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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
ACT 312 ARBITRATION

/

IN THE MATTER OF:

CITY OF LIVONIA,

-and-

LIVONIA FIRE FIGHTERS UNION,
LOCAL 1164.

/

MERC CASE NO. D06 G-1704

Arising Pursuant to Act 312,
Public Acts of 1969, As Amended /

FINDINGS, OPINION AND ORDERS

PANEL:

C. Barry Ott, Chairman
Robert Biga, City Delegate
John Orzech, Union Delegate

/

FOR THE EMPLOYER:

George T. Roumell, Jr. (P19700)
Gregory T. Schultz (P47182)
Roumell, Lange & Cholack, P.L.C.
615 Griswold Street, Floor 6
Detroit, Michigan 48226

FOR THE UNION:

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Sachs Waldman, PC
1000 Farmer Street Detroit, Michigan 48226

/

PROCEEDINGS

This compulsory arbitration case arises pursuant to a Petition filed by the Employer with the Michigan Employment Relations Commission under 1996 PA 312, as amended, being MCL423.231, *et seq.* The Chairman of the arbitration panel was appointed by MERC on January 4, 2007. A pre-hearing phone conference was held on March 19, 2007. Hearings were held on June 6, 22, July 17, August 2, 28, September 12 and October 25, 2007. The parties submitted their “last best offers” on November 8, 2007 and post-hearing briefs on February 1, 2008. During the hearings, the parties agreed to waive the time limits associated with Act 312 and stipulated that the disputed issues exchanged between the parties are the only issues in dispute and are properly before the arbitration panel. Moreover the parties are in agreement that the extant collective bargaining agreement between them together with any tentative agreements reached in negotiations and the provisions of the Opinion and Award of this arbitration panel shall constitute the complete agreement between the parties for a successor collective bargaining agreement covering the term of December 1, 2005 through November 30, 2008.

Both parties were represented by highly skilled and seasoned veterans of the Act 312 process and this panel wishes to express its appreciation for their comprehensive coverage of the issues in dispute and their professional conduct during the course of the proceedings.

ISSUES IN DISPUTE

Depending on how one categorizes them, there are some twenty-four (24) issues in dispute before the Panel in this case, which are characterized as follows:

1. Wages, for the period of 12/1/2005 – 11/30/2006.
2. Wage Retroactivity, for the period of 12/1/2005 – 11/30/2006.
3. Wages, for the period of 12/1/2006 – 11/30/2007.
4. Wage Retroactivity, for the period of 12/1/2006 – 11/30/2007.
5. Wages, for the period of 12/1/2007 – 11/30/2008.
6. Wage Retroactivity, for the period of 12/1/2007 – 11/30/2008
7. Health Care – Prescription Drug Co-Pay.
8. Health Care – Insurance Plan.
9. Health Care – Office Visit Co-Pay.
10. Health Care – Emergency Room Co-Pay.
11. Health Care – Premium Sharing Co-Pay.
12. Health Care – Insurance for Retiree's Spouse.
13. Health Care - Future Retiree's Health Insurance.
14. Promotion Procedure.
15. Promotion – Payment in Lieu of Promotion. (Withdrawn by Employer)
16. Sick Leave Control.
17. Sick Leave Accrual.
18. Pension – MERS Defined Benefit Plan.
19. Pension – Retirement Age.
20. Pension – Post Retirement Increases (COLA).

21. Pension – Retirement Payout.

22. Educational Bonus.

23. Paramedic Bonus.

24. Hours of Work.

The Panel considers all of the above disputed issues to be economic in nature and will treat them accordingly.

DECISION MAKING CRITERIA

The basis for an arbitration panel's Findings, Opinion and Orders are factors, as applicable, contained in Section 9 of Act 312 of 1969, as amended, being (MCL 423.239), which provides:

Sec. 9. Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions

of employment of other employees performing similar services 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 or in private employment.

The disputed issues previously identified must be resolved on the basis of the factors outlined in Section 9, as well as other requirements provided in Section 8 and 10 of the Act. A majority decision of the panel is binding if it is supported by competent, material and substantial evidence of the entire record.

BACKGROUND FACTS

The City of Livonia covers a geographic area of 36 square miles located in western Wayne County with a population of approximately 100,000 people. It is strategically located at the hub of I-96, M-14 and I-275 and is relatively close to the Detroit Metropolitan Airport, all of which provide easy access to transport for area business. The Livonia Fire Department consists of some 79 personnel, operating out of 5 fire stations. The bargaining unit consists of all personnel below the rank of Fire Chief, holding the ranks of fire fighter, assistant driver, engineer, lieutenant, captain, senior captain, and battalion chief, one training coordinator and three staff in the Fire Marshall's division. In addition to fire protection, the unit also provides emergency medical services.

The Fire Suppression division utilizes a two-platoon system, working a 24-hour schedule, for an average 56 hour work week. Employees assigned to the Fire Marshall's division and the training coordinator work five 8-hour days for 40 hours per week. The record data indicates that the number of alarms has increased dramatically in recent years while the number of personnel in the department has declined.

FACTORS

Sec. 9(a). Lawful authority of the employer.

There has been no challenge to the lawful authority of the employer in this dispute.

Sec. 9(b). Stipulations of the parties.

The stipulations and tentative agreements referenced earlier represent all known to the panel.

Sec. 9(c). The interests and welfare of the public and the financial ability of the unit of government to meet those costs.

The City of Livonia has advanced a serious ability to pay argument. Like many municipal jurisdictions in Michigan, Livonia's principal sources of revenue are derived from three sources; 56% comes from property taxes, 18% from State shared revenue and 27% from various fees and charges for services.

Again like many others, Livonia has experienced a steady decline in State shared revenue together with an inability to significantly raise revenue from property taxes. Similarly revenue from fees and charges for services has been curtailed by a series of court cases. In the Bolt Case decided in 1998, the Michigan Supreme Court held that any fees charged by a municipality must be based on cost and any fee exceeding costs constituted a tax under the Headlee Amendment. Under the changes made in the year 2000, service fees charged by a municipality under the state Construction Code Act must bear a direct relationship to the operating costs of the specific enforcement department.

Finally, the Metro Act of 2006 changed the way in which cable franchises are granted at the local level. Under the Act, video providers must now pay cable fees to the State of Michigan, which in theory will rebate the revenue back to the local level of government. If the State of Michigan treats this revenue in the same manner as it has state revenue sharing it is likely to result in a net loss to local government.

In the City of Livonia, the combined effect of the Headlee Amendment and Proposal A has caused a significant reduction in the City's ability to tax. Originally the City was authorized a total operating millage of 14.32 mills. Today that amount has been

reduced to 12.0853 mills and restrictions on this millage for recycling and municipal refuse results in a maximum millage of 11.4353 mills that the City is currently levying. The result of these rollbacks is that property tax revenue is relatively flat. To further complicate matters, the City's largest property payer, Ford Motor Company, successfully appealed to the Michigan Tax Tribunal their taxable value assessment for the years 2005, 2006, and 2007, resulting in a loss of property tax revenue of nearly \$800,000 for the years 2006 and 2007, with a continual loss of \$475,000 annually.

The City has made an effort to appeal to the voters of Livonia to allow millage increases for public safety. The record indicates that the City has placed three proposals on the ballot only to have them rejected by the voters.

State shared revenue from the state sales tax has steadily declined over the years as the state government struggles to balance the state budget by repeatedly shifting revenue from the tax away from local government to the state budget. The record shows that in fiscal year 2006-2007 there was \$1.643 billion required by law to be shared with local governments. However, the state only budgeted \$1.085 billion to be shared, a loss in revenue sharing to local government for fiscal year 2006-2007 of \$558 million. This action continues a trend. Between fiscal years 2001-2002 and 2005-2006, local governments have lost over \$1.5 billion dollars in state revenue sharing. The City of Livonia has experienced an annual loss of \$2.3 million or 21% compared to the level received in 1999-2000 fiscal year. This trend is not expected to improve in the foreseeable future as the state continues to struggle with its own budget deficit.

Like many Michigan municipalities Livonia has had to look to the expenditure side of the ledger in order to balance its budget. In fiscal year 2006, the general fund

expenditures were \$51,099,247 compared to total general fund revenue of \$51,582,265, with a general fund balance of \$5,817,429 or 11.4% of expenditures. A general fund balance at this level provides the City with the equivalent of about one month of operating expenses and a very slim margin to meet any unexpected emergency expenditures. When compared to the comparable communities the record data shows a considerable variance. (Canton – 27% fund balance, Southfield – 23%, Royal Oak 20%, Clinton Township – 94%, St Clair Shores – 44.6% and Dearborn – 32.4%. Of all the comparables Livonia ranks 11th with only Taylor and Pontiac having a lower fund balance.

The City of Livonia has imposed a hiring freeze over the last four years in an effort to bring expenditures in line with revenue. The City has left some 69 positions vacant that are funded from the general fund, resulting in a savings on an annual basis of \$3,984,772. Capital expenditures have been curtailed or delayed in an effort to balance the budget.

Health care cost for current and retired employees represent a major expenditure for the City and they are escalating at an alarming rate. The record data indicates that in fiscal 2006, the total cost for health insurance was \$12,662,385. The cost of insurance for active employees between 2000 and 2006 has increased by \$1,737,262, or 54%. Retiree costs increases for the same time frame was \$4,212,975, or 65%. The combined cost increase for both active and retired employees was \$5,950,237, or an 88% increase. The current annual cost of insurance for both groups represent about 24% of total general fund expenditures. There is nothing in the record to indicate that these costs will moderate or decline but are most likely to increase in the future.

Clearly, the City has established through the record that it is faced with a serious financial challenge in containing general fund expenditures. Until and unless the revenue side of the ledger increases substantially the City will find itself significantly hard pressed to meet the cost implications of the proposals presented in this Act 312 proceeding. This fact simply cannot be ignored by the panel and consequently must be very carefully considered in evaluating each issue in dispute. The provisions of Sec 9 of Act 312 simply list the factors that the panel must consider. Nothing in the Act gives any guidance as to the relative weight or impact any one of the factors should have on the decision of the panel in deciding the issues in dispute. However, it is the opinion of the majority of this panel that economic reality must play a major role in our deliberations over those factors that simply compare both internal and external comparable data as to wages and benefits.

