

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH
EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Arbitration Arising
Pursuant to Act 312, Public Acts of 1969,
As Amended, Between:

Village of Beverly Hills
Public Employer

MERC Case No. D10 A-0090

-and-

Beverly Hills Public Safety
Officers Association, Michigan
Association of Police
Labor Organization.

PANEL:

C. Barry Ott, Panel Chairman
Dennis B. DuBay, Employer Delegate
Ronald Palmquist, Union Delegate

FOR THE EMPLOYER:

Keller Thoma, P.C
By: Dennis B. DuBay (P1276)
440 East Congress, 5th Floor
Detroit, Michigan 48226

FOR THE LABOR ORGANIZATION:

Michigan Association of Police
By: Fred Timpner, Advocate
Brief by: Ronald Palmquist
Labor Relations Specialist
27704 Franklin Road
Southfield, Michigan 48034

PROCEEDINGS

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMM.
DETROIT OFFICE

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This compulsory arbitration case arises pursuant to a Petition filed on April 29, 2010, by the Village of Beverly Hills with the Michigan Employment Relations Commission (MERC), under Act 312, PA of 1969, as amended, being MCL 423.231, *et seq.* The Petition was amended on June 22, 2010 to specify the date of mediation. The chairman of the Arbitration Panel was appointed by MERC on July 12, 2010. The Employer appointed Mr. Dennis DuBay as its panel delegate and the Union appointed Mr. Ronald Palmquist as its panel delegate. Following a pre-hearing conference, the Panel Chairman issued a notice of hearing on August 5, 2010. The parties exchanged lists of proposed comparables and position statements on August 16, 2010. Hearings were conducted before the Panel on September 22, 24, 27 and 29, 2010. The parties stipulated that the only issues remaining between the parties were those identified in their respective proposals and no new issues would be submitted after the start of the hearing. Moreover, the parties agreed to waive all statutory time limits. (T. 7,8). Final Offers of Settlement were submitted on October, 20, 2010. Post-Hearing briefs were submitted by January 4, 2010 and exchanged between the parties by the Chairman. Pursuant to an agreement between the parties the 2010 Audit Report for the Village of Beverly Hills was made available by website on December 10, 2010.

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

Nothing in the statute provides any guidance to the panel as to the relative weight to be given to the Section 9 factors. The Union in its brief addressed the Employer's ability to pay evidence and acknowledged that while it was one of the criteria to be considered, it was not the only one, and that it must not be given more weight than the rest of the criteria, implying that the Section 9 factors must be given equal weight. A majority of the panel disagrees with the Union's assertion. As noted in the Employer's brief, citing the Michigan Supreme Court in *City of Detroit v. Detroit Police Officers Association*, 498 Mich 410, 294 NW2d 68 (1980). Justice Williams found that:

Any finding, opinion or order of the panel on any issue must emanate from a consideration of the eight listed Section 9 factors, as applicable.

294NW2d at 96.

The Court did not hold that the Arbitration Panel must give all of the Section 9 factors equal weight. It is for the Arbitration Panel to decide the relative importance "under the singular facts of a case although, of course, all 'applicable' factors must be considered." 294 NW2d at 97.

The disputed issues in this case must be decided on the basis of the Section 9 factors, 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. In the final analysis of the record evidence concerning each of the

economic issues, that evidence must be weighed against the interests and welfare of the public and the financial resources available to meet the cost associated with those issues.

The panel is mindful of its duty to consider each of the Section 9 factors as applicable in reaching its conclusions and decisions and has attempted to meet that obligation to the best of its ability.

BACKGROUND FACTS

The Public Safety Department of the Village of Beverly Hills consolidates police and fire services. All sworn members of the Department are fully certified for police patrol duties and certified as Firefighters, Level 1 and 2. Nearly all of the public safety officers (PSO) are certified as medical first responders. The Department consists of the Public Safety Director, one Captain, four Lieutenants, four Sergeants and thirteen full time Public Safety Officers. The patrol section consists of four patrol squads with each squad staffed with one lieutenant, one sergeant, and three PSO's, who operate on a 12-hour shift. The investigative division consists of one sergeant and one PSO, who work Monday through Friday. The PSO' are in a bargaining unit represented by the Michigan Association of Police. In addition to this unit there is a Public Safety Lieutenants and Sergeants Association represented by the Michigan Association of Police. The dispatchers are in a bargaining unit represented by the Michigan Association of Police and two clerical employees are in a bargaining unit represent by AFSCME. There are nine non-union Village employees. At the time of the hearing none of the other units had reached agreement and were in negotiations on successor agreements for contracts that expired on December 31, 2009.

COMPARABLE COMMUNITIES

The parties were able to agree on the following six communities as comparables:

1. City of Farmington
2. City of Fraser
3. Grosse Pointe Farms
4. Grosse Pointe Park
5. Grosse Pointe Woods
6. Huntington Woods

In addition the Employer offered the following communities:

1. City of Berkley
2. City of Grosse Pointe
3. Centerline

The Union offered the following additional communities:

1. Bloomfield Hills
2. City of Oak Park

In their brief, the Union indicated it was willing to agree to add the three additional communities proposed by the Employer and also urges the adoption of Bloomfield Hills and Oak Park. The Union argues that Oak Park is in close proximity, less than three miles from the southern boarder of Beverly Hills, and is closer than all but one of the agreed upon comparables. The Union engages in an exercise of comparison based upon relative geographic size, population density, taxable value, median family income, per capita income and mutual aid experience to support the inclusion of Bloomfield Hills and Oak Park among the comparables.

The Employer argues that while Bloomfield Hills is a much smaller community, with a population of 3,780, it is a wealthier community with a taxable value per capita of \$224,642, nearly four times that of Beverly Hills. Bloomfield Hills has a per capita income of \$104,920 compared to \$43,452 for Beverly Hills and a median family income of some \$200,000+ compared to \$102,223 for Beverly Hills. Bloomfield Hills was able to maintain a fund balance of 50% of expenditure in 2009 more than twice that of Beverly Hills. Oak Park, with a population of 30,577, is much larger than Beverly Hills at 9,880. Oak Park's residential taxable value is 70% of total taxable value compared to 94% for Beverly Hills. The Employer points to crime statistics for the years 2008 and 2009 that indicate Oak Park has a much higher violent crime and property crime rate than that of Beverly Hills. For the reasons cited above the Employer argues that these two communities should be excluded as comparables.

DISCUSSION AND CONCLUSION

The Union offers the opinion that there probably has never been a perfect list of external comparables in all of the history of Act 312 proceedings. The Chairman of this panel is inclined to agree with that observation. A list of comparable communities is used for comparisons of wages, hours and conditions of employment of other employees performing similar services. In evaluating that data, the panel must consider what weight is to be afforded to the information and its impact on the relative standing or ranking of a given community. In this case all of the proposed communities have combined police and fire services, but there are significant differences in the traditional criteria (population,

households, per capita taxable value, per capita income, family income, etc.). It is left to the panel to determine the list of comparables to be utilized. Since it now appears that the parties are in agreement on all but two of the proposed comparables the task is to decide whether to include or reject Bloomfield Hills and Oak Park. The Chairman is of the opinion that Oak Park should be excluded on the grounds that it has a much greater population than any of the other comparables and maintains a full time work force that is three times greater than Beverly Hills. While Bloomfield Hill's population is smaller it is much closer to that of Beverly Hills, Grosse Pointe, and Huntington Woods. It is also a wealthier community and has a very favorable general fund balance compared to Beverly Hills, but these factors can be taken into consideration in evaluating the comparative compensation factors.

While the Union does not agree with the decision to exclude Oak Park and the Employer disagrees with the conclusion to include Bloomfield Hills, it would appear that there is a majority to include ten of the eleven proposed comparables as follows:

1. Berkley
2. Centerline
3. Farmington
4. Fraser
5. Grosse Pointe
6. Grosse Pointe Farms
7. Grosse Pointe Park
8. Grosse Pointe Woods
9. Huntington Woods
10. Bloomfield Hills

ABILITY TO PAY

The Employer has advanced a serious ability to pay argument in this case and the financial condition of the Village of Beverly Hills must be given very serious consideration in evaluating the various economic issues in dispute. The cost of the various economic proposals must be measured against the financial resources available. Comparisons of wages and benefits among the comparables are helpful in evaluating the relative standing of one community to another, but the relative value of such data is secondary to the financial ability of a unit of government to meet resultant operating costs.

The record evidence and testimony in this case reveals that Beverly Hills like many Michigan municipalities has experienced a decline in revenues generated by the primary sources of income. The Village derives most of its revenue from property taxes, state revenue sharing, charges for services and interest on investment. Through a combination of the Headlee Amendment and Proposal "A" and a sharp decline in real estate values, taxable values have been reduced by 4.57% in July of 2009, 11.96% in July, 2010 and are projected by Oakland County to decline by an additional 8% in 2011. Reduced taxable value translates to reduced property tax revenue. In fiscal year 2008-2009 property tax revenue stood at \$5,477,991 and declined to \$4,697,356 for fiscal year 2010-2011, a decrease of \$780,635. State revenue sharing in the year 2000 stood at about \$1,000,000 and is expected to produce \$655,000 in fiscal year 2010-2011, a decline of approximately \$400,000. Similarly, revenue from building permits and interest income are both down from previous years.

The Village is required by law to have a balanced budget and to meet that requirement it has been necessary to transfer funds from the General Fund balance. For fiscal year 2009-2010, the Village used \$178,605 of its fund balance and \$396,557 in 2010-2011 to balance the budget.

The Public Safety Department budget represents the largest expense for the Village, 62% of all Village expenditures. Some 90% of the Public Safety Department budget is the result of personnel costs for active and retired employees. Costs have increased from \$3,923,937 in fiscal 2007-2008 to \$4,291,773 for fiscal 2010-2011, an increase of \$367,836 or 9.3%. Over the same time period, the total of all other expenditures other than the Public Safety Department decreased from \$2,883,959 in fiscal 2007-2008 to \$2,680,432 in fiscal 2010-2011, a decrease of \$203,527 or -7.1%.

The increased costs of \$367,836 in the Public Safety Departments budget is largely attributed to the expenditures associated with retirement costs and retiree healthcare costs.

The Village currently contributes 100% of the cost of the pension fund employees are not required to make any contribution. For fiscal year beginning July 1, 2009, the Village was required to contribute 25.03% of payroll, or \$263,733, as determined by the actuarial valuation report by the firm of Gabriel Roeder. As of July 1, 2010, the amount increased to 27.71%, or \$487,229, an increase of \$223,496.

