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MICHIGAN DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION

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IN THE MATTER OF THE ACT 312 ARBITRATION  
BETWEEN:

CHARTER TOWNSHIP OF BROWNSTOWN,

Public Employer,

Case No. D99 K-1905

-and-

MICHIGAN ASSOCIATION OF POLICE,

Labor Organization.

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BEFORE:

Arbitrator Karen Bush Schneider, Esq.  
Panel Chairperson

PANEL DELEGATE FOR MICHIGAN  
ASSOCIATION OF POLICE:

Scott Reinacher

PANEL DELEGATE FOR CHARTER  
TOWNSHIP OF BROWNSTOWN:

Carl J. Austermiller

APPEARANCES:

FOR PETITIONER, MICHIGAN  
ASSOCIATION OF POLICE:

Fred Timpner, Executive Director  
Michigan Association of Police  
26400 Lahser Road, Suite 111  
Southfield, MI 48034-2672

FOR THE PUBLIC EMPLOYER,  
BROWNSTOWN TOWNSHIP:

William DeBiasi, Esq.  
24825 Eureka Road  
Taylor, MI 48180-5154

## INTRODUCTION

The Petitioner, Michigan Association of Police (hereinafter referred to as "MAP"), filed a Petition for Act 312 Arbitration with the Michigan Employment Relations Commission on or about November 22, 2000. The Petition covered the patrol unit, including all full-time and part-time patrol officers, detectives, dispatcher/clerks and typists, employed by Brownstown Township (hereinafter referred to as the "Township"). An Arbitration Panel consisting of Karen Bush Schneider, Esq., Panel Chairperson, Scott Reinacher, Delegate for MAP, and Carl J. Austermiller, Delegate for the Township, was constituted to conduct the arbitration hearing in this matter. Hearings were held on May 22, 23, June 6, 7, July 20 and 24, 2001, at the Brownstown Township Police Department in the City of Trenton, Michigan.

Following the conclusion of the evidentiary hearing, Last best offers were submitted by the parties on or about August 24, 2001. Briefs were exchanged on or about October 19, 2001. The Arbitration Panel convened on November 20, 2001. The parties agreed to negotiate issues pertaining to the clerk/clerk typist employees and advised the Panel Chairperson of their intention to negotiate such issues by correspondence dated December 28, 2001. Subsequently, negotiations were held between the parties in January, 2002. The Arbitration Panel has not addressed issue(s) pertaining to the clerk/clerk typist employees in light of the parties' continued negotiations. However, the parties retain the right to fully argue said issues, including substantive arbitrability, in the event the parties are unable to bargain a resolution.

After deliberation on the unresolved disputed issues, the Panel issues this Award.

## THE FINAL OFFERS OF THE PARTIES

### THE FINAL OFFER OF THE PETITIONER LABOR ORGANIZATION, MAP

#### HEALTH CARE

##### Current Language.

Article 27. Section 27.2, page 15. The Employer will allow for a 6% increase in the average cost of the benefits to the Employer for the plan years 1997 - 1998 and 1998 - 1999. In the event that the average cost of coverage rises in excess of 6% in any one year, upon request of the Employer, this provision of the collective bargaining agreement shall be reopened and negotiations shall commence between the Union and the Employer regarding medical benefits in an attempt to bring the average cost of these benefits below the 6% ceiling. In the event that the Union and the Employer cannot resolve the matter by negotiation, the issue will be submitted to binding arbitration for resolution.

##### Union's Last Best Offer.

Delete current language, Article 27.2 and renumber rest of sections in Article 27.

#### LONGEVITY

##### Current Language.

None

##### Union's Last Best Offer.

Effective 1-1-2000. Add the following longevity scale for all Employees covered by the Bargaining Unit.

Longevity payments shall be based on the following schedule:

- 1% - For 5 years but less than 10 years of service
- 2% - For 10 years but less than 15 years of service
- 3% - For 15 years but less than 20 years of service
- 4% - For 20 years of service or more

All percentage payments to be based on current base salary at time of payment. Payment to be made on first pay day in December annually.

### **MATERNITY LEAVE**

#### **Current Language.**

### **ARTICLE 34 MATERNITY LEAVE**

34.1 An Employee that is pregnant, and who does not wish to resign, may take a leave of absence. Said leave shall be called a "Maternity Leave", and must be applied for in writing to the Township Board. Included with said application shall be a doctor's certificate, certifying the pregnancy, estimating the delivery date, and providing an exact calendar date for the recommended start of leave.

34.2 An Employee that is pregnant may use all her accumulated sick leave prior to taking her unpaid leave.

An unpaid maternity leave shall be granted without loss of seniority. An Employee may be permitted to continue working if not in conflict with the date provided by her physician in paragraph 34.1 above, upon her written request accompanied by a statement from her physician stating in writing:

- A. She is physically able to continue with normal recurring duties of her job.
- B. Setting forth any restriction upon activity, provided they do not render her restricted from any normal recurring duty of her job classification.

- C. Providing an exact calendar date upon which maternity leave is recommended to commence.

34.3 An Employee's maternity leave shall terminate six (6) weeks post partum (sic): unless a physician verifies that a longer confinement is necessary, provided that an Employee may return sooner upon her written request accompanied by a written statement from her physician stating that she is physically able to return to the normal recurring duties of her job without restriction. The Employee, upon prior written application, may at the end of the maternity leave request a six (6) month unpaid leave of absence as a child care leave, which shall be granted only by Township Board approval.

34.4 Upon returning to work the Employee shall have the right to return to the classification in the unit which she worked at the time her leave of absence was granted. The Employee must produce a release from the doctor to return to work.

34.5 An Employee who fails to return to her work at the termination of her pregnancy leave or any extension thereof, shall lose her seniority and her employment shall be terminated.

Union's Proposal and Last Best Offer.

Delete current Article 34 and replace with the following:

34.1 Maternity leave shall be treated as any other disability leave and in compliance with the Family and Medical Leave Act.

34.2 An Employee on maternity leave may, at her option, use all or part of her accumulated sick leave.

## PENSION

### Current Language.

## ARTICLE 39

### PENSIONS

39.1 The current pension plan which the Employer has shall be adopted as the Pension Plan of the Employees covered under this Agreement. Any Employee who is a participant in the Plan for twenty (20) months shall be entitled to receive the full vested contribution upon their termination of employment. The Employer will assist in expediting receipt of funds upon termination, except however the Employer's Contribution shall be increased as follows:

1/1/97 - 12/31/97 15%

1/1/98 - 12/31/98 15%

1/1/99 - 12/31/99 15%

39.2 Employees may make voluntary contributions to the plan.

### APPENDIX "E"

#### MEMORANDUM OF UNDERSTANDING

It is agreed that The Charter Township of Brownstown and POAM shall have Burnham and Flowers review the projected pensions of officers to be identified by POAM, to determine the feasibility of providing an annuity or other type of supplement to their respective pensions to assure that they will receive a pension equal to fifty percent (50%) of the final projected base salary at normal retirement age (55 years) in the event the current contributions will not provide this benefit.

Union's Last Best Offer.

Effective 1-1-2002. Payments to the current defined contribution plan (Manulife) made by Employer shall cease. All monies in the accounts established by the Employer for all Employees covered by the Bargaining Unit, will be rolled over to the Municipal Employees Retirement system (MERS) in a trustee to trustee transfer.

MERS shall keep 90% of the rolled over funds and apply this money to the unfunded accrued liability for the Employees in this Bargaining Unit. The remaining monies are to be rolled over to accounts established by the Employees in compliance with IRS regulations.

Effective 1-1-2002. All Employees covered by the Bargaining Unit shall pay 2% of their annual compensation to MERS to help pay for the cost of the defined benefit pension system with the following benefit riders:

B-4, V-10, FAC-3, F50, with all prior years of service.