The welfare and interest of the public require that fire department services be provided in a prompt and efficient manner. The City has an obligation to the public to insure that fire department personnel are properly equipped and well trained. The City must also provide levels of compensation that are sufficient to attract and retain employees in a competitive labor market, but it must accomplish these things within the financial resources available.

Sec. 9(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.

The parties in this case have agreed upon the following list of comparable communities with the exception of the City of Pontiac. The City wishes to include Pontiac on the grounds that historically it has been agreed to as a comparable in prior negotiations between the parties, including prior Act 312 proceedings. The Union acknowledges that Pontiac was agreed to as a comparable in the past but does not believe it would be useful in this proceeding since its last contract expired June 30, 2004 before the time period covered by the contract in issue. The panel will include Pontiac for what limited value it may serve based upon the prior history.

Ann Arbor, Canton Twp., Clinton Twp., Dearborn, Dearborn Heights, Pontiac, Royal Oak, St. Clair Shores, Southfield, Sterling Heights, Taylor, Westland.

Both parties have submitted extensive and comprehensive exhibits regarding wages, benefits and conditions of employment provided to employees engaged in similar type work in the group of comparables together with data for the other bargaining units in the City of Livonia. We have examined the labor agreements from the list of comparables together with the various data tables submitted by the parties and will discuss same in context with the issues in dispute.

Given the nature of fire service work, the parties have elected not to submit any data or argument regarding private sector wage or benefit data.

Sec. 9(e). The Average consumer prices for goods and services, commonly known as the cost of living.

The record in this case includes evidence comparing wage increases granted to the various employees of Livonia and increases in the Consumer Price Index from 1985 through 2006, including the City's wage proposal. This data indicates that all employees have enjoyed increases that substantially exceed the increase in the index.

Sec. 9(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.

Both parties have submitted extensive exhibits covering most every form of compensation. All exhibits were reviewed at hearing and carefully considered by the panel. Those considered most pertinent and applicable to the panel will be discussed in connection with the issues in dispute.

Sec.9(g). Changes in the foregoing circumstances during the pendency of the arbitration proceeding.

The panel is not aware of any material changes during the pendency of the proceeding that would affect the panel's decision.

WAGES

The parties have agreed to a three-year contract term covering the period of December 1, 2005 through November 30, 2008. Wages for each year of the contract are to be treated as a separate issue by the panel. We will discuss the issue of wages under this general heading and decide each year as a separate issue.

Both parties have submitted extensive exhibits involving wage data for purposes of comparison and analysis of their respective wage proposals, comparing Livonia fire service classifications with those of the group of comparable communities. As might be expected each side has selected methods of comparison that place their proposals in the most favorable light. This panel is of the opinion that the most meaningful comparisons are those that address the total compensation factor. However, we have examined carefully those exhibits that deal with base salary range as well. Internal comparables involving the historical relationship of fire service classifications with those of the police service, which reflect the long standing bargaining history of the parties, have been reviewed in some detail. Wage parity between the police and fire services in Livonia have been a major consideration in the bargaining history, with both sides on occasion attempting to break parity when it suited their purposes. The City has also introduced exhibits involving settlement levels of other non-public safety bargaining units, which the Union characterizes as irrelevant since parity has historically gone to the police department and not to other bargaining units, which do not have access to Act 312. The panel views the data submitted for the non-Act 312 units as reflective of the overall

climate of collective bargaining settlements in Livonia, which is consistent with the Sec. 9 (d), factor of comparisons of wages, hours and conditions of employment of other employees performing similar services and with other employees generally.

UNION LAST BEST OFFER WAGES

A. Effective December 1, 2005 to November 30, 2006

Modify Article 32, Salary Rates, of the 2002 – 2005 collective bargaining agreement to provide for a 3.0% across-the-board increase for all steps and classification based upon salary rate in effect on November 30, 2005.

B. Effective December 1, 2006 to November 30, 2007

Modify Article 32, Salary Rates, of the 2002 – 2005 collective bargaining agreement to provide for a 3.0% across-the-board increase for all steps and classifications based upon the salary rate in effect on November 30, 2006.

C. Effective December 1, 2007 to November 30, 2008

Modify Article 32, Salary Rates, of the 2002 – 2005 collective bargaining agreement to provide for a 3.0% across-the-board increase for all steps and classifications based upon the salary rate in effect on November 30, 2007.

CITY LAST BEST OFFER WAGES

1. Wages – 12/01/05 – 11/30/06

Summary:

The City proposes an increase in base wages effective December 1, 2005 of 3.0%.

Contract Language

New language in Article 32.A. to read:

The following Wage Rate Schedule represents:

1. 3% across the board wage increase effective December 1, 2005.

Effective Date

Date of Award.

2. Retroactivity of Wages – 12/01/05 – 11/30/06

Summary:

Retroactive to 12/01/05 for all bargaining unit members on the payroll as of the date of the 312 Award.

3. Wages – 12/01/06 – 11/30/07

Summary:

The City proposes an increase in base wages effective December 1, 2006 of 3.0%, with employees contributing 2% of all pension earnings to a Voluntary Employee Benefit Association.

Contract Language

New language in Article 32.A. to read:

The following Wage Rate Schedule represents:

2. 3% across the board wage increase effective December 1, 2006.

New Article 32.C. to read:

Effective December 1, 2006, the City will deduct 2% from the pension based earnings of all active employees which shall be placed into the City's Voluntary Employee Beneficiary Association (VEBA) Retiree Health and Disability Benefits Plan. Employees receiving workers compensation shall pay on full pension based earnings.

Effective Date

Date of Award.

4. Retroactivity of Wages – 12/01/06 – 11/30/07

Summary :

Retroactive of wages and VEBA to 12/01/-06 for all bargaining unit members on the payroll as of the date of the 312 Award.

Effective Date:

Date of Award.

5. Wages – 12/01/07 – 11/30/08

Summary:

The City proposes an increase in base wages effective December 1, 2007 of 2%.

Contract Language:

Add language in Article 32.A. to read:

1. 2% across the board wage increase effective December 1,2007.

Effective Date

Date of Award.

6. Retroactivity of Wages – 12/07 – 11/3008

Summary:

Retroactive to 12/01/07 for all bargaining unit members on the payroll as of the date of the 312 Award.

Effective Date

Date of Award.

DISCUSSION - WAGES

City exhibit #81 is a chart that compares the wage increase afforded to the various bargaining units of the City of Livonia with the Consumer Price Index for the period of 1985 to 2006, including the City's wage proposal to the Union. This chart reveals that the City has provided equal percentage wages increases to all of the bargaining units for the time period. It also reveals that wage increases have exceeded the rise in the CPI for the same time period. Both police bargaining units and AFSCME units received 3% increases for 2005.

City exhibit # 83 identifies the percentage wage increases for fire fighters occurring among the external comparables. Six of the comparables report increases for 2005 of 3%, and five report increases ranging from 0 to 2.65%.

Since both parties are proposing an increase of 3% for 2005, it isn't necessary to review the matter further.

The remaining issue for the panel to decided is that of retroactivity. The City proposes to apply the increase retroactive to December 1, 2005, but only to those

members of the bargaining unit on the payroll as of the date of the Award. The Union proposes retroactivity to December 1, 2005. The City argues that straight retroactivity would require the recalculation of wages, overtime, etc., for personnel who have already retired, including final average compensation for pension purposes and retroactive adjustments to pension benefits. The City maintains that such a retroactive requirement would impose a weighty administrative burden. In support of their proposal the City offers the recent findings and opinion of Fact Finder Thomas L. Gravelle in a 2006 case involving the City of Livonia, in which Mr. Gravelle recommended the City's proposal to limit retroactivity to those employees employed as of the date of ratification of a new agreement. This recommendation was included in the new agreement. The City also cites *Ingham County and MAP*, Case No. L04 I-1005, p23, where this Chairman adopted the same concept regarding retroactivity. It should be noted that in that case the chairman was adopting the last best offer on an economic issue and as such was without authority to modify the employer's proposal. In any event, in this case the Union did not directly address the City's proposal regarding retroactivity. Given this panels findings regarding the City's ability to pay argument, the panel is of the opinion that the City's proposal on retroactivity for the year 2005 wage increase more nearly complies with the provisions of Sec. 9(c) and supports the adoption of the City's proposal as an economic issue.

AWARD – WAGES – DECEMBER 1, 2005

The Panel hereby adopts the Employer's last best offer of settlement as follows:

1. Wages – 12/01/05 - 11/30/06

Summary:

The City proposes an increase in base wages effective December 1, 2005 of 3.0%.

Contract Language

New language in Article 32.A. to read:

The following Wage Rate Schedule represents:


1. 3% across the board wage increase effective December 1, 2005.
2. Retroactivity of Wages – 12/01/05 – 11/30/06

Summary:


Retroactive to 12/01/05 for all bargaining unit members on the payroll as of the date of the 312 Award.

Effective Date: Date of Award.

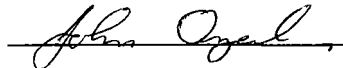
C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



DISSENT

For the period of December 1, 2006 to November 30, 2007, the Union seeks an increase of 3% across-the-board to all steps and classifications based upon the salary rate in effect on November 30, 2006. The City also proposes a 3% increase, but ties said

increase to a mandatory 2% employee contribution to a voluntary Employee Benefit Association (VEBA). The Union characterizes the City's proposal as a 1% wage increase because of the VEBA feature.

The record indicates that due to new government accounting standards GASB 43 and 45, Livonia must identify and report on the accrued unfunded liability for post-employment benefits. City exhibit #88 identifies the accrued unfunded liability for retiree health care as of November 30, 2006. In years past most municipalities met their obligations for retiree health care cost on a pay as you go basis. Each year a sum sufficient to pay for such benefits is appropriated to cover the cost for that year. The City of Livonia has an accrued liability of \$122.2 million and assets of \$47.6 million, 39% funding, with an unfunded liability of nearly \$75 million. City exhibit 89 reveals that since the year 2000, the City's unfunded liability for retiree health care has increased from \$46 million to \$80 million in the year 2005. In the fiscal year beginning December 1, 2007, the City will contribute 18.7% of payroll to fund post-employment benefits for Fire Fighters, excluding pensions. Under the rules that amount should be 20.25%, and the City must report any under funding in its financial statements, which could result in a lower bond rating. In an effort to correct this situation the City has been attempting to negotiate employee participation in the proposed VEBA program. Two AFSCME bargaining units have concluded negotiations that include the VEBA provision being proposed by the City in this case.