Retiree healthcare costs are separated into two separate factors. Healthcare insurance costs for the current 28 retirees and two dependents. For fiscal year June 30, 2009, it cost \$553,544 and in fiscal year 2010, it cost \$571,496. In addition, the Village paid \$629,549 into a pre-funded retiree healthcare fund in an effort to finance future retiree healthcare

costs. Despite this effort, the actuaries have determined that the fund is only 9.2% funded. The actuarial accrued liability has been determined to be \$15,970,399, with assets at \$1,477,211, leaving an unfunded accrued liability of \$14,493,188. The actuary determined that as of July 1, 2008, the annual required contribution was \$1.2 million or 46% of payroll, an amount that the Village has not been able to meet given the available resources.

In an effort to improve their financial condition the Village has reduced staff and successfully sought a millage increase of 3.5384 mills that was approved by the voters after the conclusion of the hearings in this case. It was anticipated that the measure would produce an additional \$1.6 million in property tax revenue, but after taking into account the further decline in taxable value, the Village projects \$1.3 million additional revenue. According to the record testimony and evidence, Finance Director, Mr. Wiszowaty is of the opinion that even with the new millage, the additional revenue would only allow temporary relief. Mr. Wiszowaty projects that the Village would have a surplus in 2011-2012 (first year of the new millage) of about \$162,000 and deficits in each of the next two years that would completely deplete the general fund balance and result in deficits. (Ex. 44, 46.). The Employer maintains that these facts support their cost cutting proposals as necessary to insure the financial solvency of the Village.

The Union asserts that the Employer has failed to establish that it is a community facing economic disaster as Ex.39 indicates an excess of revenue over expenditures of \$123,040 for fiscal year 2007-2008 and an excess of \$88,897 for fiscal year 2008-2009. Moreover, Ex.41 indicates a general fund balance as of June 30, 2009 of \$1,515,791 and the 2010 financial report indicates a fund balance of \$1,493,335 as of June 30, 2010. On page

19 of the 2010 financial report the Union notes that the Water and Sewer Enterprise Fund reports a deficit of \$617,364 and this is made up with a transfer from the general fund. The Union acknowledges that money from this fund cannot be used to pay wages and benefits for the Public Safety Department, but contends that if the utility charged more that would free up that money for the general fund. The Union asserts that the passage of the new Public Safety Millage will generate new revenue for the next ten years that will more than offset any reductions in taxable values. The Union speculates that if the Village Council would raise the water and sewer rates even more money would be available to the general fund or to pay for wages and benefits. The Union maintains that such action would eliminate the need for additional economic sacrifices over what is offered by the Union in its proposals.

DISCUSSION AND CONCLUSION

In the opinion of a majority of the panel, the record evidence and testimony clearly indicates that the Village has a serious financial problem. The budget projections for fiscal year 2009-2010 indicate total general fund expenses of \$7,120,019 and revenue of \$7,099,496 the resulting deficit reduced the general fund balance to \$1,495,269. The fund balance figure was confirmed by the June 30, 2010 audit report that showed a fund balance of \$1,493,335 that is within \$2000 of the Village budget projections. The projections for fiscal year 2010-2011 indicate the general fund balance will be reduced to \$1,098,712 or 15.76% of the operating budget. In fiscal year 2011-2012, the first effective year of the new millage, total general fund expenses are projected at \$7,789,850 and revenue at \$7,952,315,

resulting in a surplus of \$162,465 and increasing the general fund balance to \$1,261,178, or 16.19% of the operating budget. Thereafter, the budget projections indicate revenue deficits of \$381,652 for fiscal year 2012-2013 and increasing deficits projected for the next two fiscal years. The general fund balance would be virtually depleted by fiscal year 2013-2014. The new millage dedicates 02.1 mills for General Administration, 09.9 mills for the Public Safety Department, and 00.9184 mills for the Library. Even with the new millage allocation for the Public Safety Department, the budget projections indicate that there will be a deficit of \$388,227 in fiscal year 2011-2012. Obviously, the City must find ways to reduce costs or it will be forced to drastically reduce service levels and layoff personnel.

The panel recognizes that the above figures are projections, but that is what we have to work with and the audit reports for the most part indicate that the budget projections have been reasonably accurate. The Union's observation that additional funding could be realized for the general fund by raising the Water and Sewer Utility rates goes beyond the authority of this panel and is not a Section 9 factor. The suggestion is one that is best left to the political body of the Village.

The interests and welfare of the public require that police and fire services be provided in an efficient manner, but that must be accomplished within the financial resources available.

The record in this case includes evidence and testimony regarding the wages and benefits provided by the Villages compared to that provided by the comparable communities. The data will be evaluated in light of the financial condition of the Village.

COMPARATIVE WAGES AND BENEFITS

In reviewing the data, the panel is required by Section 9(f) of Act 312 to consider the overall compensation received by the employees. Exhibit 47 is a comparison of the annualized salaries among the comparable communities. The data indicates that the Village ranked first among the ten comparables in 2009, with an annual salary of \$67,351, about \$5,000 per year above the average. When payments for longevity pay, based upon 10 years service, holiday pay and miscellaneous allowances are factored in, the total gross compensation among the comparables indicates that the Village ranks first at \$74,238, about \$7,000 above the average. After deducting employees' pension and healthcare contributions, the Village ranked first among the comparables at \$74,238, about \$9,000 above the average. When the value of paid time off is factored in, overall compensation for the Village ranks first at \$80,196, about \$7,000 above the average. (Exs. 47-59).

The evidence clearly supports a conclusion that the Village Public Safety Officers enjoy compensation levels substantially above that of their counterparts in the comparable communities. The cost of the wage and benefit package is a major factor contributing to the financial condition of the Village.

DISPUTED ISSUES

There are some twenty-two economic issues in dispute by title with a number containing sub issues. We will identify each issue and the respective proposals of the parties. Wage proposals will be review under a general heading and each year decided as a separate issue.

ARTICLE XI – LONGEVITY, FIRST PARAGRAPH

The Village’s final offer proposes to delete the present percentage longevity schedule of 2% after 5 years service, 4% after 10 years, 6% after 15 years and 8% after 20 years and replace it with the following provision:

Longevity payments shall be paid in accordance with the following schedule,

5 years	\$500
10 years	\$1,500
15 years	\$2,000
20 years	\$2,500

The Union proposes to maintain the status quo.

The Village asserts that their proposal is designed as a cost savings measure as longevity payments are included in the final average compensation factor for pension purposes and as such the cost of longevity is greater than the payouts to individual employees. In addition, when longevity is based upon a percentage of salary, costs go up as salary levels increase. The Village maintains that their proposal is supported by the comparables in that only three, Berkley, Bloomfield Hills and Grosse Pointe Park continue to base longevity on percentages of salary. All other comparables have flat rate longevity payments except Centerline, which does not offer longevity pay. In addition, the Village

notes that at the ten-year service level their plan grants \$1,500, ranking the Village third among the comparables and above the average of about \$1,200.

The Union wants to preserve the existing longevity plan on the grounds that four of the comparables, apparently including Beverly Hills, utilize a percentage plan and all of the internal comparables have the percentage plan presently in effect. The Union asserts that the change would have a minimum effect, but represent real economic pain to the employees.

DISCUSSION

The record indicates that longevity payments cost the Village \$82,738 for fiscal year 2010-2011, an increase of \$18,924 above the cost of \$63,814 in fiscal 2007-2008. The immediate savings would be small if any, but the long-term savings would be significant. The Village proposal would bring them into line with the majority of the comparable communities. The record testimony also indicates that the Village will seek the same changes in their negotiations with the internal comparables.

A majority of the panel is of the opinion that the record evidence and testimony on this issue supports the Village proposal. The resulting longevity plan will still be competitive with the comparable communities and it will produce long term cost savings to the Village, without significant impact on overall total compensation. The Section 9 factors support the adoption of the proposal of the Village.

AWARD-LONGEVITY, FIRST PARAGRAPH

The panel hereby adopts the Village's last best offer of settlement as follows: Longevity payments shall be paid in accordance with the following schedule, payable in semi-annual installments in June and December. Eligibility for longevity compensation shall commence with the first payroll period following the employee's appropriate anniversary date.

5 years	\$500
10 years	\$1,500
15 years	\$2,000
20 years	\$2,500

Effective Date: Date of the Award.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

DENNIS B. DUBAY, VILLAGE DELEGATE

Dennis B. Dubay

RONALD PALMQUIST, UNION DELEGATE

ARTICLE XI-LONGEVITY, NEW HIRES

The Village proposes to revise Article XI to include the following provision:

Effective (Date of the Award), new hires are not eligible for longevity pay.

The Union proposes the following:

Employees hired after January 1, 2010 longevity payments shall be paid in accordance with the following schedule, payable in semi-annual installments in June and December. Eligibility for longevity compensation shall commence with the first payroll period following the employee's appropriate anniversary date. The rates are as follows:

\$500 after 5 complete years of service
\$1500 after 10 complete years of service
\$2,000 after 15 complete years of service
\$2,500 after 20 complete years of service.

The Villages argues that their proposal to eliminate longevity for new hires is intended to contain operating costs in the future and would only effect new hires.

The Union argues that only one comparable community does not provide longevity pay, Centerline. In addition, none of the internal comparables deny longevity to new hires. The effect of the Village proposal would result in a system where a portion of the work force would not be paid on a equal footing based upon years of service and it would reduce the final average compensation factor for pension purposes.

DISCUSSION

The net effect of the Union's proposal together with the panel's award converting the percentage longevity plan to fixed rate would produce a uniform plan for all unit employees and result in a long term savings to the Village. Only one of the ten comparable communities does not provide for longevity pay. A majority of the panel is of the opinion that the record evidence supports the adoption of the Union's last best offer as that which is more consistent with the Section 9 factors.