Effective 1-1-2002. The Employers contribution to the MERS defined pension system for the Employees shall be as determined on an annual basis by MERS.

Effective 1-1-2002. All new hires shall be enrolled in the same defined benefit pension system (MERS).

Effective 1-1-2002. Delete current language Article 39, sections 39.1 and 39.2 and replace with the above. Delete Appendix E, Memorandum of Understanding.

**WAGES**

**DISPATCH/CLERICAL**

***Current Clerical:***

CLASSIFICATION	START	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
TYPIST		8.90	9.61	10.70	11.26	11.69
1/1/99	6.85	9.25	9.96	11.05	11.61	12.04
1/1/00	7.40	9.80	10.51	11.60	12.16	12.59
1/1/01	7.95	10.35	11.06	12.15	12.71	13.14
CLERK TYPIST						
CASHIER		10.27	11.36	12.82	13.38	13.81
1/1/99	8.35	10.62	11.71	13.17	13.73	14.16
1/1/00	8.90	11.17	12.26	13.72	14.28	14.71
1/1/01	9.45	11.72	12.81	14.27	14.83	15.26

***Current Dispatchers:***

**Dispatchers:**                      2% (1/1/97)                      2% (1/1/98)                      2% (1/1/99)

   2% (7/1/97)                      2% (7/1/98)                      2% (7/1/99)

YEAR	START	(HR)	1 YEARS	(HR)	2 YEARS	(HR)	3 YEARS	(HR)
1/1/97	\$18,615	\$8.950	\$23,440	\$11.269	\$24,893	\$11.968	\$26,350	\$12.668
7/1/97	\$18,987	\$9.128	\$23,908	\$11.494	\$25,391	\$12.207	\$26,877	\$12.922
1/1/98	\$19,367	\$9.311	\$24,387	\$11.725	\$25,899	\$12.451	\$27,414	\$13.180
7/1/98	\$19,754	\$9.497	\$24,874	\$11.959	\$26,417	\$12.700	\$27,962	\$13.443
1/1/99	\$20,149	\$9.687	\$25,372	\$12.198	\$26,945	\$12.954	\$28,522	\$13.713
7/1/99	\$20,552	\$9.881	\$25,879	\$12.442	\$27,484	\$13.213	\$29,092	\$13.987

Wages and pension will be paid retroactive to 1/1/97 on all hours compensated.

**Union's Last Best Offer:**

Combine the typist and clerk typist pay scale into one scale and pay according to the following wage schedule:

**Clerk/Typist:**

Year	Start	1 Year	2 Years	3 Years	4 Years	5 Years
1/1/00	8.90	11.17	12.26	13.72	14.28	14.71
1/1/01	9.45	11.72	12.81	14.27	14.83	15.26
5% 1/1/02	9.92	12.31	13.45	14.98	15.57	16.02

**Dispatch:**

Year	Start	1 Year	2 Years	3 Years
6% 1-1-00	10.47	13.19	14.01	14.83
5% 1-1-01	11.00	13.85	14.71	15.57
5% 1-1-02	11.55	14.54	15.44	16.35

**WAGES**

**POLICE OFFICERS**

**Current Police Officers:**

**Starting Wages**

<b>Year</b>	<b>Non-Cert</b>	<b>Cert</b>	<b>After F.T.O.</b>
1/1/97	\$17,600.00	\$26,216.00	\$28,452.00
1/1/98	\$17,600.00	\$27,002.00	\$29,305.00
1/1/99	\$17,600.00	\$27,812.00	\$30,184.00

**1 to 4 Years**

<b>Year</b>	<b>1 Year</b>	<b>2 Years</b>	<b>3 Years</b>	<b>4 Years</b>
1/1/97	\$34,233.00	\$36,739.00	\$39,245.00	\$41,277.00
1/1/98	\$35,259.00	\$37,841.00	\$40,422.00	\$42,515.00
1/1/99	\$36,316.00	\$38,976.00	\$41,634.00	\$43,790.00

**Unions Last Best Offer:**

**Wages**

**Police Officer**

Effective 1-1-2000. 5% increase for all steps of the wage scale.

Effective 1-1-2001. 5% increase for all steps of the wage scale.

Effective 1-1-2002. 6% increase for all steps of the wage scale.

### Starting Wages

Year	Non-Cert	Cert	After F.T.O.
5% 1/1/00	\$18,480.00	\$29,202.60	\$31,693.20
5% 1/1/01	\$19,404.00	\$30,662.73	\$33,277.86
6% 1/102	\$20,568.24	\$32,502.49	\$35,274.53

### 1 to 4 Years

Year	1 Year	2 Years	3 Years	4 Years
5% 1/1/00	\$38,131.80	\$40,924.80	\$43,715.70	\$45,979.50
5% 1/1/01	\$40,038.39	\$42,971.04	\$45,901.49	\$48,278.48
6% 1/1/02	\$42,440.69	\$45,549.30	\$48,655.57	\$51,175.18

### EMPLOYER'S LAST BEST OFFER

#### ECONOMIC ISSUE NO. 1

#### PENSION

##### PRESENT LANGUAGE:

"39.1 The current pension plan which the Employer has shall be adopted as the Pension Plan of the employees covered under this Agreement. Any employee who is a participant in the Plan for twenty (20) months shall be entitled to receive the full vested contribution upon their termination of employment. The Employer will assist in expediting receipt of funds upon termination, except however the Employer's Contribution shall be increased as follows:

1/1/97 - 12/31/97	15%
1/1/98 - 12/31/98	15%
1/1/99 - 12/31/99	15%

39.2 Employees may make voluntary contributions to the plan."

**PROPOSED LANGUAGE:** The Township proposes no change to the pension system or to the contribution amounts. The Township proposes that the language be modified to reflect the current practice as follows:

"39.1 The current pension plan which the Employer has shall be adopted as the Pension Plan of the employees covered under this Agreement. Any employee who is a participant in the Plan for twenty (20) months shall be entitled to receive the full vested contribution upon their termination of employment. The Employer will assist in expediting receipt of the funds upon termination. The Employer's Contribution to the Plan shall be 15% of base wage.

39.2 Employees may make voluntary contribution to the Plan."

Section 27.12. "Group Life Insurance and Sick Benefits", details the short and long term disability benefits provided to employees. As part of its L.B.O. on pension, the Township proposes an improvement to its long term disability coverage as follows:

**CURRENT:** The L.T.D. plan has three (3) years of "own occupation" coverage.

**PROPOSED LANGUAGE:** Increase to five (5) years of "own occupation" coverage, effective as of the policy renewal date in 2002.

The benefits provided shall be controlled by the insurance policy language relating to such benefits, and in the event of any dispute, the insurance contract language shall prevail.

Section 27.12 would correspondingly be amended to provide that "As of the plan renewal date in 2002, the long term disability coverage shall provide for five (5) years "own occupation" coverage.

The Township proposes no further change in pension or disability benefits. The Township also wishes to preserve the question of whether the pension issue should properly be considered, to be addressed in its Brief.

## **ECONOMIC ISSUE NO. 2**

### **HEALTH CARE**

**PRESENT LANGUAGE:**

"27.1 The Township shall provide medical and hospital coverage for employees and their immediate families which coverage shall be equal to Blue

Cross and Blue Shield Preferred plans which provide hospital and medical service and a prescription rider with a \$3.00 deductible. The Township shall have the right to select the carrier for all plans so long as the plans are equal to or superior to the Blue Cross Preferred Plan. Employees shall also be allowed to select the M-Care P.O.S. Option in lieu of the coverage provided by the Township with the understanding that if the M-Care Option costs more than the coverage already provided, the employees electing the M-Care Option shall pay the incremental difference.

