

2445

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

ACT 312, PUBLIC ACTS OF 1969, AS AMENDED

CITY OF GROSSE POINTE,

Employer,

and

MERC Case No. L12-C-0156

GROSSE POINTE PUBLIC SAFETY
OFFICERS ASSOCIATION (POAM),

Union.

ACT 312
OPINION & AWARD

CHAIRMAN: EUGENE LUMBERG, ESQ.
CITY DELEGATE: DENNIS DuBAY, ESQ.
POAM DELEGATE: KEVIN LOFTIS

AWARD DATE: 3/21/13

CHRONOLOGY

The last Collective Bargaining Agreement between the parties was for a period from July 1, 2009 to June 30, 2011. Bargaining sessions were held and a mediation session was held. The parties failed to reach an agreement.

The Public Safety Department (POAM) has been working without a Contract since July 1, 2001. The new Contract would become effective as of July 1, 2011 and expire on a date to be determined by the Arbitration Panel. The City has requested that the date of Arbitration Award should control.

The Act 312 Petition was filed by the City of Grosse Pointe on June 19, 2012.

A Chairman was appointed by the Commission on July 12, 2012.

The parties had one (1) session of mediation with a MERC Mediator. After discussing whether not to return to mediation both parties agreed that there would not be any benefit to returning to mediation.

The issues to be arbitrated cover all PSO's, full-time and part-time dispatchers.

All Exhibits were admitted and are hereby made a part of the final arbitration award.

The City submitted 116 Exhibits, plus Contracts for the comparables.

The Union submitted 5 Exhibits.

A Pre-Hearing Conference was held on July 25, 2012.

The Hearings were held at the City of Grosse Pointe as follows:

- October 11, 2012
- October 18, 2012
- October 25, 2012
- October 30, 2012

Exhibits were submitted by both parties and hereby made a part of the record and a part of this Award.

Best Final Offers were submitted prior to the beginning of the Hearings and Proposed Findings of Fact and Conclusions of Law were submitted subsequent to the close of the Hearings.

The panel met on January 15, 2013 and rendered its Opinion on 3/21/13

BACKGROUND

The City of Grosse Pointe is located in Wayne County, Michigan and borders the *City of Detroit*. It is a City of approximately 1.07 square miles (See City "Exhibit 25") and having an approximate population of 5,400 (See City "Exhibit 24"). The City is ranked 4th in population of the comparables stipulated to. It has a Public Safety Department consisting of 13 full-time Public Safety Officers, 2 full-time Dispatchers and

3 part-time Dispatchers. Public Safety Officers are cross-trained as Police Officers and Fire Fighters. "Exhibit 26" indicates that the City is ranked 4th in taxable value of the comparables. "Exhibit 28" indicates that the City ranks 3rd in per capita income. "Exhibit C-27" ranks the City 3rd as to per capita taxable value, 5th in median income ("City Exhibit 30") and 2nd in median family income ("City "Exhibit 31").

The employees of the Department of Public Safety in Grosse Pointe are on twelve (12) hour shifts. There are two (2) day shift units and two (2) night shift units. Each unit has five (5) Officers per shift which include Command Officers. They work a two (2) week time-table. As they work an 84 hr. period in two (2) weeks they work an extra 104 hrs. per year.

Road Patrol consists of thirteen (13) PSO's. *See* City "Exhibit 12"

The Public Safety Organizational Chart was admitted. *See* City "Exhibit 13"

The City contracts with Beaumont Hospital to provide EMS services. The Public Safety Department has a total of twenty-three (23) employees, including the Director. *See* City "Exhibit 14"

PSO's are dispatched to the scene of emergency medical matters, although they do not provide emergency care, per se. They do carry CPR equipment and are trained in CPR and basic first aid treatment.

Kimberly Kleinow, Financial Director and Treasurer of the City of Grosse Pointe, testified. City "Exhibit 15" which is a Seniority List of all full-time City employees was admitted. Ms. Kleinow testified that the Public Works Department is creating a Union. *See* City "Exhibit 16"

The Command Officers signed a two (2) year contract in November, 2011. *See* City "Exhibit 17"

Ms. Kleinow further testified that the City and the PSO's agreed to change their health care effective January 1, 2012 to adhere to the new State requirements of hard cap limits. *See* City "Exhibit 20"

The PSO's, in an effort to avoid having to pay premiums for health care, accepted a "lesser benefit." They agreed to change the deductible wherein the City used to pay 75% of the \$4,000 deductible the City now pays 50%.

The next witness to testify was Debbie Hooper, Assistant to the City Labor Unit Attorney.

Ms. Hooper testified as to certain Exhibits. Those Exhibits deal with ranking the comparable communities as to density, population, taxable value, per capita taxable value, per capital income and median household income.

The Exhibits started at City "Exhibit 24" through City "Exhibit 31"

The purpose of these Exhibits was to demonstrate the ability of the City to pay, as well as the status of the comparables.

Testimony was received by Kimberly Kleinow that, by law, the City must approve an Annual Balanced Budget. City "Exhibit 32" is the Financial Report for the year ending June 30, 2011 and is pertinent for the position that the City can use funds from the General Fund Balance for primary operation of the City. They can not use funds which are ear-marked as Special Revenue Funds and for roads, sewers, sidewalks, etc. Those funds can only be used for those projects and not for general funding of the City operation.