AWARD-ARTICLE XI-LONGEVITY, NEW HIRES

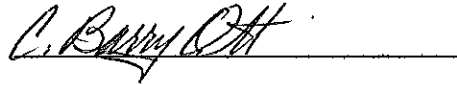
The panel hereby adopts the last best offer of the Union as follows:

Employees hired after January 1, 2010 longevity payments shall be paid in accordance with the following schedule, payable in semi-annual installments in June and December. Eligibility for longevity compensation shall commence with the first payroll period following the employee's appropriate anniversary date. The rates are as follows:

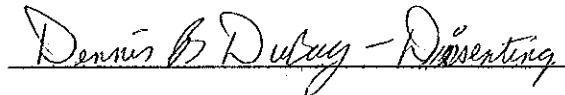
\$500 after 5 complete years of service
\$1,500 after 10 complete years of service
\$2,000 after 15 complete years of service
\$2,500 after 20 complete years of service

Effective Date: January 1, 2010

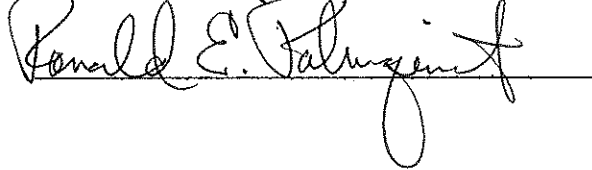
C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE



MEMORANDUM OF UNDERSTANDING
12-HOUR SHIFT SCHEDULING

The Village proposes to revise the Memorandum of Understanding regarding the 12-hour shifts by replacing HOURS OF WORK, Section II. July/January Payment with the following:

Section II. Scheduled Time Off. Operations and Staff employees shall work an average of forty hours each week resulting in 2,080 hours per year. To compensate employees for the additional two hours worked each week under

the 12-hour shift schedule, the Department will schedule Operation and Staff employees off work an equivalent amount of time up to 104 hours each year. The scheduled time off will be at a time the employee would otherwise have been scheduled to work under the 12-hour shift schedule.

The Union's last best offer is to keep the status quo excluding any reference to Manpower.¹

Officers assigned to the 12-hour shift typically work three days in one week and four in the next week, resulting in 84 hours worked in that two-week period. The Officers are paid for 80 hours and the additional 4 hours are banked. The additional 4 hours total 104 in a year and are paid out on a semi-annual basis. The extra hours resulting from the 12-hour shift schedule costs the Village about \$70,000. Initially the Village proposed to abandon the 12-hour shift schedule and revert back to the 8-hour schedule previously utilized as a way to eliminate the \$70,000 annual expense. In its final offer, the Village proposed a compromise that eliminates the \$70,000 extra hours pay out and preserves the 12-hour shifts by scheduling time off work for the extra 104 hour. Among the comparable communities, Berkley, Centerline, Farmington, Grosse Pointe Park, Grosse Pointe Woods, and Huntington Woods utilize 8-hour shifts. Fraser uses a combination of 8-hour and 12-hour shifts. Bloomfield Hills uses 8-hour shifts for employees assigned to a 40-hour week, and a 24/16 - shift schedule for employees assigned to a 52-hour week. Grosse Pointe and Grosse Pointe Farms utilize a 12-hour shift.

The Union would prefer to maintain the present provisions of the Memorandum of Understanding, excluding the reference to manpower. The Union contends that the Village's

¹ The last paragraph of the Memorandum of Understanding refers to minimum staffing levels. The Village has taken the position that, as a permissive subject of bargaining, it expired at the end of the contract and would no longer be in effect and the issue was not within the jurisdiction of the Act 312 Panel. In its final offer the Union agreed to delete the provision.

proposal would give the Employer an unfettered right to schedule the additional 104 hours as time off work and create scheduling problems for both the Employer and the employees. Moreover, the Union asserts that under the Fair Labor Standards Act, employees who are not paid or allowed to bank their compensatory time-off are required to take the time off during the pay period it is earned. The Union argues that there is no evidence offered by the Employer that any of the internal or external comparables grant the Employer the right to schedule employees time off without the employee requesting the time off.

DISCUSSION

A majority of the panel has determined that the Village is faced with a real and eminent financial problem. Even with the added millage, expenses will put the Public Safety Department budget into deficit in the very near future. If expenses are not cut and no new sources of revenue are developed, the Village will be forced to eliminate jobs and cut services to the public. The \$70,000 annual expense associated with the 12-hour shift schedule could be avoided by adoption of the previous 8-hour shift schedule, but that was rejected by the Union. The compromise proposed by the Village will allow the continuation of the 12-hour shifts and will grant the extra work time off as scheduled leave time. The Village will be responsible to insure that the leave time is scheduled in a manner consistent with the Fair Labor Standards Act. The panel is mindful of the economic impact on the employees that the loss of the extra hours compensation represents, but the alternative will be just as difficult.

In reviewing the data of the comparable communities, we find that a majority utilizes 8-hour shift schedules with only two utilizing a 12-hour shift schedule. Given the total

compensation presently provided by the Village and its financial condition, a majority of the panel is of the opinion that adoption of the last best offer of the Village is supported by the Section 9 factors.

AWARD-MEMORANDUM OF UNDERSTANDING
12-HOUR SHIFT SCHEDULING

The panel hereby adopts the last best offer of the Village to revise the Memorandum of Understanding with respect to 12-hour shifts by replacing HOURS OF WORK, Section

II. July/January Payment with the following:

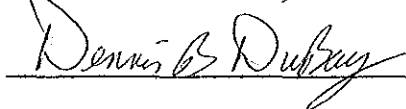
Section II. Scheduled Time Off. Operations and Staff employees shall work an average of forty hours each week resulting in 2,080 hours per year. To compensate employees for the additional two hours worked each week under the 12-hour shift schedule, the Department will schedule Operation and Staff employees off work an equivalent amount of time up to 104 hours each year. The scheduled time off will be at a time the employee would otherwise have been scheduled to work under the 12-hour shift schedule.

Effective Date: Date of the Award.

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

ARTICLE IX-COST OF LIVING ALLOWANCE

The Village proposes to eliminate Article IX- Cost of Living Allowance from the contract, effective on the date of the Award.

The Union proposes to delete Article IX- Cost of Living Allowance effective January 1, 2011 with a roll-in of \$500 into base wage at the 36-month step only.

According to the Employer the present COLA provision results in approximately \$500 each year per employee, depending on changes in the CPI and costs the Village about \$12,000 annually. The Employer asserts that their proposal is intended to bring the overall compensation of the employees more into line with the comparable communities. The record evidence indicates that the overall compensation ranks the Village first among the comparable communities and is several thousand dollars above the average. Among the communities, only four provide for a COLA. The Employer maintains that the Union's proposal will result in a \$500 annual increase for employees at the 36-month step of the pay plan and also applies to other pay provisions, such as holiday, overtime pay, and vacation pay, as well as pension contributions. The Employer asserts that overall compensation would be increased as a result and the increase is unwarranted.

The Union argues that four of the external comparables provide for COLA and all four receive more COLA payments than Beverly Hills PSO'S receive. The record indicates that Grosse Pointe Park's COLA is scheduled to increase on January 15, 2011. According to the Union the internal comparables do not support any change. The Union maintains that their proposal would be a fair settlement for elimination of the COLA and affordable for the Village.

DISCUSSION

Both parties have made proposals that would eliminate COLA from the contract. However, the Union proposal includes a trade off in the form of a \$500 annual increase to the 36-month step of the pay plan. In view of this panel's decision regarding the 12-hour shifts, longevity pay, and wages, and the economic impact of those changes on the employees, and resultant savings to the Employer, some consideration to offset the impact is reasonable. We have taken into account the financial condition of the Employer and the existing favorable overall compensation of the employees in our deliberations and recognize that reductions are necessary if the village is to remain financially solvent in the future. However, in the opinion of a majority of the panel, it simply is unrealistic for the Village to expect to achieve all of the reductions in wages and benefits in one successor agreement. The cost of the Union's proposal is not excessive and is affordable for the Village. Therefore, a majority of the panel is of the opinion that the Section 9 factors more nearly support the adoption of the Union's proposal.

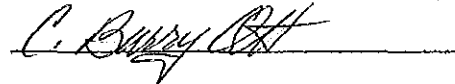
AWARD-ARTICLE IX- COST OF LIVING ALLOWANCE

The panel hereby adopts the last best offer of the Union as follows:

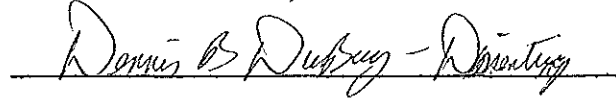
Delete from the contract, effective January 1, 2011, the present cost of living allowance, with a roll-in of \$500 into the base wage at the 36-month step of the pay schedule only.

Effective Date: January 1, 2011.

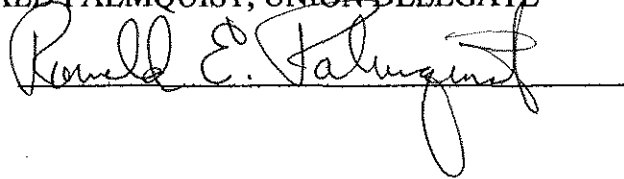
C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE



ARTICLE XXII- RETIREMENT, NEW HIRES

The Employer proposes to add a new section to Article XXII- Retirement as follows:

Section ____. Effective (Date of the Award), new hires will, in lieu of the current retirement plan, participate in a defined contribution plan. The Village shall contribute 10% of the Employee's base wage and the Employee will contribute 5% of his/her base wage into the defined contribution plan. Vesting will be as follows:

After two years	25% vested
After four years	50% vested
After six years	75% vested
After eight years	100% vested

For new hires employed after (Date of the Award), Appendix B., Assurant Long Term Disability Group Benefits p.3, Schedule Long-Term Disability

Insurance shall be amended to provide a benefit of 60% of monthly pay subject to a maximum of \$4,000 per month.

The Union proposes to maintain the status quo with all employees in the Village's Public Safety Defined Benefit Retirement Plan.

The Employer has identified the legacy costs associated with the defined benefit retirement plan and retiree health care as the greatest threat to the Village's ability to remain financially stable. The record evidence indicates that based upon the 49th Actuarial valuation report of December 31, 2009, the Village's required contribution rate as of December 31, 2008 was 25.03% of the covered payroll and increased to 27.71% as of December 31, 2009. The increase was, in part, due to investment market experience that fell short of the assumed rate of growth of 7%. In an effort to reduce future costs, the Employer's proposal would reduce contributions for new hires from the current 27.71% to 10% of the employees base wage, a savings of about 17.71% for new employees.

The Village cites the award of Arbitrator Barry C. Brown in *City of Wyandotte, 1999 MERC FF/Act 312 1, 25*, as an example of another panel that used a defined contribution plan as a method of controlling costs. In that case the arbitrator observed that the plan proposed by the Employer "provides a reasonable method to establish cost control in the future, while at the same time providing current employees with a retirement program in keeping with their peers in comparable communities". The Village acknowledges that a review of the comparable communities in this case as support for the continuation of the defined benefit plan for new hires, but notes that only two, Fraser and Grosse Pointe Park, have contracts negotiated after the investment market and real estate crash beginning October 2008. All of the other comparables were in negotiations or Act 312 arbitration. The

Village emphasizes that their proposal only applies to new hires and the existing defined benefit plan would continue for current employees.

