MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

BUREAU OF EMPLOYMENT RELATIONS

PETITIONING PARTY:
Police Officers Association of Michigan

And

RESPONDING PARTY:
Isabella County Board of Commissioners and the Sheriff of Isabella County

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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMM.
DETROIT OFFICE

MERC CASE NO.: L 16 J- 1022

COMPULSORY ARBITRATION
Pursuant to Public Act 312 of 1969, as amended
[MCL 423.231, *et seq*]

Arbitration Panel
Chair: William E. Long
Employer Delegate: Margaret McAvoy
Union Delegate: Jim DeVries

Advocates
Employer Advocate: Bonnie Toskey, Attorney
Union Advocate: Kevin Loftis

PETITION FILED: March 28, 2017
PANEL CHAIR APPOINTED: March 30, 2017
SCHEDULING CONFERENCE HELD: April 6, 2017
HEARING DATE HELD: July 19, 2017
CLOSING BRIEFS EXCHANGED, HEARING CLOSED: October 10, 2017
AWARD ISSUED: October 26, 2017

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WITNESS LIST

1. Margaret McAvoy – Isabella County Administrator/Controller
2. Kevin Loftis – Research Analyst, Police Officers Association of Michigan

1. INTRODUCTION AND BACKGROUND

The Police Officers Association of Michigan (referred to as the Union in this Opinion and Award) is recognized as the exclusive representative for collective bargaining for all full-time deputies of the Isabella County Sheriff's Department (referred to as the Employer or County in this Opinion and Award). The Union and the Employer entered into a Collective Bargaining Agreement (CBA) for the period January 1, 2015 through December 31, 2017 (P-4)[*1]. Article 23, Section 23.1 of the CBA provided for a right by the Union to a Wage Reopener for the second and third years of the CBA beginning January 1, 2016 through December 31, 2016 and January 1, 2017, through December 31, 2017. The parties agreed to a wage increase of 2.5% beginning January 1, 2016 through December 31, 2016 (P-12), (U-P3). During the late months of 2016 the parties engaged in negotiating a wage for the period beginning January 1, 2017 through December 31, 2017 and held a mediation session December 21, 2016 but were unable to reach agreement.

[*1] Throughout this Opinion references will be made to Exhibits as (Exhibit P-#, -#, U-P#,) and Transcripts as (Tr., pg.#).

The Union petitioned for Act 312 Arbitration on March 28, 2017. This impartial Arbitrator was appointed by the Michigan Employment Relations Commission (MERC) March 30, 2017.

A pre-hearing phone conference was held April 6, 2017. The Union chose Kevin Loftis as its Panel Member Delegate and to be represented by Jim DeVries. The Employer chose Margaret McAvoy as its Panel Member Delegate and to be represented by Attorney Bonnie Toskey. During the pre-hearing conference, the parties agreed to attempt to stipulate to the external comparables prior to the first hearing date. Prior to the hearing the parties were able to stipulate to the following external comparable communities: the Counties of Clare, Gratiot, Ionia, Mecosta, Midland, Montcalm and Osceola (U-P3) (P-11).

The parties also agreed that there would be only one issue presented to the panel for decision. That issue is wages for the period January 1, 2017 through December 31, 2017. Communications between the parties and the Independent Arbitrator following the pre-hearing conference established a schedule for exchange of exhibits, witness lists, last offers of settlement and a hearing date. Last offers of settlement were exchanged through the Arbitrator to the parties on July 14, 2017. A hearing was held July 19, 2017 at the Isabella County Building, in the City of Mt. Pleasant. Attorney Bonnie Toskey represented the Employer. POAM representative Jim DeVries represented the Union.

The parties agreed that the hearing and the record in this case would include testimony and evidence relevant to this case and testimony and evidence relevant to the same issue, i.e. the issue of wages for the period January 1, 2017 through December 31, 2017 for the Command Officers Association in MERC Case L16 J- 1025. The record of the combined cases for this Case L16 J-1022 and L16 J-1025 consists of one volume containing 162 pages. Thirty-four (34) exhibits were accepted into the record for POAM case L16 –J-1022; 28 Employer Exhibits and 6 Union Exhibits. Thirty (30) exhibits were accepted into the record for COAM case L16 J-1025; 27 Employer exhibits and 3 Union exhibits.

Post-hearing briefs were submitted to and exchanged through the Arbitrator October 10, 2017. The Panel delegates have placed their signatures in support of or in opposition to the finding and award on each issue and have also placed their signatures at the conclusion of the Award along with the signature of the Independent Arbitrator to represent that there is a majority on each issue presented.

2. STATUTORY CRITERIA

When considering the economic issues in this proceeding, Section 8 of Act 312 guided the Panel. The section provides that "As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel more nearly complies with the applicable factors prescribed in section 9. The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in section 9." Section 9(1) and (2) states "(1) 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) In public employment in comparable communities.