The primary source of income for the City is:

1. Property taxes, as controlled by Hedley and Proposal A;
2. Drug forfeiture monies, which must be spent on drug-related training and patrolling for drug activity by the Public Safety Department;
3. Building Permits;
4. Revenue Sharing Funds from the State; and
5. Gasoline taxes.

City "Exhibit 35" was admitted being the Annual Budget adopted by the Grosse Pointe City Council on July 1, 2012 through June 30, 2013.

Testimony was given that, pursuant to good business accounting practices according to the Michigan Government Finance Officers and the Municipal League, the City should maintain a fund of approximately 15-20% for use in emergencies.

Testimony was received that there has been a reduction in property values for the past several years and it is predicted that there will be an additional reduction of

approximately 3% next year. The City predicts a “flattening” of property values for the next several years, and, hopefully, an increase in 2016/2016. Their predictions apply to both residential and commercial values, as well as personal property values. The City notes that the State wishes to eliminate personal property taxes.

Revenue Sharing from the State this year was approximately \$422,000. The City expects that to remain unchanged for the next five (5) years. They expect that license and permitting would start to increase when values start to increase on residential and commercial properties.

If spending is not curbed, the City would have to utilize the Fund Balance, which they do not wish to do. They expect investment income to remain steady at 2.5% for the next five (5) years. They also expect health care costs to increase by 3.5% per year. Other costs for employees are expected to increase by 2%, i.e. non-salary benefits, life insurance, pension contributions, etc.

The City bases their five (5) year budget upon a 0% wage increase for the next five (5) years for all employees, beginning with the City Manager down to the newest employee.

The City presently collects approximately \$80,000 per year in personal property taxes, which the Governor is proposing to eliminate. However, there may be an alternative tax to that proposed by the Governor.

In 2008/2009 total revenues for the City were \$7.3 Million Dollars. They expect the revenues to decline by 2013/2014 to slightly more than \$5 Million Dollars, or a decline of 33% percent over the last six (6) years. Most of this is due to the decrease in property tax values and revenue sharing. The City, in an effort to save money, eliminated a crossing guard. The saving were minimal, but a savings nevertheless.

City “Exhibits 38 - 42” were admitted which demonstrate the percentage of the Budget allocated to each department; the Budget Operating Expenses for 2012/2013; Budget Reviews for 2010/2013 and Preliminary Five (5) Year Financial Projections.

The Unrestricted Fund Balance Reserve is \$1.065. If they are spent then good accounting practices mandate that they be replenished. There have been contributions into the Pension Fund out of the General Fund in order to satisfy the actuarial projections. Payroll represents approximately 70% of the City expenses.

The actuaries claim that contributions will need to rise in the future to meet the pension requirements. The City is required to contribute the actuarially determined amounts to be in compliance with State Law. In addition, the City must maintain and fund the Retiree Medical Plan.

City "Exhibit 46" lays out the cost of one (1) Public Safety Officer. It takes five (5) years for a Public Safety Officer to get to the maximum. The maximum in straight salary time is \$63,204 per year. In addition to that they receive COLA, longevity and overtime. The average overtime for an Officer is approximately \$8,600 per year. In addition they receive \$400 reimbursement for uniform allowance. Taking everything into consideration, the total cost of the Officer at maximum seniority level is approximately \$116,000 per year.

COMPARABLES

Both parties stipulate to the following comparables:

1. Grosse Pointe Shores
2. Grosse Pointe Woods
3. Grosse Pointe Park
4. Grosse Pointe Farms

ABILITY TO PAY

Act 312 of the Public Acts of 1969, by 2011 establishes compulsory arbitration of labor disputes in Police and fire departments. Section 9 of Act 312 is to be followed by arbitration panels in making its awards. Section 9 reads as follows:

- (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 141.531, 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 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 State Legislature intended that a Act 312 Panel should give priority to the financial ability of the unit of government to pay. Exhibits as to the issue of ability to pay begin at City "Exhibit 32."

DISCUSSION RE:
ABILITY TO PAY

City Manager, Peter Dame, who has been the City Manager for the past five (5) years, testified as follows:

- The financial position of the City has decreased drastically since has been City Manager due to the global and local financial situation.
- There have been reductions in the budgets every year.
- Taxable values of homes have dropped.
- Revenue sharing from the State has dropped.
- The gas tax paid back to the City has dropped. The gas tax is typically used for road improvements. The City has had to transfer \$200,000.00 from the general fund to the fund used for road maintenance.
- The assessed value of the property in the City has decreased by 50% creating a 20% decrease in property taxes.

- Revenue sharing is approximately \$200,000.00 less now than it was before the downturn in the economy. *See City "Exhibit 34"*

Fees for services have declined, i.e. Building Permits are down approximately \$75,000.00 per year and investment income due to market conditions is virtually non-existent (*See City "Exhibit C-36" and "Exhibit C-37"*).

Every department has made some concessions to the City and their budgets have decreased over the past several years, along with cuts in service. The City is using less seasonal and part-time workers as well. The Public Safety Department has fallen from 26 sworn Officers to 23 sworn Officers.

The Pension Fund which had been over-funded is now under-funded due to the market crash. The City now must contribute \$160,000.00 to make up the shortfall and bring it to 100% funded along with the general fund contribution.