The Union argues that all of the comparable communities provide a defined benefit retirement plan, as do the internal comparables. The Union contends that the current retirement plan provides for a disability retirement benefit for the life of the disabled retiree and the Employer has proposed an increased benefit in the Assurant Long Term Disability Insurance plan for employees covered by the proposed defined contribution plan that is inferior to the present plan. The Union points out that the plan requires a six-month waiting period that is not required by the present defined benefit disability provision. The Assurant Plan requires that after the first six months of disability the employee must not be able to return to full time work in any occupation in order to qualify for continued benefits. Under the defined benefit disability plan an employee must be unable to return to full-time duty in their present position. The Union suggests that the Employer's proposal would have the effect of "closing" the defined benefit plan and that would result in increased costs to the Employer.

DISCUSSION

The panel has carefully reviewed the record evidence and testimony concerning this issue. According to the December 31, 2009, 49th Actuarial Valuation Report, the present defined benefit plan had actuarial accrued liability of \$16,718,781 and valuation assets of \$14,422,124, indicating the plan was 86% fully funded with a unfunded actuarial liability of \$2,296,657 to be amortized over a period of 29 years. Employer contributions vary over the years as page A-9 of Exhibit 42 indicates. The fund experience a loss of \$1,959,960 in asset

asset valuation from 2007-2008 when the investment markets experience a sharp downturn. As a result, the Employer's contribution rate increased from 14.40% to 25.03%. Overall, the financial condition of the plan is sound, but the Employer rate of contribution is at a ten year high. If present investment market trends continue over time the asset valuation should increase and the Employer contribution should decrease. In the short term, declining taxable values and property tax revenues combined with the increased costs of pensions and health care insurance have created financial problems for the Village.

The Employer's proposal is designed to fix the cost of pensions and retiree health insurance costs for new hires. In this case the data for the internal and external comparables support the continuation of the present defined benefit plan. To be sure most of the contracts for the comparables are yet to be settled and we can only speculate on the outcome of negotiations/arbitration. The panel is obligated to adhere to the Section 9 factors and must evaluate the evidence on what is known. Given the additional revenue from the new millage adoption, and the savings represent by our decisions regarding wages, employee contributions toward health insurance and the defined benefit pension plan a majority of the panel is of the opinion that the Section 9 factors support the adoption of the Union's proposal to maintain the status quo at this time.

AWARD- ARTICLE XXII- RETIREMENT, NEW HIRES

The panel hereby adopts the last best offer of the Union to maintain the status quo.

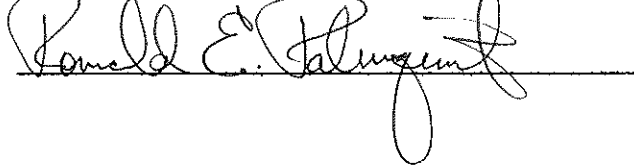
C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE



ARTICLE XX- HOSPITALIZATION AND DENTAL INSURANCE
RETIREE HEALTHCARE-NEW HIRES

The Employer proposes to amend Article XX by adding the following new section:

Section _____. For employees hired on or after (Date of the Award), in lieu of retiree health care, the Village will contribute \$100 per month into a retiree health fund. The employees shall contribute 2% of base pay.

The Union proposes that: New hires after January 1, 2010 would have the same retiree healthcare and funding as current employees.

The Employer argues that their proposal is intended to address the costs associate with retiree healthcare insurance. When an employee retires, he/she receives the health insurance then in effect and those benefits continue during retirement regardless of any changes made for active employees. Under their proposal new hires would have individual

healthcare funds, available to the employee when he/she leaves employment for any reason, even prior to retirement. Among the comparable communities, the Employer notes that three offer some form of a health savings account, two of which negotiated contract after the market and real estate collapse. The Employer asserts that given the unfunded liability for retiree healthcare insurance their proposal should be adopted as a growing trend.

The Union argues that the majority of comparable communities do not offer health savings accounts and none of the other Village bargaining units have such a provision as proposed by the Employer.

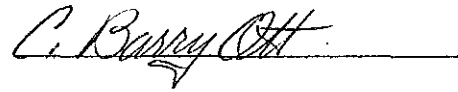
DISCUSSION

The record evidence of the internal and external comparables does not support the Employer's proposal. It is true that the actuarial study identified a future unfunded liability for retiree benefits, primarily composed of retiree healthcare costs, but funding of that liability is not presently required. Individual healthcare accounts represent just one method of addressing health insurance costs. In consideration of our decision regarding employee participation in the payment of health insurance premiums a majority of the panel is of the opinion that the Union's proposal is supported by the Section 9 factors.

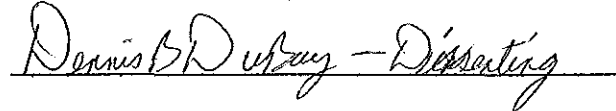
ARTICLE XX- HOSPITALIZATION AND DENTAL INSURANCE
RETIREE HEALTHCARE- NEW HIRES

The panel hereby adopts the last best offer of the Union that: new hires after January 1, 2010 would have the same retiree healthcare and funding as current employees.

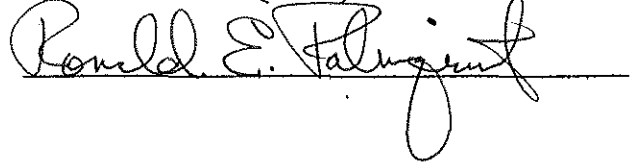
C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE



ARTICLE XXII- RETIREMENT, SECTION II
RETIREE HEALTH FUND CONTRIBUTION
ACTIVE EMPLOYEES

The Employer proposes to revise Article XXII- Retirement, Section II to provide the following:

Section II. Active employees hired before the (Date of Award) shall contribute an amount equal to 2% of each employee's base wage before taxes which will be deducted at regular payroll intervals for deposit to the Retiree Health Insurance Fund contingent upon at least a 2% contribution by the Village.

The Union proposes to modify Section II as follows

Section II. An amount equal to 2% of each employee's base wage before taxes will be deducted at regular payroll intervals for deposit to the Retiree Health Insurance Fund contingent upon at least a 1% contribution by the Village. Should an employee cease to be employed by the Village and not be entitled to a pension they shall be reimbursed any monies they have contributed into the Retiree Health Insurance Fund. (Eff. Date of Award)

DISCUSSION

Since both parties are in agreement to set the contribution for employees and the Village at 2%, it appears the only dispute is that of the Union's proposal for a refund of employee contributions should they cease to be employed by the Village and are not eligible for a pension. The Employer argues that as with all insurance, the liability of the health fund rests on the premise that some members will use the fund while others will not. According to the Employer allowing employees to withdraw their contributions will adversely affect the funding status of the entire pool and should not be allowed.

The Union in their brief has advanced arguments that link issues 6 and 7, but those arguments really are not relevant to the refund issue. Since the panel did not adopt the Employer's proposal on issue #6, the language of the Employer's proposal on this issue would have to be modified so as to make it applicable to all current and future employees. This fact would require redrafting the first line to exclude reference to employees hired before the date of award. Since this is an economic issue, the panel is without authority to make any changes to the last best offer of the Employer. While providing for a refund of employee contributions to the fund could have a negative impact on the stability of the fund it is unlikely to be of any great significance. There is an element of fairness involved in that an employee who ends his/her employment without being eligible for a pension, after making the mandatory contributions to the fund, would be deprived of any insurance benefit.

Therefore a majority of the panel is of the opinion that the Section 9 factors support the adoption of the Union's last best offer.

AWARD- ARTICLE XXII- RETIREMENT, SECTION II

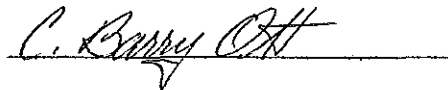
RETIREE HEALTH FUND CONTRIBUTION
ACTIVE EMPLOYEES

The panel hereby adopts the last best offer of the Union as follows:

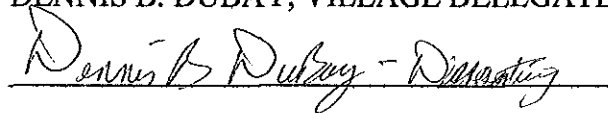
Section II. An amount equal to 2% of each employee's base wage before taxes will be deducted at regular payroll intervals for deposit to the Retiree Health Insurance Fund contingent upon at least a 1% contribution by the Village. Should an employee cease to be employed by the Village and not be entitled to a pension they shall be reimbursed any monies they have contributed in to the Retiree Health Insurance Fund.

Effective Date: Date of Award

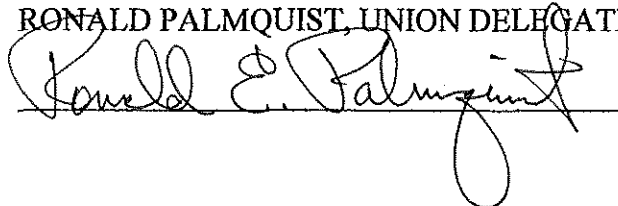
C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE



ARTICLE III- MANAGEMENT RIGHTS AND RESPONSIBILITIES

The village proposes to delete the last phrase in the last sentence of Section I that reads as follows: "by others provided the contract services shall not be for police and fire services for which regular Public Safety Officers are available".

The Union proposes to maintain the status quo and maintain the current contract language.

The Employer maintains that it needs the flexibility to utilize outside personnel if the financial conditions of the Village worsen, particularly, the ability to use part-time employees to help reduce overtime costs if necessary. The Employer asserts that is not necessarily the intent of the Village to replace its full-time employees with part-time employees, or to contract out police patrol or firefighting personnel. The Employer argues that only one of the comparable communities, Oak Park, has agreed not to utilize any auxiliary firefighter during the term of their agreement. As to the internal comparables, only the Command Unit contract prohibits contracting-out work performed by lieutenants and sergeants.

The Union argues that the proposal would give the Village the unfettered right to employ part-time public safety officers and reduce the size of the full-time work force. The Union does not believe the Village is faced with any financial hardship and the new millage rate will provide economic stability over the next ten years.

DISCUSSION

It is interesting that the parties hold such contrary views as to the financial condition of the Village. The Union asserts that the new millage will provide financial stability over the next ten years and the Village has a healthy fund balance. The record evidence and testimony simply does not support any such conclusion and the Union has not rebutted the record evidence. Even with the new millage, that portion dedicated to the Public Safety Department will not meet projected expenses and the departmental budget will soon be in a deficit position.

