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2/24/93  
Sub. MSN

STATE OF MICHIGAN  
ARBITRATION UNDER ACT 312  
PUBLIC ACTS OF 1969, AS AMENDED  
PETER D. JASON, CHAIRMAN

In The Matter Of The Statutory  
Arbitration Between

CITY OF RIVERVIEW

Case No. D92 A-0024

-and-

LABOR COUNCIL, MICHIGAN  
FRATERNAL ORDER OF POLICE,  
RIVERVIEW PATROL OFFICERS  
ASSOCIATION

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STATE OF MICHIGAN  
BUREAU OF EMPLOYMENT RELATIONS  
DETROIT OFFICE

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Riverview, City

COMPULSORY ARBITRATION

Pursuant to Act 312, Michigan Public  
Act of 1969, as amended

AWARD

Arbitration Panel

  
Arbitrator/Chairman

Joseph Fremont  
Employer Delegate

Michael P. Somero  
Union Delegate

**STATE OF MICHIGAN  
ARBITRATION UNDER ACT 312  
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**INTRODUCTION**

These proceedings were commenced pursuant to Act 312 of the Public Acts of 1969 as amended. The arbitration panel was comprised of the Chairman, Peter Jason; Employer Delegate, Joseph Fremont; and Union Delegate, Michael Somero.

The pre-hearing conference was held on February 19, 1992 and hearings were held on October 12, 1992 and October 14, 1992 at the Riverview City Hall. Final offers were submitted by parties on the remaining unresolved issues November 30, 1992 and exchanged soon thereafter. The City was represented by Ruthanne Okun of the firm of Logan, Huchla & Wycoff, P.C. The Union was represented by Kenneth W. Zatkoff of the firm of John A. Lyons, P.C. The record consists of numerous exhibits submitted by both parties and 303 pages of recorded testimony. After submission of their last best

offers, the parties forwarded written briefs on December 18, 1992. The panel met in executive session on February 1, 1993.

Except for Union Issue #7, concerning shift selection for the dispatchers, and City Issue #7, concerning the definition of retirement and retiree, the parties stipulated that the outstanding issues in this matter were all economic and so the panel was guided by Section 8 of Act 312. This section provides that each economic issue must be decided by the panel selecting the last best offer which more nearly complies with the applicable factors in Section 9. Applicable factors to be considered as set forth in Section 9 are as follows:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services with other employees generally:
  - (i) In public employment in comparable communities.
  - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods and services commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

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

The panel considered the factors delineated in the statute.

#### **BACKGROUND**

The City of Riverview is located in Southeastern Michigan, downriver from the City of Detroit, in Wayne County. The City has an area of approximately four square miles with a current population of about 14,000 people. Its property has a state equalized value of \$227,000,000. The City is primarily a residential community having 70% of its property devoted to that use.

Among its services, the City provides its citizens with police protection. The current budget for this service is \$1,470,000.

The police department is made up of 32 employees. Of these, the union represents 17 patrol officers and a dispatcher. The department is staffed by 4 separate shifts, one of which is off-duty at all times. All employees in the union's bargaining unit except the dispatcher work a rotating shift.

#### **COMPARABLE COMMUNITIES**

Act 312 requires the panel to consider wages and benefits in comparable communities when making its decision. For that purpose the parties have agreed that the following communities are

comparable. They are Brownstown Township, Flat Rock, Grosse Ile Township, Southgate, Trenton, Woodhaven, and Wyandotte. Except for the City of Flat Rock, which is only a short distance away, these communities are contiguous to Riverview. Wage and benefit data was collected from these communities and used for comparison purposes when the panel made its decisions in this case.

### **ABILITY TO PAY**

The City of Riverview did not contend in this hearing that it did not have the ability to pay fair wages and benefits. The City did introduce evidence, however, that the residents of the City of Riverview are anticipating a large tax increase to rectify pollution caused by inadequate sewage treatment. Also, the City pointed out that a large employer, McLouth Steel, is experiencing extreme financial distress, which may significantly affect the City's ability to increase revenues. With these circumstances in mind, the panel will resolve the outstanding issues.

### **ISSUES**

#### **UNION ISSUES**

##### **1. WAGES**

**City's Position:** The City's final offer calls for salary adjustments over the three years as follows:

Effective 7/1/91: Three (3%) increase;  
Effective 7/1/92: Three (3%) increase;  
Effective 7/1/93: Three (3%) increase.