The City does not view its proposal as a 1% increase contrary to the Union characterization. It points out that the salary schedule will be increased by 3% with overtime rates based upon the higher salary together with employee final average

compensation and social security benefits. In addition future increases will be based upon a 2006 salary that is 3% higher than the 2005 salary. In effect the salary schedule will be increased by 3% and applied but the employees earnings will be subject to the 2% VEBA contribution.

In support of their proposal the City relies on internal comparables, represented by the agreements reached with the two AFSCME units. City exhibit 59, illustrates their argument that for at least 22 years the City has treated all of its employees equally in terms of wage increases.

The Union argues that only the police bargaining units are true internal comparables and the non-police units are simply not relevant. Moreover, there is only one external comparable that has a contribution to health insurance based upon a percentage of base wages, Dearborn Heights. In making various comparisons of the relative ranking of Livonia's salary levels with the external comparables the Union contends that the adoption of the City's proposal will substantially reduce their standing with their neighboring counterparts. The Union urges the adoption of their wages proposal as it is supported by the external comparables and will maintain their relative standing with their counterparts.

The record evidence in this case establishes without question that the City is faced with a very significant actuarial accrued unfunded liability regarding the cost of retiree health care benefits. To its credit the City has initiated action to address the problem by establishing a fund to meet those costs and to put the funding for retiree health care benefits on a sound financial basis. The evidence as what the external comparable communities are doing to address this issue is scant. Only Dearborn Heights reports a

provision that involves employee contributions to retiree health care funding based upon a percentage of base pay. The Livonia police units have not yet settled their contract with the City and the only other evidence in support of the VEBA proposal of the City is that of the AFSCME units and other non-represented employee groups.

The Unions argument that the inclusion of a VEBA in the AFSCME agreements is not relevant because they do not have the same bargaining power as the fire fighters absent access to Act 312 is not persuasive. There is a long history of the City treating all of its employees fairly and equally in terms of wage increases.

The new accounting requirements have brought to the forefront the very real and staggering cost implications of unfunded liability associated with retiree health care costs. The overall financial condition of the City and the welfare and interest of the public require that this issue be confronted and dealt with in an economically responsible manner. To ignore the problem will only exacerbate the financial condition and could very well place the future of retiree health care benefits in jeopardy. It is the financial condition of the City that justifies the proposal that will provide the City with some relief and assistance in solving the problem.

In reviewing the various arguments presented by the parties the Chairman was struck by the observations of the views of Arbitrator Chiesa in (City of Flint and Flint Fire Fighters Union, Act 312, 1981, at pp. 43-44), cited by the Union.

“If an arbitration panel were to slavishly follow the evidence regarding comparable communities, unique provisions just couldn’t exist. If arbitration panels develop the practice of disproportionately relying upon the data regarding comparable communities, the effect on negotiations would be significant and far reaching for there

would be little incentive to utilize a unique provision to deal with unique circumstances knowing that a future interest arbitration may be used to dismantle that which has been collectively bargained and established through the forces of give and take. So, just because a provision was unique when it was bargained, unique when it was compared to other communities and will probably be unique in the future, does not mean that it should be automatically changed. By the same token, nothing should be considered untouchable if the evidence, when applied to the standards in the act, convince the panel that changes should be made.”

While the above observation was made in a different context, the Chairman of this panel is of the opinion that the underlying principle has application in this case. We are faced with financial circumstances that warrant unique remedial solutions. It is truly unfortunate that the parties could not find some grounds for compromise in negotiations to resolve this issue, but they did not and it is left to this panel to resolve.

Based upon the overall financial condition of the City and the increasing unfunded liability for retiree health care insurance the panel is of the opinion that the proposal of the City is a reasonable approach that most nearly complies with the provisions of Sec. 9, and supports the adoption of the City’s proposal as an economic issue.

AWARD – WAGES – DECEMBER 1, 2006

The Panel hereby adopts the City's last best offer of settlement as follows:

Wages – 12/01/06 – 11/30/07

Summary:

The City proposes an increase in base wages effective December 1, 2006 of 3.0%, with employees contributing 2% of all pension earnings to a Voluntary Employee Benefit Association.

Contract Language

New language in Article 32.A. to read:

The following Wage Rate Schedule represents:

3. 3% across the board wage increase effective December 1, 2006.

New Article 32.C. to read:

Effective December 1, 2006, the City will deduct 2% from the pension based earnings of all active employees which shall be placed into the City's Voluntary Employee Beneficiary Association (VEBA) Retiree Health and Disability Benefits Plan. Employees receiving workers compensation shall pay on full pension based earnings.

Effective Date

Date of Award.


Retroactivity of Wages - 12/01/06-11/30/07

Summary:

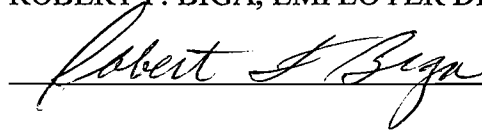
Retroactivity of wages and VEBA to 12/01/06 for all bargaining unit members on the payroll as of the date of the 312 Award.

Effective Date: Date of Award.

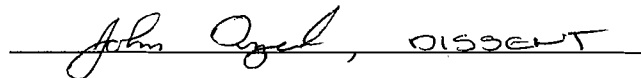
C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



In the last year of the contract term the Union seeks an across the board increase of 3%. Four of the five external comparables that have reached agreement for this time period have settled on a 3% increase in salary. For the contract year 12/1/07, the City is proposing an increase of 2% across the board. Livonia police bargaining units have not settled their contract with the City and the other City bargaining unit agreements do not extend for the time period in question. The City maintains that their offer compares very favorably with the external comparables and in view of the financial condition of the City it urges the panel to adopt their offer.

In view of the fact that the panel has adopted the City's salary offer and VEBA contribution factor in the second year of the agreement it seems reasonable to give some considerable weight to the arguments of the Union for the third year of the contract. The

one percent difference is supported by the external comparable increases. It isn't necessary to review in detail the Union's analysis of the external comparable and the relative ranking of Livonia based upon base rates, hourly rates, or total compensation rates. We do note however that the union's position that FICA contributions should not be included in total compensation calculations because it really represents a deduction ignores completely the benefit factor. Overall, the data does support the Union proposal and in the opinion of the panel the provisions of Sec. 9 are met more closely by the adoption of the Union proposal for the 12/01/07 – 11/30/08 contract year as an economic issue.

AWARD – WAGES – DECEMBER 1, 2007

The Panel hereby adopts the Union's last best offer of settlement as follows:

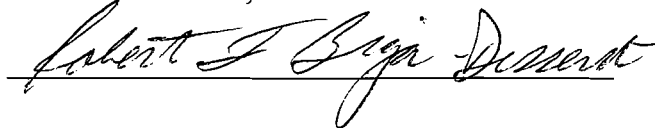
Effective December 1, 2007 to November 30, 2008

Modify Article 32, Salary Rates, of the 2002 – 2005 collective bargaining agreement to provide for 3.0% across-the-board increase for all steps and classifications based upon the salary rate in effect on November 30, 2007.

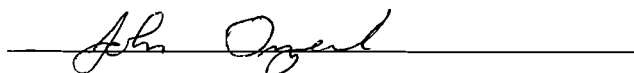
C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



HEALTH CARE

Employee health care insurance costs represent a major contributing factor to the City's financial condition. Like many employers who provide health care coverage for employees, costs have been steadily increasing for the City of Livonia. City exhibit #97 pointedly demonstrates the rapid increase. The exhibit reveals that since 1999 to 2007 costs for the various health plan provided employees by the City have increased between 60% and 141%. The City as a consequence of such dramatic increases has approached the bargaining process seeking assistance in controlling the costs. There are some seven (7) issues identified in this case in dispute. We will address each as a separate issue and decide them accordingly as economic issues.

HEALTH CARE, INSURANCE PLAN

There really isn't a dispute regarding this issue. The City has proposed to change the insurance plan to Community Blue, Option 2, a plan that provides some cost relief to the City and retains a reasonably comparable level of benefits for the employees.

The Union has proposed continuing with the present plan, but in their brief, states that the Mr. Orzech, Union President, has testified that the Union has no strong objection to the implementation of the City's proposal.

Since there is no dispute, no further discussion of this issue is necessary. The Panel will adopt the City's proposal as an economic issue.

AWARD-HEALTH CARE, INSURANCE PLAN

The Panel hereby adopts the Employer's last best offer of settlement as follows:

Summary:

Replace current Blue Cross/Blue Shield PPO with Blue Cross/Blue Shield Community Blues, Option 2.

Contract Language:

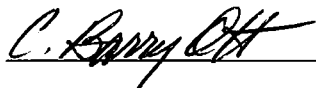
Add the following language to Article 24, Section A and Section A.1:

Effective December 1, 2005, with implementation as soon as practicable following issuance of the Act 312 award, the health care plan to be provided to employees pursuant to this Section shall be Community Blues PPO, Plan 2 with annual deductibles of \$100.00 per member; \$200.00 per family in network waived if services provided in a PPO's physician's office; maximum annual percent co-pay of \$500.00 per member, \$1,000.00 per family...

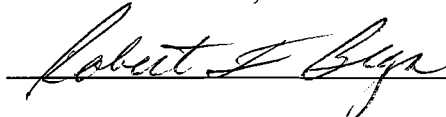
Effective Date

Date of Award with implementation to be prospective only.

C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



HEALTH CARE – PRESCRIPTION DRUG CO-PAY

The City is proposing the same three-tiered drug co-pay presently provided to members of the Police Officers bargaining unit; \$10 generic, \$20 preferred brand name,

and \$30 for non-formulary brands. The Union states that while there is no support among the comparables, it has indicated a willingness to agree to the City's proposal in negotiations and at hearing.