The Retiree Medical Care Fund has been taken out of the general fund and put into a Medical Shared Trust.

The City is 90% residential – 10% commercial. While the values of homes have dropped, there is still a good market in the City for homes. The City paints a bleak picture as to commercial property.

The City has a Capital Fund which has approximately 3 Million Dollars in that fund for road, sidewalk and other improvements. That money can be moved into the General Fund pursuant to the testimony of the witness. In addition the City wishes to maintain approximately 15% in reserve of each year's budget. The Reserve currently has approximately \$1,090,000.00. This reserve is resultant of the State Guidelines for cities for maintenance of a reserve for emergencies, et al.

The ability of the City of Grosse Pointe to meet the costs of any proposal as set forth by the parties is based upon its ability to pay as to economic issues.

The City contends that, based upon revenues that are available and a decrease in property values and revenue sharing from the State of Michigan, it is unable to fund the current Contract.

ISSUES

The City submitted twenty-three (23) issues to be decided by the panel, but withdrew two (2) of its issues. The remaining issues to be decided are as follows:

- | | | |
|-----|--|-------------|
| 1. | Duration | Joint Issue |
| 2. | Use of Non-Unit Employees | City Issue |
| 3. | COLA | City Issue |
| 4. | Longevity | City Issue |
| 5. | New PSO Hires/Salary | City Issue |
| 6. | Shift Leader | City Issue |
| 7. | Retiree Health Insurance | City Issue |
| 8. | City Option to Institute PPO Time | City Issue |
| 9. | Compensatory Time | City Issue |
| 10. | Court Officer | City Issue |
| 11. | Holidays | City Issue |
| 12. | Revenue Sharing | City Issue |
| 13. | Merger or Consolidation of Departments | City Issue |
| 14. | Scheduling Off Time in Excess of
2,080 Hours | City Issue |
| 15. | Reduction of Vacation, Sick
& Personal Time Banks | City Issue |
| 16. | FAC | City Issue |
| 17. | Dispatchers Overtime | City Issue |
| 18. | Shift Picks | City Issue |
| 19. | Vacation | City Issue |
| 20. | Workmen's Compensation | City Issue |

*** Note: The issues that were presented as follows (by the parties, rather than by the City or Union)

POSITION OF THE PARTIES

As to the issues, the Union's Last Best Offer is as follows:

Issue 1 – Duration (Economic Issue).

See City "Exhibit C-61" and City "Exhibit C-62"

- The Union is asking for a 3 year bargaining agreement from July 1, 2011 through June 30, 2014.
- The City is asking that the Contract to terminate on June 30, 2013.

Discussion

The City points out that the Command Officer signed a three (3) year Contract. See City "Exhibit C-62" which expires in 2013. They are desirous of having the PSO Contract expire at the same time. The comparables in City "Exhibit C-61" indicate that a three (3) year Contract is standard.

The City points out that there may be a possible merger in the future with Grosse Pointe Park, in which case the City would like the Contract to not only coincide with the end date of the Command Officers, but be of a shorter duration to facilitate any such merger.

Decision: The panel finds that the POAM's position of a three (3) year contract to begin on July 1, 2011 and to expire on June 30, 2014 would be a proper length of time for a contract under the situation for the following reasons:

1. The contract effective the date of the Arbitration Award would have less than 1.5 years remaining; and

2. Any merger that may take place between the cities would probably take at least 1.5 years to complete as the cities are just beginning a study of the feasibility of such a merger.

Therefore the Panel finds for the POAM on this issue.

Issue 2 – Use of Non-Union Employees (Economic Issue)

- The Union offers to maintain the status quo.
- The City wishes to act a new Section to Article 28 – General Conditions to provide that the City shall have the right to utilize part-time, temporary or individuals under a Sub-Contract or Individual Employment Agreement to cover overtime or medical leave.

This issue covers the use of Contract, part-time or temporary individuals for the purposes of covering overtime and/or medical leave, only. See City “Exhibit C-63” and City “Exhibit C-64”

Discussion

The Director of Public Safety pointed out that by using part-time or Contract Officers to perform the duties for overtime of when other Officers are out on medical leave would save the City approximately \$78,000.00 per year, assuming that the part-time or Contract Officers are paid at the rate of \$18 per hour without benefits.

Decision: The Panel finds that the use of non-Union employees for an extended length of time where Officers are taking sick leave would be proper. It should be noted that the language in the Contract should include a definition of "extended length of time." That should be four (4) days or more. Further, the part-time Officers used should be certified in both Police and Fire duties.

Therefore, the Panel finds the City prevails in this issue.

Issue 3 – COLA (Economic Issue)

- The Union offers to maintain the status quo.
- The City wishes to eliminate COLA payments from the Contract and Appendix E.

Discussion

Presently, Officers hired subsequent to 7/1/09 do not receive COLA. Only Officers hired prior to 7/1/09 received COLA pursuant to the Contract in place at that time. The City wishes to discontinue COLA for all Officers. Said discontinuance of COLA would represent a \$14,000.00 annual savings for the City. *See* City “Exhibit 65”, City “Exhibit 66” and City “Exhibit 67”

The City presents its issue as to the cost of COLA for the present Officer and points out that Officers hired after 7/1/09 do not receive COLA. Upon review of the Exhibits and comparables it appears that the comparables still have COLA in their Contract. However, in view of the present ability to pay, this Panel finds that this issue should be awarded to the City and COLA payments should be suspended for the length of the Contract, only. This language shall coincide with the present Command Officers' Contract as to COLA.

