

MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
EMPLOYMENT RELATIONS COMMISSION  
ACT 312 ARBITRATION PROCEEDING  
Michigan Department of Consumer and Industry Services  
Arbitration under Act 312, Public Acts of 1969, as amended

In the Matter Of:

NOV 19 2009

POLICE OFFICERS LABOR COUNCIL,  
Labor Organization,

-and-

CITY OF RIVERVIEW,  
Public Employer.

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MERC Case No.: D07 C-0296  
Martin L. Kotch, Panel Chair

AWARD

For The Union:  
Brendan J. Canfield, Esq.

For The City:  
Andrey T. Tomkiw, Esq.

Martin L. Kotch, Panel Chair  
Chet Kulesza, Union Delegate  
John Hajkus, City Delegate

BY SUBMISSION

This matter is a proceeding brought under the provisions of Act 312, MCL 423.231 *et seq.* The statutory criteria upon which the award of the Arbitration Panel must be based are set forth in Section 9, MCL 423.239:

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 or amendment 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.
- ©) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services 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 service or in private employment.

## BACKGROUND

A hearing on this matter was held on January 26, 2009. At that hearing, a lengthy

off the record discussion between the parties. What resulted was a decision by the parties to submit exhibits to the Panel Chair, produce no testimony, and have the case decided on submission.

The parties have been able to negotiate some of what separated them when this Act 312 proceeding was set in motion. What remains are the following:

ARTICLE 6	Hours of Employment and Overtime Compensation
ARTICLE 7	Wages
ARTICLE 11	Life Insurance and Hospitalization
ARTICLE 27	Departmental Promotions and Assignments
ARTICLE 33	Appendices

#### DISCUSSION AND ADOPTION OF FINAL LANGUAGE

##### ARTICLE 6 Hours of Employment and Overtime Compensation

The City has proposed the following language, which incorporates the present contract language and adds more detail with respect to the method of receiving payment for compensatory time. The Union has made no objection to the inclusion of the proposed language.

#### Section 4: Compensatory Time

A) When an employee works overtime, he/she may request compensatory time equivalent to the number of overtime hours worked times 1.5. The employee Comparable Time bank shall be capped at Four Hundred Eighty (480) hours as defined within the FLSA Title 29, USC207(o). Any hours remaining in the bank shall be paid out during the last pay period

of June by separate check. Sixty (60) hours may be carried over from year to year. If Command Officers are requesting to be paid out for remaining comparable time hours, they must provide the City with a minimum of 2 weeks notice for payroll processing purposes.

B) The Chief or his/her designee must approve/disapprove a Command Officer's request for compensatory time off. Compensatory time off will not be granted if it causes overtime. Compensatory time off will not be granted if it causes overtime. Compensatory time off, once approved, will not be cancelled without good cause. Officers may not use compensatory time in the center of the work shift.

C) When the bargaining unit member acts as a Field Training Officer (FTO), he or she shall receive one and one half (1 ½) hour straight time or compensatory time while working on the FTO assignment. Payment will only occur if the FTO works for a minimum four-hour period with the new trainee.

D) Command Officers selecting to have their compensatory time bank paid out may have the following options:

- 1) Select to receive the cash equivalent for the hours sold back at the rate of pay in effect on the last pay period of June each year.
- 2) Select to have the cash equivalent placed in the command officers Deferred Compensation

Account, which has been established by the City up to the current IRS limits for deferred compensation.

3) Select a combination of the above two choices.

ARTICLE 7      Wages

The Union has proposed a four year increase in wages as follows:

FY 07/08	2.25%
FY 08/09	4%
FY 09/10	4%
FY 10/11	2.25%

The City has proposed a four year increase in wages as follows:

FY 07/08	0%
FY 08/09	2%
FY 09/10	2%
FY 10-11	0%

Each year of the contract will be addressed independent of the others.

A comparison of the wages for Sergeants and Lieutenants with the stipulated comparable communities reveals that Riverview ranks below the average throughout a multi-year comparison. Its comparative rank was consistently fifth or sixth out of eight communities, including Riverview. The wages discussed below are for the top paid Lieutenants in Riverview and its comparable communities. The comparison is generally reflective of wages throughout all steps and ranks of the City and its comparable communities.

