, to the time involved in the ordinary and usual change of shift.

14.3 Employees ordered in outside of their regularly scheduled shift hours shall receive a minimum call-in pay of two (2) hours' pay at time and one-half (1-1/2). Those who voluntarily come in when called within four (4) hours before their shift shall work until their shift begins and shall receive pay at time and one-half (1-1/2) for actual time worked. Scheduled overtime, defined as overtime, known Seventy-Two (72) hours in advance, including Secretary of State license appeal hearings, shall be paid at the rate of time and one-half (1-1/2) for actual time worked, rounded out to the next half (1/2) hour.

Example: An employee works one hour and ten minutes. He would get paid for one and one-half (1-1/2) hours.)

This exception shall not apply to an employee called into court within four (4) hours of his regular shift in which event the employee shall receive the regular call-in time pay.

When an employee must return to the 24th District Court for an afternoon court session, said employee shall take a paid one (1) hour lunch break commencing at the time of the recess of the morning court session.

14.4 Available overtime work shall as nearly as possible be offered to employees working in their rank classification. When an employee works beyond his regularly scheduled quitting time, overtime for the first hour or fraction thereof shall be computed as follows:

0 - 14 minutes	No pay
15 - 29 minutes	1/2 hour pay
30 - 44 minutes	45 minutes pay
45 - 60 minutes	1 hour pay

14.6 If overtime is for four (4) or more hours, the off-duty patrolman on that shift shall be contacted first for the available work. If all off-duty patrolmen on that shift are contacted and none are available, patrolmen having the day off from another shift shall next be contacted to work. If no patrolman having the day off is available to work a full shift, then a patrolman shall be requested to continue working for four (4) hours from the preceding shift and another patrolman shall be called in for four (4) hours from the following shift.

14.7 If no patrolmen are available to work the overtime voluntarily, a sergeant may be called in, in the same rotation as above.

14.8 An employee shall be paid one (1) hour call-in time when asked to attend a school where said attendance requires the employee to leave for attendance at said school prior to shift starting time. The City shall endeavor to send employees to school when said employees are not scheduled to work on a regular shift.

14.9 A compensatory time bank in accordance with the Fair Labor Standards Act of not more than forty (40) hours is to be established for overtime. Compensatory time is to be taken so that overtime won't be created. The forty (40) hours are to be taken in a calendar year, and those which are not used shall be paid off in the last pay period of the year.

Regarding the Union's request for the establishment of a compensatory time bank, the City feels there was some confusion in its proposal which was clarified at the hearing. It understands its proposal on this matter complies with the Union's demand (see City 14.9).

The other issue here is the City's proposal to reduce the minimum call-in pay from four (4) to two (2) hours. The identical reduction was agreed to by the Firefighters and AFSCME units in their latest negotiations. (One exception is that Firefighters receive four hours minimum pay when called in for a fire emergency.) The point of the proposal is to reduce costs. Of course, if an officer works more than the two hours minimum, he/she will be compensated for the time worked. Essentially they are being asked

to give up a guaranteed amount even though they may not work.

The Union vigorously opposes this take-away provision especially in view of the City's proposed freeze on wages.

Even though this is a reduction in benefits as to be contrasted with a liberalization or even a maintenance of an existing benefit, the actions of the internal comparables are compelling. It would be inequitable and corrosive to the morale of the City's workforce were the burden of this difficult period be born more heavily by some groups rather than all evenly. The assumption is made that the City is not requesting a modification in pay for those employees who voluntarily come in and receive pay at time and one-half for actual time worked.

Ruling: The City's proposal is accepted.

ISSUE 6. Holiday Pay

Union Proposal:
The Union requesting an increase in the number of holidays from eleven (11) to twelve (12).

Moreover, the Union also requests that language be added that effective January 1, 1989 officers who work a holiday shall be compensated at the rate of time and one-half in addition to the lump-sum payment. Further, that effective January 1, 1990, those officers who work a holiday will be compensated double time in addition to the lump-sum payment.

City Proposal: Added language as follows:
Effective January 1, 1990, each employee who works on a designated holiday shall, in addition to the lump-sum payment referred to in the preceding sentence, shall receive time and one-half for the holiday worked.

The Union's proposal incorporates the increase in the number of holidays from eleven to twelve identical to its original demand. However, it has reduced its demand for double-time worked on a holiday to time and one-half effective January 1, 1989 increasing to double time effective January 1, 1990.

The City retains its position of eleven holidays but modifies its original position of straight time for work on a holiday to time and one-half for time worked on a holiday effective January 1, 1990.

