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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION

STERLING HEIGHTS POLICE COMMAND
OFFICERS ASSOCIATION,

Employee Representative
and Petitioner,

and

MERC Arbitration Act 312

CITY OF STERLING HEIGHTS,

D84 D-1281

Employer.

Richard Senter

Michigan State University
LABOR AND INDUSTRIAL
RELATIONS LIBRARY

APPEARANCES

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STATE OF MICHIGAN
BUREAU OF EMPLOYMENT RELATIONS
DETROIT OFFICE

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Sterling Heights, City of

OPINION AND AWARD

Richard H. Senter, Esq., was appointed Chairman of the Arbitration Panel by letter dated January 15, 1985, from the Employment Relations Commission, pursuant to its authority under Public Act 312 of 1969, as amended.

Senter, Richard H.

Thereafter, Elijah Boffa was designated as Delegate by the Employee Association. Reuben Ricard was designated as Delegate by the Employer.

The representatives of both parties executed waivers of the statutory requirements for starting the hearing.

A pre-hearing conference was held at the Detroit offices of the Employment Relations Commission on February 6, 1985, wherein a number of procedural details were agreed upon, and all unresolved issues on both sides were identified. The results of that hearing were incorporated in a letter to the parties by the Chairman, dated February 14, 1985, and a copy is attached and designated as Appendix A.

The record established that the Sterling Heights Police Department in utilizing the resources provided by the City achieve a very high level of police service. For the year of 1980-81, the City of Sterling Heights was declared by the "Figgie" report to be one of the fourteen safest cities in the entire country. No other Michigan city was accorded this recognition. (Transcript Vol. 1, pgs. 35-36.)

Further, the quality performance of this department was illustrated by Association Exhibit Number 8, setting forth the records of this department and the sixteen comparable committees for the year 1983 in making arrests resulting in clearing offenses. Sterling Heights is tied for fourth place

among this total of sixteen communities.

The Chief of Police also testified regarding police accomplishments. (See Transcript Vol. 3, pgs. 86-87.)

The Figgie report covered the period of 1981. In 1982, crime statistics improved. (1983 was covered in Association Exhibit A-8.) There was also an improvement in crime statistics in 1984. The figures for 1985 were not cited. The Chief said, "And I would not like to discuss '85 at all." The impression made by this testimony was that crime statistics had not improved.

It is to be noted that the last labor contract between the parties expired June 30, 1984, and any subsequent contract will cover 1985.

The Employees' Association and the Employer submitted identical lists of fifteen communities as comparables. The criteria were populations between 50,000 and 200,000, all within the Tri-County area of Wayne, Oakland and Macomb Counties, or contiguous to Sterling Heights.

The statutory hearing was conducted on April 24, 25 and 26, 1985.

Association Exhibits A-1 through A-41 were offered and admitted on behalf of the Employees. Exhibits C-42 through C-46 were offered and admitted on behalf of the Employer. They are so marked and attached hereto, identified as

Appendix B.

The last best offers were forwarded by the parties, post-marked May 3, 1985.

Both parties submitted written closing arguments post-marked July 26, 1985, in accordance with the time schedule agreed to by the parties.

1. ARTICLE 16: WAGES, BENEFITS, AND OTHER ECONOMIC BENEFITS

The Employer's last best offer is adopted, which is set out in full.

"The Employer's last best offer on the issue of wages proposed the amendment of Article 16, Section 5, paragraph 2, to be amended as follows:

For the term of this Agreement, July 1, 1984, through June 30, 1986, for Lieutenants and Sergeants, and January 1, 1984, through June 30, 1986, for Captains, wages will be as follows:

Sergeant at top step (12 months) shall be 20% greater than Patrolman at top step (60 months)

Lieutenant at top step (12 months) shall be 10% greater than Sergeant at top step (12 months)

Captain at top step (12 months) shall be 7.5% greater than Lieutenant at top step (12 months)

Wages for a Sergeant shall be established and listed as a percentage above the top step (60 months) Patrolman.

	<u>Start</u>	<u>6 Months</u>	<u>12 Months</u>
Sergeant	15%	17.5%	20%

The rank differential between the top step of the Sergeant and the Lieutenant shall be 10%. The rank differential between the top step of a Lieutenant and a Captain shall be 7.5%.