Since there is not dispute regarding this issue, the Panel will adopt the City's proposal as an economic issue.

AWARD – HEALTH CARE, PRESCRIPTION DRUG CO-PAY

The Panel hereby adopts the Employer's last best offer of settlement as follows:

Summary:

Change prescription drug co-pay to \$10 generic/ \$20 formulary/ \$30 non-formulary for all health care plans

Contract Language:

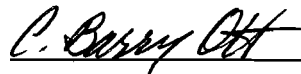
Add the following language to Article 24, Section A, Section A.1, and Section B:

Effective December 1, 2005, the Preferred RX deductible drug prescription rider shall be a \$10 co-pay for generic drugs, a \$20 co-pay for formulary drugs and a \$30 co-pay for non-formulary drugs.

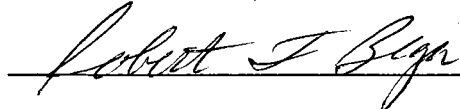
Effective Date

Date of Award with implementation to be prospective only.

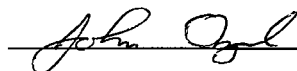
C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE

 , DISSENT

HEALTH CARE, OFFICE VISIT CO-PAY & EMERGENCY ROOM CO-PAY

The City proposes a \$10 office visit co-pay and a \$25 emergency room co-pay for all health care plans. The emergency room co-pay would be waived in the event the patient is admitted to the hospital. While the Union has maintained a no change in the status quo and retention of existing contract language, in their brief, the Union indicates that at the hearing Union President testified the Union had agreed to the City's proposal and was willing to work with the City on this issue.

Since there is no real dispute regarding this issue the Panel will adopt the City's proposal as an economic issue.

AWARD – HEALTH CARE, OFFICE VISIT & EMERGENCY ROOM CO-PAY

The Panel hereby adopts the Employer's last best offer of settlement as follows:

Health Care – Office Visit Co-Pay

Summary:

Establish office visit co-pay of \$10 for all health care plans.

Contract Language:

Add the following language to Article 24, Section A, Section A.1 and Section B:

Effective December 1, 2005, with implementation as soon as practicable following issuance of the Act 312 award the health care plan shall include a \$10.00 office visit co-pay.

Effective Date

Date of Award with implementation be prospective only.

Health Care – Emergency Room Co-pay

Summary:

Establish an emergency room co-pay of \$25 for all health care plans, waived if admitted to the hospital.

Contract Language:

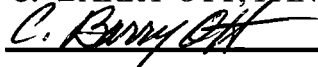
Add the following language to Article 24, Section A, Section A.1 and Section B:

Effective December 1, 2005, with implementation as soon as practicable following issuance of the Act 312 award the health care plan shall include a \$25.00 emergency room co-pay, waived if admitted to the hospital.

Effective Date

Date of Award with implementation to be prospective only.

C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, CITY DELEGATE



JOHN ORZECH, UNION DELEGATE



HEALTH CARE – EMPLOYEE PREMIUM CONTRIBUTION

The Employer proposes to require employees to pay a monthly premium for health insurance of \$30 for single plan coverage; \$35 for two person coverage and \$40 for family coverage. In addition, the Employer proposes that employees who retire after December 1, 2006 and who are receiving employer-provided medical coverage of any kind, upon retirement, if electing to continue to receive employer-provided - medical

coverage of any kind, shall make the contribution toward the cost of said coverage in the amounts set forth in this section in effect at the time of the employee's retirement.

The Union opposes this proposal in favor of maintaining the present contract language.

The City attempts to support their proposal on the grounds that some employees represented by AFSCME are making the proposed contributions, as do other unrepresented employees. In addition, the City cites the Kaiser Family Foundation and Health Research and Educational Trust Employer Benefits 2006 Annual Survey regarding employee contributions toward health insurance premiums.

In opposition, the Union points out that none of the police units are required to share in health insurance premium costs nor is the proposal supported by the external comparables.

In this instance, the Panel is of the opinion that the data from external comparables outweigh the data presented by the City. Of the eleven comparables reporting, excluding Livonia, only two report any kind of employee payment towards health insurance premiums. We also note that we have provided considerable relief from the cost of retiree premium costs in awarding the City's VEBA provision and the co-pay proposals. The national trends, particularly in the private sector no doubt indicate that full paid employer health insurance coverage is fast becoming a thing of the past. However, the City can only make progress in this area in incremental steps and not all in one contract period.

The Panel is of the opinion that the Union's last best offer most nearly complies with the provisions of Sec.9 of the Act and adopts their proposal as an economic issue.


AWARD

HEALTH CARE – EMPLOYEE PREMIUM CONTRIBUTION

The Panel hereby adopts the Union’s last best offer of settlement as follows:

The Union proposes no change in the status quo and the retention of the current contract language.

C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



HEALTH CARE, HEALTH INSURANCE FOR SPOUSE OF RETIREE

In this proposal, the City maintains that its intent is to clarify that the present benefit was to only apply to the retiree’s spouse at the time of retirement. The testimony of Mr. Biga on this point isn’t particularly helpful since he acknowledged that he wasn’t on the City’s bargaining team at the time the issue was negotiated sometime in the 1980’s. The City argues that two other internal bargaining units and the unrepresented employees have language that presently restricts coverage to the retiree’s spouse at the time of retirement.

The Union maintains that the present contract language does not restrict coverage to a retiree’s spouse at the time of retirement and asserts that if a retiree’s spouse dies and

the retiree remarries, the new spouse would be eligible for insurance coverage. According to the record only one of the external comparables restricts coverage to the retiree's spouse at the time of retirement.

The record shows that in only one instance has this occurred in the past and the City has not offered any evidence regarding the cost implications of this benefit. Since the present language of the contract is of some considerable vintage, the City has the burden of justifying the proposed change and it has failed to meet that burden in this instance.

The Panel is of the opinion that the Section 9 factors support the adoption of the Union's proposal of maintaining the status quo and the retention of the current contract language.

AWARD – HEALTH INSURANCE FOR SPOUSE OF RETIREE

The Panel hereby adopts the Union's last best offer of settlement as follows:

No change in the status quo and the retention of the current contract language.

C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



HEALTH CARE – FUTURE RETIREES’ HEALTH INSURANCE

The City proposes that employees who retire after December 1, 2006 shall receive the same health insurance post employment that then current employees are receiving. The effect of this proposal would be that all future retirees’ health insurance would change during their retirement to reflect any changes that might result in future contract negotiation both in terms of coverage, deductibles, co-pays, employee premium participation, etc. The City maintains that the cost of retiree insurance continues to rise and the City has no ability to modify levels of coverage that were provided at much lower costs. The present arrangement also requires the City to maintain numerous plans, currently 18 different plans for retirees, which the City asserts is an administrative burden.

The Union opposes any change in the current provision and argues that the City has failed to support their proposal with any of the internal or external comparables. According to the Union such a change for retirees is grossly unfair because it would subject them to future bargaining decisions to which they are not a party. While costs to the City do go up for future retirees their insurance benefits are frozen at the time of their retirement and they do not get the benefit of any improvements that occur after retirement under the present system. The Union also points out that if the VEBA proposal of the City is adopted by the panel, employees who are paying into the fund for future retiree insurance benefits would also be subjected to any future costs to employees that might be negotiated and that is simply unfair.

The Panel is of the opinion that the City has not demonstrated any significant justification by virtue of internal or external comparables for their proposal. To subject

retirees to the results of future collective bargaining decisions that they are not a party to is inappropriate since neither the City nor the Union has any duty of representation for former employees who are no longer members of the bargaining unit.

The Panel is of the opinion that the provisions of Section 9 support the Union's proposal.

AWARD – HEALTH CARE, FUTURE RETIREES' HEALTH INSURANCE

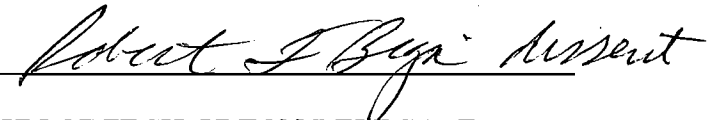
The Panel hereby adopts the Union's last best offer of settlement as follows:

The Union proposes no change in the status quo and the retention of the current contract language.

C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



PROMOTIONS, QUALIFICATIONS

The City proposes that applicants for promotions for all positions within the Fire Department to the position of Lieutenant and above will take a qualifying examination and the seven highest scorers on the qualifying examination will partake in an assessment center selection process. Final score will be determined using 50% for the competitive

examination and 50% for the assessment center rating, with a quarter point added for each year of service. A committee consisting of the Mayor, the Fire Chief and the President of the Union will select from the top 3 scoring applications.

The current provision requires all members of the bargaining unit below the rank of Assistant Chief, with the exception of the Training Coordinator, are to be promoted on the basis of their seniority, provided that they have attained the level of training as fire officers required in the contract.

The Union proposes to modify the present provision of the collective bargaining agreement to add the following language:

Successful completion of the foregoing minimum levels of training for each rank is a requirement for promotion to that rank. An employee who has not attained the minimum level of training for a rank may be bypassed for a promotion to that rank.

The promotion by seniority system (block system) was first adopted by the voters of Livonia in a charter amendment approved on April 2, 1956. The system was incorporated into the collective bargaining agreement in 1963, when the City, Union and the Civil Service Commission jointly adopted procedures to implement the system. Since that time the parties have negotiated changes to the block system to exclude the Fire Chief, Assistant Fire Chief and the Training Officer. In 1998, The City attempted through the Act 312 arbitration procedure to radically change the promotional system to a merit system without success. Since that time, the parties have negotiated two contracts covering the period of December 1, 1999 through November 30, 2005 and in each case the block system was maintained.

The City maintains that the evolution of the Fire Department into a sophisticated operation utilizing fire science and a broad range of services such as fire prevention, suppression, emergency medical services and provisions of advanced life support requires a promotional system that places greater emphasis on education and training and identifies persons who possess the knowledge and ability to manage. In advancing such argument, the City has the responsibility to demonstrate that the existing system has failed to produce officers with those skills. The City contends that only one of the external comparables bases promotions strictly on seniority, suggesting that the majority have recognized that merit based promotional systems are superior.

