

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

*In the Matter of:*

CITY OF ECORSE

-and-

MERC Case No. D10 E-0559

POLICE OFFICERS ASSOCIATION  
OF MICHIGAN

---

**ARBITRATION PANEL OPINION AND AWARD**

**George T. Roumell, Jr., Chairman  
Howard L. Shifman, City Delegate  
William Birdseye, POAM Delegate**

**APPEARANCES:**

FOR THE CITY OF ECORSE:

FOR POLICE OFFICERS ASSOCIATION  
OF MICHIGAN:

Howard L. Shifman, Attorney

William Birdseye, Business Representative

**Background**

**A. General**

The City of Ecorse is located in what is known as the Downriver area of Wayne County, Michigan. It has a population of approximately 15,000 persons. The City consists of residential properties, some industrial and commercial. The City's main street is West Jefferson Avenue, which it shares with the nearby community of River Rouge.

The City has a Police Department consisting of 21 sworn Officers, including the Chief,

Command Officers, namely, Lieutenants and Sergeants. The City also up until December 12, 2011 had a Fire Department consisting of 14 full-time fire personnel.

The City had a Collective Bargaining Agreement with the Police Officers Association of Michigan which expired on June 30, 2007 covering a bargaining unit of non-supervisory Officers and Command Officers, including Corporals, Detectives and Patrolmen, Lieutenants and Sergeants. As best as can be determined, the POAM and the City have continued to abide by the terms of the Collective Bargaining Agreement expiring on June 30, 2007 with some exceptions to be hereinafter noted.

The firemen also had a collective bargaining agreement between the City and Local 684 of the International Association of Firefighters Union, AFL-CIO, being the Ecorse Firefighters Union, covering the period July 1, 2005 - June 30, 2011.

**B. Procedure**

Under the date of June 9, 2010, John T. Barr, Business Representative for the Police Officers Association of Michigan (POAM) filed a Petition for Act 312 Arbitration with the Employment Relations Commission on behalf of the Police bargaining unit, stating that the issues were “all wages, hours, terms and conditions of employment”.

George T. Roumell, Jr., by letter dated January 4, 2011, by the then Chairman of the Michigan Employment Relations Commission, was appointed the Chairman of the Act 312 Panel for the City of Ecorse. Howard L. Shifman was designated as the City’s Delegate. William Birdseye was designated as the POAM’s Delegate. The parties waived the time lines set forth in Act 312 for convening the Panel and the hearings.

A pre-hearing was held on January 24, 2011. At that time, the Chairman was advised that

the City was under the management of an Emergency Financial Manager appointed by the Governor. This situation will be discussed further in this Opinion, that caused further pre-trials to develop the issues and explore the finances of the City. Thereafter, there were pre-trials and exploratory meetings held by the Panel on March 10 and October 10, 2011 while the parties in between these dates, at their request, were proceeding to explore the financial situation of the City. There was also a conference call on September 16, 2011.

A formal hearing was set for November 18, 2011. However, on Wednesday, November 16, 2011, an oral motion was made to the Chairman by the POAM representing the Ecorse Police Officers seeking an adjournment of the hearing. The reason given was the need to gather further information for presentation to the Panel.

Though the City objected vehemently, the Chairman granted the motion with Panel Member Birdseye and the dissent of Howard Shifman. A new date was set for hearing, namely, December 2, 2011, at which time a formal hearing was held. Subsequently, the Panel met to consider the offers being made.

### **The Criteria**

Act 312 of Public Acts of 1969, by 2011, had been in place for approximately 41 years, including the announced criteria set forth in Section 9 of Act 312 that were to be followed by arbitration panels in rendering awards. However, Act 54 of Public Acts of 2011, effective June 8, 2011, amended Act 312 and in particular as to Section 9, the criteria to be followed by Act 312 Panels. Section 9 as amended now reads:

- (1) If the parties have no collective bargaining agreement or the parties have an agreement and 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:

- (a) The financial ability of the unit of government to pay. All of the following shall apply to the arbitration panel's determination of the ability of the unit of government to pay:
  - (i) The financial impact on the community of any award made by the arbitration panel.
  - (ii) The interests and welfare of the public.
  - (iii) All liabilities, whether or not they appear on the balance sheet of the unit of government.
  - (iv) Any law of this state or any directive issued under the local government and school district fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, that places limitations on a unit of government's expenditures or revenue collection.
- (b) The lawful authority of the employer.
- (c) Stipulations of the parties.
- (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 in both of the following:
  - (i) Public employment in comparable communities.
  - (ii) Private employment in comparable communities.
- (e) Comparison of the wages, hours, and conditions of employment of other employees of the unit of government outside of the bargaining unit in question.
- (f) The average consumer prices for goods and services, commonly known as the cost of living.
- (g) 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.