Example: Effective January 1, 1984

Patrolman at top step (60 Months)	\$29,247.00
Sergeant at top step (12 months) + 20%	35,096.40
Lieutenant at top step (12 months) + 10%	38,606.84
Captain at top step (12 months) + 7.5%	41,501.49"

Each party included a base wage for Sergeants of 20% greater than the top wage scale for Patrolmen. According to the Employees' Exhibit A-9, this figure of \$35,096.40 will exceed the base wage of a Sergeant with comparable seniority in all of the fifteen comparable communities. This fact was underscored by Sergeant James Owens, testifying for the Employees. (Transcript Vol. 2, pg. 47.) This will advance the ranking of Sterling Heights from the "historical" position. Sergeant Owens, testifying for the Association, stated: "Historically, the City has always placed us at the second or third...." (Transcript Vol 1, pg. 44.)

Similarly, both last best offers provided for the base wage of a Lieutenant to be 10% greater than Sergeants at the top step. Again, this figure of \$38,606.84 will place Sterling Heights Lieutenants at the top of the base wage scale for Lieutenants of similar seniority in all fifteen comparable communities. This is in accordance with Employees' Exhibit A-13.

It is regarding the pay differential to be accorded the three Captains that the last best offers differ from each other. The Employees seek a 10% differential for a Captain over the pay of a Lieutenant at the top of grade. The City offers a 7.5 differential for the same position. The City figure of \$41,501.49 would place Sterling Heights Captains in the third position among all comparables for the base wage paid to Captains, or their equivalents, according to Employee Exhibit A-17. Only comparable communities of Southfield at \$43,930.00 and Troy at \$42,320.00 would exceed the base wage of a Sterling Heights Captain.

The base wage for this position at the time of hearing was ranked eight out of a total of sixteen. The advancement of five positions out of a total of sixteen, in accordance with the City's last best offer, would constitute an approximate 31% in advance of rankings. The record by competent, material, and substantial evidence supports the award on this issue, although testimony and exhibits were limited to only one of the eight factors identified in Section 9 of the Statute; that was (D) (Comparables).

Employees' Exhibits A-9, A-11, A-13, A-15, A-17 and A-19 constituted spread sheets setting forth certain benefits and their cost to the Employer for Sterling Heights and each of the comparables. The final column was designated "Total" and was offered as the total cost of the position of Sergeant,

Lieutenant and Captain to Sterling Heights, in accordance with the Association's proposal and of the comparable position for all comparables. Testimony of the witness responsible for the exhibits on both direct and cross-examination revealed certain assumptions and also certain omissions (Transcript Vol. 2, pgs. 45-46), which rendered this "Total" cost figure below the level of competent and material evidence required for consideration by Section 10 of the Statute. Accordingly, no further consideration can be afforded this column.

The Employer's offer is more compatible than the Employees' offer with respect to the pattern of raises for the position of Captain since its creation effective July 24, 1974.

The Association Exhibit A-23 reflects that since July 24, 1974, there have been eleven wage raises over the next eight and a half years, following the creation of the position to the date of January 1, 1983, the date of the last pay increase. Six of these eleven raises were above the Employer's offer, including one of 7.6%. Five of the raises implemented were below Employer's offer. Thus, the Employer's offer is almost exactly in the middle of this historical pattern. Only three of the eleven raises were at or above the Employees' offer of 10%.

2. VACATION LEAVE AND USE THEREOF

This issue contains two parts. In the matter of allowing vacation leave to be taken in increments of one hour, in

accordance with current policy, both last best offers so provide.

The last best offer of the Employer is adopted in full. It is set out below.

"The Employer proposes as its last best offer on Issue 2 the following:

- 1) No additional vacation days, and
- 2) Amend Article 16, Section 4A by the addition of paragraph 7 to read as follows:
 - (7) Vacation time can be taken in one hour increments with the prior approval of the Chief of Police or his designated representative."