The Union defends the existing system on the grounds that the City has not demonstrated that the persons promoted under the present system are not performing their duties in a competent manner. Even though the City has failed to establish there is a need to change the present system, the Union points out that under the Bypass-Pass Clause, the Fire Chief can by-pass an individual lacking the requirements or experience for the higher rank. In addition, a newly promoted person must serve a one year probationary period, during which the person is evaluated quarterly by his superiors and can be returned to his former rank if he fails to successfully complete the probationary period. Moreover, even a person who successfully completes his probationary period can be demoted for causes and returned to their former position. The Union points to a series of Act 312 arbitration decisions involving this issue which have upheld seniority based promotional systems that stand for the premise that the party proposing the change must demonstrate the need for change and prove that the proposed change will produce better results. The Union contends that the City has failed to meet either test.

The Union views the data from the external comparables in a considerably different light than the City. It contends that seven of the eleven comparables use seniority as the primary criterion for promotion.

The Panel recognizes that this issue is extremely important to both parties and has carefully considered their respective arguments. The Chairperson recognizes that prior Act 312 cases are not binding upon this Panel. However, the persuasive value is of considerable value to this Chairperson on this particular issue. Experience, education and training are all very important factors that should be and are apparently taken seriously by the parties when it comes to promotions. The record evidence presented by the City does not establish that the present system has resulted in the promotion of persons who are not performing in a competent fashion. By the same token, the City has not produced any solid evidence that their proposal is likely to improve the Fire Department's service to the public. Consequently the City did not meet its burden of establishing a real need for changing the existing system.

The Panel is of the opinion that the Union's proposal to require candidates for promotion to demonstrate their qualifications by having successfully completed the required levels of training for promotion and any candidate who has not attained the required level of training may be bypassed for a promotion more nearly meets the factors of Section 9 of the Act.

AWARD – PROMOTION QUALIFICATIONS

The Panel hereby adopts the Union's last best offer of settlement as follows:

Modify Appendix A, The Block System, Subsection 12 of the 2002 – 2005 collective bargaining agreement to read as follows:

The City will train all members of the bargaining unit to the level of their responsibility including any level that they may assume on an acting basis. To this end, the City shall provide the following minimum levels of training, as prescribed by the Michigan Fire Fighters Training Council:

Rank	Minimum Level
Engineer	Fire Officer I
Lieutenant	Fire Officer I, II
Captain, Senior Captain, and Battalion Chief	Fire Officer I, II, and III

Successful completion of the foregoing minimum levels of training for each rank is a requirement for promotion to that rank. An employee who has not attained the minimum level of training for a rank may be bypassed for a promotion to that rank.

C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



SICK LEAVE – CONTROL

The City is proposing changes in the sick leave program that would afford the Fire Chief the right to call employees at home after they used personal illness time exceeding 24 hours in a calendar year and call or visit an employee at home after the use of 72 hours or more of sick leave in a calendar year. The proposal would also require an employee on paid sick leave to remain at home during such period, except for medical appointments where they would have to notify the Department that they were leaving home. According to the City, these changes are necessary because of suspected abuse of sick leave time.

The Union opposes the City's proposal in favor of the status quo asserting that there was no evidence to support the City's alleged abuse of sick leave time. Indeed, the Fire Chief testified that he did not believe that on the whole there was a sick leave issue with the members of the fire department. The Union asserts that the record evidence indicates that sick leave usage has actually declined in recent years. Average sick leave hours used were at 146 hours per year in 1999 and 115 hours per year in 2006 and as a percent of total scheduled hours sick leave was at 3.10% in 2003, 2.42% in 2005, and 2.60% in 2006.

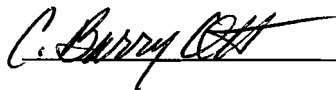
The City must carry the burden of proof that its proposed changes are necessary and to provided some level of proof of suspected sick leave abuse. In the opinion of this Panel, the City has not met that burden. The Panel is of the opinion that the Section 9 factors support the proposal of the Union.

AWARD – SICK LEAVE CONTROL

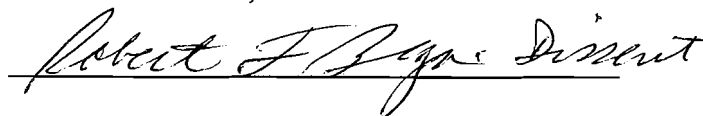
The Panel hereby adopts the Union’s last best offer of settlement as follows:

The Union proposes no change in the status quo and retention of the current contract language.


C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



SICK LEAVE – MONTHLY ACCRUAL

The City proposes to reduce the monthly accrual of sick leave from the rate of 18 hours to 12 hours for employees assigned to the fifty-six (56) hour duty week. According to the City this change is necessary because there is a disparity in the method by which Fire Fighters assigned to the 56 hour duty week and other employees assigned to the 40 hour work week accrue sick leave that results in the Fire Fighters accruing sick leave at a greater rate.

The Union proposes to maintain the status quo and retention of the current contract language. According to the Union the difference in the rate of accrual has been in effect since 1963 and reflects the fact that Fire Fighters work on average 2912 hours per year as opposed to 2080 for employees assigned to a 40-hour week. Of the twelve external comparables, 7 provide more sick leave accrual than Livonia and 3 provide the

same as Livonia and only 2 provide less. The Union asserts that the City has failed to demonstrate any justification to change a long- standing rate of accrual and urges this Panel to adopt the Union's proposal to maintain the status quo.

The Panel is of the opinion that the Union's last best offer of settlement is supported by the factors of Section 9.

AWARD – SICK LEAVE – MONTHLY ACCRUAL

The Panel hereby adopts the Union's last best offer of settlement as follows:

The Union proposes no change in the status quo and retention of the current contract language.

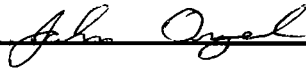
C. BARRY OTT, PANEL CHAIR

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ROBERT F. BIGA, EMPLOYER DELEGATE

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JOHN ORZECH, UNION DELEGATE

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PENSION

There are four pension issues in dispute. The Panel will treat each as a separate economic issue.

PENSION, MERS DEFINED BENEFIT PLAN

The Union proposes to establish a defined benefit pension plan administered by the Municipal Employees' Retirement System of Michigan (MERS) as follows:

Add the following Section III, to Article 31, Pensions, of the 2002 – 2005 collective bargaining agreement.

III MERS PLAN

- A. The following provisions shall be applicable to employees participating in the MERS plan. The provisions shall apply to all employees hired after the effective date of the Act 312 award, and all employees hired prior to the effective date of the Act 312 award, currently covered under the defined contribution plan, who have elected to participate in the MERS plan. These provisions shall not apply to employees hired prior to the effective date of the Act 312 award who have elected to continue to participate in the defined contribution plan, as set forth in Article 31. II, above, and the City's Retirement Ordinance, as amended by the City.
- B. The City adopts the MERS Defined Benefit pension program with the following benefits:
- a. The benefit program shall be based on 2.5% of the employee's average compensation multiplied by years and months of credited service. This benefit shall not exceed 80% of the employee's final average compensation.
 - b. Normal retirement age of 60.
 - c. V10 – Vesting in 10 years.
 - d. Full pension benefit will be payable if age 52 is attained with at least ten years of credited service or at any age with 27 years of service.

- e. FAC – 3 – Final average compensation is the average of the highest consecutive 3 years (36 Months) period of the employee’s credited service.
- f. Those employees electing to transfer from the defined contribution plan to the MERS plan shall transfer the employees’ account balance credited to each employee’s account to MERS to reduce the unfounded accrued liability (UAL). All prior years of service with Livonia will be included and afforded to the employees in their benefit determination.
- g. The City will contribute 11% of each participating employee’s compensation to the MERS plan. Any additional contributions required to fund and maintain the MERS program will be the responsibility of the participating employees.

The City proposes to maintain the status quo. Employees hired after July 1, 1998 shall remain in the City’s Defined Contribution Plan

Prior to 1998, the City provided employees in the fire service with a defined benefit pension plan administered by the City. During negotiation in 1997, the City proposed to convert to a defined contribution pension plan for all future hires and optional for employees hired prior to 1998. The difference between these plans is essentially that those under a defined benefit plan enjoy a guaranteed pension base upon a formula involving the employee final average earnings, years of credited service and a pension- percentage multiplier. Under this plan the employees contribute 3.56% of their participating earnings and the City’s contribution rate is determined by an annual actuary study. Since 2003, the City was not required to contribute because the plan was fully

funded. A defined contribution plan does not provide a guaranteed pension. Each participating employee has an account and both the employee and the City contributes a fixed amount. Investment earnings are credited to the employee's account and upon retirement the employee decides how much to withdraw as his/her pension benefit.

In 1998, an Act 312 arbitration panel awarded the City's proposal to establish a defined contribution plan that was mandatory for all new hires and provided an option for current employees voluntarily transferring to the plan. The City's contribution rate was set at 13% for current employees who elected to transfer to the plan and 9% for future hires. Employees are required to contribute 3.56%. In subsequent negotiations the City agreed to increase its contribution rate for employees hired after July 1, 1998 to 10% and to 11% effective December 1, 2002. In advancing the proposal for a defined contribution plan the City was motivated by a desire to fix its rate of contribution at a known level. Under a defined benefit plan the employer rate of contribution is subject to a number of variables. Change in investment value can increase or decrease the employer's contribution. Any improvement in benefits can result in significant increases in accrued un-funded liability and rate increases. Indeed, just about any significant change in actuarial assumptions can result in rate changes.

The Union proposes to implement a third plan to be administered by MERS, that would produce a guaranteed pension benefit similar to the defined benefit plan in effect for employees hired prior to 1998. Under this plan the employer's contribution would be capped at 11% of participating earnings, and based upon certain actuarial assumptions provided by MERS, the employee contribution would be set at 6.9%. These estimates are based upon the assumption that 31 participants in the defined contribution plan would

voluntarily transfer to the MERS plan, with the transfer of an estimated \$2,987,657 in assets to be used to offset accrued un-funded liability projected for the new plan. Without the transfer of assets, the un-funded accrued liability would be \$3,236,100. The employees would be responsible for any increases over the assumptions that produced the projected employee rate of 6.9%.