(ii) In 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 during the pendency of the arbitration proceedings.

(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."*

Where not specifically referenced, the above factors were considered but not discussed in the interest of brevity.

3. STIPULATIONS AND PRELIMINARY RULINGS [e.g., Duration]

As noted previously, the parties stipulated to the external comparable communities and that the sole issue would be the wage determination for the period beginning January 1, 2017 through December 31, 2017.

4. COMPARABLES

In addition to section 9(e) internal comparables, which may be referred to in the discussion of wages, section 9(d) of Act 312 directs the Panel to consider a comparison of 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 public and private employment in comparable communities. As noted in the introduction, prior to the hearing, the parties stipulated to the following external comparable communities: the Counties of Clare, Gratiot, Ionia, Mecosta, Midland, Montcalm and Osceola.

Exhibits P-1, P-2, P-3, P-5, P-6, P-7, P-8 consisted of the CBA's of each of the external communities the parties stipulated to as comparables. Additional Exhibits describing the wages of the employees in this bargaining unit with those of employees in comparable communities performing similar services were P-11, U-P3 and U-P4. Exhibit P-25 compared comparable communities' health insurance cost options. This information is helpful when considering the Section 9 factors.

The Panel Chairman has also reviewed data in the public domain to assist in assessing the relationship of the comparable communities to Isabella County. Attachment

1 consists of two charts, chart A and chart B. Chart A of attachment 1 consists of data drawn from the U.S. Census Bureau 2010 -2011 period State and County Quick Facts and the Michigan State Tax Commission 2010 State Equalized Value and Taxable Value Report. Chart A was developed and included in an Arbitration Award issued by this Arbitrator February 26, 2013 involving these same parties (MERC Case # L 12 C-0495). Chart B of attachment 1 consists of data drawn from the U.S. Census Bureau 2011 – 2015 period State and County Quick Facts.The Panel Chairman also reviewed the Isabella County Comprehensive Annual Financial Report (CAFR) for the year ended September 30, 2016. (U-P1). That report, the Exhibits referred to above, and Attachment 1 may be referred to in the discussion and findings sections addressing the issues of wages and ability to pay when section 9 factors relate to the issue.

Therefore, as a result of the parties' agreement to stipulate to the following communities as comparable communities to Isabella County, the Panel chooses the following communities as comparable to Isabella County in this proceeding: the Counties of Clare, Gratiot, Ionia, Mecosta, Midland, Montcalm and Osceola.

5. ISSUES BEFORE THE PANEL

Issue #1 (Economic) The financial ability of the unit of government to pay.

Last Best Offers on Issue #1

a. **Employer's Last Best Offer** - The Employer's LBO is that the Employer's financial condition requires the Employer to maintain the wages for all full-time deputies of the Isabella County Sheriff's Department for the period January 1, 2017 through December 31, 2017 at the same level as the wages for the period January 1, 2016 through December 31, 2016.

b. **Union's Last Best Offer** – The Union's LBO is that the Employer's financial condition permits the Employer to increase the wages for all full-time deputies of the Isabella County Sheriff's Department by 2.0 % for the period January 1, 2017 through December 31, 2017.

Discussion of the parties' positions, facts, proofs, relevant statutory criteria and findings applied to Issue #1

ABILITY TO PAY

Employer Position

The Employer presented the testimony of Margaret McAvoy, Administrator/Controller for Isabella County and Exhibits P-13 through P- 24 pertaining to the ability to pay. The Employer's post-hearing brief summarizes several key points made during Ms. McAvoy's testimony to demonstrate that the slight improvement in County's financial numbers do not translate into an improved or enhanced ability to pay. Those include:

- The County does not have more assets than obligations because assets include all capital owned by the County.
- Although property tax values are minimally increasing, the County is limited to realizing property value increases of only 5 percent or the rate of inflation, whichever is less. The rate of inflation has been lower than 5 % in recent years.
- The County's fund balance has been reduced in the last two years and is projected to be reduced to 41% of expenditures in 2017.
- The County has unfunded liabilities related to retiree health care and MERS pension obligations. The MERS plan for the County is funded at 78% and the County will be required to accelerate its payment plan.
- The County's General Fund Revenue trend has not kept up with inflation. The General Fund Revenue has been declining while the inflation rate has been rising.

The Employer's position is that these factors, along with others, like the Board policy to pay 100% of the cost of employee health care, all contribute to eviscerate the County's ability to pay.

Union Position

The Union's position is that the County's Comprehensive Annual Financial Report (CAFR) for the year ended September 30, 2016 (U-P1), along with the testimony of the County witness, does not support the County's position. The Union, in its post-hearing brief, notes that pages 3 and 6 of the CAFR show a general fund balance of $10,751,988, which equates to 60% of total expenditures. The Union argues that this balance is well above the 10%-15% General Fund Balance recommended by the State of Michigan Treasury Department and the 16.67% recommended by the Government Finance Officers Association. The Union also noted that page xvii of the CAFR indicates that property tax revenue increased 2.3% from fiscal year 2015 to FY 2016 (U-P1, pg. xvii).