(h) Changes in any of the foregoing circumstances while the arbitration proceedings are pending.

(i) Other factors that 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.

(2) The arbitration panel shall give the financial ability of the unit of government to pay the most significance, if the determination is supported by competent, material and substantial evidence.

The significance of the amended criteria is the direction by the Legislature that an Act 312 Panel should give priority to the financial ability of the public entity to meet the provisions of the Award of the Panel. Other criteria that were included in the initial Public Act 312 remain.

There is no question that with the Amendments to Section 9, financial ability is particularly applicable to the City of Ecorse. In fact, Ecorse's financial ability dominates the thinking of a majority of the Panel for one salient reason, namely, that the City of Ecorse is being managed by an Emergency Financial Manager appointed by the Governor.

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

On October 30, 2009, by order of the Local Emergency Financial Assistance Loan Board, Joyce A. Parker was appointed as Emergency Financial Manager for the City of Ecorse. Manager Parker's appointment followed a report of the Ecorse Financial Review Team presented to then Governor Granholm on August 19, 2009 that caused the Governor to write the then Mayor of the City, Herbert W. Worthy, on October 26, 2009 a letter explaining that the deteriorating financial condition of the City of Ecorse required the appointment of an Emergency Financial Manager. In that letter, Governor Granholm summarized the situation as follows:

- A seventy-six percent increase to the City's general fund deficit, from \$5.3 million as of June 30, 2007 to \$9.3 million as of June 30, 2008.
- Approximately \$6.8 million in property tax collections owed by the City to other taxing jurisdictions, including this State, which the City has utilized, in violation of State law, to maintain its own spending levels.
- The use by the City, for two consecutive years, of pension-related judgment levy proceeds to support general operations of the City.
- Receipt by the City, for two consecutive years, of an adverse opinion in its financial audit report, the last of which contained 25 significant deficiencies, including 13 material weaknesses, which are considered to be the most serious category of accounting deficiencies.
- A failure by the City for the last six fiscal years (2003 through 2008), to file its annual financial audit reports on time with the Department of Treasury as required by State law.

The significance of the Governor's summary, which was based upon a thorough report of the Financial Review Committee, is highlighted by the fact that in 2008 the revenue of the City was \$12,682,583, with the ending fund balance being a deficit of \$9,270,027, suggesting that the deficit was over two-thirds of the actual revenue. In 2008, with revenues of approximately \$12.7 million, the expenditures were \$15.9 million.

The Financial Review Team only had the figures for the City of Ecorse up to the City's fiscal year ending June 30, 2008. The audited figures for the fiscal year ending June 30, 2009 revealed continuing expenditures over revenue by \$3.8 million, resulting in an increasing deficit prior to Ms. Parker assuming the Emergency Financial Manager role of a deficit \$13 million fund balance.

Ms. Parker, as Emergency Financial Manager, was required to file with the State

Treasurer quarterly reports of the Emergency Financial Manager for the City for review and consideration. The report included the Emergency Financial Manager Compliant Monitoring Report, Deficit Elimination Plan, Progress Report, General Fund Cash Flow Report for the three months previous to the quarterly report and in the case of the quarterly report that was filed on October 14, 2011 the General Fund Revenue and Expenditure Report for the fiscal year 2011-2012.

Financial Manager Parker proceeded to make financial changes that saved money for the City in various areas so that by the fiscal year ending June 30, 2010 revenues for the first time in recent years exceeded expenditures. But this was not enough to cause a reduction in the fund balance. However, by further cuts and saving methods, the total revenues exceeded expenditures by \$8.75 million in 2011, permitting a reduction of the deficit.

Emergency Financial Manager Parker, as noted above, has made some progress in stabilizing the City's finances. Yet, the City continues to have a deficit fiscal balance of more than \$4 million which represents about 30% of its annual revenue which, from all public accounting standpoints, is an unsound financial situation.

Public Act 4 of Public Acts of 2011, effective March 16, 2011, expanded the powers of an appointed Emergency Financial Manager under the previous Act, including the right pursuant to Section 19.K of Act 4 under the circumstances prescribed thereof to "reject, modify or terminate one or more terms and conditions of an existing collective bargaining agreement." Ms. Parker, as the Emergency Financial Manager for the City of Ecorse, under Act 4 has extended powers. She has, in her attempt to stabilize the City's finances, reorganized departments in the City, contracted out certain services, and rearranged the City's debt service to reduce debt service

costs. As part of her efforts in regard to the Police, certain Police Officers have been reduced in rank and, therefore, salary.