27.2 The Employer will allow for a 6% increase in the average cost of the benefits to the Employer for the plan years 1997-1998 and 1998-1999. In the event that the average cost of coverage rises in excess of 6% in any one year, upon request of the Employer, this provision of the collective bargaining agreement shall be reopened and negotiations shall commence between the Union and the Employer regarding medical benefits in an attempt to bring the average cost of these benefits below the 6% ceiling. In the event that the Union and Employer cannot resolve the matter by negotiation, the issue will be submitted to binding arbitration for resolution."

#### PROPOSED LANGUAGE:

"27.1 The Township shall provide medical and hospital coverage for employees and their immediate families which coverage shall be equal to the Blue Cross/Blue Shield Community Blue Plan 1, which provides hospital and medical service and a prescription rider with a \$10.00 deductible. The Township shall have the right to select the carrier for all plans so long as the plans are equal to or superior to the Blue Cross Community Blue Plan. Employees shall also be allowed to select the "C.O.P.S." Trust coverage in lieu of the coverage provided by the Township with the understanding that if the C.O.P.S. Trust option costs more than the applicable Blue Cross/Blue Shield coverage provided, the employees selecting the C.O.P.S. option shall pay the incremental difference; furthermore, any employee who elects the C.O.P.S. option must remain with that coverage for at least 1 year, until the next open enrollment period.

27.2 The Employer will allow for an 8% increase in the average cost of the benefits to the Employee over the preceding plan year. In the event that the average cost of coverage rises in excess of 8% in any one year, upon request of the Employer, this provision of the collective bargaining agreement shall be reopened and negotiations shall commence between the Union and the Employer regarding medical benefits in an attempt to bring the average cost of these benefits below the 8% ceiling. In the event that the Union and Employer cannot resolve the matter by negotiation, the issue will be submitted to binding arbitration for resolution."

The Township proposes no further change to Article 27, except with respect to the long term disability insurance provided under 27.12, which proposal shall be presented by the Township in connection with its L.B.O. on the pension issue.

### **ECONOMIC ISSUE NO. 3**

#### **LONGEVITY**

**PRESENT LANGUAGE:** There currently exists no longevity system for Police Officers or Dispatchers

**PROPOSED:** The Township proposes no change

### **ECONOMIC ISSUE NO. 4**

#### **WAGES**

The parties have stipulated to a three year contract, which begins on January 1, 2000 and ends on December 31, 2002. The present wage scale for Police Officers and Dispatchers is set forth in Appendix "C" of the current collective bargaining agreement (Joint Exhibit 3, pp 31-32).

The Township is presenting each year as a separate issue.

1. 1/1/00 - 12/31/00

##### Police

The Township proposes a 3.5 percent wage increase for Police Officers over the base rate at each step.

##### Dispatchers

The Township proposes a 4 percent wage increase for Dispatchers over the base rate at each step.

2. 1/1/01 - 12/31/01

##### Police

The Township proposes a 3.75 percent wage increase for Police Officers over the base rate at each step.

Dispatchers

The Township proposes a 4 percent wage increase for Dispatchers over the base rate at each step.

3. 1/1/02 - 12/31/02

Police

The Township proposes a 4 percent wage increase for Police Officers over the base rate at each step.

Dispatchers

The Township proposes a 4 percent wage increase for Dispatchers over the base rate at each step.

Pursuant to the above, Appendix "C" would be modified as follows:

APPENDIX "C"

WAGES

Police Officers: 3.5% - 3.75% - 4.0%

Starting Wages

Year	Non-Cert	Cert	After F.T.O.
1/1/00	\$18,216.00	\$28,785.00	\$31,240.00
1/1/01	\$18,899.00	\$29,864.00	\$32,411.00
1/1/02	\$19,654.00	\$31,058.00	\$33,707.00

1-4 Years

Year	1 Year	2 Years	3 Years	4 Years
1/1/00	\$37,587.00	\$40,340.00	\$43,091.00	\$45,322.00
1/1/01	\$38,996.00	\$41,852.00	\$44,706.00	\$47,021.00
1/1/02	\$40,555.00	\$43,526.00	\$46,494.00	\$48,901.00

Dispatchers: 4% - 4% - 4%

Year	Start	1 Year	2 Years	3 Years
1/1/00	\$21,374.00	\$26,914.00	\$28,582.00	\$30,255.00
1/1/01	\$22,228.00	\$27,990.00	\$29,725.00	\$31,465.00
1/1/02	\$23,117.00	\$29,109.00	\$30,914.00	\$32,723.00

No change with respect to part-time employees (Joint 3, p. 32).

### NON-ECONOMIC ISSUE NO. 1

#### MATERNITY

##### PRESENT LANGUAGE:

"34.1 An employee that is pregnant, and who does not wish to resign, may take a leave of absence. Said leave shall be called a "Maternity Leave", and must be applied for in writing to the Township Board. Included with said application shall be a doctor's certificate, certifying the pregnancy, estimating the delivery date, and providing an exact calendar date for the recommended start of leave.

34.2 An employee that is pregnant may use all of her accumulate sick leave prior to taking her unpaid leave.

An unpaid maternity leave shall be granted without loss of seniority. An employee may be permitted to continue working if not in conflict with the date provided by her physician in paragraph 34.1 above, upon her written request accompanied by a statement from her physician stating in writing:

- A. She is physically able to continue with normal recurring duties of her job.
  - B. Setting forth any restriction upon activity, provided they do not render he restricted from any normal recurring duty of her job classification.
  - C. Providing an exact calendar date upon which maternity leave is recommended to commence.
- 34.3 An employee's maternity leave shall terminate six (6) weeks postpartum (sic); unless a physician verifies that a longer confinement is necessary, provided that an employee may return sooner upon her written request

accompanied by a written statement from her physician stating she is physically able to return to the normal recurring duties of her job without restriction. The employee, upon prior written application, may at the end of the maternity leave request a six (6) month unpaid leave of absence as a child care leave, which shall be granted only by Township Board approval.

- 34.4 Upon returning to work the employee shall have the right to return to the classification in the unit which she worked at the time her leave of absence was granted. The employee must produce a release from the doctor to return to work.
- 34.5 An employee who fails to return to work at the termination of her pregnancy leave or any extension thereof, shall lose her seniority and her employment shall be terminated."

**PROPOSED LANGUAGE:**

- 34.1 When an employee is pregnant, she may request a voluntary leave of absence subject to the terms and conditions set forth below. This leave shall be called a "Maternity Leave" and shall be applied for in writing to the Chief of Police.

The application shall include a doctor's certificate verifying the pregnancy, estimating the delivery date, and providing an exact calendar date for the recommended start of leave.

- 34.2 An employee who wishes to continue working during her pregnancy may do so provided that she presents a written statement from her physician certifying that:
1. She is physically able to continue with the normal recurring duties of her job.
  2. Setting forth any restrictions upon her activity, provided that those restrictions do not prohibit her from performing any normal, recurring duties of her job classification.
  3. Providing an exact calendar date upon which maternity leave is recommended to commence.

The employee may, at any time while she is pregnant and on active duty, submit to the Chief of Police a physician's statement amending any of the information set forth in A. - C. above.

34.3 A maternity leave shall be an unpaid leave for a period not to exceed six (6) weeks post-partum (sic). Maternity leave time shall be inclusive of time available to the employee under the Family and Medical Leave Act (F.M.L.A.). The employee may receive payment during her unpaid maternity leave by using accrued sick time or vacation days; however, the employee may not use sick time credits beyond the scheduled termination date of the maternity leave (return to work date) unless she presents a written statement from a physician verifying that she is not yet capable of performing the normal, recurring duties of her job, and indicating when the employee is expected to be cleared to return to work.

34.4 An employee returning to work from a maternity leave shall first present a written statement from her physician stating that she is physically able to return to the normal, recurring duties of her job.