The Union points out that County witness McAvoy acknowledged that the numbers in the County exhibits were part of a budget presentation to the County Board in September 2016 were projected numbers and do not match the audited numbers in the County's CAFR. It notes the variance between the numbers for the estimated property tax revenue for fiscal year ending 2016 on exhibit (P-16) as $10.7 million compared to the CAFR actual amount (U-P1, pg. xvii) of $12.9 million – an approximate $2.2 million difference. The Union asserts that County exhibits 14 through 20 should not be considered as competent evidence and should not be considered by the Panel because they contain incorrect numbers and are contrary to the audited CAFR. The Union's view is that the evidence supports its position that the County has strong financial reports and a healthy fund balance.

Discussion and Findings

Discussion

The Panel has reviewed the evidence and testimony provided in the context of the Act 312, Section 9 criteria. Section 9 criteria particularly applicable to the ability to pay issue include subsections (1)(a) subsection (2). The Panel believes it has given Section 9(2) appropriate significance based upon the evidence presented at this hearing. As noted previously in this Opinion and Award, I had the opportunity – and pleasure – to serve as the independent arbitrator for these same parties in an arbitration proceeding (MERC case No. L 12 C-0495) which commenced November 2012. The Opinion and Award in that case was issued February 26, 2013. In that case, I reviewed data in the public domain from the United States Census Bureau to assist in assessing the relationship of the comparable communities demographic and economic factors to those of Isabella County. Attachment 1 consists of two charts. Chart A is a copy of the data I collected and used in MERC case L 12 C-0495 drawn from the U.S. Census Bureau for the 2010 -2011 period State and County Quick Facts and the Michigan State Tax Commission 2010 State Equalized Value and Taxable Value Report. Chart B of attachment 1 consists of data drawn from the U.S. Census Bureau 2011 – 2015 period State and County Quick Facts. A comparison of the changes between the 2010 -2011 data and the 2011-2015 data is helpful to gain a general sense of how these comparable counties' economics and demographics have changed over this period compared to Isabella County. Another useful resource in assessing the ability to pay issue has been the Isabella County Comprehensive Annual Financial Report (CAFR) for the year ended September 30, 2016 (U-P1). That report, Attachment 1 and Exhibits P-13 through P- 24 may be referred to in the discussion of the ability to pay. A comparison of chart A and chart B data from Attachment 1 reveals the following:

1) Isabella County population grew by 1 percentage point between July 2011 and July 2016. The population of all of the other comparable counties, with the exception of Ionia County, declined during this period and Ionia County population grew by about 0.4%.

2) The percentage of the population aged 65 and older increased between July 2011 and July 2016 in all of the counties except Gratiot County. Isabella and Ionia County populations aged 65 and older increased by 1.7% between July 2011 and July 2016 but all of the remaining County populations aged 65 and older increased by more than that.

3) The percentage of high school graduates aged 25 and older increased in all of the counties between July 2011 and July 2016 but Isabella County had the highest percentage increase at 2.3% with the next highest increase being Midland County at 2.1%.

4) The percentage of persons aged 25 and older with a bachelors degree increased between July 2011 and July 2016 in all of the counties except Montcalm county and the increase for Isabella County was the largest among the counties at 1.6% followed by Ionia at 1.5%.

5) The median value of owner occupied housing units declined in all counties between July 2011 and July 2016. The percentage decline during that period ranged between -0.5% and -12.7%. Isabella County's median value decline was -1.3%, the second lowest decline other than Midland County which was -0.5%. All the others had -6.0 % or greater declines in median value owner occupied housing.

6) Per Capita income increased for all counties between July 2011 and July 2016. Isabella County had the highest percentage increase among all counties of 9.5% with Mecosta County having the next highest percentage increase in Per Capita income of 5.6%. Midland County had the highest level of per capita income for the 2011-2015 period at $30,172 followed by Ionia County at $20,921 and Isabella County at $20,518.

7) Median household income increased in six of the eight counties between 2011 - 2015. The greatest increase was 19.1% in Mecosta County while Clare County median household income declined 4.3% during that period. Isabella County had the third highest increase in median household income between 2011 -2015 at 6.9%.

8) The percentage of persons below the poverty level declined in six of the eight counties between 2011 and 2015. Clare and Midland Counties had a slight increase in the percentage of persons below the poverty level between 2011 -2015 while Isabella led the counties among those counties with a decline of persons below the poverty level with a decline of 5.3% between 2011 - 2015.

