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STATE OF MICHIGAN
DEPARTMENT OF LABOR
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Arbitration Between:

CITY OF SOUTHFIELD, MICHIGAN,

-and- **MERC Case No. D84 E-1617**

SOUTHFIELD FIRE FIGHTERS ASSOCIATION, LOCAL 1029, IAFF, AFL-CIO.

ARBITRATION PANEL:
Donald F. Sugerman, Impartial Arbitrator and Chairman
Dennis B. DuBay, City Delegate and its Attorney
George H. Kruszewski, Union Delegate and its Attorney

Southfield, City of

OPINION EXPLAINING AWARD

I. CHRONOLOGY

July 1, 1981 - June 30, 1984 The most recent collective bargaining agreement between the City of Southfield (City) and the Southfield Fire Fighters Association (Union) was effective for the three year period beginning July 1, 1981, and ending June 30, 1984, and will be referred to herein as the Agreement.

May 17, 1984 - February 21, 1985 During this period, the parties met ten times (May 17, June 28, July 17, 23, 30, September 6, 18, October 11, 1984, February 4, and 21, 1985) to negotiate new terms and conditions of employment to replace those contained in the Agreement.

March 1, 1985 The negotiations failed to produce an agreement and the Union filed its Petition for Arbitration under Act 312,

Sugarman, Donald F.

Public Acts of 1969, as amended. It identified twelve issues in dispute.

March 29, 1985 The City filed its Answer to the Petition. It accepted the Union's statement of issues, noted that there were also two joint issues (duration of the contract and effective date of changes), and set forth another twelve issues in dispute between the parties.

May 1, 1985 The Michigan Employment Relations Commission appointed Donald F. Sugerman as impartial arbitrator and chairman in this case.

June 10, 1985 A pre-hearing conference was held at which the parties entered into a number of stipulations and made procedural arrangements for the conduct of the hearing, e.g. the dates for hearing, exchange of exhibits, witness lists, final offers and briefs.

September 4 - November 11, 1985 Eleven days of hearings were conducted (September 4, 5, 6, 9, 10, 13, 27, November 6, 7, 8, and 11) that produced a transcript of 1535 pages in eleven volumes and 660 exhibits filling five volumes.

November 30, 1985 Final offers of settlement were filed including the precise contract terms being proposed.

February 6, 1986 Comprehensive and able briefs were filed.

April 18,23, 1986 Panel Meetings were held.

May 3, 1986 A Panel Meeting was held and the Award issued.

II. THE ISSUES

The parties stipulated that the term of their new agreement will

be for two years - July 1, 1984, to June 30, 1986.[1] They differ most sharply, however, over the issue of wage rates. Their other issues are:

FOR THE UNION	FOR THE CITY
Paramedic Premium Pay	Grievance Procedure
Food Allowance	Leaves of Absence
Holiday Pay	Compensatory Time
Holidays (40 Hour Personnel)	Promotions - Lateral
Sick Leave Incentive Pay	Promotions - Chief's Position
Promotions	Maintenance of Conditions
Duty-Incurred Disability	Longevity
Survivor's Pension Benefits	Holiday Pay
Retirees' Health Insurance	Hospital/Optical Insurance
Employee Pension Contribution	Union Business
Annuity Withdrawal	

Each of these issue will be discussed below.

III. BACKGROUND

The City

The City of Southfield, an incorporated municipality of 27.83 square miles, is located in southern Oakland County and sits near the geographical heart of the counties of Wayne, Oakland, and Macomb which comprise Metropolitan Detroit. This strategic location may be a contributing factor in Southfield's burgeoning as a metropolis. Regardless of the reason, Southfield has emerged as a center of commercial activity. In fact, over 55% of the Southfield tax base is generated from this commercial development that takes the form (as one traverses the City) of a

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[1] Unfortunately, (for the citizens and perhaps even the parties) this award will have virtually no prospective application. Perhaps it will form the basis for a mutually negotiated successor agreement. It would be a sorry state of affairs if the parties were required to return to another Act 312 proceeding on the heels of this costly and time consuming one.

concentration of "modern" high rise and low rise office buildings; shopping malls, centers, and strips; hotels; and apartments.