34.5 The employee shall not lose seniority during a period of maternity leave, and shall be entitled to return to work at the same classification in which she worked at the time the leave was granted; except that an employee designated for a special work assignment at the time leave commenced (e.g. D.R.A.N.O.) Cannot be guaranteed of being assigned to those special work duties.

34.6 At the conclusion of maternity leave, the employee, upon written application under the terms and conditions contained in "Article 36, Leaves of Absence" may request an unpaid leave of absence, without accrual of seniority, of up to six months to be designated as a child care leave, which leave shall be permitted only by approval of the Township Board.

34.7 Any employee who fails to return to work at the termination of her maternity leave or any extension thereof as provided above shall lose her seniority and her employment shall be terminated.

### **STATUTORY AUTHORITY**

Public Act No. 312 of 1969, MCL 423.231, *et. seq.*, provides for compulsory arbitration of labor disputes involving municipal police officers. Section 8 of the Act states, in relation to economic issues, that:

The arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors described in Section 9. The findings, opinions and orders as to all other issues shall be

based upon the applicable factors prescribed in Section 9.  
MCL 423.238.

Section 9 of the Act contains eight factors upon which the Panel must base its opinion and orders. The factors are as follows:

- a. The lawful authority of the employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and financial ability of the unit of government to meet those costs.
- d. Comparison of 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 and 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 sector or in private employment. MCL 423.329.

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

423.240. This has been acknowledged by the Michigan Supreme Court in *City of Detroit v. Detroit Police Officers Assoc.*, 408 Mich 410 (1980). There, Justice Williams commented on the importance of the various factors, stating:

The Legislature has neither expressly or implicitly evinced any intention in Act 312 that each factor of Section 9 be accorded equal weight. Instead, the Legislature has made their treatment, where applicable, mandatory on the panel through the use of the word "shall" in Sections 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 a case, although, of course, all "applicable" factors must be considered. *Id.* at 484.

The Arbitration Panel applied all of the Section 9 factors in considering the disputed issues herein even if not specifically discussed.

#### **STIPULATION OF THE PARTIES REGARDING COMPARABILITY**

The parties stipulated to the following external comparables:

Taylor  
Riverview  
Southgate  
Woodhaven  
Flat Rock  
Trenton  
Gibraltar  
Grosse Isle  
Rockwood

In addition to the foregoing external comparables, the parties also rely upon internal comparables, including bargaining units represented by C.O.A.M., AFSCME and the UAW.

### **ISSUE NO.1: LONGEVITY**

MAP proposes that the Panel award a longevity benefit consisting of an escalating longevity payment for all employees with at least five years of bargaining unit service. The longevity benefit would be calculated using a percentage of an employee's current base salary. The percentages range from 1% to 4%, depending on years of service.

In support of its proposal, MAP argues that there has been significant turnover in the bargaining unit since 1995, as demonstrated by the departure of 13 police officers and 4 dispatchers. (See Union Exhibit "13.") The inclusion of a longevity schedule would provide an incentive for bargaining unit members to remain employed with the Township since the benefit would increase with years of service.

MAP also argues that a review of the external comparables supports its position on the issue of longevity. Only two of the external comparables, specifically Romulus and Woodhaven, do not have longevity provisions in their collective bargaining agreements. (See Union Exhibit "14.") Further, at least one of the internal comparables has a longevity benefit providing a \$500 maximum payment. (See Union Exhibit "15.")

MAP has proposed percentage increases to longevity as part of its proposal. Thus, longevity would keep pace with increases to the salary schedule. MAP notes that even if its entire salary offer were accepted by the Arbitration Panel, the maximum longevity payment in calendar year 2002 would only be approximately \$2,000.

The Township proposes to maintain the status quo regarding the issue of longevity. In other words, it proposes to provide no longevity to MAP's bargaining unit members.

In support of its position, the Township observes that although a number of the external comparables provide a longevity benefit, not one of those comparables calculates longevity as a percentage of base salary. The majority of external comparables have longevity systems which impose maximums. (See Employer Exhibit "11.") Adoption of MAP's proposal would result in a first-time longevity benefit which, in some cases, would be double or even triple the benefit received by employees in the comparable communities. (Id.)

The Township also argues that longevity systems are "anachronisms" in modern police departments. A review of the longevity systems of the external comparables reveals that longevity systems are historical anomalies which have not received much bargaining attention since the 1980s. (See Employer Exhibit "11," and Joint Exhibit "9.") Longevity is not used effectively as a recruitment tool in either obtaining, or retaining, qualified police personnel.

The Township also notes that MAP has not calculated the roll-up costs associated with the adoption of such a lucrative longevity provision. The longevity provision is simply unnecessary given the current compensation level of the Township patrol officers.

The Arbitration Panel has carefully considered the issue of longevity, the last best offers and the arguments of the parties, and the factors set forth in Section 9 of Public

Act 312 of 1969, MCL 423.239. The Panel is persuaded that the Section 9 factors favor adoption of the proposal of the Township on the issue of longevity.

Section 9(d) requires the Arbitration Panel to evaluate proposals based upon a comparison of the wages and benefits in comparable communities. While a number of the external comparables do provide a longevity benefit to police officers, the benefit is quite modest in comparison to MAP's proposal. Longevity benefits of the comparables range from a low of \$100 to a high of \$1,200, whereas MAP's proposal would have the Arbitration Panel adopt an initial longevity benefit ranging from approximately \$500 to more than \$2,000 for patrol officers. Thus, the Township would go from a position of providing no longevity payment in comparison to the comparable communities to a position of providing the best longevity benefit amongst the comparable communities.

None of the cited comparables provides a longevity benefit which is tied to a percentage of base salary. Additionally, longevity does not appear to be a benefit which has received priority and the attention of the comparable communities within the last decade or more. Bargaining focus remains on salary and pension.

Nor is it likely that the interest and welfare of the public warrant the adoption of MAP's longevity proposal. See Section 9(c). Although MAP argues that a longevity system encourages retention of personnel by the Township, it provided no direct evidence to support this proposition. It is unlikely that in today's mobile society an annual payment of anywhere from \$500 to \$2,000 would be sufficient to dissuade a patrol officer from seeking more lucrative or personally attractive employment opportunities elsewhere.

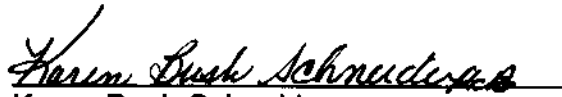
As will be discussed in connection with the issue of wages, the salary received by MAP's bargaining unit members compares favorably to the comparables.

(Section 9(f).) Further, cost of living has remained low and increases are certainly reflected in the Panel's award on wages. (Section 9(e).)

There were no changes in the foregoing circumstances during the pendency of these arbitration proceedings (Section (g)). There are no other factors which would warrant a different conclusion (Section 9(h)).

#### **AWARD REGARDING THE ISSUE OF LONGEVITY**


The Panel adopts the proposal of the Township on the issue of longevity and maintains the status quo, to wit, there is no longevity system for the bargaining unit members.

  
Karen Bush Schneider  
Panel Chairperson

Accepted By:

 3/31/02

Rejected By:

 3-18-02

#### **ISSUE NO. 2: ARBITRABILITY OF PENSION**

In its Petition for Act 312 Arbitration, MAP identified pension as an issue in dispute. MAP described the issue as involving a change from the current defined contribution plan to a defined benefit pension plan under MERS. The Township objects to the Arbitration Panel's consideration of pension as an issue in these proceedings.