The City also has employed Plante & Moran to oversee its day to day operations of its finances, along with its external auditor, Rehmann Robson, who in an audit letter dated December 30, 2010, noted the improvement in the internal financial management of the City with the aid of Plante & Moran, but did make suggestions for further improvement. Highlighting the City's financial difficulties is the state of the actuarially accrued liability and valuation of assets as of December 31, 2010 of the retirement funds, including retiree health care. The total unfunded accrued liability according to actuaries Gabriel Roeder Smith & Co. is \$20,733,190 with an estimated total annual contribution required by the employer of \$1,661,688, of which \$1,294,800 is to go to the unfunded accrued liability.

By any definition, the City of Ecorse financially has no ability to fund collective bargaining agreements unless the City can continue to reorganize and look for creative ways to provide services to the public at less cost. In this regard, it is noted that the current tax roll represents tax receipts of 57.5% from real property which is basically private residences and 42.5% from personal property tax.

Point blank, the City has a dire financial situation. Unless more is done, financial disaster will continue into the future.

### **The Firemen**

One of the criteria in Section 9 is the comparables among the employees within the City involved. This brings the Chairman to the fact that Manager Parker exercised her Section 19.K rights with the Firefighters on December 2, 2011 when she sent the following letter to Firefighter



Union President Scott Douglas:

December 2, 2011

TO: Scott Douglas, Union President  
RE: City of Ecorse/EFFU, Local 684/Implementation Order/  
Effective 12/5/2011

Dear Union President Douglas:

Please consider this letter as Notice of My Decision on a Implementation Order. This will supersede the collective bargaining agreement which expired on June 30, 2011.

Pursuant to Public Act 4, I have the ability to make changes and reorganize. These are in addition to the previous reorganization memos issued on June 30, 2011 and August 8, 2011.

In those prior documents, the precarious economic status of the City was spelled out. The reason for the City's financial distress and the necessity of making the changes are readily apparent from those documents as well as all of the budgetary documents which existed prior to that time and which have been produced thereafter.

It was my sincere hope to be able to reach an agreement with the Union. It has become clear that the Union will not respond favorably to any voluntary agreement with the City.

Again, the present model of delivering services is unacceptable.

Pursuant to Section 19 of PA 4, I am authorized to take actions. The actions I am taking and the implementation memo are consistent with the Act. Under Paragraph (J), I am authorized to reject, modify or terminate one or more terms and conditions of an existing contract. In this case, your contract expired on June 30, 2011, but even if it had not, I would have the ability to act under this provision.

The City has had a multi-million dollar deficit annually. We are now on the verge of losing almost three years attempting to negotiate reductions in Police and Fire budgets to close this gap. The failure to approve a new agreement makes this order necessary.

Under Paragraph (K), we met and conferred with your bargaining unit and the Mediator on a multiplicity of occasions in addition to those set forth in my previous directions under Section 19. A tentative agreement and contract has been presented but it has not been acted upon. It is apparent there is no satisfactory resolution which will occur.

The Implementation Order attached is also necessary to take into account certain provisions of the hoped for Tentative Agreement which are not included in the Implementation Order.

If your position changes on the Tentative Agreement and the contract that was presented to you, please let the City know.

Thank you for your attention in this matter.

Joyce A. Parker, Emergency Manager  
City of Ecorse

This letter is significant in two respects. It is noted that the Firefighters' contract expired on June 30, 2011. Furthermore, Joyce Parker referenced the "multi million dollar deficit annually" which is true. She blames part of the deficit on her inability "to negotiate reductions in police and fire budgets to close this gap". This observation is critical in considering the financial situation at Ecorse.

For the year ending June 30, 2010, on general revenues of \$11.8 million, public safety, which included Police and Fire, amounted to \$5,223,000, or about 40% of the City's expenditures. After issuing the above letter, on December 2, 2011 Financial Emergency Manager Parker issued the following "Implementation Order of Document PA 4":

CITY OF ECORSE AND  
ECORSE FIRE FIGHTERS, LOCAL 684  
IMPLEMENTATION ORDER OF DOCUMENT PA 4  
December 2, 2011

*EFFECTIVE DECEMBER 5, 2011:*

1. The Implementation Order shall be effective for 2 years – July 1, 2011 to June 30, 2013.
2. City shall schedule the number of Firefighters it needs per day. No guarantee. The City has the right to schedule as needed, Part-Time, and/or Reserves as determined by the City. City may also recruit and utilize paid or unpaid volunteer Firefighters.