**Union's Position:** The Union's final offer calls for salary adjustments over the three years of the collective bargaining agreement of:

Effective 7/1/91:	4% increase
Effective 1/1/92:	2% increase
Effective 7/1/92:	4% increase
Effective 7/1/93:	4% increase

Although both parties made last best offers for three years, it was agreed that the panel would have the discretion to treat each year separately for purposes of this award. Since the panel did not regard either proposal ideal, we have decided to treat each year separately. For the first year of the three-year wage package, the panel has selected the Union's last best offer. With regard to the statutory factors, this offer seems the more reasonable especially when considering the average increases in the comparable communities. However, the overriding reason for selecting the Union's offer is that both parties introduced evidence to the effect that the parties themselves had agreed to this 4% + 2% proposal at an earlier stage of the negotiations. Although their earlier agreement ultimately broke down, the collective wisdom of the parties themselves was the deciding factor in selecting this offer. However, after raising the rate 6% in the first year of the contract, the panel then selected the City's last best offer on each of the two remaining years of the contract. The panel believes that this compromise appropriately compensates the police officers and gives effect to the financial realities facing the City. In addition, the panel believes that this improvement adequately compensates the members of this bargaining unit so that improvements in other economic benefits are not warranted.

## **2. LONGEVITY**

**City's Position:** The City's final offer calls for longevity to remain as it is in the 1988-91 Agreement.

**Union's Position:** The Union is requesting the current longevity schedule be modified as follows:

Unit members shall receive longevity pay as follows:

5 years of departmental service shall receive \$150.00. For each additional year of service, \$50.00 to a maximum of \$1,000.

The panel has selected the City's last best offer on this issue. The Union proposal is a major improvement in this benefit. Given the fact that the panel has granted a major improvement in the wage package, this improvement is not warranted. Although there may be some support for an improvement when comparing with the comparable communities, this consideration was discounted by the fact that other City of Riverview employees have not received this benefit and there is no particular equity for an improvement at this time.

## **3. SICKNESS AND ACCIDENT INSURANCE**

**City's Position:** The City's final offer calls for status quo as to benefit, but agrees to add the following language to Article 11. The City and Union mutually agree to conduct a feasibility study on the cost of short-term non-duty disability insurance prior to negotiation of the next Agreement. Further, the City and Union mutually agree to explore health care cost containment prior to negotiation of the next Agreement.

**Union's Position:** The Union is requesting that the City provide the patrol officers with the same

Sick and Accident policy of all other City employees.

During discussions of this issue, it became apparent that the Union's offer was confusing because it lacked specificity. Also, the City's argument that the officers were well protected because of generous sick leave policies was well taken. Also, since the panel chairman was unsure of the exact demand and unconvinced by the Union's evidence, this issue did not seem ready for a decision at this time. Because the City proposed a feasibility study in its last best offer, this offer was selected as the more reasonable under these circumstances.

4. UNIFORM ALLOWANCE [AND ISSUE #8 - DISPATCHER CLOTHING/CLEANING ALLOWANCE]

**City's Position:** The City's final offer calls for increasing uniform allowance by \$50.00 in the third year of the collective bargaining agreement (effective July 1, 1993).

**Union's Position:** The Union is requesting the following modifications in the current uniform allowance payment:

PATROL OFFICER

	Clothing	Cleaning
1991	\$450	\$450
1992	\$500	\$450
1993	\$550	\$450

DISPATCHER

1991	\$550
1992	\$650
1993	\$700



The panel selected the City's last best offer on these issues. The union argued that the increased cost of uniforms over the years requires an improvement in this benefit. Lacking in the evidence, however, was testimony or exhibits showing that officers were spending their own money to keep abreast of these rising costs. Since the City also proposed an increase, and since the employees have received a reasonable increase in wages, the panel finds the City's last best offer more reasonable.

**5. MANPOWER/OFFICERS IN FIELD TRAINING PROGRAM**

**City's Position:** The City's final offer calls for the status quo.

**Union's Position:** The Union is requesting the language be added to the current collective bargaining agreement to explain that during the field training program (14 weeks) a patrolman will not be counted as manpower per shift.

The panel has selected the City's last best offer on this issue. The Union argued that using trainees in the manpower count drastically reduces the amount of protection for the community and puts the Riverview police officers at substantial risk. The evidence presented to support these two propositions was insufficient to convince us that such is the case. There was no direct evidence that showed a lack of service or a dangerous condition in this record. Also, as a general proposition, I believe the deployment of sworn police officers is better done by police professionals than civilian arbitrators. In this arbitrator's experience, it is a rare police chief who will risk the safety of the officers for the sake of saving money. At any

rate, unless I were convinced that safety had been compromised, I would not interfere with the chief's decision in these matters.

**6. SICK LEAVE PAYOFF**

**City's Position:** The City's final offer calls for the status quo.

**Union's Position:** The Union is requesting that the following language be added to the collective bargaining agreement.