Following the filing of the Act 312 Petition, the Township, in correspondence

dated February 5, 2001, from Township counsel, William M. DiBiasi, Esq., to Panel Chairperson, Karen Bush Schneider, Esq., raised an objection to the issue of pension pursuant to R423.505. The Township maintained that MAP had withdrawn its demand for a change in the pension system from a defined contribution to a defined benefit plan. Further, at no time during the negotiations did MAP identify the specific defined benefit plan it was proposing (*i.e.*, MERS: B-4, FAC-3, RS 50%, E2). The Township further asserted that the issue of pension was not dealt with by the mediator as demonstrated by the Township's response to MAP's offer of October 17, 2000. (Joint Exhibit "1," pp. 10-14.) Accordingly, the requirement for mediation of labor disputes under MCL 423.233 was not met and the issue of pension is not properly before the Panel.

In response, MAP argues that it fulfilled the requirement for negotiation of the issue of pension. The fact that it may have floated package proposals as test balloons during mediation did not preclude it from including the issue of pension in its 312 petition, nor deprive the Panel of its authority to render a decision on the issue. MAP asserts that the Township's argument is contrary to the decision of the Michigan Employment Relations Commission in Manistee Firefighters Association, Local 645, IAFF and City of Manistee, 1987 MERC Lab Op 590. In that case, MERC held that when the negotiation and mediation process fail to produce a negotiated agreement, the parties are free to revert to their original position on issues presented during negotiations.

The Panel has reviewed the statutory provisions, administrative rules, and MERC decision cited by the parties in connection with the procedural arbitrability of the issue of pension. The Panel has concluded that the issue is properly before it.

In Manistee Firefighters Association, Local 645, IAFF and City of Manistee, 1987 MERC Lab Op 590, respondent Local 645, IAFF withdrew all tentative agreements and announced that it was reinstating its original bargaining position when mediation sessions did not produce an accord between the parties. Shortly thereafter, Local 645, IAFF filed an Act 312 Petition requesting arbitration of the parties' labor dispute. The City of Manistee responded by filing an unfair labor practice charge asserting that respondent had bargained in bad faith by abrogating all of the tentative agreements and reverting to its initial bargaining position. It further argued that the Act 312 arbitration could not be held until the issues in dispute had been properly mediated.

In his Proposal for Decision, the Administrative Law Judge concluded that the respondent had violated the Public Employment Relations Act through its conduct. In reviewing the matter, MERC reached a contrary conclusion. While it recognized that voluntary settlement of labor disputes is one of the goals of Act 312, it concluded that that goal is not necessarily served by a rule prohibiting parties from repudiating tentative agreements or reverting to their original bargaining positions in order to present those positions to the Act 312 Panel.

In the words of the Michigan Employment Relations Commission at 1987 MERC Lab Op 590, 599-600:

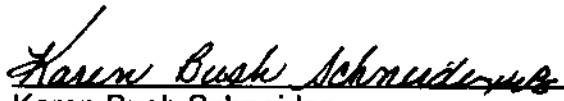
. . . While we agree with the ALJ that voluntary settlement is one of the goals of Act 312, we do not agree that this goal is necessarily served by a rule prohibiting parties from repudiating partial tentative agreements or reverting to their original bargaining positions in order to present these positions to the Act 312 panel.

While Act 312 arbitration is a supplement to, and not a replacement for, settlement of disputes by bargaining, in reality

the availability of arbitration inevitably affects the bargaining process. For example, where arbitration is not available, parties may make concessions during bargaining, secure in the knowledge that they will not be bound by these agreements unless and until acceptable concessions are also made by the other party and a reasonable acceptable tentative agreement is reached on the entire contract. When the parties anticipate that their dispute may be finally resolved by an arbitration panel instead of by agreement, however, it is no longer in their interests to make such concessions (i.e., tentative agreements) if these issues are to be excluded from the arbitration panel's consideration. If a party is barred from raising an issue on which it has tentatively agreed, a tentative agreement in effect becomes the final agreement on this issue. Under these circumstances, parties may be deterred from entering into any tentative agreements during bargaining without a specific *quid pro quo*. Similarly, if parties are held to their most recent table position on issues on which tentative agreement has not been reached, they may be deterred from making substantial concessions during bargaining in order to avoid losing the benefit of these concessions at arbitration.

The unwillingness of a party to enter into tentative agreements or make substantial concessions during bargaining may prove fatal to efforts to resolve the dispute at the bargaining table, thus pushing the parties into the arbitration process. Thus, a rule which prohibits a party from abrogating tentative agreements reached on individual issues during bargaining, or which forbids a party from retreating from its last table position on other issues, might substantially inhibit, rather than foster, the voluntary resolution of collective bargaining disputes under the Act. The result, of course, would be an unnecessary and undesirable increase in the use of arbitration to settle disputes in the public safety area.

In light of the foregoing, the Arbitration Panel concludes that the issue of pension is arbitrable.

  
Karen Bush Schneider  
Panel Chairperson

Accepted By:

Jack Reinacher 3-18-02

Rejected By:

Carl J. Ant 3/21/02

### **ISSUE NO. 3: PENSION**

MAP proposes a modification to the pension plan offered to its bargaining unit members. Currently, bargaining unit members participate in the Township's defined contribution plan (Manulife) and the Township contributes 15% of the employee's "compensation" to the plan on an annual basis. MAP proposes that 90% of the employee's accumulated contributions in the defined contribution plan be rolled over into a MERS plan, specifically B-4, V-10, FAC-3, F50, with all prior years of service.

In support of its last best offer, MAP argues that the bargaining unit members need, indeed deserve a guaranteed pension. Under a defined contribution plan, employees only are entitled to their accumulated contributions at the time of their retirement. The amount of those accumulated contributions will vary dramatically depending on the investment vehicle selected while the bargaining unit member was PPactively employed. Under the MERS plan proposed, bargaining unit members will receive a predictable pension benefit based on their compensation, years of service, and designated multipliers. Disability pension options are also available for non-duty and duty disabilities. Although the Township's last best offer regarding pension calls for an increase in long-term disability benefits from 3 years to 5 years, MAP asserts that it is an admission that the current pension and disability program are inadequate. MAP maintains that a 90%

rollover from the employee's current proposed defined contribution plan to the defined benefit plan will adequately fund it. In light of potential funding issues attendant to a modification of the pension plan, MAP proposes that a mandatory 2% employee contribution also be adopted.

The Township opposes a change from the Township's defined contribution plan to a MERS defined benefit plan. All other Township employees participate in the defined contribution plan. See Employer Exhibit "7." Over the years, the Township's contribution to the plan has grown from 5% to the current 15%. Over the years, the Township has been sensitive to bargaining unit member concerns over the cost of administrative fees associated with the retirement plan and with the plan's investment yield. (VI-144-145.) However, contributions have been sufficient for employees to retire under the plan (VI-166-167).

MAP's bargaining unit is a young work force. (III-31.) More than 50% of the bargaining unit members have fewer than ten years of service in the plan. (Union Exhibit "42.") Under the current defined contribution plan, there are approximately 65 funds available for investment purposes (III-41-42), and professional investment advice is readily available to assist bargaining unit members with their investment selection. (III, 34-35; VI-115-116.)

While the Township acknowledges that the majority of the external comparables participate in defined benefit plans under MERS, it notes that MERS does have a substantial number of defined contribution plans within it (Employer Exhibit "1"). MERS expert, Linda Fassett, testified that MERS typically sees retirement plan changes occur due to negotiation, not due to interest arbitration. (VI-107-108.)

According to the Township, MAP's concern over a lack of disability benefit options is also unfounded. In 1997, the Township increased its LTD coverage to 60% of salary. (Employer Exhibit "6," notes 3 and 4.) The Township continues to make pension contributions while an employee is on LTD. (Id.) Further, health coverage for spouses and dependents continues during duty-related disabilities. (Employer Exhibit "6," note 5.)

LTD covers both duty and non-duty injuries and pension benefits are available for disability purposes. (See Employer's Exhibit "6," Joint Exhibit "25," and collective bargaining agreement Sections 27.6, 27.7, 27.12, and 27.13.)