3. Should the City decide to subcontract, merge, share, consolidate or otherwise determine how Fire services will be continued and provided to the community, the City will discuss the impact of that decision with the union. Final decision is to be made by the City of Ecorse.
4. The City will provide thirty (30) calendar day notice of layoffs.
5. Effective July 1, 2011 a \$1.00 per hour wage reduction for all Full Time Firefighters.
6. Eliminate EMT pay.
7. Effective July 1, 2011, the holiday pay article will be amended to reflect nine (9) holidays per year. (New Year's Day, President's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, and Veterans Day)
8. Hospital and Dental
  - A. The City shall provide all current employees and retirees HAP medical and dental coverage with \$100 ER/\$30 office visit and Rx Copays of \$5/\$25/\$50 with Step and Prior Authorization. City may adjust this further as needed.
  - B. All eligible retirees in this Bargaining Unit will be required to enroll in Medicare Part A and B at their expense.
  - C. Premium Sharing.

Employees will be required to pay through a payroll deduction 20% of their healthcare cost monthly.

Upon retirement, the member's actual value of premium share shall be locked at the rate imposed at date of retirement.
  - D. The City will have the right to move to self-insurance, wrap around plans and/or consolidating carriers as long as a similar level of coverage is provided.
  - E. To be eligible for retiree health insurance, a member must have 25 years of actual full-time service with the City's Fire Department and be age 55.

- F. The City will pay for the retiree and the spouse at the time of retirement only, for eligible members.
- G. Eliminate Retiree Healthcare for new hires. Effective July 1, 2011, the City shall implement a VEBA, Medical Health Plan, or Retirement Savings Account or other similar vehicle in lieu of the City of Ecorse Retiree Health Insurance.

The Employer shall contribute an amount equal to 1% of base wage into the plan. The employee may add an additional amount into the plan if authorized by the plan carrier.

- H. Health Care Opt-out: Change to read: The payment shall be quarterly rather than one time per year. Opt out is not available to employees who receive their medical coverage through the City.

- 9. Eliminate life Insurance for retired employees and the City shall provide life Insurance coverage only for active full time employees.

10. Pensions

- A. All employees will contribute 8% of their annual income on a bi-weekly basis as the Employee's contribution towards retirement.

Effective upon ratification, sick leave at retirement, cleaning and clothing allowance and food allowance will not be included In F.A.C.

- B. Add New Section for new hires:

“Effective upon implementation of this agreement, new hires will be in a hybrid plan under MERS or similar plan with a multiplier to be determined by the City which will not exceed 1.5% which will not be payable until age 55 with 30 years of service. Only base salary will be included in Final Average Compensation.”

- 11. Modify vacation schedule as follows:

After 1-7 Years	7 vacation days
After 8-14 Years	11 vacation days
After 14 Years	13 vacation days

12. Sick Leave change to four (4) 24 Hour days per year.
13. Comp Time – Reduce Cap to 216 Hours (9 days) (equal to one month)
14. All provisions of the previous expired contract which are in any way inconsistent with the above or prior Emergency Manager directives are no longer in effect.

Any provision in the previous, expired contract which in any way restricts the ability of the City to deliver services or it is alleged restricts the City's ability to utilize a different service model are eliminated. The City retains the full right to determine how it will deliver services, who will perform these services and whether, and if and how, the Fire Department will continue.

Thereafter, on December 7, 2011, Emergency Manager Parker issued the following Clarification:

CITY OF ECORSE  
AND  
ECORSE FIRE FIGHTERS, LOCAL 684  
IMPLEMENTATION ORDER OF DOCUMENT PA 4  
Originally Issued December 2, 2011  
Clarification and Modification Issued December 7, 2011

1. Item 8. A. is modified to read as follows:  
  
The City shall provide all current employees and retirees HAP medical coverage with \$100 ER/\$30 office visit and RX Copays of \$5/\$25/\$50 with Step and Prior Authorization. Dental Coverage is provided only to current employees. City may adjust this further as needed.  
  
The following is added to Item 8. A.:  
  
Bargaining unit employees who retire from service and are receiving a pension, and who are not yet Medicare eligible, shall be provided health care coverage under the same terms as active bargaining unit members. Those retirees who are Medicare eligible will receive a modified plan that is supplemental to Medicare coverage and will still be subject to the same co-pays and other restrictions as active employees.
2. Item 10. A. Beginning on page 3 is modified to read as follows:

Effective upon implementation of this Order and receipt of an actuarial report, sick leave at retirement, cleaning and clothing allowance and food allowance will not be included in F.A.C. At that same time the pension multiplier, after receipt of the actuarial, will also be reduced by .25%.