The City's self description as "a matured community" is understated, if by that term it means "fully developed." The new construction in the City, regardless of whose figure for building permits is used, is impressive. Indeed, this new construction seems pervasive. If the City is matured, it is in the envious position of having recently achieved that status and does not appear to suffer from blight or the decay of its infrastructure.

The last official census (1980) reports a resident population for Southfield of 75,568 living in 31,289 housing units. County Planners estimate the 1983 population of Southfield at 79,377. The residents own single family houses with a median value of $66,300 and their median household income exceeds $27,000 annually. It is certainly understandable that with this explosive development more residents earn their livlihood in Southfield than those in most other Oakland County communities. The conclusion to be drawn from this body of information is that Southfield appears to be a good place to live and to work.

City Government

Southfield is governed by a City Council, that appoints the City Administrator. Elected officials include the Mayor (who has veto power over Council), seven Council members, Clerk and Treasurer. The day to day business of the City is performed by

about 550 employees who work in 19 Departments. Almost 450 of the employees are represented in six bargaining units by various labor organizations: The unions and number of employees in each unit are: Michigan Association of Public Employees (MAPE) -114 professional, technical and clerical employees; Southfield Police Officers Association of Michigan - 112 Police, 22 Public Safety Technicians; 100 - Fire Fighters; American Federation of State County and Municipal Employees, Local 329 (AFSCME) - 67 Custodians et al. and; The Southfield Police Command Officer's Association (Police Command) - 35. In addition, there are 80 non-represented employees in the Administrative Civil Service and 30 Exempt, managerial or supervisory personnel (Department Heads and above).

The Fire Department

The administrative structure of the Fire Department follows a traditional pattern with the functions of suppression and preventions being handled separately. The Department is headed by a Chief who reports to the Public Safety Director. In Fire Suppression, the ranks below the Chief (in descending order) are: Assistant Chief, Lieutenant, Sergeant, and Fire Fighter. There are also specialized classifications within the rank of Sergeant and Fire Fighter: Paramedic Sergeant, Paramedic Coordinator, Paramedic, Driver Engineer, and Mechanic. In Fire Prevention, the ranks are: Fire Marshall, Senior Fire Inspector and Fire Inspector.

The Department has an authorized level of 102 sworn staff

positions (recently increased to 104) and usually operates at or near authorized strength. At the time of the hearing, 99 sworn personnel were in the bargaining unit;[2] 92 were in Suppression and 7 were in Prevention. The Fire Fighters in Suppression work 56 hour schedules on 24 hour shifts and those personnel in Prevention work 40 hour schedules of 8 hour shifts.

For the purposes of providing fire protection and emergency medical services, the City has established four geographic areas, each of which is served by a fire station located within the quadrant. In addition, there is a station at headquarters (Civic Center) that serves as a backup for the other stations. By contract, the City furnishes fire protection to Lathrup Village, an unincorporated community within its borders.

The Suppression staff works on a platoon system. A platoon is a group of people who work the same schedule. At maximum strength, a platoon consists of 31 persons and the minimum level is 24 persons. At maximum force, the platoon is deployed with ten at headquarters, eight at Station 1, five at Station 3, and four each at Stations 2 and 4. From these various locations, the Department responds to fire alarms and to medical emergency calls.

IV. CRITERIA FOR DECISION

The Statute (Section 9) requires the Panel to "base its findings, opinions and order upon the following factors, as

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[2] The only position in the Department excluded from the unit is that of the Chief.

applicable:

> (a) The lawful authority of the employer.
> (b) Stipulations of the parties.
> (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
> (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
> (i) In public employment in comparable communities.
> (ii) In private employment in comparable communities.
> (e) The average consumer prices for goods and services, commonly known as the cost of living.
> (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
> (g) Changes in any of the foregoing circumstances during the pendency of the arbitration process.
> (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment."