The reasons advanced by the Union as to why they would be willing to pay 3% more than present are related to the differences in a defined contribution plan and defined benefit plan. It isn't necessary to recite all of the differences in the two plans at this time. The Panel has carefully reviewed the exhibits, briefs and testimony of the witnesses on this point. In short the reasons are essentially that the defined benefit guarantees a specific pension and shifts the investment risks away from the employee and to the employer, not to the plan as suggested by the Union. The Panel is very much aware that those risks are considerable. As noted earlier, any improvement in benefits results in significant un-funded liability and resultant cost to the employer. Moreover, the cost projections of MERS are all based upon assumptions and those assumptions are subject to change. It is true that under the Union's proposal the employees would be held liable for any increases over and above the estimated costs as the employer contribution is capped at 11%. This fact alone causes the Panel some considerable concern for both the employees and the employer. Most defined benefit plans include an assumption for investment gain of about 8% annually. We are presently in very unsettled economic cycle, stock market indexes have taken a rather sharp downward trend and many consumer product prices have spiked. In this environment it is very likely that many pension fund investment portfolios are going to experience a decline in value. In that

event the fact circumstances presented in this issue could very well result in considerable cost consequences to the employees. The City has expressed concern that the proposed cap on their contribution could very well represent a fleeting thing as the terms of the new contract will run out as of November 30, 2008 and the City could be faced with a new set of demands attacking the contribution cap. The proposal of the Union provides little assurance to the City of any long-term protection from potential cost increases.

The Union points to the external comparables in support of their proposal noting that all of the external comparables provide defined benefit plans. We note after studying the St. Antoine Award of 1998, that only one of the comparables had a defined contribution plan in effect at that time. The City in turn notes that since the adoption of the plan the parties have negotiated successor agreements and they have retained the defined contribution plan and all of the other bargaining units of the City have such a plan. Both parties have introduced arbitration awards in which defined contribution plans have been retained and eliminated. None of these awards are binding on this Panel in the instant case.

We have examined the evidence regarding the relative benefits of the two types of plans and find that both have favorable components. Since the Union is the proposing party, it has the burden of proof that there is some compelling reason to add an additional pension plan. In the final analysis, we see no compelling justification for the addition of the MERS plan. The risks to both parties inherent in the Union's proposal are real and substantial and are best left to the collective bargaining process to resolve.

The Panel is of the opinion that the City's proposal is supported by the Section 9 factors.

AWARD – PENSION, MERS DEFINED BENEFIT PLAN

The Panel hereby adopts the Employers' last best offer of settlement as follows:

Status Quo. Employees hired after July 1, 1998 shall remain in the City's Defined Contribution Plan.

C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE

 DISSENT

PENSION – RETIREMENT AGE

The Union proposes changes to the contract regarding retirement age as follows:

- a. Modify Article 31(I)(B), Pensions, for the 2002 – 2005 collective bargaining agreement by adding the following as the second sentence. Effective December 1, 2007, employees who are fifty-two (52) and have ten (10) years of service with the City of Livonia, or who are at any age, with twenty-five (25) years of service with the City of Livonia, may retire at full pension benefits as provided in the City Pension Ordinance.

- b. Modify Article 31(I)(B), Pensions, of the 2002 – 2005 collective bargaining agreement by adding the following:

For employees retiring after December 1, 2007, an eligible employee's annuity factor shall be 2.8% for the first twenty-four (24) years of service, and 7.8% in the twenty-fifth (25) year of service to a maximum (cap) of seventy-five (75%) of final average compensation.

- c. Modify Article 31(II)(A)(4) to add the following:

4. Effective December 1, 2007, retirees who are members of the defined contribution plan are not eligible for hospitalization-medical coverage until age 52 with 10 or more years of service or at any age with 25 years of service.

- d. Modify the final paragraph of Article 31 (II)(B)(2) to read as follows:

B.2. The health care benefit paid for employees hired by the City on July 1, 1998 or later, upon retirement shall be as follows:

For employees retiring after twenty-five years of service and who are at least 52 years of age, or if an employee retires after December 1, 2007, with 25 years of service regardless of age, the City will pay 100% of the payments towards premiums.

The City proposes to maintain the status quo and retain the present contract - provisions that employees remain eligible for full retirement at age 52 with 10 years of service or at any age with 27 years of service.

The Union contends that their proposal is necessary to maintain parity with that of the Livonia Police Officers bargaining unit (LPOA) that has a provision which allows a police patrol officer to retire at age 50 with ten years of service and at any age with 25 years of service. The police patrol officer is entitled to receive a pension of 2.8% of final average compensation for the first twenty-four years of service and 7.8% of final average compensation for the twenty-fifth year of service to the maximum of 75% of final average compensation.

The City maintains that members of the LFFU are in fact treated similarly to their counterpart members of the Police Department. City exhibit #158 lists all retirees from the Fire Department and Police Department from January 1997 through May 2007. In nearly all instances members of the LFFU retire at a rank of lieutenant or higher (92.1%). The City argues that in effect the members of the Fire Department already have a retirement eligibility equivalent to their real counterparts in the Police Department. Members of the Police Department holding the rank of police lieutenants and sergeants in (LLSA) bargaining unit may retire at age 50 with 10 years of service, or at any age with 27 years of service. Moreover, the City suggests that the testimony of Union President Orzech indicates that the Union is not really interested in what the Police Department has when he answered “no” to a question of the City’s advocate regarding whether the Union would accept what the Police Department has, “25-and-out” for all the Fire Fighters who retire at the Rank of the LPOA and 27-and-out for all those who retire at the rank of Lieutenant and Sergeant.

The City also argues that the cost for the plan is significant, ranging from 2.14% of payroll to 4.53% depending the assumptions. (Union Exhibit 33B). No cost analysis

was done regarding the costs associated with health insurance for employees who retire early. In the opinion of the City the Union has failed to justify this significant reduction in the retirement age and urges the Panel to adopt the status quo.

The Union contends that the data from the external comparables shows that eight of the eleven comparables, excluding Livonia, permit retirement at full benefits at 25 years of service regardless of age.

The record indicates that the more appropriate comparison is between the LFFU and the LLSA. It is also true that there are other significant differences between these two pension plans both in terms of benefits and employee contributions, which are not at issue in this case. While there is some support for the reduction in the years of service requirement among the external comparables, the Panel is of the opinion that the greater emphasis should be placed upon the relationship with the LLSA, based upon the level of rank that most fire fighters retire. There are also real costs associated with the Union's proposal. The present funding status of the defined benefit plan may tend to mute such cost at the present time, but they are still real because if the level of funding should fall due to market changes the cost of the benefit improvements would be imposed on the City. This is a close call, but the Panel is of the opinion that the Section 9 factors support the proposal of the City.

AWARD – PENSION – RETIREMENT AGE

The Panel hereby adopts the Employers' last best offer of settlement as follows:

Status Quo. Employees remain eligible for full retirement at age 52 with 10 years of service or at any age with 27 years of service.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

ROBERT F. BIGA, EMPLOYER DELEGATE

Robert F. Biga

JOHN ORZECH, UNION DELEGATE

John Orzech, DISSENT

PENSION – POST RETIREMENT INCREASES

The Union proposes changes to the contract as follows:

Modify Article 31 (I)(K), Pensions, of the 2002 – 2005 collective bargaining agreement to read as follows:

K.

a. Employees who retire on or after December 1, 1993 shall receive a cost of living allowance according to the schedule set forth below:

1 year after retirement, an additional \$20.00 per month.

2 years after retirement, an additional \$20.00 per month, for a total of \$40.00 per month.

3 years after retirement, an additional \$20.00 per month, for a total of \$60.00 per month.

4 years after retirement, an additional \$20.00 per month, for a total of \$80.00 per month.

5 years after retirement, an additional \$20.00 per month, for a total of \$100.00 per month.

6 years after retirement, an additional \$20.00 per month, for a total of \$120.00 per month.

b. Employees who retire on or after December 1, 2005 shall receive a cost of living allowance according to the schedule set forth below:

1 year after retirement, an additional \$40.00 per month.

2 years after retirement, an additional \$40.00 per month, for a total of \$80.00 per month.

3 years after retirement, an additional \$40.00 per month, for a total of \$120.00 per month.

4 years after retirement, an additional \$40.00 per month, for a total of \$160.00 per month.

5 years after retirement, an additional \$40.00 per month, for a total of \$200.00 per month.

6 years after retirement, an additional \$40.00 per month, for a total of \$240.00 per month.

7 years after retirement, an additional \$40.00 per month, for a total of \$280.00 per month.

8 years after retirement, an additional \$40.00 per month, for a total of \$320.00 per month.

9 years after retirement, an additional \$40.00 per month, for a total of \$360.00 per month.

10 years after retirement, an additional \$40.00 per month, for a total of \$400.00 per month.

The Employer proposes the following changes to the contract as follows:

Modify Article 31(I)(K) to read:

1. Employees who retire on or after December 1, 1993 shall receive a cost of living allowance according to the following schedule:

1 year after retirement, an additional \$20.00 per month.

2 years after retirement, an additional \$20.00 per month, for a total of \$40.00 per month.

3 years after retirement, an additional \$20.00 per month, for a total of \$60.00 per month.

4 years after retirement, an additional \$20.00 per month, for a total of \$80.00 per month.

5 years after retirement, an additional \$20.00 per month, for a total of \$100.00 per month.

6 years after retirement, an additional \$20.00 per month, for a total of \$120.00 per month.

2. Employees who retire following the date of the issuance of the Act 312

Award, shall be entitled to the following additional increases:

7 years after retirement, an additional \$20.00 per month, for a total of \$140.00 per month.

8 years after retirement, an additional \$20.00 per month, for a total of \$160.00 per month.

9 years after retirement, an additional \$20.00 per month, for a total of \$180.00 per month.

10 years after retirement, an additional \$20.00 per month, for a total of \$200.00 per month.

All of the City's bargaining units have the same provision of an additional \$20 per month one year after retirement through the 6th year of retirement for a maximum benefit of \$120 per month. Under the Union's proposal, new retirees would receive double the current monthly benefit and extend it for an additional four years raising the total benefit maximum from \$1340 per year after 6 years retirement to \$2880 per year, and a new maximum benefit after 10 years retirement of \$4800 per year.. Under the City's proposal the benefit remains the same as the present, but would continue for an additional 4 years with a new maximum of \$2400 per year after 10 years retirement.