The internal and external comparables tend to support the proposal of the Employer and the financial condition of the Village would justify granting the flexibility as proposed. Therefore, a majority of the panel is of the opinion that the Section 9 factors support the adoption of the last best offer of the Employer.

AWARD- ARTICLE III- MANAGEMENT RIGHTS AND RESPONSIBILITIES

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

Delete the following phrase of the last sentence of Section 1., as follows:

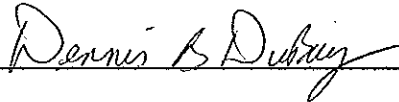
“by others provided the contract services shall not be for police and fire services for which regular Public Safety Officers are available”.

Effective Date: Date of Award

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

ARTICLE XXII- NEW SECTION- ACTIVE EMPLOYEES'
PENSION CONTRIBUTION

The Employer proposes to add a new section to Article XXII as follows:

Section ____. Active employees shall contribute 5% of their base wages to the pension system.

Effective Date: Date of Award

The Union proposes to add a new section to Article XXII as follows:

Section ____. Effective January 1, 2011 employees shall contribute 2.5% of their base wage before taxes to the pension system.

The Employer argues that the pension fund has gone from 140% funded in 2000 to a current funding level of 86% as a result of fund asset value losses of about \$2,000,000 in 2009. That decrease and increased liabilities has resulted in an increase in Employer contributions of more than 25% of payroll. The Village contends that a 5% contribution rate by employees is in line with the comparable communities since the data indicates that other communities are requiring employee contribution ranging from 3% in Farmington to 7.5% in Oak Park.

The Union argues that while the data for the external comparables does support some contribution towards the pension plan, none of the internal comparables are required to contribute. Moreover, the Union argues that their proposal to require a 2.5% contribution should be adopted since for many years the Village did not have to make any contributions since the plan was over 100% funded. The Union asserts that since both parties are proposing a 0% wage increase for contract year 2010, a 5% contribution would represent a drastic reduction in usable income for employees. The Union contends that the Village can afford to pay the balance of required contributions.

DISCUSSION

The record indicates that for some six years the Village did not have to make contributions to the fund due to its fully funded status, but that is no longer the case since the actuarial report of December 31, 2009 now shows the funding level to be at 86% and Employer contributions of 25.03% were required as of 12/31/08 and 27.71% as of 12/31/09, (Ex. 42). A review of the data regarding required employee contributions among the comparables indicates that: only three, Berkley, Grosse Pointe Farms, and Grosse Pointe Woods do not require employee contributions. Centerline requires a 7.5% contribution from employees, Farmington requires 3%, Grosse Point requires 6%, Grosse Pointe Park requires 5.5%, Huntington Woods requires 5% and Bloomfield Hills requires 5%. While not considered by the panel as a comparable, notice is taken that Oak Park requires 5.5% for employees hired before the date of contract ratification and 7.5% for employees hired after the date of ratification of the 2006-2010 contract, (Ex. 45). While it is true that none of the internal comparables require employee contributions, the record indicates that those

contracts have not been settled and the Employer is proposing a 5% contribution in negotiations.

A majority of the panel recognizes that the 5% contribution will reduce employee take home pay, it is also clear that the employees presently rank 1st in overall compensation among the comparables and enjoy a very generous pension plan. The Union is in error in claiming in their brief that both parties are proposing a 0% wage increase for contract year 2010, the last best offers indicate the Employer is proposing a 0% increase, but the Union's last best offer calls for a 1% wage increase in 2010.

The record evidence regarding the comparables clearly supports the Employer's claim that their offer is in line with the contributions required of employees in those communities.

For the reasons cited above, a majority of the panel is of the opinion that the proposal of the Employer is supported by the Section 9 factors.

AWARD- ARTICLE XXII- NEW SECTION
ACTIVE EMPLOYEES' PENSION CONTRIBUTION

The panel hereby adopts the Employer's proposal to add a new section to Article XXII- Retirement as follows:

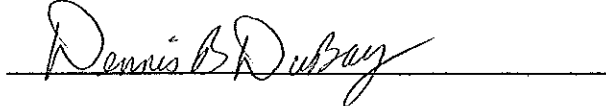
Section ____. Active employees shall contribute 5% of their base wages to the pension system.

Effective Date: Date of Award

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

ARTICLE XXI- RETIREMENT, MULTIPLIER CAP

The Employer proposes to amend Article XXII- Retirement by adding a new section as follows:

Section _____. The pension multiplier will be capped at 70%.

The Union proposes to add the following new section as follows:

Section _____. The pension multiplier will be capped at 80%.

The Employer maintains that by capping the pension multiplier officers who have reached maximum retirement benefit levels would be encouraged to retire, allowing the Village to replace those senior officers with new employees at lower costs.

The Union argues that with the requirement that employees reach age fifty to be eligible to retire and a cap of 70% an employee hired at age 21 years would reach the cap level after 28 year of service, that means the employee would have to work an extra year with no additional pension benefit to reach age fifty. The Union argues that the comparable community data supports their proposal of an 80%. Among the comparables identified by the panel, none have a 70% multiplier cap. Three have a 75% cap, three have a 80% cap,

one has a 85% cap and one has no cap. The 80% cap proposed by the Union is the same as that in effect for the Dispatchers Unit and the AFSCME Unit.

DISCUSSION

The savings projected by the Employer are relatively small and while there is no savings estimate available for the Union proposal, it would be even smaller. However, the Union's proposal is clearly supported by the weight of the evidence for both the internal and external comparables.

A majority of the panel is of the opinion that the Section 9 factors support the Union's proposal for an 80% cap on the multiplier.

AWARD- ARTICLE XXII- RETIREMENT, MULTIPLIER CAP

The panel hereby adopts the proposal of the Union as follows:

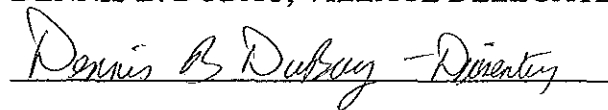
Section _____. The pension multiplier will be capped at 80%.

Effective Date: Date of Award

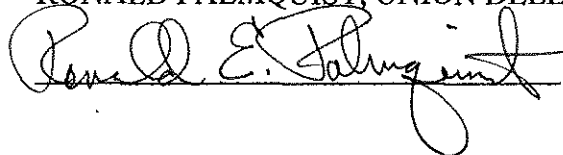
C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE



ARTICLE XX- HOSPITALIZATION SECTIONS I AND II

The Employer proposes to amend this provision as follows:

Section I. The Village shall provide the Blue Care Network 10 HRA Plan \$2,000 Deductible (Option 1); \$2,000 deductible; \$15 office visit co-pay; \$75 emergency room co-pay, with \$10/\$40 Rx (generic/brand name) prescription drug card for the employee, the employee's spouse and the employee's dependent children.

The Village shall have the right to select the insurance carriers, to select the insurance policy or policies, to change carriers and to become self-insured provided there is no reduction in the benefits provided.

In addition, the Village proposes to eliminate the second paragraph of Section II, and append the following language to the end of Section II:

If an eligible retiree maintains primary residence outside the State of Michigan in an area where Blue Care Network is not available, such retiree shall be provided with Blue Cross/Blue Shield Community Blue Option 3 health insurance in lieu of Blue Care Network.

The Union proposes to maintain the status quo.

DISCUSSION

The Employer's proposal would eliminate the current three options available to the employees: the Community Blue Option 3; BCN 5 HMO; and Community Blue Option 1. Under the Employer's proposal the Village would provide a single health plan for all unit employees that has a higher deductible and would reduce the Village's cost. However, the Village would subsidize the amount of the deductible and as a result the employees would not have to pay any deductible, a savings to employees under the existing Community Blue Option 3. Under the existing BCN 5 HMO there is no deductible and the plan provides 100% coverage for services and no deductible. Under the Community Blue Option 1 plan there is no deductible and the plan covers most services at 100%. Employees electing this

option must pay the difference in premiums between the costs of Community Blue Option 3 and Community Blue Option 1. As of January 1, 2011, Blue Cross/Blue Shield is eliminating all PPO plans currently utilized by the Village. All of the current options have prescription drug coverage with co-pays of \$10 for generic drugs and \$40 for brand name drugs, but the Village reimburses \$30 of the co-pay for brand name drugs, resulting in an effective \$10/\$10 plan. Under Community Blue Option 3, employees are responsible for a \$10 deductible for office visits. Under the proposed plan of the Employer, the employees would have to pay \$15 co-pay for office visits and \$75 emergency room co-pay that is waived if the patient is admitted or the visit was related to an accidental injury. In addition, the Employer would no longer reimburse the \$30 for brand name drugs.

The Union argues that all of the external comparables offer multiple health care plans to the employees, including PPO options and HMO options as indicated in Village exhibit 61. All of the internal comparables have multiple options and the Command Unit also has available the COPS Trust health care plan. According to the Union the Employer's proposal is more than just providing a different HMO plan with minor increases in co-pays for office visits, emergency room service and prescription drugs. As examples of greater employee costs, the Union compares the coverage for mental health and substance abuse coverage. The Union continues their argument that the Villages financial condition is favorable and additional sacrifices by the employees beyond what has been offered are unnecessary

The City argues that the offered plan will help control health insurance costs and still provide a quality health care plan. Among the external comparables, Grosse Pointe Park has

adopted a similar plan where the majority of the high deductible is paid by the City as would be the case under the Villages proposed plan. Huntington Woods and Grosse Park both have a \$10/\$40 drug plan and Farmington has a \$10/\$30 plan.

The panel is aware that health care costs represent a major component of the retiree unfunded liability and general fund expenditures. Solutions to the financial burden of health care must be developed or the future of employer sponsored insurance plans could very well be placed in jeopardy. High deductible plans and employees cost sharing of insurance premiums are two common methods of combating rising employer costs. The plan offered by the Village has a high deductible that is picked up by the Employer. The only real negative that the Union points to is the moderate reduction in benefits for mental health care and substance abuse treatment. In this case, the Employer is also seeking employee participation in premium cost sharing. In view of our decision regarding that issue, and inconsideration of the financial condition of the Village, a majority of the panel is convinced that the Section 9 factors support the adoption of the proposal of the Employer.

AWARD- ARTICLE XX- HOSPITALIZATION SECTIONS I AND II

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

Section I is modified to read as follows:

The Village shall provide the Blue Care Network 10 HRA Plan \$2,000 Deductible (Option 1); \$2,000 deductible; \$15 office visit co-pay; \$75 emergency room co-pay, with \$10/\$40 Rx (generic/brand name) prescription drug card for the employee, the employee's spouse and the employee's dependent children.