The Township asserts that its LTD policy, which provides "own occupation" coverage for 36 months, as well as coverage for total and permanent disability for "any occupation" thereafter, is standard in the industry. Nonetheless, the Township's proposes to increase "own occupation" disability coverage to a five year period. This time period would be more than sufficient to determine if an employee could eventually return to police officer work or another job suited to his skills, training, and education. The Township points out that even under the MERS defined benefit plan, non-duty disability benefits are not available to an employee until he/she has ten years of credited service. Significantly, MAP has not proposed that the LTD program be discontinued.

The Township is also concerned about the potential unfunded accrued liabilities arising from a conversion to a defined benefit plan which would recognize all prior Township service. Absent adequate rollover, the Township would find itself saddled with the responsibility of fully funding the MERS plan.

Finally, the Township asserts that MAP's concern over the paucity of the accumulated contributions in the defined contribution plan is unfounded. Township experts

testified that average annual overall growth of defined contribution plan monies in the neighborhood of 8% can be, and has been, much higher. As could be seen from some of the pension projections done on bargaining unit members by Burnham and Flowers, the officers are actually fairing better than investment projections at their age and years of service. Lastly, the Township asserts that there is a growing trend on the part of municipalities to go from defined benefit plans to defined contribution plans.

The Arbitration Panel has reviewed the last best offers of the parties in light of the Section 9 criteria. Based on those criteria, the Arbitration Panel has determined to adopt the last best offer of the Township on the issue of pension.

The Township's current defined contribution plan is the pension plan in which all Township employees participate. It has been the only pension plan the Township has provided since its inception. Accordingly, internal comparables overwhelmingly support the position of the Township.

While the majority of external comparables do have defined benefit plans, the City of Trenton converted to a defined contribution plan in 1996 for new hires. Further, five of the comparable communities have mandatory employee contributions anywhere from 2.5% to 7%, whereas MAP proposes only a 2% employee contribution in connection with its proposal. Over the years, the Township's contribution to the defined contribution plan has increased from 5% to the current 15%. The Township has endeavored to enlist the services of a third party administrator and investment professionals to assist employees with sound investment decisions in connection with the pension plan. Further, even though current volatility in the stock market has caused dramatic fluctuations in investment

portfolios, historical investment trends show that a defined contribution plan traditionally performs better and provides greater benefits than a defined benefit plan.

Although there was some speculation that the Township had experienced attrition in the bargaining unit due to pension issues, the testimony was largely hearsay. It appeared that there were a variety of reasons which contributed to employee attrition, including but not limited to, a desire to relocate to a home community.

The Arbitration Panel is also reluctant to award MAP's last best offer regarding pension due to the uncertainty of its impact on the creation of unfunded accrued liability in the new plan. Whenever prior service is recognized in a retirement plan conversion, the potential for unfunded accrued liability arises. No direct exhibits were offered which would show that a 90% rollover would fund the new plan. If MAP continues in its desire to convert to a defined benefit plan, it would be prudent for the parties to sit down and fully examine the financial impact of such a conversion, considering actual rollover amounts available.

Lastly, and most significantly, the Arbitration Panel is not convinced that the current defined contribution plan, which has a long history in the Township, is inadequate to provide for the retirement security of the bargaining unit members. The Township's 15% contribution, along with the availability of expert investment vehicles and advice, satisfy the Panel's concern that the plan is properly funded and managed. It then becomes the responsibility of the individual bargaining unit members to make informed investment choices and realistically plan for retirement at an age and benefit level they can live with.

Nor does the Panel think that the defined contribution plan, along with the availability of long-term disability benefits for duty and non-duty disability related purposes, is inadequate if a bargaining unit member's career should be ended early due to injury or illness. The Township's proposal regarding long-term disability benefits addresses the potential disability needs of bargaining unit members and, in some cases, is even more liberal than disability benefits which may be available under the MERS plan.

#### **AWARD REGARDING THE ISSUE OF PENSION**

The Panel adopts the proposal of the Township on the issue of pension and orders adoption of the following amendments to Article 39 and 27 of the collective bargaining agreement:

PROPOSED LANGUAGE: The Township proposes no change to the pension system or to the contribution amounts. The Township proposes that the language be modified to reflect the current practice as follows:

"39.1 The current pension plan which the Employer has shall be adopted as the Pension Plan of the employees covered under this Agreement. Any employee who is a participant in the Plan for twenty (20) months shall be entitled to receive the full vested contribution upon their termination of employment. The Employer will assist in expediting receipt of the funds upon termination. The Employer's Contribution to the Plan shall be 15% of base wage.

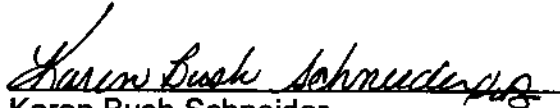
39.2 Employees may make voluntary contribution to the Plan."

Section 27.12. "Group Life Insurance and Sick Benefits", details the short and long term disability benefits provided to employees. As part of its L.B.O. on pension, the Township proposes an improvement to its long term disability coverage as follows:

PROPOSED LANGUAGE: Increase to five (5) years of "own occupation" coverage, effective as of the policy renewal date in 2002.

The benefits provided shall be controlled by the insurance policy language relating to such benefits, and in the event of any dispute, the insurance contract language shall prevail.

Section 27.12 would correspondingly be amended to provide that "As of the plan renewal date in 2002, the long term disability coverage shall provide for five (5) years "own occupation" coverage.

  
Karen Bush Schneider  
Panel Chairperson

Accepted By:

 3/21/02

Rejected By:

 3-18-02

#### **ISSUE NO. 4: HEALTH CARE**

Article 27 of the expired collective bargaining agreement between the parties addresses the issue of health care. Currently, Section 27.2 provides that in the event the average cost of health care coverage rises in excess of 6% in any one year, the Township may request that Article 27 be reopened and that negotiations occur regarding medical

benefits in an attempt control or limit the increase in health care costs. In the event the parties are unable to resolve the matter by negotiation, the issue will be submitted to binding arbitration for resolution.

MAP proposes to delete Article 27.2 from the successor agreement. It makes a number of arguments in support of its last best offer.

First, MAP asserts that the language of Article 27.2 is ambiguous and "rife with peril" for MAP. It questions the interpretation of such terms as, "preceding plan year," "average cost of the benefits to the Employer," "in any one year," and "medical benefits." MAP points out that the methodology for determining average cost is not contractually designated. There is no formula for determining the base line. What happens if the bargaining unit increases? What happens if it decreases? What happens if marital status changes occur during a year?

Second, MAP argues that Article 27.2 was adopted at a time when the Township's health care was "area rated." It is now "experience rated," which impacts the volatility of rates.

Third, MAP argues that a contract reopener only of health care places it in an untenable position. A single issue negotiation would not afford it with the opportunity to horse trade. The normal give and take of full contract negotiations would be absent from a limited health care reopener and, thus, would hinder MAP in its ability to negotiate effectively.

Fourth, despite the amount of premium increases over the life of the expired contract, MAP was called upon, and cooperated in, negotiating modifications to the health care plan/coverages provided. For example, in 1999, the parties, pursuant to Article 27.2,

negotiated a switch from Blue Preferred (PPO) to Community Blue. That modification saved approximately "seven percent" in health care premiums. However, MAP received no "credit" for that savings.

Fifth, although the internal comparables all have language similar to Article 27.2 in their collective bargaining agreements or personnel policies, external comparability favors MAP's position. None of the other external comparables have language similar to that currently found in the Brownstown contract. (See Union Exhibit "31.")

Sixth, with current trends in premium increases, Article 27.2, if retained in the successor agreement, would likely be triggered every year. Thus, the issue of health care could continuously be in a state of turmoil and flux. It would be difficult, indeed virtually impossible, for MAP to negotiate improvements to health care.