CITY OF ECORSE

Emergency Manager

DATE: December 7, 2011

The Chairman was advised that at the time of the implementation of these orders the City laid off all but six full-time Firefighters.

The significance of the implementation orders to the Police is that the specifics of the order represents the thinking of the Emergency Financial Manager as to the terms and conditions of any collective bargaining agreement with the Police. Because of the powers given the Emergency Financial Manager by virtue of Act 4 Public Acts of 2011, neither the Police nor this Chairman can ignore the specifics of these Fire Department implementation orders.

**The City's Proposal to the POAM**

By October 2011 during these 312 proceedings, the City made the following proposal which has now become the City's Last Best Offer:

**CITY OF ECORSE And POLICE OFFICERS ASSOCIATION OF MICHIGAN Union Contract Negotiations-City's proposal dated October 10, 2011**

(All contrary contract language will be deleted.)

1. Contract to cover July 1, 2011 to June 30, 2013.
2. City has right to schedule officers as needed. City may schedule Full Time and Part Time Officers at its sole discretion. All claims of guaranteed rank, number of career Police Officers or any restrictions on the ability of the City to determine the size and complement of the workforce will be eliminated.

3. Should the City decide to subcontract, merge, share, consolidate or otherwise determine how Police services will be continued and provided to the community, the City will discuss the impact of that decision with the union. Final decision is to be made by the City of Ecorse.
4. The City shall decide the number and rank of command officers needed to operate the department, shift assignments, and the length of shifts. The City may provide coverage through a combination of full and part time employees at the City's discretion.
5. Delete Article 55, Maintenance of Conditions. (page 49))
6. The City to provide 30 day notice of layoffs.
7. City may employ sworn police officers who are part-time.
8. Add the following to Section 26.1 - Adopt by reference any terms and conditions imposed by the State of Michigan, the Department of Treasury, Act 4 or any other regulation or law adopted by the State of Michigan prior to or during the term of the contract.
9. The City proposes effective July 1,2011 a \$1.00 per hour wage reduction.
10. City would not change Section 32.1 Gun Allowance.
11. Effective July 1, 2011, the holiday pay article will be amended to reflect only nine (9) holidays per year. (New Year's Day, Martin Luther King Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day.)
12. Hospital and Dental
  - A. The City shall provide all employees and retirees HAP medical and dental coverage with \$100 ER/\$30 office visit and Rx Co pays of \$ 5/\$25/\$50 with Step and Prior Authorization. City may adjust this further as needed.
  - B. All eligible retirees in this Bargaining Unit will be required to enroll in Medicare Part A and B at their expense.
  - C. Premium Sharing

Employees will be required to pay through a payroll deduction 20% of their healthcare cost monthly.

- D. The City will have the right to move to self-insurance, wrap around plans and/or consolidating or changing carriers. Upon execution of contract, these provisions regarding health care will become the basis of comparison with any other option. From this base, the City will agree to provide substantially similar coverage.
- E. To be eligible for retiree health insurance, an individual must have 25 years of actual service with the City's Police Department.
- F. The City will pay for the retiree and the spouse at the time of retirement, for eligible members.
- G. Eliminate Retiree Healthcare for new hires.
- H. Section 35.5

Change to read: The payment shall be quarterly rather than monthly. Opt out is not available to employees who receive their medical coverage through the City.

- I. Should hospitalization and medical care benefits provided to active employees as defined in this Article change in this contract and future contracts as defined by this Article change in this contract and future contracts, then hospitalization and medical care benefits provided for retirees who shall also be changed to the same hospitalization and medical care benefits coverage provided to active employees. Should hospitalization and medical care benefits coverage provided to active employees cease for any reason, the insurance last covering the retirees will remain in effect.
- 13. Eliminate life insurance coverage for retiree employees. Provide life insurance coverage only for active full time employees. The City and the Union will review life insurance plans together.
  - 14. Pensions
    - A. All employees will contribute 8% of their annual income on a hi-weekly basis as the Employee's



contribution towards retirement. Exclude sick leave payout, clothing & cleaning allowance, and standby pay from the Final Average Compensation. Multiplier will be reduced to 2.25%.

B. Add New Section for new hires:

“Effective upon implementation of this agreement, new hires will be in a hybrid plan under MERS or another plan chosen by the City with a multiplier to be determined by the City which will not exceed 1.5% which will not be payable until age 55 with 30 years of service. Only base salary will be included in Final Average Compensation. If rehired as Full Time employees Officers Johnson and Hugley would be exempt from this plan and would continue with the MERS plan currently in effect.

15. Modify vacation schedule as follows:

After 1 Year	7 vacation days (no change)
After 2 Years	14 vacation days (no change)
After 10 Years	20 vacation days (reduced from 28 days)

16. “Flex days which are not based for illness will only be granted if they do not result in overtime. Approval will be at the sole discretion of the Public Safety Director or his/her designee.”

17. Sick Leave reduced from 8 days per year with accumulation up to 40 days to 6 days per year with accumulation up to 30 days. (Article 42.1, page 25)

18. Duration – Modify to reflect contract expires June 30, 2013. All other language will be deleted. (Article 57.1, page 50)

Contract will be rewritten to reflect the above changes and to eliminate or clarify any language which is not accurate. All contrary language to the statutory language regarding the rights of an Emergency Manager will be deleted.

The Employer reserves its rights to amend, add to or modify its position during the course of bargaining.

19. Following tentative agreement on October 11, 2011, the contract as modified is to be ratified within 10 calendar days.

Significantly, this proposal tracks the implementation order with the Firefighters.

### **The POAM Offer**

The Police Officers Association of Michigan has resisted the October 10, 2011 proposals from the City set forth above, which has become the City's Last Best Offers. Yet, there is a point of realism. Act 4 is there to be read. Emergency Financial Manager Parker has exercised her rights under Act 4 with the Firefighters which in effect sets forth the provisions of the Last Best Offer of the City to the Police. It is conceivable that if a majority of the Panel does not come up with a plan similar to the Last Best Offer of the City, the City will, through Emergency Manager Parker, ignore any Award of the Panel and implement the terms of the Last Best Offer. Under these circumstances, the POAM has come up with a plan that has intrigued the Chairman.

POAM has suggested that the City merge the Police and Fire Departments into one Public Safety Department with cross-training; that the training will result in Public Safety Officers who would work 12 hour shifts, 42 hours per week, and, after discussion with the Panel Chairman, who so urged, the Public Safety Officers would be paid on the basis of working 2,080 hours a year during the life of the Agreement, though in fact assigned to work 2,184 hours a year. It was also explained that, for the purposes of computing overtime, the annual salary will be divided by 2,080 hours. Public Safety Departments are now new to Michigan. And the method of paying Public Safety Officers for time worked, as set forth above, was adopted currently in Oak Park where there is a Public Safety Department. There are Public Safety Departments in other communities such as the Grosse Pointes and, many years ago, the City of Kalamazoo converted to a Public Safety Department. Since Manager Parker has declared the Fire collective bargaining agreement no longer existing and has implemented changes, there is no negotiating impediment

to adopting the POAM's proposal of a Public Safety Department. Indeed, Ecorse Chief of Police Gerald Champagne, when Chief of Police in Van Buren Township, had a Public Safety Department and is familiar with such a Department's operation and is ideal to facilitate such a change.

The Chairman has also been advised that funds have been acquired from the State to provide for the necessary Public Safety training and that the training can be commenced forthwith. Therefore, the Chairman would join with the POAM Delegate and direct that the City implement a Public Safety Department program which would require all current Police Officers to be cross-trained and that after being cross-trained a 12 hour shift would be implemented. The details as to implementation and the order of training should be worked out between the parties with the parties agreeing to submit any disputes concerning same on an expedited basis to a pre-chosen neutral who shall have 48 hours to issue a decision, if that be needed.

During the discussion with the Chairman, the POAM suggested that the Chairman serve as the neutral to resolve disputes and the City has no objection to this proposal. The POAM, as part of the proposal, recognized that the implementation of the Public Safety Department and the training will occur during the life of the Agreement and will be implemented as soon as practical.

As part of the mix, there is the possibility that at some point there may be a consolidation or merger with the City of River Rouge Police and Fire Departments in a Public Safety mode. This is the reason that the Chairman will opt for in particular Paragraph 3 of the City's Offer concerning merger and consolidations. The Chairman also notes that, pursuant to Act 152 of Public Acts of 2011, public bodies are required to provide for employee contributions to health care. The City's proposal is consistent with Act 152. The provisions as to pension contributions

as proposed by the City and the provisions as to new employees, pensions and retiree health care are consistent with the City's need to revamp its finances, except that the Chairman believed that the contribution to pensions by current employees should be 5% rather than the proposed 8%. POAM had proposed no increase in the contribution. After discussing the matter with both the POAM and City Delegates, the City Delegate reluctantly, knowing that the Chairman would not agree to an 8% contribution and could very well opt for no increase in contribution, agreed to a 5% contribution which the Chairman agreed to vote for

There was a proposal to reduce sick days by the City which POAM objected to. The Chairman agreed with POAM on this point and will accept the POAM's Last Best Offer and make no Award changing the leave provisions in the contract.

The proposed duration by the City is that the contract begin July 1, 2011 because when expiring on June 30, 2013, which is not too far off, it would seem by that time the City's finances can be stabilized, the deficit eliminated and, if not, the parties can again revisit the situation. Furthermore, Public Safety will be in place and perhaps if there is going to be a relationship with River Rouge, that will be resolved or implemented. POAM did not object to the duration of the contract, but believed that the contract should not be retroactive and, therefore, proposed a January 1, 2012 - June 30, 2013 duration. The Chairman agreed that the contract should not be retroactive and opted for the POAM duration proposal with the City Delegate dissenting.

With the City Delegate dissenting and the POAM Delegate concurring, the Chairman rejects the City's \$1.00 reduction in pay. Though POAM has made an offer to restore certain Command Officers to their previous salary or promotions, which the Chairman rejects with the City Delegate's concurrence as part of the overall financial picture, the Chairman believes that

with the reorganization and establishing a Public Safety Department the City can provide Police and Fire service at a substantially less cost than previously without reducing the hourly wage of Police Officers involved. For this reason, the Chairman, joined by the POAM Delegate, would reject City Offer 8 and keep the *status quo* as to wages and the hourly rate during the life of the contract based upon annual current salary divided by 2,080 hours.

POAM has proposed a new provision, namely:

Up to four officers may be allowed to buy up to three years of time at 50% of the required amount and the City paying 50% subject to review and approve by MERS and completion of state required actuarial study. When command officers retire, the three officers who were demoted rank will be restored contingent on settling all claims by these officers with no payment of back pay.

The City Delegate objects to such a provision. However, the Chairman believes that the proposal is reasonable and not inconsistent with the City's financial difficulties. For this reason, with the City Delegate dissenting, the Chairman, joined by the POAM Delegate, will adopt the above described pension provision.

#### **Comment**

This is an Act 312 Award announced against a background of a City entity having an appointed Emergency Financial Manager with the right to terminate or eliminate provisions of a collective bargaining agreement. Thus, the Act 312 Panel under the circumstances does not have the flexibility that might exist in other situations in applying the criteria. The saving grace in this matter is the need to save jobs. This is what the Award that follows provides and is supported in each case by a majority vote with the City's Delegate joining with the Chairman in adopting the City's proposals except as otherwise noted in this Opinion. As to the City's proposals that the Chairman has rejected, the POAM Delegate has concurred with the Chairman with the City's

Delegate dissenting. As to the POAM proposals that the Chairman has accepted, the POAM Delegate concurs with the City Delegate dissenting.

As to the provisions for Public Safety and 12 hour shifts, the Panel is in unanimous agreement.

### A W A R D

1. The City of Ecorse shall cross-train all members of the Police Department to perform Fireman duties and to reclassify these members as Public Safety Officers; that upon said training the City shall implement a Public Safety schedule of 12 hour shifts, 42 hours per week, with the Officers being paid on the basis of working 2,080 hours a year during the life of this Agreement, though in fact assigned to work 2,184 hours a year. Disputes as to implementing the Public Safety program shall be submitted to George T. Roumell, Jr., who shall issue his opinion within forty-eight (48) hours of submission.

2. For purposes of computing overtime, the annual salary will be divided by 2,080 hours.

3. The implementation of the Public Safety Department will occur during the life of this Agreement and will be implemented as soon as practical.

4. Contract shall cover January 1, 2012 to June 30, 2013.

5. City has right to schedule officers as needed. City may schedule the number of Full Time and Part Time Officers at its sole discretion. All claims of guaranteed rank, number of career Police Officers or any restrictions on the ability of the City to determine the size and complement of the workforce will be eliminated.

6. Should the City decide to subcontract, merge, share, consolidate or otherwise determine how Police services will be continued and provided to the community, the City will discuss the impact of that decision with the union. Final decision is to be made by the City of Ecorse.

7. The City shall decide the number and rank of command officers needed to operate the department, shift assignments, and the length of shifts. The City may provide coverage through a combination of full and part time employees at the City's discretion.

8. Delete Article 55, Maintenance of Conditions. (page 49))

9. Up to four officers may be allowed to buy up to three years of time at 50% of the

required amount and the City paying 50% subject to review and approval by MERS and completion of state required actuarial study. When command officers retire, the three officers who were demoted rank will be restored contingent on settling all claims by these officers with no payment of back pay.

10. The City to provide 30 day notice of layoffs.

11. City may employ sworn police officers who are part-time.

12. Add the following to Section 26.1 - Adopt by reference any terms and conditions imposed by the State of Michigan, the Department of Treasury, Act 4 or any other regulation or law adopted by the State of Michigan prior to or during the term of the contract.

13. There shall be no change in wages during the life of the agreement. Previous reduction in wages will not be restored.

14. City will not change Section 32.1 Gun Allowance.

15. Effective January 1, 2012, the holiday pay article will be amended to reflect only nine (9) holidays per year. (New Year's Day, Martin Luther King Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day.)

16. Hospital and Dental

A. The City shall provide all employees and retirees HAP medical and dental coverage with \$100 ER/\$30 office visit and Rx Co pays of \$ 5/\$25/\$50 with Step and Prior Authorization. City may adjust this further as needed.

B. All eligible retirees in this Bargaining Unit will be required to enroll in Medicare Part A and B at their expense.

C. Premium Sharing

Employees will be required to pay through a payroll deduction 20% of their healthcare cost monthly.

D. The City will have the right to move to self-insurance, wrap around plans and/or consolidating or changing carriers. Upon execution of contract, these provisions regarding health care will become the basis of comparison with any other option. From this base, the City will agree to provide substantially similar coverage.

E. To be eligible for retiree health insurance, an individual must have 25

years of actual service with the City's Police Department.

- F. The City will pay for the retiree and the spouse at the time of retirement, for eligible members.
- G. Eliminate Retiree Healthcare for new hires.
- H. Section 35.5

Change to read: The payment shall be quarterly rather than monthly. Opt out is not available to employees who receive their medical coverage through the City.

- I. Should hospitalization and medical care benefits provided to active employees as defined in this Article change in this contract and future contracts as defined by this Article change in this contract and future contracts, then hospitalization and medical care benefits provided for retirees who shall also be changed to the same hospitalization and medical care benefits coverage provided to active employees. Should hospitalization and medical care benefits coverage provided to active employees cease for any reason, the insurance last covering the retirees will remain in effect.

17. Eliminate life insurance coverage for future retiree employees. Provide life insurance coverage only for active full time employees. The City and the Union will review life insurance plans together.

18. Pensions

- A. All employees will contribute 5% of their annual income on a bi-weekly basis as the Employee's contribution towards retirement. Exclude sick leave payout, clothing & cleaning allowance, and standby pay from the Final Average Compensation. Multiplier will be reduced to 2.25% for all future years of service.

- B. Add New Section for new hires:

“Effective upon implementation of this agreement, new hires will be in a hybrid plan under MERS or another plan chosen by the City with a multiplier to be determined by the City which will not exceed 1.5% which will not be payable until age 55 with 30 years of service. Only base salary will be included in Final Average Compensation. If rehired as Full Time employees Officers Johnson and



Hugley would be exempt from this plan and would continue with the MERS plan currently in effect.

19. Modify vacation schedule as follows:

After 1 Year	7 vacation days (no change)
After 2 Years	14 vacation days (no change)
After 10 Years	20 vacation days (reduced from 28 days)


20. "Flex days which are not based for illness will only be granted if they do not result in overtime. Approval will be at the sole discretion of the Public Safety Director or his/her designee."

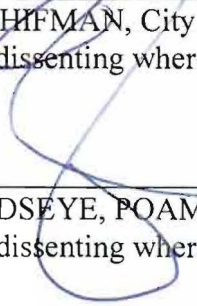
21. Duration – Modify to reflect contract expires June 30, 2013. All other language will be deleted. (Article 57.1, page 50)

Contract will be rewritten to reflect the above changes and to eliminate or clarify any language which is not accurate. All contrary language to the statutory language regarding the rights of an Emergency Manager will be deleted.

22. Delete provisions of contract inconsistent with this Award.

  
\_\_\_\_\_  
GEORGE T. ROUMELL, JR., Chairman

  
\_\_\_\_\_  
HOWARD L. SHIFMAN, City Delegate,  
concurring and dissenting where indicated

  
\_\_\_\_\_  
WILLIAM BIRDSEYE, POAM Delegate,  
concurring and dissenting where indicated

December 21, 2011