The shared external comparables show that only one community has fewer than eleven holidays, one has the same and four have more. One, Wyandotte, can not readily be considered inasmuch as it specifies no holidays but merely grants a lump sum payment of 6.4% of base pay.

Five out of six of the shared comparables pay at least time and one-half for time worked on a holiday if the holiday falls on a regular work day.

The City estimated the cost of the Union's original proposal, which presumably considered both the increase in number of holidays as well as the double-time for time worked, as $82,000 over the life of the contract. (Note: The City's brief projects an $82,000 cost whereas its exhibit, C-9, gives a figure of $48,000.) Clearly, the Union's modified last best offer would be less costly but difficult to determine precisely how much less.

While the external comparables clearly support the Union's proposal, the internal comparables present a more ambiguous picture. The AFSCME unit receives thirteen paid holidays. Additionally, the AFSCME members receive double time for the first eight hours worked on a holiday and triple time thereafter. The Firefighters, on the other hand, get eleven holidays and no premium pay for work on a holiday.

Also on the matter of paid time off, testimony by Mr. Minghine revealed that the AFSCME agreement calls for five personal days. The police officers get three.

Whereas on certain other issues it was possible to align the benefits for police officers with those of <u>both</u> other units, that decision option does not exist here. The AFSCME unit and the Firefighters are distinctly different with respect to holiday benefits. Adoption of either proposal will more closely approximate one organized unit or the other.

External comparables clearly point to the superiority of the Union proposal. The AFSCME internal comparable points with equal clarity to the Union proposal. By contrast, the Firefighter internal comparable is closer to the City's proposal. The cost of the Union proposal is difficult to determine. It is obviously less than the approximately $48,000 projected by the City for the Union's original proposal. This reduced cost does not represent the differences between the two proposals inasmuch as the City itself has proposed additional costs in the third year.

Irrespective of any imprecision regarding the cost of the Union's proposal, it is clear that it is a fraction of the cost of the Union's proposals on wages, pensions and the linkage with the AFSCME unit. One is also mindful of the fact that Act 312 proceedings commonly are considered a substitute for collective bargaining. This notion is embodied concretely in decision criteria (h) in the Act. In this connection, the decision on this issue must be considered as part of a total decision package. In view of this and the contradictory evidence from both external and internal comparables together with the relatively modest cost involved, the Union's proposal is preferred.

Ruling: The Union's proposal is accepted.

ISSUE 7. Vacations

Union Proposal: No Change

City Proposal:

"18.7 Employees shall receive the following vacation:

After 1 year's service	5 days
After 2 year's service	10 days
After 3 year's service	15 days
After 4 year's service	20 days
After 10 year's service	25 days
After 21 year's service	27 days
After 22 year's service	28 days
After 23 year's service	29 days
After 24 year's service	30 days

An employee's vacation time shall accumulate and be credited on a monthly basis in proration to the years of service to the City as shown in the schedule above. One-twelfth (1/12) of the employee's vacation entitlement shall be credited if the employee worked a minimum of one hundred (100) hours in a calendar month or would have except for an approved absence. For purposes of this section, approved absence does not include an unpaid leave of absence or an absence during which the employee collects sickness and accident benefits as provided in this Agreement."

The Union has withdrawn its original proposal and proposes the existing provision remain unchanged.

The City proposes no change in the vacation periods. It proposes a change in how vacation time will be accumulated and credited. If an employee does not provide essential services to the City in a prescribed amount for a particular month, his/her vacation entitlement would be proportionately reduced. The City would realize a cost savings and it argues most officers would easily meet the minimum hours requirement. This provision is identical for the AFSCME unit.

It is noted that the Firefighters agreement does not incorporate similar vacation eligibility requirements as proposed by the City. The City mentions cost savings but supplies no quantitative data. Only one of the shared external comparables has a similar vacation eligibility provision as the City is proposing.

In view of the absence of cost savings data, the absence of similar provisions in surrounding communities and the difference in internal comparables, the Union proposal is superior.

Ruling: The Union proposal is accepted.

ISSUE 8. Sickness and Accident Benefit

Union Proposal:
Current Article 19, Section 19.4 be revised to reflect a change from $100 per week to $200.

City Proposal: No change

The Union argues this proposal would permit an employee to avoid exhausting his accumulated sick leave days should he/she remain incapacitated over 49 days.

The City points out this benefit is self-insured. Few other communities provide such a benefit. The current benefit is identical to that provided the Firefighters.