This data reveals that Isabella County, compared to the comparable counties during the period between 2011 - 2015, appears to be keeping pace with, and in fact generally leading the comparable counties in improving their ability to meet their financial and service obligations. Isabella County has had greater growth in population than its comparable counties and that growth reflects a higher percentage of high school and college graduates who have greater opportunity for higher incomes. And the percentage of persons with incomes below the poverty rate is declining while owner occupied housing values and per capita incomes are increasing at a greater rate than in comparable counties.

The Isabella County Comprehensive Annual Financial Report for the year ending September 30, 2016 (CAFR) (U-P1) was also a valuable resource in assessing the County's financial situation and ability to carry out its governmental responsibilities. The following excerpts from the CAFR are pertinent to that assessment:

> "An additional portion of the County's net position (14 percent) represents resources that are subject to external restrictions on how they may be used. The remaining balance of *unrestricted net position* (32 percent or $8,772,160) may be used to meet the government's ongoing obligations to citizens and credits. pg. xvi

At the end of the current fiscal year, the County is able to report positive balances in all three categories of net position, both for the government as a whole, as well as for its separate governmental and business-type activities. The same situation held true for the prior fiscal year. pg. xvi

The government's net position decreased by $3,191,252 during the current fiscal year. This decrease was in both Business-type activities and Governmental Activities. pg. xvi

Governmental activities. Isabella County recorded a decrease in governmental activity net position totaling $1,430,797 in FY 2016. While grants and contributions were down in 2016, this reduction was offset by an increase in charges for services. Total expenses increased by $2,261,316 with higher expenses related to significant increases in reported pension expense. pg. xvii.

As of the end of the current fiscal year, the County's governmental funds reported combined ending fund balances of $14,381,845 a decrease of $320,888 in comparison with the prior year. Approximately 75 percent of this total amount ($10,775,738) constitutes *unassigned, assigned, or committed fund balance,* which is available for spending at the government's discretion. The remainder of fund balance is *restricted or non-spendable* to indicate that it is not available for new spending because it has already been committed for items such as inventory, prepaid items, or debt service. pg. xx

The general fund is the chief operating fund of the County. At the end of the current fiscal year, unassigned fund balance of the general fund was $5,611,774 while total fund balance was $10,751,998. As a measure of the general fund's liquidity, it may be useful to compare unassigned fund balance to total fund expenditures. Unassigned fund balance represents 28 percent of total general fund expenditures and transfers out. pg. xx

The general fund had a decrease of $340,416 in FY 2016. Current and delinquent property tax revenue increased by 0.4% in FY16, a relatively flat increase. Intergovernmental revenues decreased by $280,096 in FY16; made up largely by a decrease in the convention facility tax of approximately $300,000. pg. xx

During FY 2016, the original expenditure budget was amended by $408,616, which included the Board authorized prepayment of the County's portion of a new drain assessment. Significant cost savings during the year in general government and public safety brought expenditures under the final budget by $659,558 and the original budget by $250,942. pg. xxi"

The information in the CAFR and from Attachment #1 provide evidence that Isabella County's financial revenue is improving somewhat from what it was in 2013. And given its demographic trends, it appears it is gradually improving its potential to maintain its revenue growth in the foreseeable future. But the evidence related to its costs reveals that its liabilities have also increased since 2013.

The major factor contributing to its cost burdens is related to its unfunded pension liabilities. As noted on page xvii from the CAFR excerpts above, "Total expenses increased by $2,261,316 with higher expenses related to significant increases in reported pension expense." Record testimony revealed that, like many communities during the past few years, Isabella County switched its retirement plan for its employees from a defined benefit plan to a defined contribution plan. Isabella County made that switch effective for new hires January 1, 2011 (Tr. Pg.138). When you make that switch, liabilities increase because the defined benefit plan has been closed. The Municipal Employees Retirement System (MERS) accelerates the amortization period. Exhibit (P-21) is the Isabella County MERS Annual Actuarial Valuation Report December 31, 2016. Page 26 of that report indicates that Isabella County's retirement system is 78% funded and has unfunded accrued liabilities of $13,415,844. County witness Margaret McAvoy testified that based on that differential, MERS has established an accelerated schedule for payment of the unfunded liabilities and for 2017 the County paid $1,189,854 for the unfunded accrued liabilities (Tr. Pg.74). Isabella County's budget for fiscal year 2017 shows how the County was able to make that payment. It transferred a little more than $2 million from the fund balance (P-13, pg.7). Employer witness McAvoy, testified that if that same amount had to be transferred each year going forward to balance the budget, the fund balance would be depleted in four years (Tr. Pg. 148).