The record established that the Sterling Heights Command Officers receive the lowest benefit number of vacation days of any of the comparables. (See Exhibit A-26.) The record also established that these employees receive the same number of vacation days as all other employees within the Police and Fire Departments. (See Exhibit C-42.)

In the matter of ranking in accordance with the dollar value of this benefit, Association Exhibit A-9 reveals that Sterling Heights is not at the bottom of the rankings of all comparables for the position of Sergeant. As of June 30, 1984, Sterling Heights is below twelve of the fifteen comparables.

Regarding the position of Lieutenant, as of June 30, 1984, eleven of the fifteen comparables are ahead of Sterling Heights

in the matter of dollar value for the vacation benefit.

The record does not contain any testimony justifying advancing this benefit of Sterling Heights Command Officers to the first ranking of all comparables. The Association will lead all comparables in the matter of base wages for two positions and will advance in rankings in other benefits. The panel under the mandate of Factor (b) of Section 9 of the Statute recognizes that there will always be variables in benefits among agreed comparables because contracts are flexible and evolving in each community between the Employer and group of Employees. In light of the overall level of wages and all of the benefits, a number of which were identified but not ranked, nor assigned a cost factor, the record does not allow the panel to adopt the Association's last best offer.

3. SHIFT PREPARATION COMPENSATORY TIME

The last best offer of the Employer is adopted and is set out below.

"The Employer's last best offer on Issue 3 is to amend Article 16, Section 3B, to read as follows:

- B. Each employee shall receive 80 hours of compensatory time off duty per fiscal year for the shift preparation time referred to in Section 2 above. Each employee who is required by the Chief of Police, by a written general order, to appear in advance of the start of his shift in order to be prepared to assign personnel shall be entitled to an additional 24 hours of compensatory time off."

The record established that the present policy of Sterling Heights is to maintain a police presence on the streets at all times. There is no period in which no service is provided on the streets because the next shift is reporting to the station, receiving necessary instructions or intelligence, and then proceeding to the streets. To provide for this quality service, the Employer by contract to date compensates every member of the Department, Patrolmen and Command Officers alike, with 80 hours of compensatory time in return for reporting for roll call fifteen minutes before the beginning of the shift. Every member of the Department receives this additional two weeks of vacation time, whether or not his or her current assignment requires reporting prior to the beginning of the assigned shift.

Police Chief Allan Nalepa testified that while all of the police officers below the rank of Sergeant and who are members of another employee association receive this 80 hours of compensatory time, only 76 officers are actually required by the nature of their assignments to appear fifteen minutes before the beginning of the shift to stand roll call. The 36 other members of this group are not required to appear before the actual beginning of the assigned shift.

(Transcript Vol. 3, pg. 67.)

Sergeant James Owens, testifying on behalf of the Association, stated, "Command Officers are required to report

to work in sufficient time ahead of the Patrolmen to prepare themselves for the shift and get their subordinates ready to go out on the road," and "Shift preparation customarily, typically lasts about fifteen minutes, a quarter of an hour over and above the roll call." (Transcript Vol. 1, pg. 77.)

The Chief testified that of the 43 members of the Command Officers Association, a number of them are not required to appear in advance of policemen appearing for roll call. This is primarily due to the fact that their current assignments do not include direct responsibility for uniformed personnel on the street. There are a number of Command Officers who must report earlier than roll call. Chief Nalepa stated, "All of the Command Officers within the Uniform Bureau and Traffic Division are absolutely required to report prior to the fifteen-minute start on roll call." (Transcript Vol. 3, pg. 46.)

Among Command Officers who are not required to appear prior to the actual beginning of the tour of duty are all of the three Captains. "The Captains, absolutely no requirement (to come in early). They start at 9:00 in the morning and go to 5:00." (Transcript Vol. 3, pg. 47.)

Neither are the Lieutenants in the SID, Emergency Management and Detention, required to appear ahead of their shift. (Transcript Vol. 3, pg. 48.)

Certain Sergeants are not expected to report ahead of their shifts. These were identified as Sergeants in Detention,

Crime Prevention, SID, Records, Vehicle Maintenance, and Investigation. (Transcript Vol. 3, pgs. 49, 49, and 68.)