Issue 4 – Longevity (Economic)

- The Union offers to maintain the status quo.
- The City wishes to revise longevity payments pursuant to its Exhibit reducing same.

Discussion

The City states that under its new Schedule there would be a savings to the City of \$3,100 per year.

Note: Union “Exhibit U-1” reflects that the Union ranks 3rd in longevity and the City’s Proposal would bring it down in the list of comparables.

Decision: This is an economic issue. The Union points out that the PSO's in Grosse Pointe rank 3rd in longevity. The ability to pay is an important factor.

The Panel finds that longevity is an important issue. In view of the fact presently the City ranks 3rd and a decrease in longevity would bring them further down the list of comparables, the Panel finds that the Union should prevail as to the issue of longevity. The present longevity schedule should be maintained.

The panel finds that the status quo shall be maintained and longevity is not to be changed. This issue is awarded to the POAM.

Issue 5 – New PSO Hires & Salary (Economic)

- The Union offers to maintain the status quo.
- The City wishes to amend the Contract and Appendix B to provide for a first-year starting rate of \$40,000 with incremental increases on a five year schedule to the top rate of pay.

Discussion

City witness, Hooper, testified as to the salaries of the comparables, which ranked the City of Grosse Pointe 4th. See City “Exhibit 48, 49, 52, 53, 54, 56, 57, 58 59 and 60”

The City is requesting no raises for the duration of the Contract.

The Union, based upon comparables, is requesting a 1% raise per year for the duration of the Contract.

The City wishes to establish a two-tier salary schedule with Officers hired subsequent to the date of this Arbitration Award to receive a scheduled starting rate of \$40,000.00 per year, with incremental increases on a five (5) year schedule to the top of the pay scale. See City “Exhibit 68”

Decision: This is an economic and ability to pay issue. It does not affect the present PSO's but rather new hires as of the date of the Arbitration Award.

Therefore, the Panel finds that the City should prevail in this issue.

Issue 6 – Shift Leader (Economic)

- The Union offers to maintain the status quo.
- The City wishes to add a new Section to Article 28 to provide as follows:

The City shall have the right to appoint a PSO to serve as lead on the shift when a Command Officer is not available. The PSO would serve as lead on the shift at his/her regular pay.

Discussion

This provision is not in the prior Contract which is expired. See City “Exhibit 74” and City “Exhibit 75”

The City is seeking to add this provision as there would be an average savings to the City of \$1,500 per year by not having to bring on off-duty Command Officer in to cover a shift.

The Union, through cross-examination of the Director of Public Safety established that Command Officers have specialized training and experience Shift Commanders which a PSO does not have.

Decision: Through cross-examination of the Chief of the Public Safety Department it was established that Command Officers have training that the PSO's do not have.

For this reason, the Panel finds that Issue #6 should be awarded to the POAM.

Issue 7 – Retiree Health Insurance

- The Union offers to maintain the status quo.
- The City wishes to revise Article 22 – Retirement Benefits, Section B as follows:

“If the retiree is eligible for receiving hospital medical insurance through employment or retirement benefits, then the retiree shall not be eligible for the benefits set forth in §1 and shall be provided the opt out payment provided in this Agreement (\$2,500/Single - \$3,500/Two-Person) until Medicare of age, at which time the opt out payment shall be \$1,500/Single - \$2,250/Two-Person. In the even the retiree’s employment ceases, the retiree will again be eligible for coverage under the City’s Plan.”

Discussion:

Currently there is no opt-out of the retiree health program and the retiree's are not required to take the health insurance offered by any new employer after they have retired from the City of Grosse Pointe.

The City is requesting that if an employee who retires obtains employment which offers health insurance, they must opt out of the City Retirement Program. The City would pay \$2,500.00 for a single person and \$3,500.00 per year for the retiree and his/her spouse until they reach the age where they are eligible for Medicare. At that time the opt-out amount to be paid would be \$1,500.00 for a single person and \$1,250.00 for the retiree and his/her spouse.

The City points out that in the event the retiree's health plan with any new employer ceases, either due to the fact that the benefit is no longer provided for the retiree or the retiree leaves that employer, they would be eligible for health insurance coverage under the City's Retirement Plan. See City "Exhibit 76," "Exhibit 77" and "Exhibit 78" regarding this issue.

The City represents that the estimated savings to the City after payment of the opt-out amount would be \$2,700.00 per year for a single and \$8,600.00 per year for couple. The total savings per year to the City are unknown at this time.

Decision: The position of the City is to have the Officers opt out for a payment as individuals or family if they obtain employment post-retirement and received health care through a new employer. The problem is that it would force a retiree to take health care that may be of lessor benefit and/or be at a higher cost, even with the opt out payment.

For this reason, the Panel awards this issue to the POAM.

Issue 8 – City Option to Institute PPO Time

- The Union offers to maintain the status quo.
- The City has withdrawn this issue.

Discussion:

This Issue has been withdrawn by the City.

Therefore, this Issue remains status quo.

Issue 9 – Retiree Health Insurance (Contributions by Officers While in the Employment of the City.

See City “Exhibit 79,” “Exhibit 80” and “Exhibit 81.”