On the other hand, the Isabella County projected tax revenue contained in its FY 2017 adopted budget of $10,812,500 for the 2016 budget and $10,879,482 for the 2017 adopted budget (P-13, pg. 7) compared with the actual property tax revenues reported in the CAFR for the fiscal year ended September 30, 2016 of $12,933,132 (U-P1, pg.xvii) reveals that Isabella County's tax revenue was approximately $2.1 million more than projected for the 2016 budget year. The statement on page xxi of the CAFR listed above is also noteworthy. It points out that the original FY 2016 budget was amended by $408,606 which included the Board authorized prepayment of the County's portion of a new drain assessment and significant cost savings during the year in general government and public safety brought expenditures under the final budget by $659,558 and the original budget by $250,942 (U-P1, pg. xxi). This is evidence of the Employer's sound fiscal management. Considering economic projections, the expected tax revenue would likely be at least $ 2 million more than projected in the adopted budget for the 2017 budget year. That additional $ 2 million revenue would certainly help in reducing the need to transfer $2 million from the fund balance.

The evidence and testimony in this case reveals that, just as the finding in the Opinion and Award involving these parties in the previous Act 312 case L-12 C-0495 issued February 26, 2013, the Employer has continued to do a commendable job of managing the County through this period of recovery from Michigan's severe economic downturn. But it also appears that the challenges it faces, particularly with respect to the demands of MERS for accelerated payments of unfunded liabilities, is no different than the challenges confronting most communities in this state. And as noted previously, economic projections for Isabella County appear to be strong compared to comparable communities. The Employer, in its post-hearing brief, says the evidence and testimony presented by the County demonstrates the County faces huge unfunded liabilities with a seriously bleak financial outlook. A review of all of the evidence, particularly considering data in the CAFR (U-P1) and the charts on Attachment 1, does not paint such a bleak picture. And the County has demonstrated its ability to manage through stressful times. The testimony and evidence provided in this proceeding support the following findings.

Findings

Based on the evidence presented, and giving the financial ability of the unit of government to pay most significance, the Panel finds that the Employer is able to pay the necessary costs ordered in this Opinion and Award without a significant financial impact on the Employer and in the best interests and welfare of the public. The Panel believes the financial impact of the Panel's Award on the issue of wages presented to the Panel for decision in this proceeding will not result in a significant negative fiscal impact on the Employer or its ability to serve the community.

Employer: Agree__________ Disagree__________

Union: Agree__________ Disagree__________

Issue #2 (Economic) Whether or not the parties should amend Article 23, Compensation, or sign a letter of understanding involving base wages for the period January 1, 2017 through December 31, 2017, and if it is to be amended what that amendment will be [i.e. wages – 3rd year of CBA].

Last Best Offers on Issue #2

a. **Employer's Last Best Offer** - The Employer's LBO is to maintain the wages for all full-time deputies of the Isabella County Sheriff's Department for the period January 1, 2017 through December 31, 2017 at the same level as the wages for the period January 1, 2016 through December 31, 2016.

b. **Union's Last Best Offer** – The Union's LBO is that the Employer increase the wages for all full-time deputies of the Isabella County Sheriff's Department by 2.0% for the period January 1, 2017 through December 31, 2017 for all steps contained in the collective bargaining agreement retroactive to January 1, 2017 for all hours compensated.

Discussion of the parties' positions, facts, proofs, relevant statutory criteria and findings applied to Issue #2.

Wages for the period January 1, 2017 through December 31, 2017.

Employer Position

The Employer's last offer of settlement for the POAM Deputies Unit members is to maintain the wages for all full-time deputies of the Isabella County Sheriff's Department for the period January 1, 2017 through December 31, 2017 at the same level as the wages for the period January 1, 2016 through December 31, 2016. The Employer argues, in its post-hearing brief, that its proposal to maintain a 0% increase in wages for the period January 1, 2017 through December 31, 2017 is consistent with all other Isabella County bargaining units and all other County employees, both management and non-union employees. The Employer notes that this same wage pattern for all County employees has been followed for the past 7 years and the County Board of Commissioners has the goal of internal consistency as a matter of policy.

The Employer also notes that Isabella County Deputies have, throughout the years, maintained a relatively well-paid wage level compared to their counterparts in the comparable counties (P- 11). The Employer, using (P-11) as a resource, says the Patrol Deputies salaries were 0.33% above the mean average of their peers for 2016 and if the Employer's LBO of 0% is awarded the Patrol Deputies their salaries would be only marginally below (1.07%) the mean average of their counterparts and generally maintain their wage level compared to their external counterparts. The Employer urges the panel to consider the wage level for Isabella County Deputies in the context of the overall fringe benefits, which, for Isabella Deputies, includes the 100% Employer paid health insurance plan. The Employer says the premium contributions required of other comparable Deputies has a dramatic effect on their disposable incomes.

The Employer also argues that since the Union petitioned for this Act 312 procedure seeking the 2% wage increase, it has the burden of producing more evidence than the Employer to show why its proposal should be adopted rather than the Employer's under the Section 9 criteria. The Employer says the Union failed to present evidence that its proposed 2% increase is deserving of adoption; failed to cite any reasons why members of this Union should be treated differently relative to wage increases than other County employees; and failed to prove that the County has the current and future ability to pay the Union's last offer of settlement on wages for 2017.