For FY 07/08, the City has proposed 0% increase. The Union has proposed an increase of 2.25%. The effect of the City's proposal would be to increase the below average differential earned by unit members when contrasted with comparable communities. Thus, the 06/07 top Lieutenant's pay was \$63,876.<sup>1</sup> The average '06 compensation among the comparable communities was \$67,549. That average moved to \$68,946 in '07. The Union's proposal would put unit members at \$65,313, still below the average of the comparable communities; its ranking would move from sixth to fifth.

The documented economic difficulties facing the City, is a phenomenon facing all the comparable communities as well. The City's financial status does not warrant failing to provide any increase at all for 07/08, placing its Command compensation even further behind the other communities.

The Panel adopts the Union's proposal as to FY 07/08.

For FY 08/09, the situation is somewhat reversed. The Union has proposed a 4% increase; the City, 2%. The Union's proposal would bring the top pay to \$67,925, following the 2% increase for FY 2007. This would bring Riverview close to the average rank of comparable communities for FY '08, \$71,752..

The City's proposal of 2% would bring compensation to \$66,713, slightly increasing the City's differential in terms of amount below average, but preserving its ranking of fifth of eight. While the Union has grounds for seeking parity with its comparable communities, an increase of 4% in one year is out of line for those communities, particularly in light of

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<sup>1</sup> The numbers for comparable communities provided by the parties differ somewhat. Actual numbers for unit members has more congruence, yet there are some differences. The figures used by the Arbitrator are as close an approximation as possible.

Riverview's financial condition.

The Panel adopts the City's proposal for FY 08/09.

For the FY 09/10, the City has proposed 2%, and the Union 4%. Once again, the Union seeks a substantial increase relative to Riverview's comparable communities. Based on the Panel's awards for the two prior years, the Union's proposal would bring its members to \$69,488. The City's proposal would bring the compensation to \$68,047. The average for the comparable communities is \$73,249, a smaller increase than in previous years. In light of financial conditions in Riverview, seen in comparable communities as well, the City's position comports more closely to that of those communities.

The Panel adopts the proposal of the City.

For FY 10/11, the City proposes 0%, the Union proposes 2.25%. Once again, despite experiencing financial constraints, the City's proposal is significantly out of line with the comparable communities. The Union's proposal would bring compensation to \$69,578. The City's proposal would leave it at \$68,047. While comparable data are scarce for this time period, positing a 1.5% increase among the comparable communities would bring the average compensation to \$74,347. The Union proposal would still leave Riverview below average in compensation. Between the Union's 2.25% proposal, and the City's 0% proposal, the comparable data support the Union.

The Panel adopts the Union's proposal for FY 10/11.

ARTICLE 11      Life Insurance and Hospitalization

The City has proposed the following changes in Article 11:

Section 3: Hospitalization - Active Employees

a) The City shall provide and pay the cost of hospitalization insurance for all bargaining unit members, their spouses and children eighteen (18) years and under, and upon leaving the City service through retirement or death. Current employees shall pay 6% of their individual monthly health care premiums.

b) No change.

c) The City shall provide current bargaining unit members COPS Trust PPO Plan A. The City shall have the option of providing coverage through another primary or re-insurance carrier which is equal to or better than the insurance required by this section.

d) Upon retirement of a current bargaining unit member, the retiree will receive the same health care plan that they were covered under upon retirement until they reach age 65 and/or become entitled to Medicare. The City currently provides the Humana Medicare Advantage Plan. The City shall have the option of providing coverage through another carrier which is equal to or better than the insurance required by this section.

e) Delete

f) For bargaining unit members retiring prior to the ratification date of this collective bargaining agreement, such retiree goes to Medicare Complimentary coverage



when the retiree and spouse become eligible for Medicare. A retiree shall abide by the City's duplicate Health Care Policy. The retiree is responsible for Medicare B premiums and all future associated costs with the Federal Medicare Program.

#### Section 4: Riders

Active employees will be covered under the COPS Trust Medical Plan A benefit level, with the standard prescription drug coverage. The current prescription drug co-pay for active employees is \$1 for generic drugs and \$5 brand name drugs.