The record pertaining to this issue contains testimony and exhibits from both sides, which established by competent, material, and substantial evidence that certain Command Officers have responsibility requiring their presence on duty prior to the reporting time of Patrolmen under their supervision. It was likewise established that a number of Command Officers have no such responsibility and there is no requirement for reporting for shift preparation.

Testimony on behalf of the Association emphasized the need to more equitably compensate Command Officers who must report earlier than Patrolmen report for roll call, in order to prepare for roll call responsibilities. No testimony was offered by the Association justifying this demand on behalf of the Command Officers who do not report early. The Employer's offer is the more equitable in that it provides some compensatory time for those whose current responsibilities require reporting early to prepare for roll call.

Testimony and exhibits on this issue were limited to Factors (d) and (h) under Section 9.

An examination of Exhibit A-26 reflects Sterling Heights is currently ranked fifth out of fifteen communities (Dearborn expired 6/30/84). The Employer's offer will

continue the Department at the same ranking. The Association offer would have placed the Department in third place. This is not a significant difference in ranking in this one aspect of overall wages and benefits to require further consideration.

4. MAINTENANCE OF CONDITIONS CLAUSE

The Employer's last best offer is adopted and is set out below.

"The Employer's last best offer on Issue 4 is to provide a maintenance of conditions clause by the addition to Article 2 a new Section 6, which reads as follows:

- (A) Wages, benefits, and working conditions of employment in effect at the execution of this Agreement shall be maintained during the term of this Agreement.
- (B) The City will make no unilateral changes in wages, benefits and working conditions during the term of the Agreement.
- (C) This Agreement shall supersede any existing rules and regulations inconsistent herewith. Rules and regulations not in direct conflict with this Contract shall remain the right of the Chief of Police."

The request of this Association in this issue, as set forth on Exhibit A-28, is totally different in text from that contained in their last best offer. The Employer opposed the Association's request during the statutory hearing, but its last best offer more nearly comports with similar clauses in existence in ten out of the fifteen communities (Transcript Vol. 11, pgs. 12 through 18) than the text of the last best

offer of the Association.

In consideration of the mandate of Section 9 of the Statute, especially Factor D; adopting the Employee's offer provides a condition of employment to these employees which they did not previously enjoy in the form of specific contract language, but which ten of fifteen comparable communities provide to Command Officers by comparable language.

The current labor contract between the Sterling Heights Fire Department and the Employer has a maintenance of condition clause. (Transcript Vol. 3, pg. 12.) The full text of that contract clause was not set forth.

The communication from the Association setting forth its last best offer on this issue advised that the offer "reflects language in the collective bargaining agreement between the Sterling Heights Fire Department and the City of Sterling Heights.

Pertinent to this issue is the information set forth in the Employer's closing statement at page 19. Herein the Arbitrator is again advised regarding the existence of such a clause between the Fire Fighters and the Employer, and there is set forth the text of the letter of understanding regarding the maintenance provision clause executed by the Fire Fighters which arguably limits the applicable effect

of the contract language.

As the parties are aware, neither of these two latter communications constitutes part of the record upon which the panel by statute is required to base its Opinion and Award. (Section 10.) Again, the panel considered the whole record and noted testimony by both sides was limited to Factors (d) and (h) of Section 9 of the Statute.

5. INSURANCE

The Employer's last best offer is adopted and is set out below.

"The Employer's last best offer on Issue 5 in regards to any changes in the medical and hospitalization insurance, the employer offers no changes in the current benefits."

The request of the Association, as set out in Exhibit A-36, is identical to the text of its last best offer and contains such a substantial change from the last contract not supported by the record as to prevent it from adoption. The expired contract language at Article 3, Section 6 (Insurance and Pensions) provides for insurance comparable to certain offerings of the Michigan Blue Cross and Michigan Blue Shield. The Association's last best offer mandates only Michigan Blue Cross/Michigan Blue Shield as the provider. All management prerogatives are eliminated. The Employer would be a captive customer of the provider. The expired contract mandates comparable benefits, but allows the Employer to

search the marketplace to provide comparable benefits at the best economic level in its favor. Further, this would impact on the Employer with respect to future retirees who are provided with benefits identical to those enjoyed at the time of retirement.