- The Union offers to maintain the status quo.
- The City wishes to amend Article 22 – Retirement Benefits §B as follows: “Employees shall make a 3% contribution for retiree health care (3% to 401(H) Trust).”

The City is requesting that the current employees make a 3% contribution per year for retiree health care. The 3% is to put into a 401(H) Trust pursuant to the Exhibits that the City presented.

- City “Exhibit 79”

This would make the Officers of the City of Grosse Pointe pay the highest amount of any of the comparables.

- City “Exhibit 80” – Internal Comparables

None of the other internal comparables pay into retiree health care at this time. Internal Comparables

- City “Exhibit 81”

The 3% is based upon the pensionable wages that the Officers would receive.

Discussion:

Testimony was received from the City indicating that there has never been a prior contribution to health care by the Public Safety Department. Further, that a 401(H) Trust can only be used for payment of health care benefits. It can not be used for other

purposes. Under the City's proposals, the City will make up any differences for retirees hired prior to 07/01/2009. The City estimates that the savings to the City would be approximately 10%, or \$34,000.00 per year. See City "Exhibit 45"

The City pays 6% into the Pension Fund for the retirees. Having the Officers pay 3% toward their retiree health would result in a total of 9% being paid into their pension and health care.

Decision: This Issue is awarded to the City. It is noted that the City would be required to have a valid IRS approved 401(H) Trust, which must be established prior to any funds being deducted from the employees' wages. The 3% contribution by the employee is to be based on wages, i.e. base pay, only.

This Issue is important to maintain a viable pension/health care system for retirees in the future.

Issue 10 – Compensatory Time

- The Union offers to maintain the status quo.
- The City wishes compensatory time to be eliminated from the Contract.

Discussion:

The City wishes to eliminate the provision for comp time. The City wishes to pay the Officers for overtime, only, with no carryover due to the fact that it is an operational hindrance for them to use comp time and it has a "domino effect" on other issues such as continuity of shift and planning.

The Union wishes to maintain the status quo.

Dan Eckert, PSO, who has been with the department for 13 years, testified that he could not remember the last time, if ever, comp time created an issue.

Decision: This Issue is awarded to the City in that it is important that the City should be able to maintain some type of control of the use of comp time.

Issue 11 – Court Officer

- The Union offers to maintain the status quo.
- The City wishes to add a new Section to Article 28 – General Conditions as follows:
- “The City shall have the right to utilize a private contractor or independent contractor to serve as Court Officer.”

Discussion:

The parties have stipulated that part-time employees may be utilized as Court Officers.

Issue 12 – Holidays

See City “Exhibit 85,” “Exhibit 86” and “Exhibit 87.”

- The Union offers to maintain the status quo.
- The City wishes to amend the Contract by eliminating Officer’s birthday.

Discussion:

The City wishes to eliminate birthdays claiming that it would be a savings to the City of \$5,000.00 per year.

Decision: Subsequent to considering the comparables, and hearing the argument of both parties, this Issue is awarded to the POAM. The Holiday provision shall remain status quo.

Issue 13 – Revenue Sharing

See City “Exhibit 88,” “Exhibit 89,” “Exhibit 90” and “Exhibit 91.”

The Union offers to maintain the status quo.

- The City wishes to add a new Section to Article 28 – General Conditions as follows:

“All provisions required by State Law required for full revenue sharing shall be incorporated into the Contract.”

Discussion:

Revenue Sharing under the new State Law would require the City to fully comply with the requirements as set forth by the State. There are several options in Categories. One issue is a cap on health care as to payments, etc. by the City and the Union. The extra monies that the City would receive if they were in full compliance would be approximately \$37,200.00.

Decision: This Issue is an important issue in today's day and age of new laws in the State of Michigan. The City must comply with certain laws. As revenue sharing is a part of the City budget, this Panel finds that that City must comply with State law, whether it is in the Contract or not.

Therefore, this Issue should remain status quo and is favor of the POAM.

Issue 14 – Merger or Consolidation of Departments

See City “Exhibit 92” and “Exhibit 93.”

- The Union offers to maintain the status quo.
- The City wishes to add a new Section to Article 28 – General Conditions as follows:

“The City shall have the right to merge, consolidate, create and participate in an authority or contract with other communities to provide all, or part, of City operations subject to applicable State Law.”

Discussion:

While there have not been any prolonged discussions regarding mergers with the other four (4) cities, the City feels that it could merge at least with one (1) of the cities as far as Public Safety Departments and all five (5) cities may merge as to dispatch. Obviously, the City would save money on the number of dispatchers they would require, as well as if the City merged the entire Public Safety Department with another City. There would be some savings to the City of Grosse Pointe.

Decision: A merger between the various Grosse Pointes is an issue that the City must determine. The City is presently undergoing, or about to undergo, a feasibility study as to the issue of merger. Some mergers have already taken place in the Grosse Pointes as to dispatch.

All of the Grosse Pointes are PSO's. However, not all of the Grosse Pointes wish to merge at this time.

For the issues stated, this Issue is awarded to the City.

Issue 15 – Scheduling Off Time in Excess of 2,080 Hours

- The Union offers to maintain the status quo.
- The City wishes to amend Article 23 – Hours, Article 25 – Overtime Pay & Article 28 – General Conditions § by adding a new provision:

“The City shall have the right to schedule the 212 hour personal days off referenced in Article 28 – General Conditions §7 – 12 Hour Shift Per Diem, §B.