Speaking precisely, only one other shared external comparable has such a benefit out of seven. The Firefighters have an identical provision. The AFSCME unit receives $150 per week. Effective January 1, 1990 this is increased to $250.

Information from shared external as well as internal comparables of the Firefighters make the City's proposal more persuasive.

Ruling: The City proposal is accepted.

ISSUE 9. Personal Leave Days

Union Proposal:
Increase of personal leave days from three (3) to five (5).

City Proposal:
No change (other than removing reference to sergeants)

The Union argues that its comparables show an average of 3.33 personal leave days. It claims that those communities with contracts expiring in 1989 or 1990 will likely increase their personal leave days to five. The additional days will not impair departmental operations because of existing contractual safeguards.

The City claims that officers are unable to schedule all their time off as it is. The same current benefit exists for the Firefighters. Additional personal days are unnecessary by virtue of the establishment of a compensatory time bank.

Of the shared internal comparables, two of the seven have only two days. Two more have three days. One has five days. The remaining two link the number of days to length of service. In one case, only after 10 years of service do the number of days exceed three. In the other case, it requires 15 years of service.

The weight of the shared external comparables and that of the City Firefighters plus the added cost makes the City's proposal more appropriate despite the more liberal benefit extended to the AFSCME members.

Ruling: The City proposal is accepted.

ISSUE 10. Pension

Union Proposal:

"ARTICLE 28 - PENSION

A. The Union requests the removal of the Twelve Thousand ($12,000.00) Dollar maximum (cap) for duty disability retirees.

B. The Union wishes to maintain, throughout the life of this agreement, the current five (5%) percent pension contribution.

C. In the last year of the Collective Bargaining Agreement, effective January 1, 1990, the Union requests that the changes suggested by the Employer, to wit, expansion of final average compensation (FAC), and reduction of the retirement age from fifty-five (55) to age fifty (50) become effective. The Union wishes to maintain the current multiplier factor at 2.0% for each year of service. FAC will include, in addition to wages, holiday pay, overtime, longevity, clothing, and gun allowance. Likewise, FAC shall be based on the average of the best three out of the last ten years."

City Proposal:

"The City proposes that Article XXVIII involving pensions read as follows:

28.1 Duty Disability Pension Pension Plan II:
For claims arising after January 1, 1981, as set forth in the City Charter, as amended, provided that the Four Thousand ($4,000) Dollar limitation shall not be applicable.

28.2 Normal Retirement Pension and Non-Duty Disability Retirement Pension (Pension Plan II):
For claims arising on or after December 31, 1987, the Plan shall be as set forth in the City Charter, provided that the Four Thousand ($4,000) Dollar limitation shall become a Twelve Thousand ($12,000) Dollar limitation as defined in the previous Collective Bargaining Agreement.

Effective January 1, 1990 employees shall no longer have their contribution to Pension II deducted from their pay. As of said date, the City will pay the employee's contribution to Pension II.

Effective January 1, 1995, the Twelve Thousand ($12,000) Dollar limitation upon maximum benefits for normal retirement and non-duty disability retirement in Pension II, as defined in the City Charter, as amended, and in Appendix A of the 1984 to 1987 Collective Bargaining Agreement, shall be removed. Effective the same date, Section 34.7 (1)a of Pension II shall be amended to provide that employees who have attained the age

of fifty (50) years, and have twenty-five (25) years of service to the City will be eligible to retire without a reduction in benefits to which they would otherwise be entitled. Also effective January 1, 1995, average final compensation for pension purposes shall be defined as including only the following items:

Base Pay	Longevity Pay
Overtime	Gun Allowance
Holiday Pay	Clothing Allowance

28.3 Pay received by the employee upon retirement shall be computed on the basis of rank last held by the employee for a consecutive period of two (2) years."

The Union argues that an officer on duty disability has his benefits at normal retirement age computed using his compensation at the time of his disability. An active employee's pension is computed on the basis of his compensation at the time he reaches normal retirement age. The benefits of the former is capped whereas the latter is not. The Union argues to remove this inequity.

The City's proposal incorporates significant changes. It is the clear design of the City to offer these increased benefits in lieu of wages which it is unable to afford. The City as covered in the Wage discussion, proposes to pick up the employee's 5% contribution. The Union prefers to continue to pay its contribution and have an increase in wages.

The City proposes to remove the $12,000 per year cap for normal retirement and non-duty disability retirement in 1995. (Note: The City projects the first unit member eligible for retirement under this plan - Pension II - will not occur until 1995.) It offers to lower the eligible retirement age from 55 to 50 and expand the factors to be included in the final average compensation to include six compensation items from the former

three. The provisions proposed have been agreed to by the Firefighters.