Lawful Authority; Ability to Pay

Neither the lawful authority in Section 9, subparagraph (a) nor the ability of Southfield to meet the costs in subparagraph (c) is an issue in this case.[3] In reaching its decision, the

[3] With some ingenuity, the City has established two separate criteria under subparagraph (c); one entitled "Interests and Welfare of the Public" and the other "The Financial Ability of The City Government." The City first argues that the Panel must consider the interests and welfare of the public. While the public interest underlies this entire proceeding, it is not set forth as a separate factor in the sense urged by the City. The term "interests and welfare" is used in the conjunctive with the provision "financial ability ... to meet those costs." The City next argues that its " `ability to pay' is no greater than other

Panel has taken into consideration the stipulations of the parties (b) and the criteria referred to in subparagraphs (d) through (h). Those factors will be discussed throughout the body of this Opinion.

Comparable Communities

This standard compares the wages, hours, and conditions of employment of the subject employees with those of employees performing similar work in "comparable communities" (in public and private employment). The issue of "comparable communities" is one of the most important factors used by Arbitration Panels to establish wages, rates of pay and other conditions of employment and it is one of the most difficult factors to evaluate and to apply. The statute provides no guidance in this area and, similarly, there is no legislative history to draw upon.

In the immediate case, the parties disagree on the method for selecting comparable communities. The City proposes a list that "consists of all Southern Oakland County communities with a full-time fire department and a 1980 minimum population of 20,000." The Union proposes a list of comparable communities that were found to be appropriate in a 1979 Act 312 case

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communities and, in fact, has leveled off in the last few years" thus requiring the Panel to moderate increases in compensation. This position begs the question. The issue is whether the City can actually meet the costs determined by the Panel considering the interests and welfare of the public and not its comparative ability to do so. Conversely, but perhaps more to the point, the City stipulated that it was not claiming an inability to pay in these proceedings.

involving these same parties, arguing that they "represent the historical determination of an impartial arbitrator after considerable deliberation..." While their positions are not frivolous,[4] I do not believe that either of their criteria should be used. I have developed an entirely different approach to resolve the question of comparable communities.

During the preliminary stage of this proceeding, the parties exchanged a list of the communities that each considered comparable to Southfield. The City listed seven cities and three townships and the Union listed twelve cities. The following cities were common to both lists:

Birmingham
Farmington Hills
Ferndale
Hazel Park
Pontiac
Royal Oak

In essence then, this "stipulation" of the six named cities as being comparable to Southfield, is, under the scheme of Section 9 subparagraph (b), entitled to significant weight. The parties agree that each of the six named cities is comparable to Southfield.

It is difficult, at best, to compare one community to

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[4] The parties are not as charitable in their characterization of the others position. For example, the City says that the Union's list of comparable communities - is not based upon rational, uniform criteria; is unsupported by the record; is a conglomeration of communities from assorted counties; and is a hodgepodge of cities taken from the tri-counties. The Union states that the City's list - cites the flimsiest qualities imaginable; has no basis in fact or logic; and is arbitrary and capricious.

another one; the variables are so great that direct comparison is not meaningful. The same is true for the approach that seeks to establish common denominators. I believe that a better (although still imperfect) comparison is made by taking the data from the stipulated communities, adding to that the data of the subject community, and constructing a composite against which disputed communities may be measured for comparability. The composite produces a "range of comparability" and is the formula used in this case.

The parties disagree on whether ten communities are comparable to Southfield. They are:

City Proposed	Union Proposed
Bloomfield Township	Dearborn
Madison Heights	Dearborn Heights
Waterford Township	Livonia
West Bloomfield	Sterling Heights
	Warren
	Westland

The data submitted by the parties for each of these communities has been examined against the range produced by the composite. For example, the 1983 State Equalized Value (SEV) of property for the composite (seven cities) ranged from $136.9 million in Hazel Park to $1.3 billion in Southfield. The 1983 SEV for the disputed communities shows that seven are within the range of comparability and three, Dearborn - $1.8 billion, Livonia - $1.5 billion, and Warren - $2 billion, are out of the range.

The data common to the seventeen communities has been evaluated and the results are set forth in Chart A, which follows this section. This information is divided into three main

categories with numerous subcategories. Category I refers to Physical characteristics that are: Population, Square Miles, Density (population divided by square miles), Change In Population from 1980 to 1983 (by percentage), Housing Units, Median Value of Owner Occupied Houses, and Median Family Income.