The County requests the panel adopt the County's last best offer.

Union Position

The Union's last offer of settlement proposes a 2% increase for all full-time deputies of the Isabella County Sheriff's Department for the period January 1, 2017 through December 31, 2017 for all steps contained in the collective bargaining agreement. Union exhibits (U-P3) and (U-P4) displayed the external comparable communities' deputy wages with those of Isabella County deputies for the period January 1, 2015 to January 1, 2020. Union witness Kevin Loftis testified that he prepared these exhibits and used annual wage figures for a five-year deputy in these charts because he believed that comparing a ten-year deputy wages in Isabella County skews the numbers for the other comparables who have lower years of service required to reach top pay. He noted that Clare, Montcalm and Osceola Counties reach top pay in four years, Ionia reaches top pay in three years, and Midland reaches top pay in five years. He acknowledged that Isabella County deputies receive additional wage increases at seven and ten years (Tr. Pg.154).

The Union's post-hearing brief points out that exhibit (U-P3) shows that five of the six comparables received at least a 2.0% wage increase for 2017 and one received a 1.75% increase. Exhibit (U-P4) reveals that at on January 1, 2015 Isabella County deputy wages were $3,800 below the comparable average. Isabella County deputy wages were higher than three of the seven comparable counties but the union says even if the panel awards the Union's final offer of a 2% increase, the Isabella County deputies wages would only be higher than two of the seven comparables. Union exhibit (U-P7) displays a comparison of wage increases for Isabella County Deputies to the rate of inflation for the period covering 2010 to 2017. It reveals that Isabella County Deputy's wages increased 7.16% and inflation increased 11.4% during that seven-year period. The Union notes that even with the Deputies receiving a 2% wage increase their wages would lag behind the rate of inflation by 2%.

The Union's post-hearing brief referred to the fact that the Employer had provided exhibit (C-24) which displays a summary of comparable counties and Isabella County 2017 PA 152 health insurance plan options and employee costs for health insurance. The Union points out that the Employer did not provide or present a comparison of overall compensation and benefits among the comparable communities compared to those provided by Isabella County but instead selected only the health care comparison. The Union also notes that during the course of the hearing it was acknowledged that no other internal bargaining unit had voluntarily agreed to no increase in wages beginning January 1, 2017 and at least two other bargaining units, Corrections and Dispatchers, had wage reopeners but no agreement was reached between the Employer and these bargaining units (Tr. Pgs. 144-145). On the other hand, Employer witness McAvoy viewed the internal wages comparison from a different perspective, stating that the Employer's position of no increase in wages was consistent with all other County employees in that there were no wage increases given to any employee of Isabella county in 2017 (Tr. Pg. 87).

The Union's position is that the County is financially able to provide the members of this bargaining unit a 2% wage increase for the final year of the CBA. The Union notes that the County has maintained a healthy general fund balance and property taxes have increased 2.3% in the last fiscal year. The Union says the 2% increase is necessary for members of this bargaining unit to maintain a comparable wage position with respect to their counterparts in the external comparable communities. The Union requests the panel grant its Final Offer of Settlement on the issue of wages.

Discussion and Findings

Discussion

The question before the panel is – which proposal on wages more nearly complies with the applicable factors in Section 9 of Act 312. Several Section 9 factors will be discussed below relative to the facts and evidence presented in this case, but all of the factors have been considered in reaching a decision on this issue. Section 9(1)(a) and 9(2) factors have been addressed in the ability to pay discussion in this Opinion and Award. As noted in the findings on ability to pay, the Panel has found that the Employer is able to pay the necessary costs ordered in the Opinion and Award without a significant financial impact on the Employer and in the best interests and welfare of the public.

In particular, Section 9(1)(a)(i) requires consideration of the financial impact on the community of any award made by the panel. And Section 9(1)(d)(i) requires consideration of the comparison of wages and other conditions of employment of these unit members with other employees performing similar services in public employment in comparable communities. Attachment 2 displays a summary of data taken from exhibits presented in this case that compares the 10 year wages of deputies in comparable communities with the deputies in this bargaining unit. This data has been taken directly from the CBA's from the comparable communities. The Union presented exhibits (U-P3) and (U-P4) which compared these positions using a 5 year maximum wage comparison.

The Employer presented exhibit (P-10), which compared these positions using a maximum 2016 and 2017 base wage comparison. I believe use of the 10-year wage comparison provides a more accurate estimate of what the majority of personnel in these positions actually earn and therefore is a better estimate of how any change in wages will impact both the employees and the employer.