The panel on this issue is faced with a "package" proposed by each party, each "package" incorporating a number of economic elements. The decision here, of course, is inextricably related to the wage issue. But in addition, the changes proposed by the City puts it in a more similar position to surrounding communities and particularly in line with the City's Firefighters. Additionally, the City projects the cost to implement the Union's proposal at $300,000 over the time of the contract. For these reasons, the City's proposal is preferred.

Ruling: The City's proposal is accepted.

ISSUE 11. Jury Duty Pay

The parties proposals are in agreement. The relevant Article will read as follows:

> "An employee who is called for service shall receive the difference between the employee's regular daily pay, less the amount received as jury pay."

ISSUE 12. Health Insurance

Union Proposal:

Benefits provided under the current plans remain as status quo.

City Proposal:

"20.1 The City agrees to pay the full premium for American Community Mutual Health Insurance, or its equivalent, for the employee and his family. The plan or its equivalent shall include a prescription drug rider ($2.00 deductible). The plan currently in effect for Police Department employees is designated as American Community Mutual Insurance Policy No. 3383.

The City reserves the right to change insurance carriers so long as a substantially equivalent coverage is maintained and as long as the Union has had at least thirty (30) days to review the proposed changes."

The Union in its brief assumes the City's proposal would increase the annual cost to employees by $700/year for family coverage and $500 for single coverage. The City dropped this proposal and it proposes the language above. In other words, no additional cost is involved.

The proposed language parallels that negotiated with the Firefighters and AFSCME units and will facilitate the City's ability to control health costs.

Granting the City the opportunity to seek other insurance carriers to provide essentially similar benefits as a cost-cutting possibility seems reasonable providing the Union is consulted.

Ruling: The City's proposal is accepted.

ISSUE 13. Workers' Compensation Supplemental Pay

Union Proposal: No change

City Proposal:

> "21.1 When an employee is injured or otherwise disabled under circumstances that entitle said employee to receive Workers' Compensation benefits, the City agrees to supplement the base pay of said employee for a period not to exceed six (6) months from the date of injury and will supplement compensation to seventy-five (75%) percent of base pay for an additional period not to exceed six (6) months."

The Union argues that this is inequitable in view of the high-risk nature of the police officer's work. It claims that 8 of its 10 comparables provide for full supplemental base wage and 6 out of 10 provide for full supplemental pay during the period of disability.

The City argues that its language is essentially the same as that incorporated in the latest AFSCME contract. The rationale for the proposal is a cost-saving measure. It also would provide an incentive to a seriously injured employee to seek rehabilitation or seriously consider disability retirement.

Close scrutiny of the seven shared external comparables show that only two communities fully supplement officers' pay during the full period of disability. One additional community extends this for two years and all the others are equal to or less than the City's proposal regarding time limits.

Although the AFSCME agreement has essentially the same language as the City's proposal, the Firefighters have the same language as the 1985-87 police officers' agreement.

Despite external comparables and the AFSCME internal comparable, the similar language in the contract with the sister Act 312 unit, the Firefighters, warrants particular weight. The Firefighters are a similar high-risk occupation. To discriminate between one public safety group in favor of another in terms of treatment in connection with a job-connected disability seems particularly inequitable.

Ruling: The Union proposal is accepted.

ISSUE 14. Training Cost Recapture

Union Proposal: No change

City Proposal: New language as follows:
"All new employees hired after January 1, 1989 who receive schooling or training at the City's expense who separate from the Police Department within three (3) years shall reimburse the City for the cost of the schooling or training on a pro-rata basis."

The Union argues there is no need for the City's proposal and no comparables have such a provision.

The City argues it has experienced situations where it has trained officers and they leave. This provision would encourage retention. No current Union member would be affected. The proposal is part of the Firefighters agreement.

The internal comparable of the Firefighters and its loss reduction characteristic makes the City's proposal reasonable. The assumption is made that this applies only to those instances where the separation is initiated by the employee i.e. a quit, and not an involuntary separation such as a discharge.

Ruling: The City's proposal 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 January 1, 1987 through December 31, 1990.

The Employer's panel delegate approves the rulings on Items 1A, 1B, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13 and 14. The Union panel delegate approves the rulings on Items 4, 6, 7, 11 and 13.

Gordon F. Knight
Panel Chairman

Antonio Calderoni
City Panel Delegate

Chet Opolski
Union Panel Delegate