Category II provides Fiscal information in the following subcategories: The SEV for 1983 - 1985, Change in SEV 1983-1984, a breakdown of the SEV into its component parts-Commercial, Industrial, Residential, Personal), SEV Per Capita, SEV Per Authorized Fire Fighter, Tax Rating, and Tax Levy. The Fire Service is described in Category III with Authorized Fire Fighters, ISO Rating, Citizen/Fire Fighter Ratio, Fires Per Fire Fighter, Average Number of Fires (3 year average), Property Loss (3 year average), Fire Runs Per Fire Fighter and EMS Runs Per Fire Fighter.[5]

The factors set forth in the categories have not been weighted. Similarly, no minimum number of credits has been predetermined for a community to be designated a comparable. Instead, I have looked at the overall patterns. The communities of Madison Heights, Waterford Township, Sterling Heights, and

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[5] The City of Farmington Hills has a mixed full-time and volunteer Fire Department. The evidence submitted during the hearing was limited to data concerning the full-time staff. For that reason, all computations involving the number of fire fighters were skewed. For example, Fire Runs Per Fire Fighter (1984) for cities in the composite show: Birmingham - 16.03, Farmington Hills - 94.50, Ferndale - 19.08, Hazel Park - 17.50, Pontiac - 14.92, Royal Oak - 17.89, Southfield - 18.23. From the standpoint of accuracy, the figures for Farmington Hills involving the number of fire fighters were excluded from the range of comparability and designated on Chart A with an "**".

Westland fit within the four corners of the composite, but the remaining cities do not. Those four communities will also be used as comparables. At the same time, the reason for these communities being selected and conversely why some of the other were rejected is in order.

In Category I, Bloomfield Township, West Bloomfield, Dearborn and Dearborn Heights looked much like the composite. Indeed, Dearborn Heights was within the range of comparability in virtually every subcategory (except the Change in Population 1980 - 1983). In Category II, however, the differences were acute. Dearborn (as well as Livonia and Warren) have greater SEV's than the composite. And while Bloomfield Township, West Bloomfield and Dearborn Heights were all within the range on the overall SEV's they were outside the range on almost every component making up the total (Commercial, Industrial, Residential, and Personal). In this regard, Bloomfield Township will serve as an example, using the 1983 figures.

Subcategory	Range of Comparability	Bloomfield Twp.
Commercial (%)	13.7 - 41.4	8.7
Industrial (%)	1.3 - 30.8	0.4
Residential (%)	29.9 - 74.2	87.3
Personal (%)	4.0 - 25.6	2.4
Per Capita ($)	6392 - 19220	23000
Per Auth. F/F (M)	5.4 - 13.6	19.5

From this table, it is clear that Bloomfield Township does not resemble the composite from a financial standpoint.[6] It has

[6] The composite creates a wider latitude for comparison than if Southfield was used alone. Thus, if Bloomfield Township does not compare favorably with the composite, it is even less of

a smaller commercial base, no industrial base at all, and its residential base is much larger than the composite. The same types of differences can be seen in the other factors in this Category and apply to West Bloomfield, and Dearborn Heights.

In selecting the four communities as comparable from among those in dispute, I have necessarily rejected the various countervailing arguments advanced by the parties. Let me briefly comment on some of them, beginning with those of the City. I see no persuasive reason for limiting the selection from among Southeastern Oakland County communities with a population of 20,000. The criteria seems artificial and result directed.

While the County form of government and drain operations loosely bind the communities together, those factors are relatively unimportant and do not rise to the level of the factors set out in Chart A. The same is true of the Mutual Assistance Pacts with other Oakland County Communities cited by the City in support of its position. As the name implies, these Pacts require communities to lend fire fighting assistance to one another when called upon to do so. The need for such assistance has been extremely limited and there is some question whether Southfield is a signatory to the pact (see City Exhibit 4). More important, the effect of the pact is neutralized by the Union's presentation which includes a similar pact between Southfield and Wayne County communities.

I do not believe that the arguments relating to Labor Market

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a comparable when measured one on one.