Exhibit (P-28) displayed the current number of authorized Isabella County Deputy and Command Officer positions. Exhibit (P-28) identifies 14 Deputy and 5 Command Officer positions. Using the10 year wage rate displayed in Attachment 2 for Isabella County deputies and adding an additional 2% on that wage – as the Union proposal would do, would increase the annual wage per Deputy employee by $995.00. Considering the Section 9(1)(a)(i) financial impact on the Employer and community, it appears the impact would then be an annual cost increase of approximately $13,930 [14 x $995.00 = $13,930.00]. Of course it's recognized that other costs to the Employer may occur related to an increase in base wage, like overtime, final average compensation, etc. but it is also likely that not all bargaining unit members are at the 10 year wage step and the unit may not be fully staffed for all 12 months of a year.

A review of Attachment 2 is also helpful when considering the Section 9(1)(d)(i) comparison of wages with other employees' performing similar services in public employment in comparable communities. What the data on Attachment 2 reveals is that the 10 year wage for members of this bargaining unit for 2017 would be higher than three and lower than four of the comparable communities if the Employer's LOS is adopted, and higher than four and lower than three if the Union's LOS is adopted. It also reveals that if the Union's LOS is adopted; the wages for the members of this unit would be approximately 0.8% above the average of the comparable communities. If the Employer's LOS is adopted the Deputies wages would be a little more than 1% below the average of the comparable communities. Their 0.8% average wage above the comparable communities does not significantly alter their wage position in relation to their counterparts in comparable communities.

Considering Section 9(1)(e), the comparison of wages and other conditions of employment of other employees of Isabella County, the record evidence is clear that no other Isabella County employees have received an increase in wages for 2017. But it must also be recognized that most other Isabella County employees didn't have the same bargaining rights provided in Act 312 or the opportunity to review the data provided in this proceeding. Union exhibit (U-P7) provided evidence related to Section 9(1)(f) consideration of consumer prices and cost of living increases. It revealed that for the period covering 2010 to 2017 Isabella County Deputy's wages increase 7.16% and inflation increased 11.4%. The Employer did not dispute that data. The Employer noted that revenue increases were not keeping up with the rate of inflation. That applies to the employees as well, even with a wage increase.

Section 9(1)(g) includes consideration of overall compensation including vacations, insurance, pensions, health care and all other benefits received. In this case, wages for one year was the only issue and therefore the panel was not presented with information related to other benefits with the exception of the Employer presentation of exhibits (P- 25) and (P-26) related to comparable counties' Health Insurance costs and benefits. Singling out one benefit from others did not allow the panel to make a good comparison of overall compensation and the parties stipulated that wages would be the sole issue in this proceeding. Therefore the wage comparisons, irrespective of another benefit, was the evidence most relied upon in this proceeding. And, since this is the last year of the current contract between the parties, they will have the opportunity to consider all benefits more thoroughly as they enter into negotiations for a successor CBA.

Weighing the evidence as a whole and considering the applicable factors prescribed in Section 9, the panel majority concludes that the Union's last offer of settlement more nearly complies with the greater number of the applicable factors prescribed in Section 9. The Employer's financial status and ability to meet its obligations appears to be sufficient and as good or better than the majority of the comparable communities. The majority of the comparable communities, faced with much of the same economic issues as Isabella County impacting revenues and expenses, found it possible to continue the trend of pay raises for comparable employees for 2017. Even with the increase, the members of his bargaining unit remain in about the same pay range level compared to their counterparts in the external comparable communities. It is recognized that providing a pay increase for members of this bargaining unit results in an exception from the Employer's practice of consistency relative to wage increases for all County employees the past several years. But

Michigan law has made available the Act 312 process for certain public employees when the parties are unable to reach agreement in the collective bargaining process. In this proceeding, for this bargaining unit, the panel finds the preponderance of evidence presented favors the Union's last best offer. And retaining, recruiting, and adequately compensating experienced public employees involved in public safety, provided it is found that the unit of government has the financial ability to pay, is in the interests and welfare of the public.

Findings

On the issue of wages, the Panel finds the Union's last offer of settlement more nearly complies with the applicable factors prescribed in Section 9 of Act 312. The Employer will, therefore, increase the wages for all full-time deputies of the Isabella County Sheriff's Department by 2.0% for the period January 1, 2017 through December 31, 2017 for all steps contained in the collective bargaining agreement retroactive to January 1, 2017.

Effective Date: Date of the Award retroactive to January 1, 2017.

Employer: Agree________________ Disagree________________

Union: Agree________________ Disagree________________

6. SUMMARY OF AWARD

ISSUE	AWARD
Wages	**The Employer will increase the wages for all full-time deputies of the Isabella County Sheriff's Department by 2.0% for the period January 1, 2017 through December 31, 2017 for all steps contained in the collective bargaining agreement retroactive to January 1, 2017.**

SUMMARY

This concludes the award of the Panel. The signature of the delegates herein and below along with the signature of the Independent Arbitrator below indicates that the Award as recited in this Opinion and Award is a true restatement of the Award.