The last best offer of the Employer continues to provide a level of service to which there was no criticism by the Association on the record, rather the Association sought to further improve the coverage. The record is void of adequate cost figures for the requested additional coverages. (Transcript Vol. 2, pg. 22.) Again, in light of the statutory mandate to base findings, opinions and awards upon nine factors as applicable and with special reference to Factor (d) (Comparables), John Trupiano of Michigan Blue Cross/Michigan Blue Shield, advised that upon being furnished the list of comparables by the Association, determined that of the fifteen comparables, only two, Dearborn Heights and Troy, provide Command Officers with both of the "riders" of additional coverage as sought by the Association and, further, only three of the fifteen comparables provide employees with the specific rider identified as reciprocity.

Eight comparables have the DC rider (Dependent Children). Seven comparables, together with Sterling Heights, do not have either DC or reciprocity.

Thus, Sterling Heights appears to be ranked approximately in the middle between those who have DC and those who do not. Thirteen of the comparables do not have both. Equity does not require any adjustment in the rankings.

The Panel considered the whole record and based its Award thereon, recognizing that of the nine factors to be considered, only (d) and (h) are present in the record.

6. USE OF VACATIONS, COMPENSATORY, AND SICK TIME
TO SUPPLEMENT DISABILITY INSURANCE PAY

The Employer's last best offer is adopted.

"The Employer's last best offer on Issue 6 in regards to any changes in the use of vacation, compensatory or sick time to supplement Disability Insurance Pay, the Employer offers no changes in the current contract language."

The Employer's last best offer was adopted by the panel in the face of the equities of the situation being in favor of the Employees.

The Association seeks to be able to use accrued vacation pay, compensatory time, and accumulated sick leave to supplement disability pay in those situations presently covered by what is described as "short term-long term disability" and identified in Appendix A of the expired Contract. No operational details of the plan are set forth in the Appendix, nor does the record of the hearing supply any information concerning the cost of the benefit.

A reading of Appendix A of the last contract, together with a reading of Article 16, Section 4, paragraph D, subsection I, of the same contract, suggests that the Employer will provide insurance and the Employees will accept the insurance benefit in lieu of wages in the event the Employee suffers certain non work-related injuries or illnesses.

Counsel for the Employer in his opening statement advised that there was "some confusion" as to the results of the amount of insurance payment if the Association requests were granted. (Transcript Vol. 1, pg. 21.)

The equities of the situation would appear to favor the Employees. The balance each Employee has in his bank of vacation time, compensatory leave, and sick time has been earned by the Employee and should be expendable at the discretion of the Employee, subject to certain prerequisites. The effect of this benefit appears to impede Employee discretion and enjoyment of these various types of earned leaves.

However, the ramification of the operations of the Association's last best offer are not found in the record. The Association must bear the burden of establishing on the record testimony regarding the cost implications. This would be inherent in Factor (c) of Section 9. While it was agreed

that the financial ability of the Employer was not a factor, the interest and welfare of the public mandate that the Panel be advised as to the possible limits of the cost of the benefit. On the record, the present plan was described as a benefit which is not provided to the Command Officers of any of the fifteen comparables and is recognized as a cost item to the Employer for this group of Employees. (Transcript Vol. 2, pgs. 43, 45 and 46.) The Panel is concerned that the record is bare of evidence and testimony as to the results of the Employees' last best offer, if granted. It is possible, as suggested by the record, that granting the Employees' last best offer might result in Employees surrendering leave time and also, because of current insurance policies in effect, Employees would suffer an accompanying benefit reduction. It is to be recognized that these operational results may be fully understood by the parties, but the obstacle the Panel cannot overcome is the obstacle of an inadequate record.

The whole record on this issue does not contain sufficient substantial evidence to support the adoption of the Association's last best offer.

There now follows the Panel's determination regarding issues identified as Employer Issues.

7. TERMS OF CONTRACT

The Employer's last best offer is adopted. It is set out

below.

"The Employer's last best offer on Issue 7 in regard to the terms of the Contract, the employer offers a two (2) year contract to be in effect from July 1, 1984, to June 30, 1986."