Discussion:

This issue was temporarily passed - to come back to this issue.

The Officers actually work 2,184 hours. Due to shift issues they work an extra 104 hours per year above a normal 40 hour work week. Their annual base pay is \$65,030.00 based on a hourly rate which is based upon 2,080 hours.

The City wishes to have the right to schedule two (2) twelve (12) hour personal days off per year in order to have efficient management of the use of the extra 104 hours. See City "Exhibit 48" and "Exhibit 49"

The 104 hours would be broken down as follows: they could have a bank of 36 hours - the rest would have to be used or cashed in at the end of the year at straight pay.

The Public Safety Officers presently work 2,184 hour, or 104 above the normal 2,080 hours. As to the 104 hours, the City wishes to schedule the time off in excess of 2,080 hours.

Decision: After careful consideration and referencing the use of time in excess of 2,080 hours, the Panel awards this Issue to the Union.

Issue 16A – Reduction of Vacation, Sick & Personal Time

- The Union offers to maintain the status quo.
- The City wishes to amend Article 15 – Vacation Policy Schedule A as follows:

Vacation:

1-14 Years	17 Days
15-19 Years	18 Days
20+ Years	19 Days

Sick Leave

The City wishes to eliminate Article 13 –Sick Leave §10 (Emergency Leave) from the Contract.

Discussion:

The City is withdrawing the issue of a new vacation time schedule and stipulates with the Union that it will stay the same.

Decision: The City has withdrawn the issue of a new vacation time schedule. Therefore, this Issue remains status quo and the award of this Issue goes to the POAM.

Issue 16B – Emergency Sick Leave

Discussion: As to sick leave it is the position of the City that this applies only to the use of sick leave for emergency leave purposes. The number of days would remain the same. The City wishes to eliminate the language that it can be used for emergency leave. *See Joint Exhibit – Grosse Pointe Present Contract, pp. 14, Article 13, §10.*

Decision: This Issue is awarded to the City.

Issue 17 – FAC

- The Union offers to maintain the status quo.
- The City wishes to revise Appendix C – Employee Retirement System by adding the following provision:

“No more than a maximum of 200 hours may be included in final average compensation.”

Discussion:

The City wishes to limit the number of hours that may be included in the final average compensation to 200. Presently there is no cap and the FAC is based on the “best 4 out of 10 of the Officer’s career.” *See City “Exhibit 96,” “Exhibit 97” and “Exhibit 98.”*

Decision: The Panel finds that the POAM should prevail in this Issue. There shall not be a cap on how many hours may be included in the final average compensation as the City proposes. This decision is based on the comparables that the Panel has reviewed.

Issue 18 – Dispatcher Overtime

- The Union offers to maintain the status quo.
- The City has withdrawn this issue.

Discussion:

The City has withdrawn this issue and the Union has stipulated to the withdrawal of same.

Decision: The City has withdrawn this Issue.
Therefore, this Issue remains status quo.

Issue 19 – Retiree Health Insurance

- The Union offers to maintain the status quo.
- The City wishes to amend Article 22 – Retirement Benefits by adding the following new provision:

“At Medicare eligibility age, the retiree and/or spouse must be enrolled in Medicare Part A and B. The City will provide the Medicare Advantage Plan as in effect as of July 1, 2011. The direct Plan will be:

\$10	-	Generic
\$20	-	Preferred Brand
\$25	-	Non-Preferred Brand
\$50	-	Specialty with Edits

Step therapy and prior authorization shall apply.

Discussion:

This provision was negotiated into the present Command Contract. See Joint “Exhibit 1” – Present Contract, pp. 21, §1. See City “Exhibit 78” which indicates a 16% savings to the City should this plan be adopted. At the present time the City states that all

of their retirees who are Medicare eligible are in this program. See pp. 22 of City "Exhibit 1." See also City "Exhibit 99"

The City states that the existing cost for retiree health insurance with the present prescription plan is \$528 per month for a single employee. Under the new proposal, the cost would be \$442 per month creating a savings of \$86 per month per retiree. See City "Exhibit 100" – Comps and City "Exhibit 101" – Internal Comps.

Decision: Due to the savings to the City, the Panel awards this Issue to the City.

Issue 20 – Shift Picks

See City "Exhibit 102," "Exhibit 103" and "Exhibit 104"

- The Union offers to maintain the status quo.
- The City wishes to revise Article 23 – Hours and Article 25 – Overtime by adding the following new Section:

"The City shall have the right to change shift assignments upon two (2) weeks notice to cover for the scheduled absence of a unit member."

Discussion:

The City wishes to have the right to change shift assignments upon notice to the affected Officer upon two (2) weeks notice. This is in an effort to even out shifts, if needed, due to unforeseen circumstances, i.e. long-term disabilities, etc. The City maintains that it is an effort to eliminate overtime to insure minimum manpower on a shift. The City points out that if they must use an Officer on overtime to fill out the shift the cost is approximately \$500.00 per twelve (12) hour period.

Decision: While an economic Issue, it is felt that the Officers who work 12 hour shifts should not be forced to change shifts in mid-stream.

Therefore, this Issue is awarded to the POAM.