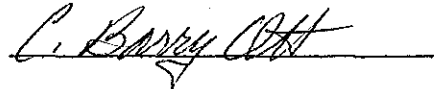
The Village shall have the right to select the insurance carriers, to select the insurance policy or policies, to change carriers and to become self-insured provided there is no reduction in the benefits provided.

In addition, the Village proposes to eliminate the second paragraph of Section II, and append the following language to the end of Section II:

If an eligible retiree maintains primary residence outside the State of Michigan in an area where Blue Care Network is not available, such retiree shall be provided with Blue Cross/Blue Shield Community Blue Option 3 health insurance in lieu of Blue Care Network.

Effective Date: Date of Award

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

ARTICLE XX – HOSPITALIZATION AND DENTAL INSURANCE,
NEW SECTION-EMPLOYEE PREMIUM CONTRIBUTION

The Village proposes to revise Article XX to include the following new section:

Section ____. Active employees shall contribute 5% of health care premium through payroll deduction.

The Union proposes to maintain the status quo.

DISCUSSION

The Employer argues that requiring a 5% monthly contribution of the health insurance premium is necessary to combat the high cost of the benefit. The Employer presently pays the entire cost and because of declining property tax revenues are out paced by general fund expenditures some participation by the employees is appropriate.

The Union argues that a majority of the comparable communities pay 100% of health insurance costs for their employees and none of the internal comparables presently contribute to health care costs. The Union contends that while the savings associated with the Employer's proposal is relatively small, the cost to the employees is significant, particularly when coupled with the other economic concessions offered in this case.

In its deliberations, the panel is required to consider the financial ability of the Employer to meet the costs associated with the issue. We have attempted to meet that requirement and as noted earlier we have given consideration to the overall compensation paid to the employees of this unit. We have also given some consideration to the cost consequences to the employees. On the issue of health insurance we have adopted the Employers proposal regarding the high deductible plan and elimination of optional plans. In view of those consideration, and since a majority of the comparable communities do not require employee sharing of the premium costs, a majority of the panel is of the opinion that the Section 9 factors support the adoption of the Union's proposal.

ARTICLE XX- HOSPITALIZATION AND DENTAL INSURANCE,
NEW SECTION- EMPLOYEE PREMIUM CONTRIBUTION

The panel hereby adopts the last best offer of the Union as follows:

Maintain the status quo with no employee contribution towards the health care premium.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

DENNIS B. DUBAY, VILLAGE DELEGATE

Dennis B. Dubay - Deputy

RONALD PALMQUIST, UNION DELEGATE

Ronald E. Palmquist

ARTICLE XX, SECTION II, PARAGRAPH TWO

The Employer proposes to amend Section II to read as follows:

The Village will provide the same health care as provided to active employees if employees acquire and pay Medicare premiums.

Effective Date: Date of Award.

The Union proposes to maintain the status quo.

DISCUSSION

The Employer's proposal would provide the same level of insurance coverage to future retirees that are provided to active employees. The proposal does not and cannot apply to current retirees. Under the current contract, the Village has provided the same coverage to retirees that are in effect at the time of retirement. This results in escalating costs to the Employer since the benefits remain the same without regard to changes made to the plan for active employees to offset rising health care costs. This fact contributes to the unfunded liability of the Village for retiree health care, presently \$16 million. According to the Employer, the consolidation of the various options to a single plan for active and future retirees would increase the size of the pool and improve the ability of the Village to control overall costs. The proposal to require retirees to acquire Medicare and to pay the premiums

simply codifies existing practice. The record indicates that the term “Medicare” means Part A and B, excluding Part D.

The Union opposes the proposal on the grounds that none of the comparable communities have a provision that changes a retirees’ health care to reflect changes in the plan for active employees, but several do require retirees to apply and pay for Medicare when they are eligible. The Union on brief contends that the insurance plan proposed by the Employer does not supplement Medicare and the supplemental plan that the Employer is proposing isn’t applicable to the active employees and that would conflict with the proposed language.

Health care costs for active employees and the legacy cost for retirees represent a major cost to the Employer. The record evidence indicates that the current provisions have resulted in an unfunded liability that the Village is unable to finance with the limited financial resources available. The Union’s contention that the Employer’s proposal would leave the future retirees without a supplement to Medicare is without merit. The record testimony of Mr. Souphis and the language of the proposal do, in the opinion of a majority of the panel, provide for a Medicare Supplement. (Ex. 156).

A majority of the panel is of the opinion that the financial condition of the Village and the unfunded liability for retiree health care out weighs the fact that most of the comparables do not have a provision as that proposed by the Employer. Again, a majority of the panel believes that action is necessary to control health insurance costs or the future of the program will be at risk. Therefore, a majority of the panel is of the opinion that the Section 9 factors support the adoption of the Village proposal.

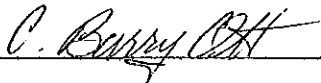
AWARD- ARTICLE XX, SECTION II, PARAGRAPH TWO.

The panel hereby adopts the last best offer of the Village as follows:

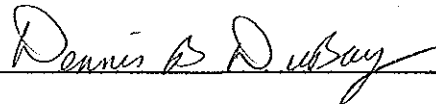
The Village will provide the same health care as provided to active employees if employees acquire and pay Medicare premiums.

Effective Date: Date of Award.

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

ARTICLE XIV- VACATION, LEAVE, SECTION III

The Village proposes to amend Section III to read as follows:

Section III. Public Safety Officers may carryover from year to year a maximum of 84 hours of vacation leave at any one time. Employees must reduce his/her balance to 84 hours at anniversary. In the event of a duty disability, the period for use of such vacation time will be extended by the period of the duty disability.

The Union proposes to maintain the status quo.

DISCUSSION

The current provision allows officers with more than 84 hours of vacation carry-over to be paid off for such excess vacation time on the employee's anniversary date for no more than 60 hours of excess accumulation and the balance shall be forfeited. The effect of the

proposal would eliminate any pay off for excess vacation time and requires an officer to reduce his/her balance to 84 hours. The intent of the proposal is to eliminate the cost of paying for the excess vacation time.

The Union opposes the proposal on the grounds that present policy of the Department limits vacation leave to one officer or supervisor per squad at one time and this limits the amount of available vacation slots. In addition, the Department schedules mandatory training periodically and any vacation scheduled is subject to cancellation in favor of the mandatory training. The Union notes that there is no leniency in the proposal should an employee be prohibited from using vacation time due to the Employer's lack of approval. The Union contends that Employer exhibit 111 indicates that only seven officers in the unit are over the current maximum of accumulated vacation time and estimates the cost of a pay off to these officers at \$9,886.52, not an excessive amount. The Union points out that the effective date of the proposal is the date of the award, leaving little time for the officers to comply with the proposed change.

Among the comparable communities there is a variety of allowances to carry over vacation leave. Grosse Pointe Farms, Grosse Pointe Park, Huntington Woods and Bloomfield Hills do not allow carry over of vacation. (Ex.109).


A majority of the panel is of the opinion that the Employer has not shown that the current provision has created any scheduling problems nor is the cost of great significance. In consideration of the changes contained in this Award to contain costs, a majority of the panel is of the opinion that the Section 9 factors are best served by the adoption of the Union's last best offer.

AWARD- ARTICLE XIV- VACATION LEAVE, SECTION III

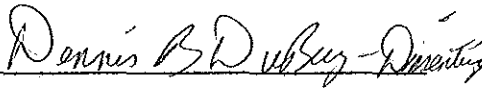
The panel hereby adopts the last best offer of the Union as follows:

Maintain the status quo.

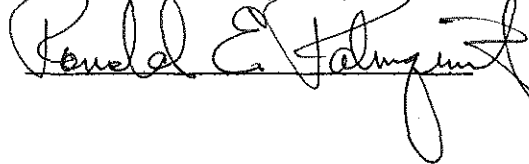
C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE



ARTICLE VII. WAGES

As indicated earlier, we will discuss the issue of wages for the three-year term of the agreement under this general heading and decide each year as separate issues.

The Union proposes to adjust the wages as follows:

Effective January 1, 2010	1% increase for all steps
Effective January 1, 2011	\$500 rolled into 36 month step
Effective January 1, 2012	2% increase for all steps

The Village proposes to maintain the status quo for all three years.

DISCUSSION

The Union argues that three of the comparable communities have wages established for the years 2010 and 2011 and none of the comparables have wages established for 2012.

Fraser has agreed to provide an increase of 2.5% in 2010 and a 2% increase in 2011;

Bloomfield Hills is scheduled for an increase of 1.5% in 2010 and 1.25% in 2011; and

Grosse Pointe Park settled for 0% increases for 2010 and 2011. The Union contends that their proposal is commensurate with the cost of living increases that will impact the officers during over the term of the contract. The proposal also reflects the Union's proposal to eliminate the Cost of Living (COLA) provision of the contract by increasing the annual wage of the 36-month step of the pay plan by \$500. The Union asserts that the Village is able to finance the proposed increases based upon the 2010 Financial Statement.

The Employer argues that the Union proposal ignores the economic realities and cites the undisputed facts that the Village already provides the highest wage and overall compensation package among the group of comparable communities. (Ex. 47, 53, 56, 59). None of the internal comparables have settled their contracts for the three years at issue and the record indicates the Village has made the same proposal for a 0% increase in the negotiations.

The record evidence in this case clearly supports the conclusion that the Village provides a generous compensation package for the Public Safety Officers. The record also supports the conclusion that the Village has a serious financial problem that necessitates the implementation of cost control measures. The panel has carefully reviewed the record evidence on this issue and is of the opinion that the data does not support the Union's proposal for the year 2010.

In this Award, a majority of the panel has concluded that a \$500, roll-in increase to the annual 36-month step of the pay plan, effective January 1, 2011, is in order in view of the fact that we have eliminated the Cost of Living (COLA) provision of the contract and in consideration of the other cost shifting/reductions contained in this Award.

The record evidence does not support the Union proposal for a 2% increase effective January 1, 2012. Among the comparables, only Fraser has settled for a 2% increase and Grosse Pointe Park at 0% and Bloomfield Hills at 1.25%. The evidence concerning the current level of overall compensation provided by the Village more than offsets the available settlement data for the comparable communities and supports the proposal of the Village for a 0% increase in 2012.

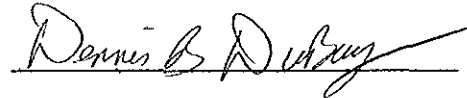
AWARD- ARTICLE VII. WAGES- 2010

The panel hereby adopts the Village proposal for a 0% wage increase (status quo) for the year 2010.