Lastly, maintenance of a stable and comprehensive health care plan will be an attractive recruitment tool for the Township and will function to reduce employee attrition over the life of the successor agreement.

The Township opposes MAP's proposal and asserts that Article 27.2 should be maintained. It proposes to raise the 6% trigger to 8%.

In support of its position, the Township argues that all of the internal comparables work under language similar to that found in Article 27.2. Thus, from the standpoint of internal comparability, the Township's position is favored. Further, the history of Article 27.2 also favors the position of the Township. Historically, the Township imposed monetary caps on health care coverage. However, in 1994, the caps were changed to percentages. This allowed for greater flexibility, while retaining employer flexibility to address dramatic health care increases.

Contrary to MAP's assertion that Article 27.2 is ambiguous, the Township asserts that the "average cost" is calculated pursuant to the formula set forth in Employer Exhibit "17." Presently, the Township maintains three health care plans and three rates. To determine average cost, the Township adds all of the rates and then divides by the number of employees. Buy-outs and other anomalies are factored in at zero.

Article 27.2 has not resulted in either a reduction of health benefits or premium sharing. The provision identifies the mutual responsibility of the Township and its labor force to address rising care health costs and the impact of those health care costs have on the Township's budget. Without Article 27.2, the Township would be unable to address health care increases, such as through the adoption of a new health care product, mid-contract. Escalation of health care costs, without the ability to address them on a mid contract basis, would result in potentially tougher issues at contract end.

The Township points out that Article 27.2 does not require that the parties negotiate health care coverage if average cost exceeds 6%. It merely gives the Township the flexibility to request negotiations.

The Township also relies on the external comparables in support of its position. A number of the comparables, specifically, Flat Rock, Rockwood, Grosse Isle, Gibraltar, and Woodhaven, all have health care provisions which express some concern over increased cost. In some cases, that concern is expressed through limited choices, while in other cases it is expressed through premium sharing.

Lastly, the Township notes that MAP has stipulated that the health care benefits received by its bargaining unit members exceed those offered by the comparable communities.

For all of the foregoing reasons, the Township requests that its last best offer be awarded. It further notes that MAP has failed to update Article 27.1 in its Last best offer and that, therefore, the Township's proposal on that section of the contract should be awarded.

The Arbitration Panel has carefully considered the Last best offers of the parties in light of their arguments and the Section 9 criteria. For the following reasons, the Arbitration Panel concludes that the Union's last best offer to strike Article 27.2 should be awarded. Further, the Arbitration Panel concludes that the Township's updated language regarding Article 27.1 should be incorporated into the award since it reflects the status quo between the parties.

The current language of Article 27.2 allows the Township to reopen the collective bargaining agreement in the event that the average cost of health care exceeds 6% (8% by the Township's last best offer) in any given year. In other words, Article 27.2 ensures that the issue of health care is chronically "on the table," or at least subject to being on the table at the Township's initiative. That is troublesome to the Arbitration Panel for a number of reasons.

First, given the volatility of health care costs in recent years, it is likely that the triggering percentage increase identified in Article 27.2 would occur with some frequency. Thus, despite the fact that a contract could be settled, negotiations would loom over the parties with predictable regularity. Further, the prospect of Act 312 arbitration on the single issue of health care would also loom as an eventuality, assuming the parties could not resolve health care in single issue negotiations.

Second, there is no doubt that health care is a significant benefit that individuals look for in entering into an employment relationship. For public employees, such as the bargaining unit members herein, that is particularly true since they are engaged in potentially hazardous duty. Providing health care benefits is one way that public sector employers are able to attract and retain high caliber employees who could otherwise sell their services to the private sector. Where the issue of health care is, theoretically, continuously in a state of negotiation (or a state of "extended" animation), that critical benefit will be lacking.

Third, a single issue reopener places MAP and its bargaining unit members in a disadvantageous position vis-a-vis negotiations. MAP is correct in its argument that with a single issue reopener regarding health care, it has nothing to trade with the Township to achieve its bargaining goals. "Give and take" will be reduced to "give up." Further, MAP will be hard pressed to negotiate improvements to health care in the future.

An examination of the comparability factor also weighs in favor of MAP's last best offer. Although all of the internal comparables operate under similar language, none of the external comparables do. While it cannot be gainsaid that everyone today is concerned about rising health care costs, it does not follow that health care should be a perpetually open issue.

Having said all that, the Panel is nonetheless mindful that in adopting the Union's last best offer regarding Article 27.2, it may be inviting bigger problems for MAP and its bargaining unit members down the road. Without the flexibility of initiating negotiations mid contract, the Township may feel that it needs to take more strident action regarding health care modifications at contract expiration. In other words, removal of

Article 27.2 does not prevent the Township from proposing modifications to health care which include premium sharing or other unattractive alternatives.

The Panel adopts the Township's last best offer regarding Article 27.1 since it reflects the status quo between the parties.

**AWARD REGARDING THE ISSUE OF HEALTH CARE**

The Panel adopts the proposal of the Township on Article 27.1 and the proposal of MAP on Article 27.2 and orders adoption of the following amendments to Article 27 of the collective bargaining agreement as follows:

27.1 The Township shall provide medical and hospital coverage for employees and their immediate families which coverage shall be equal to the Blue Cross/Blue Shield Community Blue Plan 1, which provides hospital and medical service and a prescription rider with a \$10.00 deductible. The Township shall have the right to select the carrier for all plans so long as the plans are equal to or superior to the Blue Cross Community Blue Plan. Employees shall also be allowed to select the "C.O.P.S." Trust coverage in lieu of the coverage provided by the Township with the understanding that if the C.O.P.S. Trust option costs more than the applicable Blue Cross/Blue Shield coverage provided, the employees selecting the C.O.P.S. option shall pay the incremental difference; furthermore, any employee who elects the C.O.P.S. option must remain with that coverage for at least 1 year, until the next open enrollment period.

27.2 Delete current language, Article 27.2 and renumber rest of sections in Article 27.  
Accepted By:

Subscribed 4-9-02

40

REJECTED BY:

Carl J. [Signature]

3/31/02

**ISSUE NO. 5: WAGES**

The parties have agreed to a three year contract beginning January 1, 2000, and ending December 31, 2002. The parties have presented wage proposals for each year of the contract and the Panel will consider each year separately.

For calendar year 2000, MAP proposes a wage increase of 5% for the patrol officers and 6% for the dispatchers. By contrast, the Township proposes a 3.5% wage increase for patrol officers and a 4% increase for dispatchers.

In support of its proposal, MAP argues that in 1999, the Township was eighth out of eleven comparables in wages. A 5% increase to the wage schedule would move the Township to seventh out of eleventh place amongst the comparables. MAP notes that in 1999, the Township had a \$1.2 million surplus and has not had a deficit since 1992. In calendar year 2000, the Township had a \$1.4 million surplus. (VI-81-82.)

By contrast, the Township argues that its wage schedule has historically been in the middle of the comparables. While the schedule paid to the patrol officers remains below the average, the schedule paid to the dispatchers is above the average. As a percentage increase, the Township's proposal is the highest of any of the comparables and is equal to the highest wage increases given by any of the comparables for a three year period.

The Panel has considered the Last best offers of the parties and the foregoing arguments made in support of them. The Panel determines that the Section 9 criteria favor the proposal of MAP with regard to the January 1, 2000 increase.

As noted under the discussion of the arguments of the parties, MAP's proposal would improve the police officers' wage schedule vis-a-vis the comparable

communities. Currently, the Township ranks eighth out of the comparables. MAP's proposal would move the patrol officers up to the seventh position amongst the comparable communities. That is still below the average of the parties' comparables.