Re: Isabella County & Police Officers Association of Michigan (all full time deputies)
MERC Case No. L 16 J-1022 (Act 312)

Date: 10/26/17

William E. Long
Arbitrator/Chair

Date: 10/25/17

Margaret McAvoy
Employer Delegate

Employer Delegate

Date: 10/18/17

Jim DeVries
Union Delegate

October 26, 2017

Attachment 1

Chart A

Isabella County POAM
MERC Case No. L-12-C-0495
External Comparable Communities

	Population 2011 Est.	Population % change 04/2010-07/2011	Population 65+ %	% persons 25 yr + highschool grad 2007-2011	% persons 25+ BA degree 2007-2011	Median value owner occupied housing unit	Per capita income past 12 months 2007-2011	Median household income 2007-2011	% persons below poverty level 2007-2011
Isabella	70,622	0.4	9.9	89.6	25.7	$124,100	$18,738	$36,815	31.4
Clare	31,033	0.3	20.2	83.2	11.0	$87,000	$18,413	$34,431	23.5
Gratiot	42,145	-0.8	15.0	87.4	13.1	$90,300	$18,936	$38,867	17.4
Mecosta	43,300	1.2	15.4	88.7	21.6	$117,500	$19,320	$37,677	23.6
Midland	84,063	0.5	15.0	91.4	31.9	$131,900	$29,451	$52,465	11.1
Montcalm	63,185	-0.2	14.5	85.8	13.3	$107,000	$19,010	$40,068	19.6
Osceola	23,510	-0.1	17.3	86.5	12.5	$99,500	$18,228	$39,035	19.2
Ionia	63,979	0.1	11.7	86.6	13.4	$118,600	$19,994	$46,958	16.1

Sources:
2010 Census State and County Quick Facts
Michigan State Tax Commission 2010 State Equalized Value & Taxable Value Report

Chart B

Isabella Co & POAM MERC Case No. L-16-J-1022
Isabella Co & COAM MERC Case No. L-16-J-1025
External Comparable Communities

	Population Estimate 7/1/16	Population % change 04/2010-07/2016	Population 65+ %	% persons 25 yr + highschool grad 2011-2015	% persons 25+ BA degree 2011-2015	Median value owner occupied housing unit 2011-2015	Per capita income past 12 months 2011-2015	Median household income 2011-2015	% persons below poverty level 2011-2015
Isabella	71,282	+1.4	11.6	91.9	27.3	$122,500 -1.3%	$20,518	$39,377	26.1
Clare	30,568	-1.8	22.1	84.2	11.6	$79,800 -8.3%	$19,181	$33,015	24.7
Gratiot	41,202	-3.0	14.8	88.9	14.1	$88,900 -1.5%	$19,618	$44,912	16.5
Mecosta	43,221	+1.0	17.4	89.4	22.7	$110,500 -6.0%	$20,405	$44,889	21.3
Midland	83,462	-0.2	16.8	93.5	32.5	$131,200 -0.5%	$30,172	$54,059	11.5
Montcalm	62,964	-0.6	16.4	87.3	13.1	$94,100 -12.7%	$19,995	$41,584	17.9
Osceola	23,100	-1.8	19.5	88	13.2	$90,300 -9.2%	$19,205	$38,999	18.7
Ionia	64,232	0.5	13.4	88.2	14.9	$110,000 -7.3%	$20,921	$49,124	14.2

Source: 2011-2015 Census State and County Quick Facts

Attachment 2

Isabella Co & POAM MERC Case No. L-16-J-1022 (Act 312)

	2016 10 year wage	2017 10 year wage	2018 10 year wage
Clare	$44,387 2%	$44,387	
Gratiot	$45,480 2%	$46,389 2%	
Ionia	Avg. $48,776 1/1/16 = 1% - $48,534 7/1/16 = 1% - $49,018	Avg. $49,774 1/1/17 = 2% - $49,524 7/1/17 = 1% - $50,024	
Mecosta	$51,580 1/1/16	$52,612 1/1/17 =2%	$53,664 1/1/18 = 2%
Midland	$58,198 1/1/16	$59,654 1/1/17 = 2.5%	$60,840 1/1/18 = 2%
Montcalm 4-years	$52,734 1/1/16 = 1.25%	$53,657 1/1/17 = 1.75%	$54,194 1/1/18 = 1% 7/1/18 = 1%
Osceola 4-years	$44,405 1/1/16 = 1.5%	$45,293 1/1/17 = 2%	
Isabella	$49,706 1/1/16 = 2.5%	Union proposal 2% = $50,701 Co proposal 0% = $49,706	
Mean Average, excluding Isabella	$49,365	$50,252 1.79%	