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

AWARD-ARTICLE VII, WAGES-2011

The panel hereby adopts the Union proposal for \$500 rolled-in increase to the 36-month step of the pay plan.

Effective Date: January 1, 2011

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

DENNIS B. DUBAY, VILLAGE DELEGATE

Dennis B. Dubay - Director

RONALD PALMQUIST, UNION DELEGATE

Ronald E. Palmquist

AWARD- ARTICLE VII, WAGE-2012

The panel hereby adopts the Village proposal for a 0% increase for the year 2012.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

DENNIS B. DUBAY, VILLAGE DELEGATE

Dennis B. Dubay

RONALD PALMQUIST, UNION DELEGATE

APPENDIX
DEFERRED RETIREMENT OPTION PLAN: DROP

The Union proposes to add the following Deferred Retirement Option Plan:

A. Overview: After attaining the minimum requirements for a normal service retirement/pension, any employee who is a member of the Beverly Hills Public Safety Officers Association (“BHPSOA”) may at any time before the employee attains 60 years of age voluntarily elect to participate in the International City Managers Association (ICMA) deferred Retirement Option Plan (hereinafter “DROP”). Upon commencement of DROP participation, the Participant’s DROP Benefit shall be the dollar amount of the member’s monthly pension benefit computed by using the contractual guidelines and formula(s) that are in effect on the DROP date. During participation in the DROP, the Participant continues with full employment status and receives all future promotion and benefit/wage increases. The Participant’s ICMA DROP Account shall be maintained and managed by ICMA. Upon termination of employment, the retiree shall begin to receive payment(s) from his/her individual DROP Account as described under the ICMA Plan. The DROP payment(s) are in addition to all other contractual pension benefits. The Participant is solely responsible for analyzing the tax consequences of participation in the DROP.

B. Eligibility: Any member of the Beverly Hills Public Safety Officers Association (“BHPSOA”) may voluntarily elect to participate in the DROP at any time after attaining the minimum requirements for a normal service retirement/pension.

C. Participation period: The maximum period for participation in the DROP is five (5) years (the “participation Period”). There is no minimum period for participation. An employee must cease employment with the Beverly Hills Public Safety Department within five (5) years from the date of their entering the DROP.

A “DROP” employee must give two (2) weeks notice when they are terminating or leaving employment. Upon termination of employment, the retiree shall receive the monthly retirement benefit previously credited to their DROP Account.

D. Election to Participate: Once commenced, participation in the DROP program is IRREVOCABLE. A member who wishes to participate in the DROP shall complete and sign such application form or forms as shall be required by the ICMA. On the member’s effective DROP Date, he or she shall become a DROP Participant and shall cease to be an active member of the Department of Public Safety Retirement System. The amount of credited service, multiplier and average

final compensation shall be fixed as of the participant's DROP Date. Increases in compensation and accrual of additional service during DROP Participation will NOT be factored into the pension benefits of active or former DROP Participants.

Upon execution by the BHP SOA and the Village of the collective bargaining agreement which establishes the DROP, members qualifying for DROP participation shall have an effective DROP Date no earlier than the member's date of application.

E. Drop Benefit: The participant's DROP Benefit shall be the regular monthly retirement benefit to which the member would have been entitled if the member had actually retired on the DROP Date. The participant's DROP Benefit shall be sent monthly to the participant's individual ICMA DROP Account. A member who elects to participate in the DROP may prior to or at the time of their termination of employment elect to receive his or her benefit as allowed under the ICMA Plan. The term "spouse" for purposes of benefit qualification, shall mean the person to whom the retiree was legally married on both the effective date of termination of employment and/or the date of death. An employee who exercises the option to receive the DROP Benefit shall be paid all benefits required under the Beverly Hills Department of Public Safety Retirement System.

F. Contributions: The Employer's contributions to the Beverly Hills Department of Public Safety Retirement System shall cease as of the Participant's DROP Date for each employee entering the DROP.

G. Distribution of Drop Funds: Upon termination of employment, the former DROP Participant must choose a distribution method based on the ICMA Plan.

H. Death During Drop Participation: If an employee participating in the DROP dies either: (i) before full retirement (i.e., before termination of service); or (ii) during full retirement (i.e., after termination of service) but before the DROP account balance has been fully paid out, the Participant's designated beneficiary (ies) shall receive the remaining balance in the Participant's DROP Account in the manner in which they elect under the ICMA Plan. In the event the Participant has failed to name a beneficiary, the account balance shall be payable to the Participant's beneficiary of benefits from the Department of Public Safety Retirement System. If there is no such beneficiary, the account balance shall be paid in a lump sum to the Participant's estate. Benefits payable from the Department of Public Safety Retirement System shall be determined as though the DROP Participant had separated from service on the day prior to the Participant's death.

I. Disability During DROP Participation: In the event a DROP Participant becomes totally and permanently disabled from further performance of duty as

a Public Safety Officer in accordance with the provisions of the Department of Public Safety Retirement System, the Participant's participation in the DROP shall cease and the member shall receive such benefits as if the member had retired and terminated employment during the participation period. Application and determination of disability shall be conducted in accordance with the Department of Public Safety Retirement System provisions; however, the Participant shall not be eligible for disability benefits from the Department of Public Safety Retirement System.

- J. I.R.C. Compliance: The DROP is intended to operate in accordance with Section 415 and other applicable laws and regulations contained within the Internal Revenue Code of the United States. Any provision of the DROP, or portion thereof, that is found to be in conflict with an applicable provision of the Internal Revenue Code of the United States is hereby declared null and void.

DISCUSSION:

The Union argues that while none of the comparable communities have a Deferred Retirement Option Plan, their proposal should be awarded because the Public Safety Lieutenants and Sergeants Agreement does provide for such a plan. According to the Union, there is no cost to the Employer and it is suggested that the Employer will actually save cost by adoption of the plan.

The Employer argues that the Union proposal is not supported by the comparables since only the Command Officers have such a provision. Mr. Wilson testified that when the Village agreed to adopt a DROP plan in 2008, it was done prior to the financial difficulties that developed later. The Employer argues that the plan would increase costs to the Village because it would encourage existing employees over a longer period of time and prevent the hiring of a replacement at lower cost. According to the Village this is not a problem for the command employees since they are recruited from the lower ranks.

The record evidence concerning the cost of the DROP plan is not clear. In a situation where an employee continues to work for five years after becoming eligible to retire and is enrolled in the plan, his/her pension is determined at the time of enrollment in the plan and no further contributions are made to the pension system. That would appear to save the Village at least the amount of contributions to the retirement system. On the other hand if the unit employee works for an addition five years, the Village would loose the savings associated with replacing him/her with a lower paid employee for that period of time. The Employer's contributions to the plan are based in part on investment income earned on the retirement fund assets so there would be some cost to the Employer as fund assets are reduced. In any event, the record evidence is not sufficient to determine just what the costs/savings might be. None of the comparable communities provide for a DROP plan and only the command officers have such a program. Costs associated with not replacing a command officer differ in that command officer recruits are drawn from the patrol officer ranks.

A majority of the panel is of the opinion that further study and analysis is require to make any informed judgment as to cost/savings associated with a DROP plan and it is best left to the parties for future negotiations. Based on the record evidence concerning the comparable communities, a majority of the panel is of the opinion that the Section 9 factors support the Employer's proposal to maintain the status quo.

APPENDIX
DEFERRED RETIREMENT OPTION PLAN: DROP

The panel hereby adopts the proposal of the Employer to maintain the status quo.

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

ARTICLE XX- HOSPITALIZATION AND DENTAL INSURANCE, SECTION I

The Union proposes to add the following provision to this Article:

D. Coalition of Public Safety Employees Health Trust (COPS) Trust – PPO plan B with \$10/\$40 (generic/brand name) prescription drug card for the employee, the employee’s spouse and the employee’s dependent children with \$10 office visit co-pay and \$50 Emergency Room co-pay and to include optical insurance. An employee selecting Option D shall pay the difference between the premium rate of Option A and Option D. The employee shall sign the appropriate authorization and shall make such payment through payroll deductions. (eff. As soon as provider can implement after date of award).

The Employer proposes to maintain the status quo.

DISCUSSION:

The Union argues that by adding the COPS Trust plan the Village they would have the same options excluding two non-union employees that are enjoyed by all other employees in the Public Safety Department. The Union also contends that the COPS plan would result in a cost savings over what the Village is currently paying.

The Employer objects to the plan on the grounds that none of the comparable communities provide such a plan. Among the internal comparables, two bargaining units have such a plan in their agreements. Of greater concern to the Village is the cost of the COPS plan. The Employer provided the following comparative cost data from V. Ex. 64, p.2 and V. Ex. 168:

<u>Current Health Insurance</u>	<u>Proposed Health Insurance</u>	<u>COPS Trust</u>
<u>Single:</u> \$500.50	\$360.73	\$697.07
<u>Couple:</u> \$1,150.88	\$829.68	\$1,566.02
<u>Family:</u> \$1,301.29	\$937.90	\$1,626.55

Ex. 167 and 168 shows the cost for retirees under the COPS Trust at \$2,298.83 per month for family coverage, considerably more than that of the current plan or the plan put in place by this Award.

A majority of the panel is of the opinion that the Union has failed to present any compelling reason to add the COPS Trust as an option. None of the comparable communities offer such a plan. The fact that the Village does have such a plan for two other bargaining units does not outweigh the cost implications of the plan. A majority of the panel is of the opinion that the Village proposal is supported by the Section 9 factors.

AWARD-ARTICLE XX-HOSPITALIZATION AND DENTAL INSURANCE, SECTION 1.

The panel hereby adopts the last best offer of the Village to maintain the status quo.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

DENNIS B. DUBAY, VILLAGE DELEGATE

Dennis B. Dubay

RONALD PALMQUIST, UNION DELEGATE

NEW ARTICLE-SHIFT PREMIUM

The Union proposes to add the follow new Article to the Agreement:

Effective July 1,2011 employees whose work shift starts after 3:00 p.m. shall be paid an additional \$.50 per hour for all hours worked.

The Employer proposes to maintain the status quo.

DISCUSSION:

The Union argues that among the comparable communities, five pay some type of shift premium. There is no shift premium among the internal comparables. The Union contends that working hours that are not normal work hours has an adverse effect on the circadian rhythm of the employees who work such hours.

The Employer argues that of those comparables that provide a shift premium one utilizes an 8-hour shift schedule, Grosse Pointe Park and Huntington Woods pay an annual stipend of \$450 and \$520 respectively. The Union's proposal of \$.50 per hour or \$1,456 per

year is significantly higher than that of Grosse Pointe Park or Huntington Woods. Among the internal comparables the Village pays no shift premium.

The data concerning overall total compensation indicates that the Village already provides a very competitive compensation package. Of the ten comparables communities, five pay a premium and five do not. Of the five that do pay a shift premium, three, Grosse Pointe Park, Huntington Woods, and Grosse Pointe Farms provide payments that are less than half of what the Union proposes for the Village. A majority of the panel is of the opinion that the Union has failed to provide any evidence that would support the level of their proposed shift premium. Therefore, a majority of the panel is of the opinion that the Section 9 factors support the adoption of the Village proposal to maintain the status quo.

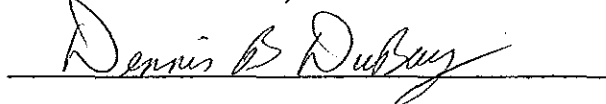
AWARD- NEW ARTICLE- SHIFT PREMIUM

The panel hereby adopts the last best offer of the Village to maintain the status quo.

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

ARTICLE XVI- SICK LEAVE

The Union proposes to modify Subsection B of Article XVI, Section I as follows:

At death or retirement, whichever occurs sooner, the Village shall offer to buy back any unused sick days up to the following:

50%- of each eight (8) hour day accumulated between 0 and 50 days.

70%- of each eight (8) hour day accumulated between 51 and 100 days.

The Village proposes to maintain the status quo.

DISCUSSION:

The current contract provides for the payment of accumulated sick days upon the death or retirement of an employee at the rate of 50% of value. Section A. of the Article limits the accumulation of sick days to 100 days. An employee with 100 days accumulation would be eligible to receive 400 hours paid at the straight time rate of pay.

The Union argues that the Command Office unit agreement provides for the same level of sick days pay upon death or retirement as proposed by the Union.

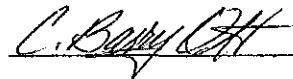
The record indicates that among the comparable communities, all provide some level of sick leave pay out upon death or retirement. While most of the communities provide for a 50% pay out, Huntington Woods and Centerline pay 100%. However, Centerline limits maximum accumulation to 30 days while the Village allows 100 days. Huntington Woods provides the highest pay out at 800 hours and Grosse Point Farms is at 640 hours. All other comparable communities pay out at a maximum of 400 hours or less. Except for the Village Command Officer unit, the other bargaining units have the same provision as the Safety Patrol Officers. Neither party has submitted estimates of the cost of the Union's proposal.

A majority of the panel is of the opinion that the weight of the evidence among the comparable communities tends to support the adoption of the Village proposal to maintain the status quo.

ARTICLE XVI- SICK LEAVE

The panel hereby adopts the last best offer of the Village to maintain the status quo.

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

NEW ARTICLE- OFF-DUTY EMPLOYMENT

The Union proposes to add a new Article to the Agreement as follows:

Section: ____: Requests for authorization to obtain outside employment will be submitted in writing containing the description of work and hours of employment, through the Chain of Command, to the Director for approval. The Director cannot unreasonably deny any requests for outside employment. It is understood and agreed that the first obligation of the employee is to the Employer, and outside employment shall in no way conflict with the regular assigned duties.

The Village proposes to maintain the status quo.

DISCUSSION:

The Union alleges that the evidence of the comparable communities supports their proposal as three of the ten communities specifically provide for supplemental off-duty employment. The Union contends that the present policy of the Village limits employees

earning capability and violates the rights of employees. The Union maintains that while their proposal is less restrictive it still provides the Employer with the necessary protections.

The Employer maintains that the present policy set-forth in General Order # 05-05 adequately covers the subject of off-duty employment. (Ex. 145). Public Safety Director Woodard testified that request by individuals to work outside the Department are generally approved and that no grievances have been filed protesting the way the Village has administered the policy.

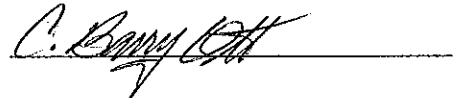
The Union claims that the present policy of the Village is too restrictive and limits the earning capability of employees. The record evidence simply does not support the claim. The Union did not offer any testimony or evidence to demonstrate that the Village has administered the present policy in an unreasonable manner or offer evidence to demonstrate how earning capability has been limited or that the restrictions are excessive. The testimony of Director Woodard that requests for off-duty employment are generally approved stands as rebutted. The record also indicates that seven of the ten comparable communities do not address this subject in their respective labor agreements, nor do any of the other internal comparables.

A majority of the panel is of the opinion that the Union has failed to demonstrate a need to change the existing policy of the Public Safety Department. The record evidence and testimony indicate that the last best proposal of the Village is supported by the Section 9 factors.

AWARD- NEW ARTICLE-OFF-DUTY EMPLOYMENT

The panel hereby adopts the last best offer of the Village to maintain the status quo.

C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE

ARTICLE XXV- RESIDENCY

The Union proposes to delete this Article from the Agreement.

The Village proposes to maintain the status quo.

DISCUSSION:

The Union argues that none of the comparable communities labor agreements contain any real residency requirement and among the internal comparables only the Command Officers have the same provision as that of the Public Safety Officers. The Union asserts that this issue will have no economic impact on the Village, but will have an impact on the employees.

The Employer argues that at the hearing, the Union claimed that the present residency restrictions were illegal and that claim was without foundation as Act 212 of 1999 (MCLA 15.602) provides that: "a collective bargaining agreement may require that a person reside within a specified distance from the nearest boundary of the public employer.


However, the specified distance shall be 20 miles or another specified distance greater than 20 miles.”

The record evidence and testimony regarding this issue is sparse at best. Public Safety Officer residency restrictions are usually founded on a need to have such personnel residing within a reasonable response time area in the event of an emergency call-in of off-duty personnel. There is nothing in the record concerning this concept and it would be improper for this panel to speculate on the matter. The Union was in error regarding the claim over the legality of the present requirement, but that does not detract from the record evidence concerning the comparables and that is the only evidence we have on which to base our decision. Therefore, a majority of the panel is of the opinion that the Union’s proposal to delete Article XXV from the Agreement is supported by the Section 9 factors.

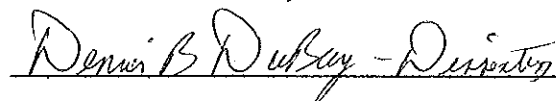
AWARD- RESIDENCY

The panel hereby adopts the last best offer of the Union to delete Article XXV from the Agreement.

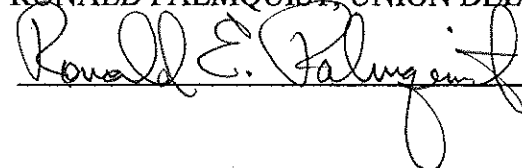
C. BARRY OTT, PANEL CHAIR



DENNIS B. DUBAY, VILLAGE DELEGATE



RONALD PALMQUIST, UNION DELEGATE



NEW ARTICLE- LAYOFF AND RECALL

The Union proposes a new Article be added to the Agreement as follows:

Section I. Layoffs. Layoffs shall be made in conformity with the principle of seniority, i.e., the last one hired being the first one laid off, and the first one laid off being the last one recalled. In the event layoffs are imminent, the Village will give affected employees and the Union a fourteen (14) day written notice. All probationary employees shall be laid off before full-time employees are laid off. Employees who are laid off shall be paid for fifty percent (50%) of their accrued sick leave.

Section II. In the event the Village of Beverly Hills Police Department has a demotion because of layoff, discipline, etc. of a command officer to their previous classification in this bargaining unit the following shall occur.

For the purposes of being able to "bump" into the Police Officers bargaining unit, it is agreed that such members would be credited with only that previous seniority accrued while they were members of the Police Officers bargaining unit. Those members who are demoted as a result of either layoffs or cutbacks shall be first to be promoted to their former rank from current promotional lists for that period only that they held their former rank.

This adjusted seniority would be used for determining vacation selections, shift assignments, job preference, etc. Demoted members would be paid the top pay of their new classification. For retirement purposes, vacation earned and longevity pay, all members of the Village of Beverly Hills Police Department retain all seniority accrued from date of hire.

Section III. If an employee is promoted to Sergeant and either fails to make probation or decides to return of his own accord to the unit, he shall not lose seniority for the time served as probationary sergeant. Maximum amount of time to be credited is one (1) year.

Section IV. Recall. Full-time Officers will be recalled in reverse order of lay off. The last full-time Officer laid off will be the first recalled. The Employer shall notify the recalled employee by certified or traceable overnight mail to the Employee's address as last provided by the Employee in writing with the Employer. This notice will specify a date and time not earlier than fourteen (14) days from its certification or filing date, as the case may be, for the Employee to return to work. If the Employee accepts such recall, He/she must report for work on the date and at the time specified in the recall notice. If the Employee does not so report, seniority and reemployment rights will terminate, and the employee will be deemed to have resigned. Employees who are recalled shall have any accrued time (sick, vacation or personal) not paid out

upon layoff placed back into their appropriate bank. If the recalled employee has lost the MCOLES certification as a result of his layoff from the Village of Beverly Hills Public Safety Department then the Village shall allow the employee to become re-certified and the Village shall pay the cost of such re-certification.

The Village proposes to maintain the status quo.

DISCUSSION:

The Union argues that their proposal reflects the current policy of the Department and should be incorporated into the Agreement. The Union points out that among the comparable communities only Fraser does not have a layoff provision the their contract. Among the internal comparables only the Public Safety Officers and the Command Officers units do not have a layoff provision in their contracts.

The Employer argues that since they already have a layoff policy there is no clear demonstrated need for this new Article.

A majority of the panel is of the opinion that the Section 9 factors support the adoption of the last best offer of the Union. If economic conditions do not improve, the parties will no doubt face the prospect of service reductions and possible layoffs. It therefore seems appropriate to incorporate a layoff and recall provision into the Agreement.

NEW ARTICLE- LAYOFF AND RECALL

The panel hereby adopts the last best offer of the Union to add a new Article- Layoff and Recall as specified above.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

Effective date: Date of Award.

DENNIS B. DUBAY, VILLAGE DELEGATE

Dennis B. Dubay - Dissenting

RONALD PALMQUIST, UNION DELEGATE

Ronald E. Palmquist

One other issue regarding Article XXII – Education Benefits was originally in dispute, but the issue was resolved with both parties having proposed to maintain the status quo.

Dated 3-28, 2011.