The City agrees to purchase the excess of accumulated sick leave over one hundred twenty (120) days, but in no event shall the number of days purchased exceed one hundred forty (140).

The panel has selected the City's last best offer on this issue. The basic rationale for the Union proposal on this issue was that the City gave the command officers this benefit in their last contract. In examining the evidence, it is clear that the City did make concessions in this area so that it could cap the command officer's accumulation at 120 days. What the patrol officers seek is more generous than what the City conceded to the command officers and here there is no quid pro quo. Also, the comparables, both external and internal, do not lend support for this Union proposal.

**7. SHIFT SELECTION**

**City's Position:** In the City's final offer, it conceded this issue, believing that the language sought by the Union already is contained in Art. 33 Sec 3(Q) of the 1988-91 collective bargaining agreement.

**Union's Position:** The Union is requesting that "new" language be added to the collective

bargaining agreement to give senior dispatch employees the option to select a steady work schedule (i.e. days, afternoons, midnights).

The panel has selected the Union's last best offer on this issue. The parties at one point appeared to agree but in its brief, the City states that there was a misunderstanding between the parties. The City apparently thought that the Union proposal was to allow the dispatcher to select one of the rotating shifts. The Union proposal, however, was to allow the dispatcher to select a steady shift and work days instead of rotating. At present there is only one dispatcher. She already works the day shift and does not rotate. Thus, the Union's last best offer only gives the dispatcher the right to do what she currently does.

## **CITY ISSUES**

### **1. SICK LEAVE PAYOFF**

#### **City's Position**

The City is requesting an amendment to Art. 32, Section 3A to conform with Council Policy No. 58:

Employees hired before September 3, 1991 -  
- Sick leave days can be accumulative up to one-hundred twenty (120) days for retirement purposes. All accumulated time up to one-hundred twenty (120) days on retirement or death shall be paid in cash. Any employee separating from the City service for any reason other than retirement or death shall not be paid for unused sick leave.

Employees hired after September 3, 1991 -  
- Employees hired after September 3, 1991 shall not receive any pay-out of sick leave upon separation from the City service.

Sick Leave Payoff (Dispatch) -- (Art 33, Sec. 3C, paras. 2 and 6) Amend to conform with Council Policy No. 58:

Employees hired before September 3, 1991 -  
- Sick leave days can be accumulative up to one-hundred twenty (120) days for retirement purposes. All accumulated time up to one-hundred twenty (120) days on retirement or death shall be paid in cash. Any employee separating from the City service for any reason other than retirement or death shall not be paid for unused sick leave.

Employees hired after September 3, 1991 -  
- Employees hired after September 3, 1991 shall not receive any pay-out of sick leave upon separation from the City service.

**Union's Position**      The Union is requesting status quo.

The panel has selected the Union's last best offer on this issue. The City is seeking to change a benefit for the employees hired after September 3, 1991. This would put the City in the position of having a different benefit package for people doing the same work. Because the City is attempting to change the status quo and to have different benefit levels depending on hire date, the City has an extra burden to demonstrate why this is a good idea. As a matter of general principle, I do not think it is appropriate for an arbitrator to institute new benefits nor eliminate existing benefits unless there is a clear showing of necessity. The evidence introduced in the record did not satisfy this burden.

## **2. BONUS DAYS**

**City's Position**      The City's final offer provides that employees shall earn bonus days in accordance with the following schedule:

**PATROL OFFICER**  
**Number of Sick**  
**Days Used**

Five (5)  
Four (4)  
Three (3)  
Two (2)  
One (1)  
Zero (0)

**Number of Bonus**  
**Days Earned**

Zero (0)  
One (1)  
Two (2)  
Three (3)  
Four (4)  
Five (5)

**DISPATCH**

Five (5)  
Four (4)  
Three (3)  
Two (2)  
One (1)  
Zero (0)

Zero (0)  
One (1)  
Two (2)  
Three (3)  
Four (4)  
Five (5)

**Union's Position**      The Union's final offer calls for this provision to remain status quo.

The panel has selected the Union's last best offer on this issue. The City is attempting to undo what was done in the last contract. Whatever the equities were at that time, the City agreed to provide bonus days in accordance with the schedule that appears in the contract. Absent a showing that conditions have changed markedly since the last contract, the panel finds that it is too soon to reopen these issues and that the parties are better served by living with their negotiated agreement.

**3. HOLIDAYS**

**City's Position**

The City's final offer provides that the number of paid holidays will be reduced from thirteen (13) to twelve (12) per year. The Union may select the holiday to be deleted.