The City recognizes that the benefit has remained the same for many years, but argues that the increase sought by the Union is simply too great. The actuary cost for the Union proposal is 1.77% of payroll. The City also points out that five of the eleven external comparables do not provide any such benefit. The data also indicates that only three of the eleven external comparables provide for Social Security benefits, as does Livonia.

The Union argues that the present benefit has been in place for over 20 years and their proposal is a modest one when viewed in that light. The Union also points out that despite the actuary cost factor the real cost to the City is nothing since the retirement plan is fully funded. Moreover, the union asserts that the City has dropped its argument of internal comparables based upon their offer.

The Panel has carefully reviewed the data concerning this issue and note that the existing plan has been in effect for many years and inflation has surely eroded its value. However, the effects of inflation certainly have not reached a level that would support the Union's proposal. City exhibit 82 indicates that the cumulative increase in the CPI since 1985 was 88.9%. We do not agree that the City has somehow waived the issue of internal comparables by its offer; indeed it makes such argument in its brief, but characterizes its offer as one that it feels it can reasonably afford without major strain on its financial condition.

As is often the case in Act 312 cases where the Panel is constrained to award one or the other of the parties proposals without modification on economic issues we are compelled to settle on one that may not be what we would fashion if given the discretion to craft an award that we believe more appropriately fits the situation. Such is the case in this matter. While the Chairperson is of the opinion that equity lies somewhere between the offers of the parties, the Panel is of the opinion that the Section 9 factors more closely support the proposal of the Employer.

AWARD – PENSION – POST RETIREMENT INCREASES

The Panel hereby awards the Employer's last best offer of settlement as follows:

Modify Article 31(I)(K) to read:

1. Employees who retire on or after December 1, 1993 shall receive a cost of living allowance according the following schedule:

1 year after retirement, an additional \$20.00 per month.

2 years after retirement, an additional \$20.00 per month, for a total of \$40 per month.

3 years after retirement, an additional \$20.00 per month, for a total of \$60.00 per month.

4 years after retirement, an additional \$20.00 per month, for a total of \$80.00 per month.

5 years after retirement, an additional \$20.00 per month, for a total of \$100.00 per month.

6 years after retirement, an additional \$20.00 per month, for a total of \$120.00 per month.

2. Employees who retire following the date of the issuance of the Act 312

Award, shall be entitled to the following additional increases:

7 years after retirement, an additional \$20.00 per month, for a total of \$140.00 per month.

8 years after retirement, an additional \$20.00 per month, for a total of \$160.00 per month.

9 years after retirement, an additional \$20.00 per month, for a total of \$180.00 per month.

10 years after retirement, an additional \$20.00 per month, for a total of \$200.00 per month.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

ROBERT F. BIGA, EMPLOYER DELEGATE

Robert F. Biga

JOHN ORZECH, UNION DELEGATE

John Orzech, DISSENT

PENSION – RETIREMENT PAYOUT

The Union proposes the following changes to the contract:

Add the following new Section to the collective bargaining agreement.

Effective December 1, 2005, qualified employees of this bargaining unit will be entitled to additional compensation annually, as follows:

A. Fire Fighters, Assistant Drivers, Fire Engineers, and Fire Lieutenants/Fire Inspectors:

Fire Fighters, Assistant Driver, Fire Engineers, and Fire Lieutenants/Fire Inspectors, who retire with at least twenty-five years of service, will receive a payment of \$4,000 at the time of retirement.

B. Fire Captains/Senior Inspector and above:

Employees who retire at the rank of Fire Captain/Senior Inspector or above, with at least twenty-five years of service, will receive a payment of \$5,000 at the time of retirement.

C. All compensation under this Section will be included as average final compensation for purposes of retirement.

The Employer proposes to maintain the status quo; employees shall not be eligible for any additional payment in the last year of employment.

The record testimony of Union President John Orzech indicates that the rationale for the Union proposal was based on the police contract and the concept of parity. None of the external contracts have such a provision, nor do any of the other City bargaining units. The provision is unique to the police bargaining units.

According to the City this benefit was originally provided to the police bargaining units and was designed to attempt to equalize the disparity between final average compensation in the defined benefit pension plans occurring between the police and fire bargaining units. The City contends that this disparity occurs as a result of the seniority promotion system that allows members of the Fire Department to retire at much higher ranks with a resultant higher final average compensation factor: (City Exhibits: #170, #171, and #172).

The Union contends that the payments were really the result of an Act 312 award as a quid pro quo for the granting of the City's proposal of the defined contribution plan. Subsequent negotiations with the LLSA unit followed suit with a like benefit which isn't even part of their final average compensation factor. According to the Union their proposal is well founded in the parity concept and should be awarded in this case.

The Panel has carefully reviewed the exhibits and respective arguments concerning this issue. The record supports the City's contention that its original intent was to equalize the final average compensation factor between the police and fire bargaining units based upon their view of parity. An Act 312 award that was not based on parity considerations further modified the benefit. The subsequent negotiations with the

LLSA bargaining unit did not apply the benefit to final average compensation because members of this unit were retiring at higher ranks that compared more favorably with their Fire Department counterparts.

This issue highlights the inherent problems that can result from attempting to provide perceived equity based on the concept of parity. One person's idea of parity often differs from another and as a result, a never-ending cycle can result with the players constantly maneuvering to outdo the other. An award of the Union's proposal would recreate the imbalance in final average compensation that the City was attempting to correct and could very well lead to another round of demands seeking to restore the original intent. This will only result in a round robin set of demands from the other bargaining units of the City. The Panel is reluctant to trigger such a situation.

Again the Panel is faced with a situation where the constraints of Act 312 on the Panels prohibit its ability to fashion an award on economic issues that would more nearly reflect the facts and circumstances presented in this issue. In the opinion of the Panel Chair, there certainly appear to be alternatives and grounds for compromise that could be applied that would enable the parties to fashion a proposal that would in part accomplish their respective goals. Unfortunately that ability is denied by the terms of Act 312, and it would be inappropriate for the Panel to suggest any specific compromise.

The Panel has examined the data from the external comparables and finds no support for the Union's proposal in that quarter. The Panel is of the opinion that the Section 9 factors support the proposal of the City.

AWARD – RETIREMENT – PENSION PAYOUT

The Panel hereby adopts the Employer’s last best offer of settlement as follows:
Status quo. Employees shall not be eligible for any additional payment in the last
year of employment.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

ROBERT F. BIGA, EMPLOYER DELEGATE

Robert F Biga

JOHN ORZECH, UNION DELEGATE

John Orzech, DISSENT

EDUCATIONAL BENEFITS

The Union proposes the following modifications to the collective bargaining
agreement:

- A. Modify Section 44 of the 2002 – 2005 collective bargaining agreement as follows:
Should an Employee earn an Associate Degree in Fire Science or Emergency Medical
Service at an accredited school or earn any bachelors degree, provided that the bachelor’s
degree is earned from an accredited college or university, the City will provide an annual
payment to said Employee, on November 30 of each year, in accordance with the
following schedule:

AA Degree	\$900
BA/BS Degree	\$1,650

C. The benefit payment provided in Paragraph A, above, shall only be paid to those Employees who have completed their degree studies prior to the November 30 date.

The City is opposed to the change and proposes to maintain the status quo, continuing the present benefit of \$500 for an Associate Degree or \$750 for a Bachelor Degree.

The Union supports their proposal on the grounds that it should enjoy the same educational bonus that their counterparts in the police units enjoy.

The City opposes the change on the grounds that most of the external comparables do not provide such a benefit and those that do provide less than Livonia. The City argues that the award of the Union's proposal would increase the compensation gap between police and fire units.

The Union asserts that a degree simply shouldn't be worth less to a fire fighter than to those employees in the Police Department. Moreover, the wage gap argument of the City isn't a fair or complete comparison, based on services provided and bonuses paid or hours worked.

The Panel is of the opinion that the Union's proposal is an equitable one based upon unit parity for like educational achievement. The cost of the benefit improvement is not exorbitant at \$26,000 per year. The Panel is of the opinion that the Union's proposal is supported by the Section 9 factors.

EDUCATIONAL BENEFITS

The Panel hereby adopts the Union's last best offer of settlement as follows:


Modify Section 44 of the 2002 – 2005 collective bargaining agreement to provide as follows:

A. Should an Employee earn an Associate Degree in Fire Science or Emergency Medical Service at an accredited school or earn any bachelors degree, provided that the bachelor's degree is earned from an accredited college or university, the City will provide an annual payment to said Employee, on November 30 of each year, in accordance with the following schedule:

AA Degree	\$900
BA/BS Degree	\$1650

B. The benefit payment provided in Paragraph A, above, shall only be paid to those Employees who have completed their degree studies prior to the November 30 date.

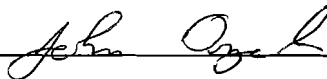
C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE



PARAMEDIC (ALS) BONUS

The Union proposes to modify the first paragraph of Section 47, Paramedics, Subsection B(1), of the 2002 – 2005 collective bargaining agreement to read as follows:

B. Effective December 1, 2005, any member of the Department licensed as a paramedic shall receive an annual ALS bonus of \$3,200 in lieu of the EMT bonus provided in Article 40, below, irrespective of how much time, if any, is spent assigned and performing as a paramedic. Effective December 1, 2006, the paramedic bonus shall be increased to \$3,800, and effective December 1, 2007, the paramedic bonus shall be increased to \$4,500. Employees who obtain their paramedic license during the year shall receive a pro-rated ALS bonus.

The Employer opposes the increase in the ALS bonus and proposes to maintain status quo, retaining the present annual bonus at \$2,300.

The Union seeks to justify their proposal on the grounds that the City charges for the ALS service and in the year ending November 30, 2005, the City realized revenue of \$1,221,239, considerably more than the cost of the bonus. In addition, the Union contends that in most cases the external comparables provide a greater ALS bonus than does Livonia. Union exhibit #41 indicates the average ALS bonus is \$3,842 annually, 50% higher than Livonia. The Union points out that this issue does not involve police parity since the police don't provide ALS services.