The following riders and programs shall be a part of the hospitalization/medical insurance provided by the City for bargaining unit members retiring prior to the ratification date of this collective bargaining agreement:

- A) No change
- B) No change
- C) No change
- D) No change
- E) No change
- F) No change
- G) No change

#### Section 7: Dental

A) Employees covered by this Agreement shall continue to be covered by current dental insurance plan of the City with the COPS Trust Delta Dental Plan D or a plan with equal or greater coverage under a different carrier. The following coverages shall apply:

The Employer agrees to provide at its cost, a dental insurance program which

provides the following coverages (co-insurance):

Plan 1 - Preventative - one hundred percent (100%)

Plan 2 - General Maintenance - fifty percent (50%)

Plan 3 - Prosthodontics - fifty percent (50%)

Plan 4 - Orthodontics - fifty percent (50%)

It is stipulated and agreed that the maximum combined benefit for Plans 1, 2 and 3 for any one calendar year shall not exceed One Thousand (\$1,000.00) Dollars. Plan 4 shall have a maximum lifetime per person benefit of One Thousand (\$1,000.00) Dollars.

B) No change

Section 8: Optical

The City will provide bargaining unit members with the COPS Trust 24 Month Vision Plan.

The Union proposes no changes in Article 11, Section 3.

The City has provided substantial evidentiary support for its proposed changes in Article 11, and specifically, to Section 3. The COPS plan is largely equivalent to that currently in effect, and the cost savings to the City are significant. Moreover, the change in plan tends to mirror events in the comparable communities.

The Panel adopts the Proposal of the City.

## ARTICLE 27      Departmental Promotions and Assignments

Section 4: Assignments

The City proposes no changes.

The Union proposes the following language:

Any future assignments shall be posted for bid a sufficient amount of time to allow all unit members ample time to observe the notice and to respond. Assignments of less than thirty (30) calendar days shall be made at the discretion of the Chief of Police. Assignments of more than thirty (30) calendar days shall be made on the basis of ability. Ability being equal, consideration shall be given to seniority in making the decision. The Chief of Police, or his designee, will interview those employees who request an assignment. Assignments, including those in place at the time of execution of this Agreement, will be for a duration of five (5) years; the five (5) year assignment will begin at the time of contract ratification. However, the Chief may shorten such duration at his option and may extend it if no one else has applied for it. The Chief may assign anyone to an assignment if no qualified employee has applied for it. An employee may request to be removed from an assignment if there are others who have indicated a desire for such assignment and are deemed by the Chief to be suited to the assignment. Employees in work assignments may not be reassigned to the same work assignment unless there are no other employees seeking assignment to that work assignment. This includes but is not limited to Traffic Sergeant, Detective Sergeant and Detective Lieutenant.

The Union does not seek substantial limitations on the authority of the Chief to make assignments within the Department. Rather, its proposal provides more detail in the procedures to be followed in making assignments. The ultimate authority of the Chief to make assignments is not eroded by this proposal. No significant argument in opposition was put forward by the City.

The Panel adopts the proposal of the Union.

ARTICLE 33      Appendices

The Union has proposed a new Article – Article 33 Appendices.

All appendices attached to this agreement, including but not limited to letters of agreement, letters of understanding, memorandums of agreement, and memorandums of understanding, are incorporated into this agreement and shall be binding upon the parties.

The City has raised no objections to inclusion of this language in the contract.

The Panel adopts the proposal of the Union.

The following is a summary of the Panel's adoption of proposal:

ARTICLE 6 Hours of Employment and Overtime Compensation  
**The Panel adopts the proposal of the City.**

ARTICLE 7 Wages  
FY 07/08  
**The Panel adopts the proposal of the Union.**  
FY 08/09  
**The Panel adopts the proposal of the City.**  
FY 09/10  
**The Panel adopts the proposal of the City.**  
FY 10/11  
**The Panel adopts the proposal of the Union.**

ARTICLE 11 Life Insurance and Hospitalization  
**The Panel adopts the proposal of the City.**

ARTICLE 27 Departmental Promotions and Assignments  
**The Panel adopts the proposal of the Union.**

ARTICLE 33 Appendices  
**The Panel adopts the proposal of the Union.**

May 11, 2009

  
Martin L. Kotch, Panel Chair

  
Chet Kulesza, Union Delegate

  
John Hajkus, City Delegate