The last contract expired June 30, 1984. Granting the Employees' last best offer for a one-year contract would result in a contract created and entered into after its expiration. In consideration of Factor (c) of Section 9 of the Statute, this would not serve the best interests of the public, who are best served by industrial and labor peace.

The record contains no testimony as to the duration of contracts among comparables, although the entire record emphasized the comparables almost to the extent of all other testimony. Testimony under cross-examination of Gordon McCulloch, on behalf of the Employer, is pertinent to this issue and was not refuted by the Association. It appears that under the expired contract, there can be no discussion, negotiation, mediation, or arbitration of pension improvements until a date in the future, suggested to be January 1, 1986. (Transcript Vol. 3, pg. 112.)

This is in reference to Appendix B of the expired contract, wherein the Employer and the Association agreed to certain pension improvements and further agreed that "No additional pension improvements shall be negotiated or subject

to mediation or arbitration prior to January 1, 1986." This does not constitute sufficient justification to sacrifice the interests of the public, who are best served by long-term contracts.

Further, the Panel finds that no specific present benefit will be affected in the area of pensions by the adoption of the Employer's last best offer.

The history of labor negotiation timetables in this City, as illustrated by this record, reflects that changes in the pension benefits would not likely occur between January 1, 1986 and the expiration of the contract determined by this Award to be June 30, 1986. Also recognized by this Panel was the fact that the record mandated the adoption of the Employer's last best offer on the issue of wages. This included a two-year period which will carry the parties through June 30, 1986. This consideration must be recognized in light of the elements of Factors (f) and (h) of Section 9.

8. RETROACTIVITY

This issue was settled on the record during the hearing. (Transcript Vol. 1, pgs. 22-24.) Sergeants and Lieutenants shall receive pay retroactive to July 1, 1984. Captains shall receive pay retroactive to January 1, 1984.

9. METHODOLOGY OF EDUCATION BONUS PAY

The last best offer of the Association is adopted.

"The Association proposes no change in the current method of payment of educational benefits."

The Employer proposes to change the method of compensating Command Officers upon achievement of either an Associate degree or Bachelor of Arts degree to the method currently existing by contract between the Employer and the Police Officers Association.

The present Command Officers contract provides for the dollar amount to be added permanently to the base wage, and therefore be subject to any other benefits based on a percentage of the base wage.

The Employer seeks to pay the same amount annually as a separate item, and thus not included in the base wage subject to affecting other payments.

Employer's Exhibit C-45 reveals that the Police Officers and Command Officers are the only City employees who receive an educational bonus.

It appears that the City seeks uniformity in the field of benefits for formal educational accomplishment. However, the Employer witness testified under cross-examination that

other City employees receive "tuition and book reimbursement." (Transcript Vol. 3, pg. 116.) No further testimony regarding the details of this matter were elicited. However, it suggests that granting of the City's offer would not achieve uniformity, as indicated.

Employee Exhibits A-9 and A-13 reveal that as of June 30, 1984, nine of the fifteen comparables provide a payment in return for a BA degree. Further, eleven of the fifteen comparables reimburse Command Officers for tuition and books. No information was set forth as to the method of payment. No testimony was offered by the Employer as to these comparables.

While the current method of payment has the effect of costing the Employer more money for those benefits based on a percentage of base wage, the "ability to pay" is not an issue in these hearings and cannot be considered.

The whole record does not contain sufficient substantial evidence to sustain the Employer's last best offer on this management issue.

10. LONGEVITY

The Association's last best offer is adopted.

"The Association proposes no change in the method of longevity payments."

The Employer seeks a cap on the longevity schedule as of June 30, 1985, based on the present schedule of percentage payments for years of continuous service.

This Employer issue was supported by Exhibits C-43 and C-44. On C-44, it appears that the Police Officers and Firefighters receive a fixed amount, while the Command Officers receive a percentage of base salary, and no other Sterling Heights employee receive any longevity payment. C-43 sets forth the amounts of longevity payments as of July 1, 1984, for the various groups of employees. The Employer argues in its Brief that there is a trend among the comparables "to convert from an uncapped percentage longevity payment to...." (Employer's closing statement at page 30.) This allegation of a trend is not supported by testimony in the record. There are contractual differences from a "flat percentage schedule" in Clinton Township, Warren, Roseville, and Southfield. However, the record is silent as to how these differences came into being.