The City argues that the bonus was just increased in the last contract negotiation from \$1,800 per year to \$2,300 and suggests that an increase of nearly 100% simply is not justified given the present financial condition of the City. The City takes exception to the Union rendition of the external comparables, asserting that a number of the comparables only pay the bonus for the hours a paramedic is assigned. The City asserts that in terms of total compensation, the City of Livonia compares very favorably with the

external comparables. It also points out that the revenue from the ALS service is just 10% of the total Fire Department budget. In response to the Union's contention that this issue isn't one of parity with the police units, the City points out that police personnel perform a significant number of specialized functions without additional pay. Police Chief Stevenson in his testimony cited such activities as; the automated Fingerprint Identification System, crime scene investigation, field evidence technicians, narcotics investigation, (See V5, p 153-157, for a full list of activities).

The record evidence indicates that both parties have made cogent arguments in favor of their respective positions. The evidence establishes that ALS bonus pay is a well-established benefit in the fire service and the average bonus among the comparable is somewhat higher than Livonia's. It is also true that at least three of the external comparables pay only for the actual hours worked, which would alter the average compensation paid for such services.

The revenue argument of the Union isn't particularly helpful since there has been no analysis of the total cost to the City of providing the service. There are charges made on a per call basis, but no indication on the cost of equipment, supplies, and personnel required to be able to deliver such service. Obviously, the revenue recovered benefits the City, but it is highly doubtful that the City recovers its total cost.

Again we are faced with the situation where equity lies somewhere between the positions of the parties. An increase that would bring the parties closer to the average would seem in order. However, unlike the wage issue, wherein the parties agreed to allow the Panel to award each year as a separate issue, on this issue no such agreement exists, leaving the Panel with no choice but to award one of the proposals without modification.

In view of the data concerning the financial condition of the City as previously addressed by the Panel, we are of the opinion that the Section 9 factors support the City's proposal.

AWARD – PARAMEDIC (ALS) BONUS

The Panel hereby awards the last best offer of the Employer as follows:

Status Quo. Employees maintaining ALS license shall continue to receive a \$2,300 annual bonus.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

ROBERT F. BIGA, EMPLOYER DELEGATE

Robert F. Biga - Dissent

JOHN ORZECH, UNION DELEGATE

John Orzech, DISSENT

HOURS OF WORK

a. The Union proposes to modify Section 19(A), Schedule of Hours, of the 2002 – 2005 collective bargaining agreement to read as follows:

Effective December 1, 2007, or as soon as possible following the execution date of the Act 312 arbitration award, the work week of the uniformed members of the Fire Fighting Division of the Fire Department on a 24-hour work shift shall include one (1) additional day of 24 hours off duty every thirty (30) days, which shall reduce the average work week for such employees to 50.4 hours per week.

b. Modify Section 16(A) to read as follows:

All permanent full-time Employees on a fifty-six (56) hour duty week shall accumulate sick leave at the rate of eighteen (18) hours for each completed month of service with unlimited accumulation. Effective December 1, 2007, all permanent full-time Employees on a 50.4 hour duty week shall accumulate sick leave at the rate of twelve (12) hours for each completed month of service with unlimited accumulation.

c. Modify Section 15(A) as follows:

The following vacation schedule shall apply to all classifications except as noted in sub-section B below.

1. Nine (9) 24-hour duty days off per year, (six (6) effective on and after December 1, 2007) up to the completion of five years of continuous service.
2. Ten (10) 24-hour duty days off per year, (seven (7) effective on and after December 1, 2007) upon the completion of five (5) years of continuous service and up to the completion of ten (10) years of continuous service.
3. Eleven (11) 24-hour duty days off per year, (eight (8) effective on and after December 1, 2007) upon the completion of ten (10) years of continuous service.
4. Twelve (12) 24-hour duty days off per year, (nine (9) effective on and after December 1, 2007) upon the completion of fifteen (15) years of continuous service.

5. Thirteen (13) 24-hour duty days off per year (ten (10) effective on and after December 1, 2007) upon the completion of twenty (20) years of continuous service.
 6. Kelly days shall not be taken out of the vacation bank in computing vacation days.
- d. In addition, the Union proposes to modify Article 32, Salary Rates to provide for a 0.0% across-the-board increase for all steps and classifications on December 1, 2007 based upon the salary rate in effect on November 30, 2007.
 - e. Modify the remaining provisions of the collective bargaining agreement to change any reference to “56 hour” duty week to a “50.4 hour” duty week effective following the implementation of the 50.4- hour duty week.

The Employer proposes to maintain the status quo; employees will continue to work the current schedule, which amounts to a 56 hour per week average.

The Union asserts that the external comparables support the reduction in hours. Four of the comparables are utilizing the 50.4-hour duty week, including Pontiac; five utilize the 56 hour duty week, including Livonia, while Royal Oak and Dearborn Heights utilize a 53.1 hour and 48 hour duty week respectively. The Union maintains that the reduction in hours is necessary because of the increase in the number of runs and the resultant increase in work. Union exhibit #192 indicates that in 1983, the department had 3,642 EMS and fire runs, and by 2006, that figure had increased to a total of 8,111 runs. During this same time period the City closed one fire station and overall manpower was reduced from 112 to seventy-nine fire fighters assigned to the 24-hour duty day. The

Union argues that the City's opposition based upon the additional cost associated with the reduction in hours is without merit because it ignores the cost savings that will result by the reduction in Act 604 overtime hours. According to the Union, there is no evidence that the reduction will automatically require either additional overtime or in the alternative additional staff hiring to cover the reduction in hours worked, since it is up to the City to decide if it wishes to replace the lost man-hours.

The Union also argues that their work- week requires their members to work significantly more hours than their counterparts in the police units. Additionally, the Union points out that even with the reduction in hours the comparative hourly rate provided to fire fighters is less than that of the external comparables.

The City objects to the contingent offer presented by the Union and cites Arbitrator St. Antoine in the 1998 Act 312 Award involving the same parties at page 28:

“For whatever value it may have, however, the Chairperson's own personal opinion is that such an alternative, contingent proposal is indeed contrary to the scheme of Act 312, at least absent the agreement of the other party.”

The City maintains that the Union's contingent proposal places the City at a disadvantage in that it has not been given a fair opportunity to address those issues. The City contends that this issue was litigated before in the St. Antoine case and was rejected by the Panel and should be rejected in this case. As to the difference in the work-weeks of the police and fire services, the City counters the Union argument by pointing out that Fire Fighters work only 121 days per year prior to any time off and under their proposal that number would drop to 109 days, before time off. In the police service and all other

City services, the employees work 260 days per year, prior to time off. The City disagrees with the Union's argument that the increase in the number of runs justifies the reduction in hours because even if the number of runs increases, the employee is still working the same number of hours. Moreover, the Union's own statistics show there were more runs in the year 2000 than in the year 2006, consequently, the City asserts that a trend is not really established.

The greater issue of concern to the City is the cost increases associated with the proposed reduction in hours. The City notes that Union President Orzech in his testimony acknowledged that the Department is already operating on "bare minimum," and needs "more manpower."(V7, p 115) According to the City the reduction in hours would only result in a reduction in service levels or substantially increased costs.

The City demonstrated the costs associated with the reduction in hours if the City attempted to cover the reduced hours with the use of overtime, an additional cost of \$746,799 annually, (Biga testimony V 7, p 210; City Exhibit 201). The cost to maintain the service level if the City sought to hire additional staff would be \$756,000 annually, (Biga, V 7, p 211; City Exhibit 202) The Union suggestion that the City wouldn't necessarily incur the above costs since it could simply reduce the daily manpower level. This argument just isn't viable, as such a reduction would greatly reduce the service capacity of the Fire Department. Union witness Captain Hosmer of the Westland Fire Department forcefully testified that when the Westland Fire Department reduced hours from the 56 hour duty week to a 50.4 hour week and that there wasn't much of a reduction in the workload as the department chose to work a 53 hour duty week and pay for the three hours of overtime per week, (V 7, p 20). Captain Hosmer also testified that

the City is short-staffed and maintains a daily staff of 15 personnel on duty and in his opinion the department operates “poorly” as a result, (V 7, p31). Livonia Fire Chief Whitehead expressed his concern that a reduction to 50.4 hours per duty week, without additional staff, would result in a reduction in the level of service needed and to provide the level of safety to departmental personnel, (See V 7, p 191-192). The record testimony of Mr. Biga indicates that the City would have to hire 9 additional staff to cover the hours lost by a reduction to 50.4 hours per week and at the same time the City would incur an increase of 11% in the Fire Fighter’s hourly rate, (See City Exhibit 198, and V 7, p 209-210).

The chairperson of this Panel agrees with the observation of Arbitrator St. Antoine made in the earlier Act 312 case involving the parties; that alternative, contingent proposals such as we have before us are contrary to the scheme of Act 312. Section 8 of the Act contemplates last best offers on each economic issue and in this case we are confronted with an either/or situation.

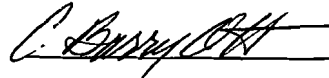
The Panel finds that the City has established in the record that it is faced with very real, limited financial resources that greatly restricts its ability to fund the costs associated with either the additional overtime or hiring requirements that the Union proposal would generate in order to maintain the present level of service. The alternative would result in a severe reduction in service levels that certainly are not desirable from a safety point of view nor would it be in the public’s best interest. In the opinion of the Panel, the Section nine factors support the last best offer of the City.

AWARD – HOURS OF WORK

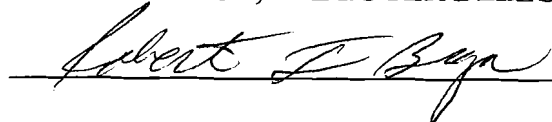
The Panel hereby adopts the last best offer of the Employer as follows:

Status Quo. Employees will continue to work the current schedule, which amounts to a 56 hour per week average.

C. BARRY OTT, PANEL CHAIR



ROBERT F. BIGA, EMPLOYER DELEGATE



JOHN ORZECH, UNION DELEGATE

 , DISSSENT

AWARD SIGNED, DATED 3.20.08.