**Union's Position**

The Union's final offer calls for this provision to remain status quo.

The panel has selected the Union's last best offer on this issue. Once again, this was a benefit that was the product of negotiations in the last collective bargaining agreement and the panel believes it is too soon to reopen this issue.

#### **4. TUITION REIMBURSEMENT**

**City's Position**      The City's final offer calls for the tuition reimbursement program to be discontinued effective the first semester or class term following the date of the Award.

**Union's Position**      The Union's final offer calls for this provision to remain status quo.

The panel has selected the Union's last best offer on this issue. The City has proposed to eliminate another of the recognized City benefits for police officers. Again, the City is attempting to change the status quo and has the burden of persuasion. The panel was not persuaded by the evidence that compared with the comparables, this is a generous benefit. Apparently that has always been the case and the City has seen fit to provide this benefit. There was no evidence that convinced us that this benefit should be eliminated.

#### **5. VACATION SCHEDULING**

**City's Position**      The City's final offer calls for vacation time to be divided and scheduled equally between winter and summer, unless otherwise permitted by the City.

**Union's Position**      The Union's final offer calls for this provision to remain status quo.

The panel has selected the Union's last best offer on this issue. The City contended the reason for this change was to save overtime expenditures. Again, the City is attempting to change the status quo and there is little or no evidence to support that the current scheduling causes any significant overtime. Without such a showing, there was no reason to grant the City's demand.

**6. MINIMUM MANPOWER**

**City's Position**      The City's final offer calls for minimum manpower requirements to be determined by the City.

**Union's Position**      The Union's final offer calls for this provision to remain status quo.

The panel has chosen the Union's last best offer on this issue. While the chairman agrees with the City's argument that manpower decisions should ordinarily be left to management determination, I did not find current Article 22, Section 1 of the contract to be unduly limiting. Also, there was little or no evidence on the record to support why a change in the current language is necessary. Without such a showing, there is no reason to change the current language.

**7. DEFINITION OF RETIREMENT AND RETIREE**

**City's Position**      The City's final offer provides that the following language be added to the Agreement. For purposes of this Agreement the definition of "retirement" shall mean separation from the City service with a 100% vested pension benefit and entitled to an immediate pension. "Retiree" shall mean an employee who at the time of his/her separation from the City service

are 100% vested in his/her pension benefit and entitled to an immediate pension.

**Union's Position**      The Union's final offer calls for this provision to remain status quo.

The panel has selected the City's last best offer. It is the panel's opinion that the definitions given by the City in the last best offer are accurate. To prevent further confusion, these definitions are adopted.

#### **8. HEALTH INSURANCE EMPLOYEE PREMIUM CONTRIBUTION**

**City's Position**      The City's final offer calls for employee to contribute eighteen dollars (\$18.00) per month for single member coverage, thirty-nine dollars (\$39.00) per month for two person coverage, and forty dollars (\$40.00) per month for family coverage.

**Union's Position**      The Union's final offer calls for this provision to remain status quo.

The panel has selected the Union's last best offer on this issue. The City has proposed cost cutting measures to all its unions, and additionally, has proposed a joint study for the purpose of Health Care cost containment. The panel agrees that the City has reasons for concern, and believes that discussion of this topic is appropriate. However, until such time as there is a comprehensive program, this initial effort should be deferred.

#### **9. HEALTH INSURANCE RETIREE PREMIUM CONTRIBUTION**

**City's Position**      The City's final offer calls for a retiree to contribute eighteen dollars (\$18.00) per month for single member coverage, thirty-nine dollars (\$39.00) per month for two person coverage, and forty dollars (\$40.00) per month for family coverage.



**Union's Position**      The Union's final offer calls for this provision to remain status quo.

The panel has selected the Union's last best offer on this issue. The City has proposed cost cutting measures to all its unions, and additionally, has proposed a joint study for the purpose of Health Care cost containment. The panel agrees that the City has reasons for concern, and believes that discussion of this topic is appropriate. However, until such time as there is a comprehensive program, this initial effort should be deferred.

### SUMMARY

The Chairman's decisions on the issues are as follows:

#### UNION ISSUES

##### 1. WAGES

Each year was treated separately, as follows:

7/1/91:      4%  
1/1/92      2%  
7/1/92:      3%  
7/1/93:      3%

CITY	<u>✓</u>	AGREE 2 <sup>ND</sup> & 3 <sup>RD</sup> YRS	DISAGREE <u>✓</u> 1 <sup>ST</sup> YR.
UNION	<u>MPL</u>	AGREE (7-1-91 1-1-92)	DISAGREE <u>MPL</u> (7-1-92 7-1-93)

##### 2. LONGEVITY

Longevity will remain as it is in the 1988-91 Agreement.