Even though the 6% proposal made by MAP exceeds increases offered by the comparable communities, as well as the cost of living, it is reflective of the additional responsibility assumed by the dispatchers who work for the Township and positions the Township favorable amongst the comparable communities. Accordingly, the Panel believes that it is reasonable and in accordance with Section 9 factors.

It is also noteworthy that the bargaining unit members receive no shift premium. And, as previously discussed, there is no longevity.

For calendar year 2001, MAP proposes a 5% across the board increase for patrol officers and a 5% across the board increase for dispatchers. By contrast, the Township proposes a 3.75% increase for patrol officers and a 4% increase for dispatchers. MAP argues that its Last best offer regarding wages for calendar year 2001 should be adopted by the Arbitration Panel in light of external comparability. Its proposal would move the Township to third out of the eight remaining comparables. It is reflective of the fact that bargaining unit members employed by the Township have a heavier work load than similarly-situated employees in the external units and do not receive a premium for detective work.

The Township argues that its taxable value per capita is low. (See Employer Exhibit "23.") Under its last best offer, the bargaining unit members would move to approximately fifth out of eighth place amongst the external comparables. The Township anticipates a future decrease in revenue sharing. Cost of living continues to remain low,

approximately 3.2%. Therefore, the Township's offer more nearly meets the Section 9 criteria of Act 312.

The Panel has carefully considered the Last best offers of the parties for calendar year 2001. It concludes that the Last best offer made by the Township more nearly meets the Section 9 criteria of Act 312.

Under the Township's proposal, its relative rank amongst the comparables would be approximately fifth out of eighth. Such position would maintain the advancement made under MAP's wage proposal for calendar year 2000. It would also more nearly reflect economic conditions which have existed since calendar year 2000. Further, the Township's proposal remains above the Consumer Price Index, as well as above percentage increases paid by the comparables.

For calendar year 2002, MAP proposes a wage increase of 6% for patrol officers and 5% for dispatchers, whereas, the Township proposes a 4% increase for patrol officers and a 4% increase for dispatchers. MAP justifies its wage proposal by pointing out that its bargaining unit members receive no longevity, education pay, shift premium, or gun allowance. The Township asserts its offer is reasonable in light of the external comparables, as well as cost of living.

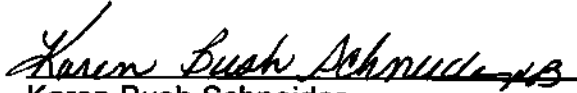
The Arbitration Panel has considered the last best offers of the parties and awards the offer of the Township. Under MAP's last best offer, the Township would move to approximately second place out of eight external comparables. By contrast, under the Township's offer, the Township would move to approximately third place out of the eight comparables. Thus, under both proposals, the wages of the bargaining unit members are improved vis-a-vis the external comparables. However, the Township's proposal is more

reasonable in light of the historical placement of the Township amongst the external comparables. It is also reasonable in light of the cost of living and the current economic climate.

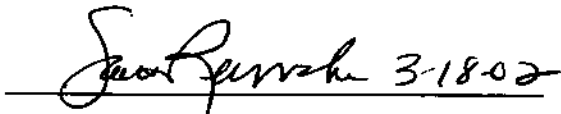
**AWARD REGARDING THE ISSUE OF WAGES**

The Arbitration Panel awards the last best offer of MAP on the issue of wages for police officers and dispatchers for calendar year 2000 as follows:

Effective on and retroactive to January 1, 2000, a 5% increase for all steps on the wage scale pertaining to patrol officers and a 6% increase for all stops on the wage scale pertaining to dispatchers.

  
Karen Bush Schneider  
Panel Chairperson

Accepted By:


 3-18-02

Rejected By:

 3/13/02

The Arbitration Panel awards the last best offer of the Township on the issue of wages for police officers and dispatchers for calendar year 2001 as follows:

Effective and retroactive to January 1, 2001, a 3.75% increase for all steps on the wage scale pertaining to patrol officers and a 4% increase for all steps on the wage scale pertaining to dispatchers.

  
Karen Bush Schneider  
Panel Chairperson

Accepted By:

Carl J. [Signature] 3/5/02

Rejected By:

Jan Perreche 3-18-02

The Arbitration Panel awards the last best offer of the Township on the issue of wages for police officers and dispatchers for calendar year 2002 as follows:

Effective and retroactive to January 1, 2002, a 4% increase for all steps on the wage scale pertaining to patrol officers and a 4% increase for all steps on the age scale pertaining to dispatchers.

Karen Bush Schneider  
Karen Bush Schneider  
Panel Chairperson

Accepted By:

Carl J. [Signature] 3/3/02

Rejected By:

Jan Perreche 3-18-02

#### **ISSUE NO. 6: MATERNITY LEAVE**

Both parties propose modifications to Article 34 of the collective bargaining agreement with regard to maternity leaves. The Union proposes to delete the current Article 34 and replace it with provisions requiring that maternity leave be treated like any other disability leave and in compliance with the Family and Medical Leave Act. Bargaining unit members on maternity leave may, at their option, use all or part of their

accumulated sick leave to cover the leave. The Township's last best offer also incorporates the Family and Medical Leave Act. It notes that bargaining unit members now enjoy a long-term sick leave bank which allows them to accrue up to 18 months of leave time. The Township proposes language that would restrict the use of sick time beyond the customary six week disability period to only those situations where the bargaining unit member presents a doctor's certificate verifying that she is not yet capable of performing "the normal, recurring duties of her job."

The Arbitration Panel has carefully considered this non-economic issue in light of the historic language contained in Article 34, the Last best offers of the parties, their arguments, and the terms of applicable civil rights laws and the FMLA. MAP has raised a number of concerns in connection with the Township's proposal on the basis that it is potentially discriminatory against females and runs contrary to applicable civil rights laws and the Family and Medical Leave Act. Under MAP's proposal, the parties would be constrained to follow the terms of the Family and Medical Leave Act and the bargaining unit member, at her option, could utilize all or part of her accumulated sick leave to cover her absence.


As a general rule, disabilities related to pregnancy and child birth should be treated the same as disabilities for other reasons under Title VII of the Civil Rights Act of 1964, the Elliott Larsen Civil Rights Act, etc. Thus, in a sense, having a provision which specifically addresses maternity leave is a bit of an anachronisms since it should be treated like any other disability. Additionally, leaves for the purposes of pregnancy and child birth have the additional protection of the Family and Medical Leave Act.

In reviewing the proposals of the parties, the Panel has concluded that MAP's proposal as modified, is more in keeping with applicable state and federal civil rights laws, as well as with the Family and Medical Leave Act. While it does allow the employee to elect to utilize sick leave to cover some or all of the leave of absence, presumably the availability of such sick leave would be grounded on the establishment of a disabling condition which would qualify for paid sick leave usage. In other words, while a bargaining unit member could take up to 12 weeks for pregnancy and child birth under the FMLA, the payment of sick leave would be conditioned upon the existence of proof of her inability to work.


**AWARD OF THE ARBITRATION PANEL REGARDING  
THE ISSUE OF MATERNITY LEAVE**

34.1 Disability due to pregnancy and child birth shall be treated like any other disabilities and in compliance with the Family and Medical Leave Act.\

34.2 An Employee on leave due to pregnancy or child birth may, at their option, use all or part of their accumulated sick leave for the period of disability.

  
Karen Bush Schneider  
Panel Chairperson

Accepted By:

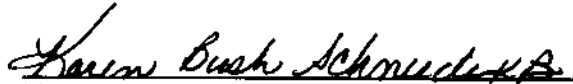
 3-18-02

Rejected By:

 3/31/02

**AWARD REGARDING OTHER TERMS  
OF THE AGREEMENT**

All tentative agreements reached by the parties in negotiations and all language of the expired agreement not modified by this award shall be carried forward in the successor agreement.

  
Karen Bush Schneider  
Panel Chairperson

Accepted By:

Rejected By:

