

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 EASTPOINTE

-and-

MERC Case No. D12 A-0028

COMMAND OFFICERS ASSOCIATION
OF MICHIGAN

ARBITRATION PANEL OPINION AND AWARD

**George T. Roumell, Jr., Chairman
Howard L. Shifman, City Delegate
James Tignanelli, COAM Delegate**

APPEARANCES:

FOR THE CITY OF EASTPOINTE:

Howard L. Shifman, Attorney
Steve M. Duchane, City Manager
Michael A. Lauretti, Police Chief
Randall Blum, Finance Director
Peter Hayden, Management Analyst Intern

**FOR COMMAND OFFICERS
ASSOCIATION OF MICHIGAN:**

William Birdseye, Business Representative
James Tignanelli
John T. Barr, Research Analyst
Kevin Loftis, Research Analyst
Tom Ostrowski, COA President
Jason Gibson, COA Vice President
David Ernatt, COA Secretary

On March 22, 2012, the Command Officers Association of Michigan, representing a bargaining unit consisting of "all Corporals, Sergeants, Lieutenants and Deputy Chiefs in the Police Department of the City of Eastpointe" filed for compulsory arbitration pursuant to Act 312 of Public Acts of 1969. The contract expiration date was stated to be June 30, 2010. The number of employees in the unit were 13.

From the Command Officers Association of Michigan's viewpoint, the issues in dispute are duration, wages and sick time accrual payout. George T. Roumell, Jr. was appointed as the neutral Arbitrator, Howard L. Shifman was appointed as the City Delegate, James Tignanelli was appointed as the COAM's Delegate.

A pre-arbitration meeting was held on July 10, 2012 with the respective bargaining teams, Panel members and representatives. At that time, the City indicated that it was drawing on reserves in order to finance its operations and was formulating its bargaining positions accordingly. This position caused the bargaining unit to resist some proposals being made. There had been extensive bargaining as well as mediation.

The Chairman engaged in discussion with the parties. The Chairman notes that 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.

The Chairman indirectly discussed this criteria with the parties. There was also another factor. The Police Officers in the Department had also filed for 312 arbitration. Another neutral arbitrator had been selected and dates for a hearing had been selected and were pending. It was recognized that at least in the past there was some ratio between the Officers' wages and the Command salaries.

After much discussion, with some input from the Chairman, and considering the criteria, the following Award was arrived at which is the Stipulated Award of the Panel and is binding on the Union and the City. In the view of the Chairman, the Award applies the statutory criteria and represents the art of the possible.

A W A R D

1. **Duration** - 4 years.

July 1, 2010 - June 30, 2014

2. **Article VI - Longevity**

A Me Too clause on the longevity issue with the Patrol Bargaining Unit. The resolution of the longevity issue whether by decision or settlement in the Patrol case before Arbitrator Mario Chiesa will determine the longevity in this Bargaining Unit for the contract period. The longevity provisions in this Bargaining Unit will be adjusted accordingly.

3. **Article VIII - Holiday Pay**

Effective July 1, 2012, the number of paid holidays per year will be reduced from fourteen (14) to ten (10). This will include a reduction in the lump sum payment and the

elimination of the overtime payment on the days eliminated.

4. Article X - Insurance

For active Employees and retirees effective upon issuance of this Award.

A. Community Blue 4 including:

- \$500 (single) / \$1,000 (couple/family) deductible
- Preventative care 100% with Health care reform rider and coinsurance at 80% in network with annual employee maximum of \$1,500 (single) / \$3,000 (couple/family)
- \$20 office visit
- \$150 emergency room
- \$20 urgent care
- Closed formulary Rx \$5 (generic) / \$40 (preferred brand) / \$80 (non-preferred brand), Mail Order Prescription Drug 90 day supply with 2 month copy (MOPD2)
- Should prescription drug benefits provided to employees change in future contracts, then prescription drug benefits provided for eligible retirees retiring on or after 7/01/2012 shall also be changed to the same prescription drug coverage provided to active employees. Should prescription drug coverage provided to active employees cease for any reason, the prescription drug coverage last covering the retiree will remain in effect.
- The Hard Cap will be instituted. Employees will be responsible for any amounts in excess of the annual maximums cap for single, two-person or family under PA 152.

B. Eliminate all HMO options

C. Retiree Healthcare:

- 1 To be eligible for retiree healthcare an individual must be age 50 with 25 years of service with the City of Eastpointe. This is actual service credit.
- 2 To be eligible, the spouse must be the spouse at the time of retirement.
- 3 Retirees must enroll in Medicare Parts A and B when they become eligible, at the retiree's sole expense.
- 4 The only exception to the eligibility rule in 1 above will occur under circumstances where the City abolishes its Police Department. In order to be eligible for any portion of this benefit in this lone circumstance, the employee must have a minimum of 20 years of service with the City of Eastpointe. The employee will be eligible for retiree healthcare under these circumstances and the City will pay 80% of the premium for 20 years of service, and 4% for each year of service thereafter until 25 years is reached.

- D. Self Insure or wrap all medical plans at the City's sole discretion.
- Effective as soon as practical after issuance of this Award, establish Cafeteria Plan Section 125 for qualified medical expenses compliant with all IRS regulations for employees to contribute money on a pre-tax basis up to a limit set by the employer in compliance with IRS regulations and Health Care Reform. No City contribution.
 - New members in this unit following issuance of this Award shall have the same entitlement to retiree healthcare, or lack thereof, they had prior to joining this unit unless the patrol benefit is greater.

5. **Article XIV - Salary**

- A. Me Too clause on the wage issue with the Patrol Bargaining Unit. The resolution of the wage issue whether by decision or settlement in the Patrol case before Arbitrator Mario Chiesa will determine the wages in this Bargaining Unit for the contract period. The wage rates in this Bargaining Unit will be adjusted accordingly.
- B. Reflect elimination of the rank of Corporal.

6. **Article XV - General Provisions**

A. PENSIONS

- Increase employee contribution to minimum 5% effective upon the first full pay period following issuance of this Award.
 - The Employer's cap on pension contributions shall be 25%: Members will also be responsible for all amounts in excess of the cap.
- B. The City may elect to transfer pension administration to the Michigan Employees Retirement System (MERS) maintaining benefits comparable to those currently provided to members by the Eastpointe Pension System.
- C. New members in this unit after issuance of this Award will bring the pension benefits they had prior to joining this Bargaining Unit unless those benefits are greater than those provided to members of the Command Unit.

7. **Article XVII - Miscellaneous Provisions**

Section (c) - Eliminate tuition and books reimbursement.

8. **New Article - Armed Forces Reserves**

A maximum of two (2) weeks paid leave per year shall be the limit, and the City shall comply with all applicable laws for all other situations.

9. All necessary statutory language will be placed in the Contract.


GEORGE T. ROUMELL, JR., Chairman


HOWARD L. SHIFMAN, City Delegate


JAMES TIGNANELLI, COAM Delegate

July 17, 2012