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STATE OF MICHIGAN  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION  
ACT 312, PUBLIC ACTS OF 1969 AS AMENDED

*In the Matter of the Act 312  
Arbitration Between:*

CITY OF ROMULUS

-and-

MERC Act 312  
MERC Case No. D10 J-1033

POLICE OFFICERS ASSOCIATION  
OF MICHIGAN

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**ARBITRATION PANEL OPINION AND AWARDS**

**George T. Roumell, Jr., Chairman  
Steven H. Schwartz, Employer Delegate  
Kenneth E. Grabowski, Union (POAM) Delegate  
(Last Best Offers received 5/13/11; Opinion issued 6/09/11)**

**APPEARANCES:**

FOR THE CITY OF ROMULUS:

Steven H. Schwartz, Attorney  
Nicolette Bateson, City Manager  
Debra Hoffman, Finance Director  
Carol Mayerich, Human Resources Director  
Michael St. Andre, Police Chief

FOR POLICE OFFICERS ASSOCIATION  
OF MICHIGAN:

Kenneth E. Grabowski, Business Agent  
Kevin Loftis, POAM Research Analyst  
Jaime Garcia, RPOA  
Eric Harris, RPOA  
Steve Littleton, RPOA  
Roger Salwa, RPOA  
Rick St. Andre, RPOA

**BACKGROUND**

The City of Romulus, Michigan is located in western Wayne County, Michigan. It is a medium sized suburb of Detroit that includes within its boundaries, but not as a tax base, the Detroit Metropolitan Airport. The City of Romulus consists of both residential and industrial.

The Police Officers Association of Michigan represents all Patrol Officers, Corporals and Dispatchers below the rank of Sergeant employed by the City of Romulus in its Police Department. The Police Officers seniority list contains 42 names (C.Ex. 7).<sup>1</sup> However, the Association maintains that there are currently 34 active Officers. (Tr. 32)<sup>2</sup> There are nine Command Officers in the Police Department represented by the Police Officers Labor Council, whose current contract goes from July 1, 2008 to June 30, 2010 and is now in negotiations.

In addition, the City employs general employees represented by the Teamsters who have a settled contract with the contract going from July 1, 2010 to June 30, 2012. (C.Ex. 8; Tr. 54). There are two City employees represented by the American Federation of State, County and Municipal Employees whose contract is settled and goes from July 1, 2010 to June 30, 2012. (C.Ex. 8; Tr. 33). The Fire Department has approximately 16 employees whose contract goes from July 1, 2005 to June 30, 2009 and is in negotiations.

The most recent Collective Bargaining Agreement between the City of Romulus and the Police Officers Association of Michigan representing the Police Officers and Corporals under the rank of Sergeant and the Dispatchers covered the period July 1, 2006 to June 30, 2010.

The parties engaged in negotiations and mediation in an attempt to reach a successor Agreement. Having been unable to do so, the City petitioned for the appointment of an Act 312 Chairman to conduct an Act 312 hearing. The parties selected Delegates and the Undersigned was appointed Chairman. Following a pre-trial conference conducted by telephone, an Act 312 hearing was conducted on May 9, 2011.

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<sup>1</sup> "C.Ex." refers to City Exhibits introduced in the arbitration hearing.

<sup>2</sup> "Tr." refers to the transcript of the arbitration hearing.

Last Best Offers were submitted under the date of May 13, 2011 and subsequently exchanged with the Chairman declaring that the hearing was closed with the submissions on May 13, 2011.

The parties did agree that the Chairman had the right to ask the parties to amend their Last Best Offers if the Chairman sought fit. (Tr. 86). The parties, at the request of the Chairman in certain cases, have amended their Last Best Offers. The discussion of the Last Best Offers, including the amendments at the request of the Chairman, are included in the discussion that follows.

### **THE ISSUES**

At the commencement of the arbitration hearing, the parties set forth the issues. Basically, the Association maintained that “The Union’s issue is status quo.” (Tr. 5). The City listed the issues as follows:

1. Duration
2. Wages
3. Health insurance – level of coverage through Blue Cross/Blue Shield, Blue Cross Network and HAP and the prescription drug rider.
4. Health insurance – level of coverage issued to “at a future date during the term of the contract”
5. Elimination of prescription drug rider
6. Health insurance opt out waiver
7. Elimination of HMO annual savings payment
8. Employee contribution to health insurance premiums
9. Employee contribution to pension
10. Vacation schedule
11. Holiday pay
12. Pension multiplier for new hires
13. Retiree health insurance – new hires
14. Past practice for discipline
15. Paid time off during a disciplinary suspension
16. Minimum manpower

As to the latter issue, based upon recent Court decisions, the City takes the position that it

no longer must bargain as to minimum manpower as it is a permissive subject of bargaining and therefore should not be considered by the Panel. (Tr. 3-4).

At the time Last Best Offers were exchanged, the Union added an issue as to uniforms.

The parties agreed that all the issues are economic and subject to Last Best Offers. (Tr. 3-5).

### **THE CRITERIA**

When the legislature enacted the provisions for binding arbitration in police and fire disputes, namely, Act 312 of Public Acts of 1969, the legislature provided in Section 9 (MCLA 423.239) that Act 312 Panels are to consider the following criteria when fashioning opinions and awards:

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, arbitration or otherwise between the parties, in the public service or in private employment.

Essentially, the Act 312 criteria address the cost of living, the financial ability of the employer to fund the awards, and internal comparables as well as external comparables with other similarly situated public and private employees. In other words, the economic realities of the situation must be considered.

In addition to the enumerated criteria the Legislature, in setting forth Section 9(h), incorporated criteria sometimes used by fact finders in making recommendations as to collective bargaining agreements, which are not specifically enumerated in Section 9. This means that, in addition to the enumerated Section 9 criteria, an Act 312 Arbitration Panel can utilize criteria used by fact finders.

Among the criteria utilized by fact finders are the bargaining history of the parties, both past and current, as well as the “art of the possible,” namely, what is a possible settlement between the parties recognizing the give-and-take of negotiations.

The Chairman described the “art of the possible” in a previous 312 Opinion that he issued in *County of Lake and Command Officers Association of Michigan*, MERC Case No. L02 H-9004 (2004), where he wrote at page 4:

The “art of the possible” in concept means that if the parties were left to their own devices and the public employees involved had the right to strike, as a strike deadline loomed the parties would attempt to compromise in order to avoid a disruption in public service and loss of employee income. The concept is that, in compromising, the parties would review their respective positions and attempt to reach a resolution based on the art of the possible, as the art of the possible is the essence of compromise.

In an earlier 312 opinion, this Chairman articulated the concept of the “art of the possible” when he noted that the goal of an Act 312 Chairman is to effect the settlement the parties would have reached if negotiations continued when the parties are confronted with the realities of the situation for, in *County of Ottawa Sheriff’s Department and Police Officers Association of Michigan*, MERC Case No. L96 H-6011 (1998), this Chairman observed:

A very distinguished arbitrator, Theodore St. Antoine of the University of Michigan Law School, in two recent act 312 Arbitration proceedings, pointed out that as to an Act 312 panel, to best preserve health, voluntary collective bargaining, “the soundest approach for an outsider in resolving union-employer disputes is to try to replicate the settlement the parties themselves would have reached, had their negotiations been successful.” See, e.g., *County of Saginaw and Fraternal Order of Police*, MERC Case No. I90 B-0797 (1992); *Macomb County Professional Deputies Association and County of Macomb*, MERC Case No. E91 I-1674 (1992). This is, indeed, an appropriate consideration and falls within the concept of Section 9(h).

In other words, the concept of the art of the possible is that, in compromising, the parties would review their respective positions and attempt to reach a resolution based on the art of the possible, as the art of the possible is the essence of compromise.

In addition, fact finders consider what is sometimes referred to as the “strike” criteria. Recognizing that Police Officers in Michigan cannot engage in a strike and that Act 312 is a substitute for a strike, a Panel, following the dictates of 9.H, could consider the result of strikes that may have occurred in the metropolitan area of Detroit and their outcomes as a guide to what may have resulted if Police were permitted to go on strike. There is also the impact of

legislation that has recently been passed and potential legislation that may impact on negotiations and the administration of the Collective Bargaining Agreement.

There is no reason why the art of the possible, as well as the strike criteria and what the Chairman has doved as the legislative criteria, along with the other criteria cannot be factors in arriving at the Award that follows.

It also should be recognized that the particular circumstances may dictate that certain criteria be emphasized more than other criteria.

The Michigan Supreme Court, in ruling on the constitutionality of Act 312 and its application, in an opinion of Justice Williams in *Detroit v Detroit Police Officers Association*, 408 Mich 410 (1980) at 484, Justice Williams wrote:

We disagree with the city's contention. The fact that an arbitral majority may not be persuaded by a party's evidence and argument as to certain items does not mean that those arbitrators failed to give the statutory factors that consideration required by law. The Legislature has neither expressly nor implicitly evinced any intention in Act 312 that each factor in § 9 be accorded equal weight. Instead, the Legislature has made their treatment, where applicable, mandatory on the panel through the use of the word "shall" in §§ 8 and 9. In effect then, the § 9 factors provide a compulsory checklist to ensure that the arbitrators render an award only after taking into consideration those factors deemed relevant by the Legislature and codified in § 9. Since the § 9 factors are not intrinsically weighted, they cannot of themselves provide the arbitrators with an answer. It is the panel which must make the difficult decision of determining which particular factors are more important in resolving a contested issue under the singular facts of a case, although, of course, all "applicable" factors must be considered. Our comment in *Midland Twp v State Boundary Comm*, 401 Mich 641, 676; 259 NW2d 326 (1977), is here apposite.

"Merely because some criteria were factually inapplicable or were found by the commission to be of less importance than other criteria does not mean that the commission 'ignored' relevant criteria. The commission may regard a particular criterion to be of decisive importance outweighing all other criteria."

In other words, though the Panel must consider all applicable factors, as Justice Williams

noted, the Panel can emphasize certain criteria over others in resolving contested issues.

The criteria are there to be followed. Though all the criteria are to be considered, there are two dominant criteria that are applicable in this situation. There is the financial ability of the City of Romulus whose administration, because of the City's deteriorating financial situation, is concerned that the City could be a candidate for the appointment of a financial manager pursuant to Act No. 4 of Public Acts of 2011. In addition, there are the internal comparables within the City, particularly since there are two settled contracts that have been settled in light of the City's financial condition. Thus, the financial ability and the internal comparables addressing the financial ability are dominant criteria coupled with, as already alluded to, the "legislative" criteria, the strike criteria and the art of the possible. The external comparables are helpful but can only be considered in light of the City of Romulus' financial condition.

### **THE EXTERNAL COMPARABLES**

The City has proposed the following comparables:

Allen Park  
Brownstown Township  
Lincoln Park  
Southgate  
Taylor  
Trenton  
Wyandotte  
Ecorse  
Flat Rock  
Gibraltar  
Grosse Ile Township  
Melvindale  
River Rouge  
Riverview  
Rockwood  
Woodhaven

The Association has proposed the following comparables:



Allen Park  
Brownstown Township  
Lincoln Park  
Southgate  
Taylor  
Trenton  
Wyandotte

## **DISCUSSION**

### **The City's Financial Ability**

Bluntly put, the City is in a tenuous financial situation. The City of Romulus is on a July 1-June 30 fiscal year. In the fiscal year ending June 30, 2010 the City had revenues through its general fund of \$18,939,513 and expended \$21,062,124, with the difference being transferred out of its general fund balance.

Plante & Moran are the outside auditors for the City who prepared a Financial Report for the City for the fiscal year ending June 30, 2010.

In the independent auditor's report accompanying the financial report, Plante & Moran under the caption "Financial Highlights" noted:

The following represents the most significant financial highlights for the year ended June 30, 2010:

- Total revenue within the General Fund decreased by \$2,903,005, a decrease of 13.3 percent. Substantial decreases were reflected in virtually every revenue category.
- Property taxes are the City's single largest source of revenue. The City's tax revenue for fiscal year 2009/2010 was \$9,977,987, which represents a decrease of \$870,324 or 8.0 percent. Considering the current economic crisis within the state of Michigan, it is expected that the City will sustain a loss in tax revenue in future tax years.
- The \$297,338 dollar loss of state-shared revenue was much more significant than in previous years. This amount represents a 13.8 percent decline from the previous fiscal year. The State of Michigan's budget shortages continue to put our \$403,000 of statutory funds at risk.

- There was a reduction of \$1,056,900 in fines and forfeitures. This can be attributed to both a decrease in tickets issued and a reduction in staffing of the traffic control unit.
- Due to the loss of principal, investment income within the General Fund decreased by \$64,131 or 41.2 percent. Any future decreases in the General Fund's fund balance will only escalate this revenue loss.
- In the current fiscal year, licenses and permits decreased by \$261,098 or 28 percent. Over the last five years, revenue in this category has fallen by over \$1,000,000 or 62 percent. This decline can be attributed to the downward spiral of the housing industry.
- Total expenditures and transfers out within the General Fund decreased \$637,702, a decrease of 2.9 percent. This decline in expenditures can be mainly attributed to reductions in staffing.
- Road funding through the State of Michigan's gas tax has continued to decline in fiscal year 2009/2010; however, the stress on the City's infrastructure has increased. The undesignated/unreserved fund balances in the Major and Local Streets Funds were \$7,470 and \$26,809, respectively.
- The Vehicle and Equipment Fund's unrestricted net assets have decreased by approximately 30 percent to \$446,000. Essentially, with this level of unrestricted net assets, the City only has adequate funds available for minimal investment in capital assets.

In an auditor's letter to the City Council of the City of Romulus dated December 16,

2010, Plante & Moran noted in part:

**Financial Position**

As we have discussed with the City over the last several years, the City continues to be vulnerable to the structural challenges with Michigan's municipal model like other governmental units (i.e., cuts to state-shared revenue, the interaction of Headlee and Proposal A, changes made to the General Property Act following Proposal A, the Bolt Case, etc.). The City has been dealing with these restrictions and challenges imposed by Michigan's municipal model for years.

However, the economic collapse and corresponding unprecedented reductions to taxable value present new overwhelming financial

challenges to the City. During the year ended June 30, 2010 the City's General Fund fund balance decreased 51 percent (from \$4,206,603 to \$2,083.92).

This decrease would have been even more significant if the City had not continued to reduce costs resulting in actual expenditures less than budget by approximately \$1.8 million. During the audit of the June 30, 2010 financial statements, we were provided the June 30, 2011 budget, which includes additional use of General Fund fund balance of approximately \$300,000. This amount was predicated on the passage of a public safety millage in August 2010 and/or other cost reductions totaling approximately \$3 million.

We understand the August 2010 millage proposal did not pass and the City is in the process of asking for a charter amendment in February 2011. If the charter amendment is approved in February 2011, these additional mills would not be levied until July 1, 2011 (available for the City's June 30, 2012 fiscal year). Without achieving the additional savings/revenue streams in the City's June 30, 2011 budget, the City risks using a significant amount of remaining fund balance during the June 30, 2011 fiscal year.

In addition to the external threats related to taxable value declines and state-shared revenue discussed above, the City's financial condition faces additional challenges regarding the following:

**Significant Tax Appeals Impacting the City**

The City has several large taxpayers with significant unsettled tax appeals at June 30, 2010. While the City has recorded an estimated liability related to these appeals, the ultimate outcome is uncertain and could result in additional declines to the City's property tax base in the future.

Highlighting the comments made by Plante & Moran is the fact that after receiving in 2009 \$10,848,000 in property tax revenue, by 2010 this had dropped to \$9,978,000 and is projected in 2011 to drop to \$9,703,000 and in 2012 to \$9,167,000. This is attributable to a drop in real estate value and in addition Romulus, out of 10,147 units in July 2010, experienced 338 home foreclosures, or 1 in 30. Of the nine compared communities that the parties agree are comparable communities, only one other community has a less housing foreclosure ratio than Romulus, namely, Lincoln Park which is 1 in 26. The others have higher ratios than Romulus,

which emphasizes that Romulus has a shrinking tax base coupled with the tax appeals that are pending.

A major source of revenue for Romulus is State shared revenue. For fiscal year 2003-2004, Romulus was receiving \$2,292,553. For fiscal year 2010-2011, the amount projected to be received was approximately \$1,854,170, which is about \$450,000 less than fiscal year 2003-2004.

And as noted in the auditor's statements, the list of declines in other sources of revenue continues.

The City at some point realized that it was expending more monies than receiving in revenue. As noted, this revenue was \$18.9 million for fiscal year ending June 30, 2010 with an expenditure of \$21 million. The projected revenue for fiscal year ending June 30, 2011 is approximately \$18 million and the expenditures are approximately \$18.9 million. By June 30, 2012, the projected revenues are \$17.5 million and expenditures are approximately \$18.254 million. This means that by June 30, 2012 the fund balance will be reduced to \$483,002. If the trend continues, by June 30, 2013 the City, as predicted by its auditors, will be in deficit financing. The City has attempted to address the issue.

From January 1, 2006 to currently, the City has eliminated in both non-union and union positions, including two Deputy Police Chiefs, six Police Officers and one Dispatcher, a number of positions that amounted to a total gross wage of \$2,541,430.57.

In addition, in August 2010, the City went for three mills for five years for police and fire services. This millage failed. In February 2010, the City went for an increase of 2.75 mills for five years for general operation purposes, including library, senior services, recreation, public

works, police/fire services and other City services. This millage likewise failed.

With the looming deficit financing, it is understandable that one of the leading credit rating agencies, Fitch, downgraded Romulus bonds to a “BB+” because of what is obviously a financially precarious position.

This is a city that has cut positions and attempted two millages to increase millages which have failed. As will be pointed out, in the two settled contracts, the City has obtained an approximately 5% reduction in labor costs.

This finding that the City’s financial situation is tenuous is not unique to this Chairman. In a fact findings and recommendations issued by Fact Finder Thomas W. Brookover, in *MERC Case No. D04 D-0830*, issued on March 19, 2010 involving Teamsters Local 214 and the City of Romulus, Mr. Brookover recommended that employees who retired after July 1, 2006 not be provided retiree dental insurance and in doing so recognized that the City was in serious financial straits.

In addition, the unfunded actuarial liability for retiree health care benefits in the City of Romulus is approximately \$45.1 million. Presently, the City for the fiscal year ending June 30, 2010 contributed \$1,616,616 toward the health care retirement fund. Yet, the annual requirement for 2010-2011 is approximately \$3.2 million per year. This is as a result of Government Accounting Standards Board Rule 43 and 45 that requires the actuary to measure liability and recognition in financial statements. This further accentuates the City’s financial situation.

There is absolutely no question that the City is facing a dire financial situation for which it needs relief.

## THE INTERNAL COMPARABLES

As noted, the City had two settled contracts with Teamsters Local 214 and AFSCME Council 25 and its Local 1917. With Teamsters Local 214, by the use of furlough days the City has reduced the pay of the Teamsters by 96 hours. Also, Veteran's Day has been eliminated as a holiday, thereby reducing the pay by 104 hours total. This amounts to a 5% reduction in wages. In addition, the Teamsters did agree to a pre-tax 2% premium share. The Teamsters contract also eliminated City-paid retiree health care for new hires, replacing same with a health care savings account. The tentative agreement was dated August 24, 2010.

Shortly thereafter, on September 29, 2010, the City and Council 25 and its Local 1917, representing certain supervisors, agreed to furlough days of 13 days per fiscal year on an eight hour schedule and the elimination of Veteran's Day as a paid holiday for 2010 and 2011. As did the Teamsters' agreement, there would be a wage freeze for the duration of the agreement. The Local 1917 contract also included the 2% premium co-pay and the elimination of City-paid retiree health care for new hires and replacing same with a health care savings account. As with the Teamsters contract, there would be no prescription reimbursement and a new health care plan as was the case with the Teamsters.

The Local 1917 contract, including Veteran's Day as an unpaid holiday, represented the loss of 126 hours of pay on an eight hour day. If this is calculated at 2,080 hours, this represents an approximate 6% reduction. As indicated, the fire fighters and the command officers are still in negotiations. But what the settled contracts do indicate is that the bargaining trend does recognize a pay cut, some contribution toward health care premiums and a change in the health care plan. This is the comparable with the internal comparables.

## THE OTHER CRITERIA

There are external comparables as noted. But in the situation involving the City of Romulus, these internal comparables are not particularly helpful because of the financial circumstances that pertain to the City of Romulus. Romulus must live within its means. Otherwise, it will be a candidate for a financial manager pursuant to Act No. 4 of Public Acts of 2011 and all the ramifications thereunder, which is not in the interest of either the City or the Union.

There is the strike criteria. As noted, the Detroit Symphony Orchestra did go on strike for approximately six months. Management alleged a financial inability to continue the current level of compensation. According to published reports, the settlement resulted in a 20% reduction in wages. This strike criteria gives some indication as to the result in a situation such as the City of Romulus if there was the ability to strike. In other words, with the financial situation the way it has evolved in Romulus, there is a need to reduce the cost of operation. This particularly applies to the Police Officers since the cost of the Police Department represents in excess of 40% of the general budget of the City.

There is the art of the possible. The City has proposed many changes. The Chairman will not opt for many of these changes because there is only so much that can be accomplished in one negotiations. If the Chairman votes with the City's Delegate for a wage reduction the City is proposing, then other changes, except as to health care and new hires and the elimination of one holiday would be beyond the art of the possible because a reduction is a difficult aim to accomplish. It is this analysis that the Chairman will address the issues.

1. **Duration.** The City has proposed that the contract end on June 30, 2012. The

Union has proposed an ending of June 30, 2013. The City is concerned about changes brought about by the national health reform which, if applied here, would not take place until at least January 1, 2014. The Union is concerned that its members be protected, particularly in view of the uncertainty of current legislative initiatives. For this reason, the Chairman will join with the Union Delegate, and noting that this in the end is an advantage to the City because it stabilizes labor relations until June 30, 2013, to opt for a contract that goes for three years ending June 30, 2013.

2. **Health Care.** Both Last Best Offers have agreed to a Blue Cross/Blue Shield Community Blue Option 3 or an equivalent Blue Care Network or HAP. Both Last Best Offers agree that the prescription rider for the Blue Cross/Blue Shield Community Blue Option 3 shall be \$5/\$40/\$80. The City as to the HMOs, based upon the offerings of the HMOs, provides for a \$10 co-pay for generic drugs and a \$40 co-pay for brand name drugs. Basically, where the parties part company is the other provisions as to health care that the Union suggests should be *status quo*, including elimination of prescription drug reimbursement, providing a health insured opt out waiver, eliminating of an HMO annual savings payment account and a contribution of 2% of the premium pre-tax rate.

The Chairman agrees in total with the Last Best Offers on health insurance with the City and, therefore, will vote along with the City's Delegate to adopt the City's Last Best Offer as to health insurance, recognizing that the Union Delegate dissents but does concur with the adoption of the Blue Cross/Blue Shield Community Blue Option 3 with a \$5/\$40/\$80 prescription rider and for either HMO plan a \$10 co-pay for generic drugs and a \$40 co-pay for brand name drugs. The 2% co-pay contribution shall be effective July 1, 2011.



3. **Wages.** The City proposes zero percent wage increases for the life of the contract and that effective July 1, 2011 there be a \$1.00 an hour reduction for Patrol Officers and an \$0.80 reduction for Dispatchers. The Union opts for the *status quo*.

As the Chairman has suggested, there needs to be a reduction in labor costs and the pattern has been set by the Teamsters and Local 1917. The Police cannot avoid it. Nor will the Command or the Fire Fighters. The Chairman will agree with the City with the City's wage proposal. However, the Union has proposed that if the Chairman opts for a wage reduction, the June 30, 2010 wages would be restored July 1, 2013 unless changed by negotiations or an Act 312 proceeding. The Chairman agrees.

4. **Pensions.** The City has two basic proposals for the pension plan for current employees. The City proposes to increase, effective July 1, 2011, the employee's contribution to 7% of all compensation included in the calculation of final average compensation. The Union agrees with the increase to 7%. Where the parties part company is that the City wishes to eliminate from the calculation of final average compensation overtime worked on the traffic detail and to limit the amount of overtime calculation for other details in the final average compensation. The Union Delegate objects to this.

The Chairman will agree with the Union Delegate that for current employees who retire the overtime shall be included in the final average compensation calculation. The reason for this is the art of the possible. The Chairman appreciates there is a drain on the City's pension fund; that some Officers are retiring at high rates. But in the situation here there is the art of the possible. The Chairman will agree with the City that new employees will not have overtime in the pension calculation. And the City certainly can control overtime. But the City is asking for

changes in health care, for wage reductions and other changes. There is only so much that can be done in one contract negotiations. For this reason, the Chairman will join with the Union Delegate in rejecting the proposal as to overtime being excluded from final average compensation for current employees.

5. **Vacation Schedule.** The City has presented changes in vacation schedule. The Union has proposed the *status quo*. As the Chairman views the situation, he found no compelling reason to change the vacation schedule which has been negotiated over the years. Nor was there a showing that it was out of line with the comparables. For this reason, the Chairman, along with the Union Delegate, will opt for the Union's position that vacations should remain as is and will be joined by the Union Delegate in so awarding.

6. **Holiday Pay.** The parties have presented Last Best Offers. Both parties have agreed to eliminate one holiday by replacing Lincoln's Birthday and Washington's Birthday with President's Day. Based upon the art of the possible and considering the contract as a whole, the Chairman persuaded both parties to amend their Last Best Offers so that the elimination of one holiday and replacing same with President's Day will be effective July 1, 2012. The Union initially agreed to eliminate the super holiday pay contained in Article 23.2, but at the invitation of the Chairman amended the Last Best Offer and withdrew that proposal. The City did propose changes in the super holiday pay in both 23.2 and 23.3 which the Chairman, along with the Union Delegate, will reject. The reason for this is, with the reduction in pay and the increase in the pension contribution and the 2% in premium co-pay, which essentially equates to the super pay, there is just so much that can be accomplished in one negotiations and, therefore, the Chairman will opt for the *status quo* as to 23.2 and 23.3 with the Union Delegate agreeing.

7. **New Hires Pension.** The City proposes to amend Article 28 by proposing a new Section 28.3 pertaining to employees hired after the effective date of this Award by providing that the multiplier be 2.5% for those employees. The Union's proposal is in agreement with this. However, the City also proposes that for said new employees that overtime shall not be included in the final average compensation. The Union proposes the *status quo* as to this point.

The Chairman agrees with the City. The Chairman agrees that overtime should be eliminated from final average compensation, but that this will be in the future with new employees and for this reason will agree with the City on the elimination of overtime in the calculation of final average compensation for new employees.

8. The City proposes to eliminate for new hires retiree health insurance and replace same with a health savings account and amended its Last Best Offer to provide that the City will contribute 1% of base wages toward the employee retiree health insurance account with the employee contributing 2%.

9. **Minimum Manning.** As a result of Court cases, minimum manning is a permissive subject. The City of Romulus has announced that Sections 31.3 and 31.4 will be deleted from the new Collective Bargaining Agreement as they are permissive subjects, which the City has chosen not to bargain on. Nevertheless, this Chairman, joined by the City Delegate, will confirm by an Award this deletion, even though technically it is a permissive subject.

10. **Past Practice for Discipline.** The City has proposed to amend Article 12 to address issues concerning past practice in discipline matters. The Chairman understands the City's concern, but declines to accept the City's Last Best Offer on this and agrees with the Union's *status quo* on this point simply because there is only so much that can be accomplished

in one negotiations.

11. **Paid Time Off During a Disciplinary Suspension.** The City wishes to limit the number of days that an Officer can use in lieu of unpaid suspension. What has occurred in the City of Romulus is that when an Officer is suspended, the Officer may use what is referenced, at least in the Chicago Police Department, as “options,” namely, to use paid time in banks in order to continue being paid. The fact is that if an Officer is suspended in Romulus and does utilize paid time, the Officer is deprived from using that time at a more convenient time to the Officer and the Officer still has a discipline record. Considering the nature of these negotiations and the fact that a suspension, even if time off is utilized, does make the point to the Officer, the Chairman, applying the art of the possible, will agree with the Union Delegate and adopt the Union’s Last Best Offer as to *status quo*.

12. **Legislative.** There is certain legislative activity that is taking place in Michigan. There is also certain legislation that apparently has passed. For this reason, the Chairman, joined by the City Delegate, will also add the following new language to the contract:

This Agreement adopts by reference any terms and conditions imposed by the State of Michigan, the Department of Treasury, Act 72 or any other regulation or law adopted by the State of Michigan.

The inclusion of this language or any language required under section 15(7) of the Public Employment Relations Act does not constitute an agreement by the Union to the substantive or procedural content of the language. In addition, inclusion of the language does not constitute a waiver of the Union’s right to raise Constitutional and/or other legal challenge (including contractual or administrative challenges) to the validity of: (1) appointment of an Emergency Financial Manager; (2) PA 1 of 2001 (Local Government and School District Fiscal Accountability Act); or (3) any action of an Emergency Financial Manager which acts to reject, modify or terminate the collective bargaining agreement.

Health care premium costs for new hires shall include a minimum employee share of 20%, or the employer's share shall be cost competitive with the new State preferred provider organization health plan on a per-employee basis.

13. **Uniform Allowance.** The Union has proposed to forego one-half of the uniform allowance. Again, when this is compared with the 2% premium sharing for health care, this is an offset. Since the Union objected to the 2% premium health care co-pay and the City was insisting on same, the Chairman will reject the Union's offer and continue the full uniform allowance. The City Delegate reluctantly joins with the Chairman in this Award.

### **SIGNATURES**

The Awards that follow may be signed by the Panel members in separate documents but will be considered to be as valid as signed in one single document.

The Panel hereby issues the following Awards on the following issues. As indicated, each Award as set forth below has been, in each case, by a unanimous Panel or by the majority of the Panel.

### **A W A R D S**

1. **Duration.** The contract shall be for three years, expiring midnight June 30, 2013.
2. **Health Insurance.** Health Insurance/effective immediately: Replace Article 26,

Section 26.1 with the following:

Health insurance and the payment for the HMO annual savings prior to the issuance of the 2011 Act 312 arbitration award shall be as described in the parties' 2006-2010 contract.  
Effective \* \* \* six weeks after the issuance of the 2011 Act 312 arbitration award or as soon thereafter as practicable, the Employer shall provide the following alternatives:

- (A) Blue Cross PPO III
- (B) Blue Care Network HMO - closest equivalent plan in cost to PPO III
- (C) Health Alliance Plan HMO - closest equivalent plan in cost to PPO III

The Employer may elect to provide equal or better coverage through another carrier.

These coverages will be offered to all members of the bargaining unit while employed by the Employer or on approved leave of absence, and certain retirees, as hereinafter provided. Married couples who are both employed by the City shall select either the PPO III medical coverage, the Blue Care Network HMO or the Health Alliance Plan HMO to cover both of them. They shall not be entitled to have the PPO III, the Blue Care Network HMO and Health Alliance Plan HMO plan at the same time, and one member of the couple will be covered as the dependent of the other.

An employee may elect to be covered by PPO III or either HMO plan offered by the Employer.

Effective \* \* \* six weeks after the issuance of the Act 312 arbitration award or as soon thereafter as practicable, the prescription drug coverage for PPO III shall be a five dollar (\$5.00) co-pay for generic drugs, a forty dollar (\$40.00) co-pay for brand name drugs and an eighty (\$80.00) co-pay for formulary drugs. \* \* \* Six weeks after the issuance of the Act 312 arbitration award or as soon thereafter as practicable, the prescription drug coverage for either HMO plan shall be a ten (\$10.00) co-pay for generic drugs and a forty (\$40.00) co-pay for brand name drugs.

- 3. Health Insurance/future date: See #2 above
- 4. Elimination of Prescription Drug Reimbursements: The following language shall

be deleted from Section 26.1:

Employees shall be reimbursed up to five dollars (\$5.00) for generic drugs and up to ten (\$10.00) for brand name drugs, if they submit receipts from the pharmacy. Employees are responsible for paying the first half of the co-payment (five dollars (\$5.00) for generic drugs and ten dollars (\$10.00) for brand name drugs) and the City shall reimburse the remainder of the co-payment. Submission of receipts to the Finance Department and reimbursement shall be done on a quarterly basis.

- 5. Health Insurance Opt-out Waiver: Amend Article 26 by adding the following as a

new Section:

Waiver of Health Insurance: Employees of the bargaining unit may waive coverage under either the PPO plan or the HMO plans and receive \$2,000 (two thousand dollars) as hereinafter provided:

(a) If a married couple is both employed by the City, they must both waive the coverage, but only one \$2,000 (two thousand dollar) payment will be made.

(b) The employee and his/her spouse must execute a waiver on a form provided by the City.

(c) The employee may make the election to waive coverage effective only January 1 or July 1 of each year. Employees who have waived coverage may reapply for coverage only on July 1 of each year, unless they can establish that the subsequent request for coverage is due to a loss of medical coverage and the City's insurance company will permit coverage at a time other than July 1.

(d) Payment to employees who make the election as provided in this Section, shall be on or about July 1, for the previous fiscal year's election, provided the employee is still employed by the City on July 1. The waiver payment will be prorated if the election for the previous fiscal year was for less than twelve (12) months. If the employee is not still employed by the City on July 1, all rights to payment under this Section are forfeited. Effective October 1, 2011, the health insurance waiver shall be Two Thousand Dollars (\$2,000) per year, payable on October 1, 2012. The period between July 1, 2011 and September 30, 2011 shall be prorated as described in this sub-section.

6. Elimination of HMO Annual Savings Payment: The City proposes to eliminate Article 26, Section 26.3 in its entirety.

7. Employee Contribution to Health Insurance Premium: Amend Article 26 by adding the following as Section 26.9:

Effective July 1, 2011, employees shall contribute two (2%) percent of the premium, pre-tax, based on the coverage they are enrolled in. Employees' contribution to health insurance shall be made every paycheck. The City shall establish a Section 125 plan relating to this employee contribution.

8. Wages. Zero (1%) percent wage increase for the life of the contract. Effective July 1, 2011, \$1.00 an hour reduction for Patrol Officers; \$0.80 an hour reduction for Dispatchers. Effective July 1, 2013, the wages shall return to what they were on June 30, 2010 unless negotiated otherwise through the collective bargaining process or an Act 312 award.

9. Employee Contribution to Pension: Amend Article 28, Section 28.3 as follows:

The pension multiplier for bargaining unit employees shall be three percent (3.0%). Bargaining unit employees' contribution shall be five percent (5.0%) of all compensation (using MERS definition of "compensation"). Effective July 1, 2011, bargaining unit employees' contribution shall be seven (7.0%) of all compensation included in the calculation of final average compensation. Overtime work for employees hired after July 1, 2011 shall be eliminated from the calculation of final average compensation.

10. Vacations. No change. *Status quo* as to Article 24, "Vacation Schedule".

11. Holiday Pay. Amend Section 23.1:

23.1: [add to existing language]: Effective July 1, 2012, "Lincoln's Birthday" and "Washington's Birthday" shall be replaced by "Presidents' Day".

12. Pension Multiplier - New Hires: Amend Article 28 by adding the following as a new section after Section 28.3:

The pension multiplier for bargaining unit employees hired after the effective date of the 2011 Act 312 arbitration award shall be two and a half percent (2.5%). Bargaining unit employees' contribution shall be the same as described in Section 28.3, except that overtime shall not be included. Overtime shall not be included in the calculation of final average compensation.

13. Retiree Health Insurance - New Hires: Amend Sections 28.4 and 28.6 and add the following as Section 28.7:

28.4: Subject to Section 28.7, all employees who retire under the MERS pension plan or leave service with a duty disability pension under the provisions of the MERS pension plan shall receive full health care coverage for the retiree, his or her dependents, and spouse. Such health care insurance will be the same planes then offered to current employees, including optical and dental.



28.6: Subject to Section 28.7, retirees and their spouses shall be enrolled in the Blue Cross/Blue Shield Complimentary Coverage when they turn age sixty-five (65).

28.7: Employees hired after the date the 2011 Act 312 arbitration award is issued shall not be eligible for retiree health insurance provided by the City. The City shall offer employees hired after the date of the 2011 Act 312 arbitration award is issued an HSA (health savings account) funded by employee contributions, in accordance with applicable IRS regulations. The City shall contribute 1% of base wage and the employee shall contribute 2% of base wage to the retiree health care account.

14. **Minimum Manning**. Sections 31.3 and 31.4 are hereby deleted from the Collective Bargaining Agreement.

15. Article 12 shall remain unchanged.


16. A new Article will be added to the contract as follows:


This Agreement adopts by reference any terms and conditions imposed by the State of Michigan, the Department of Treasury, Act 72 or any other regulation or law adopted by the State of Michigan.

The inclusion of this language or any language required under section 15(7) of the Public Employment Relations Act does not constitute an agreement by the Union to the substantive or procedural content of the language. In addition, inclusion of the language does not constitute a waiver of the Union's right to raise Constitutional and/or other legal challenge (including contractual or administrative challenges) to the validity of: (1) appointment of an Emergency Financial Manager; (2) PA 1 of 2001 (Local Government and School District Fiscal Accountability Act); or (3) any action of an Emergency Financial Manager which acts to reject, modify or terminate the collective bargaining agreement.

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GEORGE T. ROUMELL, JR.

  
STEVEN H. SCHWARTZ, City Delegate,  
Concurring and Dissenting as indicated in  
"Discussion"

  
KENNETH E. GRABOWSKI, Union Delegate,  
Concurring and Dissenting as indicated in  
"Discussion"

Dated: June 9, 2011