CITY	<u>✓</u>	AGREE	DISAGREE <u>      </u>
UNION	<u>      </u>	AGREE	DISAGREE <u>MPL</u>

3. SICKNESS AND ACCIDENT INSURANCE

The City and the Union agree to conduct a feasibility study on the cost of short term non-duty disability insurance prior to negotiation of the next Agreement, and agree to explore health care cost containment prior to negotiation of the next Agreement.

CITY	<u>✓</u>	AGREE	DISAGREE <u>      </u>
UNION	<u>      </u>	AGREE	DISAGREE <u>MSL</u>

4. UNIFORM ALLOWANCE [AND ISSUE #8 - DISPATCHER CLOTHING/CLEANING ALLOWANCE]

The City will increase uniform allowance by \$50.00 in the third year of the collective bargaining agreement (effective July 1, 1993).

CITY	<u>✓</u>	AGREE	DISAGREE <u>      </u>
UNION	<u>      </u>	AGREE	DISAGREE <u>MSL</u>

5. MANPOWER/OFFICERS IN FIELD TRAINING PROGRAM

Status quo remains in effect.

CITY	<u>✓</u>	AGREE	DISAGREE <u>      </u>
UNION	<u>      </u>	AGREE	DISAGREE <u>MSL</u>

6. SICK LEAVE PAYOFF

Status quo remains in effect.

CITY	<u>✓</u>	AGREE	DISAGREE <u>      </u>
UNION	<u>      </u>	AGREE	DISAGREE <u>MSL</u>

7. **SHIFT SELECTION**

New language to be added to the collective bargaining agreement to give senior dispatch employees the option to select a steady work schedule (i.e. days, afternoons, midnights).

CITY	_____	AGREE	DISAGREE	<input checked="" type="checkbox"/>
UNION	<u>MPS</u>	AGREE	DISAGREE	_____

**CITY ISSUES**

1. **SICK LEAVE PAYOFF**

Status quo remains in effect.

CITY	_____	AGREE	DISAGREE	<input checked="" type="checkbox"/>
UNION	<u>MPS</u>	AGREE	DISAGREE	_____

2. **BONUS DAYS**

Status quo remains in effect.

CITY	_____	AGREE	DISAGREE	<input checked="" type="checkbox"/>
UNION	<u>MPS</u>	AGREE	DISAGREE	_____

3. **HOLIDAYS**

Status quo remains in effect.

CITY	_____	AGREE	DISAGREE	<input checked="" type="checkbox"/>
UNION	<u>MPS</u>	AGREE	DISAGREE	_____

4. TUITION REIMBURSEMENT

Status quo remains in effect.

CITY	<u>                    </u>	AGREE	DISAGREE <u>✓</u>
UNION	<u>MPS</u>	AGREE	DISAGREE <u>                    </u>

5. VACATION SCHEDULING

Status quo remains in effect.

CITY	<u>                    </u>	AGREE	DISAGREE <u>✓</u>
UNION	<u>MPS</u>	AGREE	DISAGREE <u>                    </u>

6. MINIMUM MANPOWER

Status quo remains in effect.

CITY	<u>                    </u>	AGREE	DISAGREE <u>✓</u>
UNION	<u>MPS</u>	AGREE	DISAGREE <u>                    </u>

7. DEFINITION OF RETIREMENT AND RETIREE

The definition of "retirement" shall mean separation from the City service with a 100% vested pension and entitlement to an immediate pension. The definition of "retiree" shall mean an employee who at the time of his/her separation from City service is 100% vested in his/her pension and entitled to an immediate pension.

CITY	<u>✓</u>	AGREE	DISAGREE <u>                    </u>
UNION	<u>                    </u>	AGREE	DISAGREE <u>MPS</u>

8. HEALTH INSURANCE EMPLOYEE PREMIUM CONTRIBUTION

Status quo remains in effect.

CITY	_____	AGREE	DISAGREE	<input checked="" type="checkbox"/>
UNION	<u>MPS</u>	AGREE	DISAGREE	_____

9. HEALTH INSURANCE RETIREE PREMIUM CONTRIBUTION

Status quo remains in effect.

CITY	_____	AGREE	DISAGREE	<input checked="" type="checkbox"/>
UNION	<u>MPS</u>	AGREE	DISAGREE	_____

Peter D. Jason  
Peter D. Jason  
Arbitrator/Chairman

Joseph W. Fremont 2/18/93  
Joseph Fremont  
Employer Delegate

Michael P. Somero 2-22-93  
Michael P. Somero  
Union Delegate

DATED: FEB. 24, 1993