It is to be noted that in accordance with Exhibit A-9, all comparables provide for longevity payments. According to Exhibit A-41, ten of the fifteen comparables make longevity payments on a schedule of percentages, with three of the comparables (Clinton Township, Warren, and Roseville) restricting in some fashion the full effect of the percentage

schedule. The remaining five comparables pay a fixed amount based on years of service.

The fact that Command Officers will receive an increasing longevity payment as the pay wage rises, and thus increase this cost of police service to the Employer, is beyond the consideration of this Panel because the Employer's ability to pay is not present as an issue.

Again the record limited the Panel to testimony covered by Factors (d) and (h) of Section 9 of the Statute.

11. CHANGE LANGUAGE FROM "INSURANCE" TO "BENEFIT"

The Association's last best offer is adopted.

"The Association proposes no change in the language from "insurance" to "benefit" and offers no change in the language relative to HMO options."

The record before the panel does not adequately reflect how the change requested by the Employer would affect the operational benefits of the insurance program. For example: A current benefit is the right to coverage by the insured if the Employee should leave the employment of the City. There was no showing that the City's proposal would provide the same opportunity.

Again in this situation, the parties may have a full understanding of the implications. However, the Employer does

not support its offer with sufficient evidence and testimony.
There was no showing by the Employer as to whether or not
this type of hospital-medical benefit is utilized on behalf
of any other City employee or, in fact, any of its
comparable communities.

EMPLOYEE'S DELEGATE:

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DATE:

DATE: Sept 14, 1985

DATE: Sept. 17, 1985

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not support its offer with sufficient evidence and testimony.
There was no showing by the Employer as to whether or not
this type of hospital-medical benefit is utilized on behalf
of any other City employee or, in fact, any of its
comparable communities.

EMPLOYEE'S DELEGATE:

Elijah Boffa pres

Elijah Boffa
c/o Sterling Heights
Police Dept.
Sterling Heights, MI

CHAIRMAN:

Richard H. Senter

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EMPLOYER'S DELEGATE:

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Reuben Ricard
c/o Utica Police Dept.
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DATE:

DATE:

Sept 13, 1985

DATE:

APPENDIX A

RICHARD H. SENTER

COUNSELLOR AT LAW

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February 14, 1985

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Re: Sterling Heights and Sterling Heights
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MERC Act 312, Case No. D 84-D-1281.

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DETROIT OFFICE

Gentlemen:

A pre-hearing conference in the above-entitled matter was conducted within the MERC offices in Detroit on Wednesday, February 6, 1985, beginning at 10:30 a.m. Representing the employer was Edward L. Graham, Esq. Also in attendance on behalf of the City were Messrs. Gordon McCulloch and Dick Schoenherr. Representing the bargaining unit was Eugene R. Bolanowski, Esq. Also in attendance on behalf of the bargaining unit were Messrs. Fred Cleland, David Grabb, and Jim Owens. Also present and participating as the delegate for the bargaining unit was Elijah D. Boffa.

The parties agreed and stipulated that the statutory hearing would be conducted on April 24, 25, 26, 30, and May 1, 1985. The hearings will begin at 9:30 a.m. at the MERC offices, 1200 6th Avenue, Detroit, Michigan 48226.

The parties agreed and stipulated that the petitioner would proceed issue by issue, with cross-examination, recross, and rebuttal testimony on each issue as presented.

The parties agreed and stipulated that exhibits will be exchanged directly between representatives of the parties, i.e., David Graham and Gordon McCulloch on April 16, 1985. In the alternative, it was further agreed that the parties could mail the exhibits to the Chairman of the panel, postmarked no later than April 16th, and the Chairman, in turn, would mail the respective exhibits to the parties.

It was agreed and stipulated between the parties that they would both use comparables previously used and that in the event of any changes, the chairman of the panel and opposing party would be notified by correspondence postmarked no later than March 16, 1985.