Issue 21 – Vacations

- The Union offers to maintain the status quo.
- The City wishes to revise Article 15 – Vacation Policy by adding the following:

“There shall be two (2) floating vacations. After an employee selects his/her vacation picks, employees may not take a vacation day on which the department has scheduled training.”

Discussion:

The City wishes to restrict the Officers to two (2) days of floating vacation time. This would be after the Officer selects his/her vacation picks pursuant to the Contract. The Director points out that no one would be able to select a floating day on a day on which the Department has scheduled training. This would be accomplished by some type of seniority, with the Command Officers, no matter their rank of seniority in the Department, having first pick. Further, if a Command Officer or a PSO, they would not be able to take a floating day and short the shift. See City “Exhibit 105” – Comparables.

Decision: Upon review of the Exhibits and hearing the testimony of the parties, it is the Panel awards this Issue to the POAM.

Issue 22 – Workmen’s Compensation

- The Union offers to maintain the status quo.
- The City wishes to add the following new provision to Article 28 – General Conditions:

“In the event an employee is offered and receives Worker’s Compensation Benefits, the supplement payment from the City shall be 85% after six (6) months and shall be discontinued after one (1) year.”

Discussion:

This issue deals with Workmen's Compensation when an Officer is off-duty due to duty-related disability and collecting Workmen's Compensation. The City would pay his/her full salary for the first six (6) months by way of making up the difference between the Workmen's Compensation payment and his/her base salary. After six (6) months the City would only pay 85% of the Officer's total compensation, including the Workmen's Compensation payment. This would be discontinued after one (1) year.

Under the present Contract the Officer who is off-duty due to duty-related disability would receive benefits for an indefinite period of time or to retirement age when he/she begins collecting his/her pension. The City states that the Officer would not have to utilize his/her sick time to supplement this program. Command, under their Contract, has no time limit for duty disability leaves. See City "Exhibit 108"

Decision: In light of the Command Officers' Contract and the testimony heard at the Hearing, the Panel awards this to the POAM.

Issue 23 – Wages

- The Union is requesting 1% raise as of:
 1. July 1, 2011.
 2. July 1, 2012
 3. July 1, 2013

for all steps contained in the Collective Bargaining Agreement

- The City wishes to maintain the status quo and continue the current wage rates for each year of the Collective Bargaining Agreement.

The City wishes that all of their issues to have an effective date as of the date of Award.

Discussion:

The Union's proposal is a 1% raise for each year of the Contract. The Contract duration has not been decided as of this time – whether it is a two (2) year contract or a three (3) year Contract.

The Union has agreed that the Arbitrator can use each year as a separate issue, i.e. the Arbitrator could award 1% for one (1) year and 0% for the remaining years of the Contract. See City "Exhibit 110," "Exhibit 111," "Exhibit 112" and "Exhibit 113"

The City points out that Command would get an automatic raise if the Union receives a raise based upon their increments, i.e.

- Sergeant - 15%
- Lieutenant - 33%

The City points out that the cost to the Department of a 1% per year raise would be approximately \$27,750.00 per year. See Union "Exhibit 2," "Exhibit 3," "Exhibit 4" and "Exhibit 5" - Comparisons and CPI Comparisons. See City "Exhibit 115" and "Exhibit 116" – CPI Comparisons 1988 - 2012.

Note: The City submitted its Annual Audit Report for period ending June 30, 2012 which was received by the City in October, 2012. Copies of said Audit Report were provided to the POAM and the Arbitrator. See City "Exhibit 32-A"

The Audit Report addresses the fund balances and the fact that the fund balance dropped nearly \$37,000.00 over the past year. The City has in reserve \$1,000,090.00 which is held for emergency purposes pursuant to the recommendations of the Michigan Municipal League which recommends a 15-20% reserve be held by the City for emergencies.

Decision: The parties are in agreement that the Arbitration Panel can use each year of the three (3) year Contract as a separate Issue.

Therefore, after considering the economics, ability to pay and comparables, the Panel makes the following award:

- 0% for year 1
- 1% for year 2
- 1% for year 3

Said increases in salary are effective to the date of the Award and for the duration of the three (3) year Contract.


OTHER CITY EMPLOYEES

The City has several Union and Non-Union employees that it has Contracts or Agreements with, which include the Public Safety Command Officers and Non-Union Employees.


The ability to pay is a paramount issue that the Panel must consider. The applicable Statute requires the Panel to base its findings, opinions and order upon various factors. The Statute contains several factors to be considered. Not every factor is involved in each issue.

Based upon the factors and evidence presented to this Panel and the Panel applying the statutory criteria to each of the issues in this matter, the Panel makes the following Award:

Issue 1:



EUGENE LUMBERG, Chairman



DENNIS DuBAY, City Delegate

Dissent: X Concur: _____



KEVIN LOFTIS, POAM Delegate

Dissent: _____ Concur: X

Issue 2:



EUGENE LUMBERG, Chairman



DENNIS DuBAY, City Delegate

Dissent: _____ Concur: X



KEVIN LOFTIS, POAM Delegate

Dissent: X Concur: _____

Issue 3:

43

EUGENE LUMBERG, Chairman

Dennis B DuBay

DENNIS DuBAY, City Delegate

Dissent: _____

Concur: X

Kevin Loftis

KEVIN LOFTIS, POAM Delegate

Dissent: X

Concur: _____

Issue 4:

43

EUGENE LUMBERG, Chairman

Dennis B DuBay

DENNIS DuBAY, City Delegate

Dissent: X

Concur: _____

Kevin Loftis

KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur: o

Issue 5:

43

EUGENE LUMBERG, Chairman

Dennis B DuBay

DENNIS DuBAY, City Delegate

Dissent: _____

Concur: X

Kevin Loftis

KEVIN LOFTIS, POAM Delegate

Dissent: o

Concur: _____

Issue 6:

43

EUGENE LUMBERG, Chairman

Dennis B DuBay

DENNIS DuBAY, City Delegate

Dissent: X

Concur: _____

Kevin Loftis

KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur: o

Issue 7:



EUGENE LUMBERG, Chairman



DENNIS DuBAY, City Delegate

Dissent: X Concur: _____

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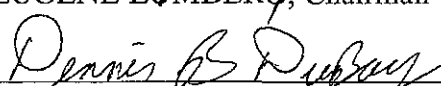
KEVIN LOFTIS, POAM Delegate

Dissent: _____ Concur: X

Issue 8:



EUGENE LUMBERG, Chairman



DENNIS DuBAY, City Delegate

Dissent: _____

Concur: X



KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur: X

Issue 9:



EUGENE LUMBERG, Chairman



DENNIS DuBAY, City Delegate

Dissent: _____

Concur: X



KEVIN LOFTIS, POAM Delegate

Dissent: X

Concur: _____

Issue 10:



EUGENE LUMBERG, Chairman



DENNIS DuBAY, City Delegate

Dissent: _____

Concur: X



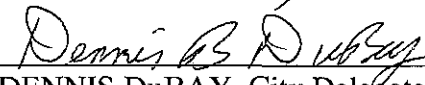
KEVIN LOFTIS, POAM Delegate

Dissent: X

Concur: _____

Issue 11:


EUGENE LUMBERG, Chairman


DENNIS DuBAY, City Delegate

Dissent: _____

Concur: X

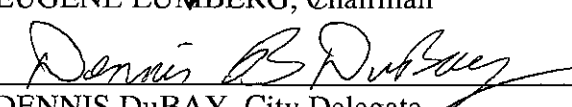

KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur: X

Issue 12:


EUGENE LUMBERG, Chairman


DENNIS DuBAY, City Delegate

Dissent: X

Concur: _____

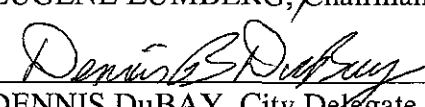

KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur: X

Issue 13:


EUGENE LUMBERG, Chairman


DENNIS DuBAY, City Delegate

Dissent: X

Concur: _____


KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur: X

Issue 14:

43
EUGENE LUMBERG, Chairman

Dennis B DuBay
DENNIS DuBAY, City Delegate

Dissent: _____

Concur: X

Kevin Loftis
KEVIN LOFTIS, POAM Delegate

Dissent: X

Concur: _____

Issue 15:

43
EUGENE LUMBERG, Chairman

Dennis B DuBay
DENNIS DuBAY, City Delegate

Dissent: X

Concur: _____

Kevin Loftis
KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur: X

Issue 16A withdrawn ed.

Issue 16:B

43
EUGENE LUMBERG, Chairman

Dennis B DuBay
DENNIS DuBAY, City Delegate

Dissent: _____

Concur: X

Kevin Loftis
KEVIN LOFTIS, POAM Delegate

Dissent: X

Concur: _____

Issue 17:

43
EUGENE LUMBERG, Chairman

Dennis B DuBay
DENNIS DuBAY, City Delegate

Dissent: X

Concur: _____

Kevin Loftis
KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur: X

Issue 18:

43

EUGENE LUMBERG, Chairman

Dennis B DuBay

DENNIS DuBAY, City Delegate

Dissent: _____

Concur:

Kevin Loftis

KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur:

Issue 19:

43

EUGENE LUMBERG, Chairman

Dennis B DuBay

DENNIS DuBAY, City Delegate

Dissent: _____

Concur:

Kevin Loftis

KEVIN LOFTIS, POAM Delegate

Dissent:

Concur: _____

Issue 20:

43

EUGENE LUMBERG, Chairman

Dennis B DuBay

DENNIS DuBAY, City Delegate

Dissent:

Concur: _____

Kevin Loftis

KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur:

Issue 21:

43

EUGENE LUMBERG, Chairman

Dennis B DuBay

DENNIS DuBAY, City Delegate

Dissent:

Concur: _____

Kevin Loftis

KEVIN LOFTIS, POAM Delegate

Dissent: _____

Concur:

Issue 22:

EUGENE LUMBERG, Chairman

Dennis B DuBay
DENNIS DuBAY, City Delegate

Dissent: X

Concur:

Kevin Loftis
KEVIN LOFTIS, POAM Delegate

Dissent:

Concur: X

Issue 23:

EUGENE LUMBERG, Chairman

Dennis B DuBay
DENNIS DuBAY, City Delegate

Dissent: X on
years 2 and 3

Concur: X on year 1

Kevin Loftis
KEVIN LOFTIS, POAM Delegate

Dissent: X
on year 1

Concur: X
on year 2 and 3

3/21/13