The parties agreed and stipulated as to the timeliness and jurisdiction of the panel, with one exception. In the matter of jurisdiction, the chairman was jointly advised that the contract for the bargaining unit expired June 30, 1984. During the life of that contract, there was one instance of accretion in representation of three individuals. The exact date of certification in this instance is unrecalled, but it was in May of 1984. Thus, the parties are not in agreement as to retroactivity in all respects. So far as the positions covered by the bargaining unit at the beginning of the last contract, it is agreed that retroactivity extends to June 30, 1984.

The parties are not in agreement as to retroactivity of the contract to be reached, so far as the recently certified positions. The parties will brief this matter, briefs to be furnished to the arbitrator, postmarked no later than April 16, 1985. The arbitrator will provide his opinion in this matter on the opening of the hearing. The facts are agreed to by the parties and the matter is understood to involve a question of law and jurisdiction. The parties are not in agreement as to the duration of the next contract.

The parties do stipulate and agree to a waiver of statutorily imposed time limits.

A copy of the answer to the ^{Petition}~~position~~, as prepared and filed with MERC by the employer, was furnished to the arbitrator. There next followed a discussion of the unresolved issues. The bargaining unit in its Petition lists six issues. The employer in its response listed five issues and numbered them 7, 8, 9, 10, and 11. The parties jointly agreed and stipulated that there are no unresolved additional issues whatsoever, although the full terms of each of the issues is not known to the opposing side.

Petitioner's issue number one, involving wages, is not known in detail to the employer.

Petitioner's issue number two, entitled Vacations, Leave, and use thereof, is now understood to involve three

aspects, i.e., delete accrual, increase the number of vacation days, and alter the requirement of utilizing vacation in four-day increments.
hour

Petitioner's issue number three, entitled, Additional Compensatory Leave for Shift Preparation, is stated to be understood by both parties.

Petitioner's issue number four, entitled, Maintenance of Conditions Clauses, is understood by both parties.

Petitioner's issue number five, entitled, Insurance-Appropriate Riders and Reciprocity Issue, is understood to include a DR rider and reciprocity.

Petitioner's issue number six is understood by the parties.

Employer's issue number seven, Term of Contract-Two Years, is understood but not agreed to at this time by the bargaining unit.

Employer's issue number eight, entitled, Retroactivity of Contract Terms, is understood but not agreed to, and will proceed in accordance with arrangements set out above regarding the arbitrator to determine this matter.

Employer's issue number nine, Educational Benefits - Method of Payment, is now paid once a year. The parties understand the dimensions of the issue, but are not yet in agreement.

Employer's issue number ten, Longevity-Payment Made in Fixed Amount, rather than Percentage of Pay, is stated to involve no reduction and is, therefore, understood by the bargaining unit, but not agreed to at this time.

Employer's issue number eleven, Insurance-Change Option from "insurance" to "benefit;" provide language for HMO options, is not fully understood by the bargaining unit. Employer's representative stated that the change sought was a voluntary option.

The parties agreed and stipulated and the chairman determined that all issues in this matter, as identified above, are economic issues.

The parties agreed and stipulated that their last best offers will be furnished to the arbitrator, postmarked no

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later than fifteen days after the close of hearing. The arbitrator will furnish immediately upon receipt the last best offers to the opposing party.

Post-hearing briefs were agreed and stipulated to be submitted within thirty days after receipt of the transcript.

It was agreed and stipulated that there will be no pre-hearing briefs, except for the one described above, and that the parties presently waive closing arguments, the matter that may be revisited by the parties.

The role of the delegates is understood by the parties; there will be no substitution of delegates; the delegate will not act as advocate; the delegate may be called as a witness by the bargaining unit; and questions, but not arguments, will be permitted by the delegates at the close of direct and cross-examination. It is understood that the chairman will make the required evidentiary rulings. It is presently contemplated that executive sessions will be held by the chairman with the delegates in connection with preparation of the Opinion and Award.

The hearing was concluded at 11:45 a.m.

Very truly yours,



Richard H. Senter

RHS/af

cc: Mr. James Amar
Mr. Raymond J. Marcoux
Mr. Richard Schoenherr
Sgt. David Grabb