Analysis or Geographic Proximity warrant a different conclusion. As I understand it, the Labor Market approach deals with competition for fire fighter jobs among area communities. The City submitted evidence showing the places of residence of its current fire fighters. There is no evidence to establish that fire fighters limit their quest for attractive positions to their home or adjacent communities. Under the circumstances, I would be hard pressed to find that place of residence would prevent a fire fighter from accepting a desirable position in the Metropolitan area.

Finally, the City contends that geographic proximity should exclude Sterling Heights in Macomb County and Westland in Wayne County. I disagree. The terms "geographic proximity" and "geographic remoteness" were used by one arbitration panel to exclude Dearborn Heights as a comparable community to Southfield in a 1978 case involving the Police Department. However, in the last Act 312 case involving these parties both of those cities where held by the Arbitrator to be comparable to Southfield. I conclude that the precise location of a community is less important in determining comparability than the factors set forth in Chart A; this is especially true where the communities are in the same general area, such as the so called Tri-counties.[7]

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[7] In this regard it is interesting to note that House Bill No. 4413 submitted last year, would permit the panel to find communities in other states to be comparable to the one under consideration. While not sharing the Sponsor's "global view" on comparability, I believe that generally the proximity of the communities is less important than other criteria.

I also reject the Union's contention that this Panel should use the same comparable communities found appropriate in the prior Act 312 case. Arbitral precedent for selecting comparable communities is of dubious validity for a variety of reasons. While precedent may have a place in deciding contract interpretation issues,[8] the same is not true where interest arbitration is involved. In interest cases the Panel is dealing with a mass of information that has changed significantly since it was previously examined. And, of course, the Panel is not interpreting an agreement, but is making one. Even if precedent had a place here, Act 312 decisions do not always explain the rationale for selecting comparable communities and even where reasons are given they frequently seem abstruse (a term that commentators may later use to describe the method used here for determining comparable communities).

The Union urges that Waterford Township not be used as a comparable community because a township has a different form of government than a city. I believe that the only difference between the two governments is that a township cannot tax at the same level as a city. No evidence was submitted on this issue and I cannot exclude a township based solely on a conclusionary reference to such differences in an earlier case. The Union also

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[8] In Gorton-Pew Fisheries Co., et al., 16 LA 365, 368 (1951) the eminent Saul Wallen said he "would be loath, when passing on the same question under the identical contract language, to arrive at a different conclusion when there is any ground at all for arriving at the same conclusion, because of the unstabilizing effect of different interpretations on the parties' day-to-day administration of their agreement."

suggests that Waterford Township should be excluded because it is a Volunteer Fire Department. I see no justification for excluding Waterford Township on that basis in light of the stipulation of the parties to include Farmington Hills as a comparable community. The two departments are similarly structured.

The following communities then are comparable to Southfield and will be used in this proceeding:

Birmingham
Farmington Hills
Ferndale
Hazel Park
Madison Heights
Pontiac
Royal Oak
Sterling Heights
Waterford Township
Westland

Other Southfield Employees

The criteria of section 9(d) also requires a comparison of the wages, hours, and conditions of work of the subject employees with those of other employees of the municipality. This comparison is important for two reasons: First, for non-police and fire units, it demonstrates the results of voluntary collective bargaining and places the Act 312 procedure in perspective; Second, for employees who utilize the Act 312 process (in this case Police Command and Police units), Fire Fighters and Police Officers are frequently considered pari passu and that is true in Southfield where a City Charter provision states in relevant part that:

> Members of the Police and Fire Departments having corresponding classifications, as hereinafter enumerated and periods of service, shall receive equal annual compensation, including equal annual wages ... No disparity in such annual compensation or wages shall occur or be justified on account of differences between policemen and firemen as to average, normal, regular or customary hours of work or duty, or as to furloughs, leaves or leave days, or vacations; nor on account of the hazards or character of such work or duty; ... nor indirectly, to avoid the intent of this section, which is to assure parity of compensation and wages to policemen and firemen. (emphasis added)

Consumer Prices

The "cost of living" is another Section 9 standard which may be used by the Panel in reaching its decision. The cost of living is commonly based on the Consumer Price Index that is published monthly by the Bureau of Labor Statistics and is intended to show changes in the cost to an average family of purchasing a so called "market basket" of selected goods.

Overall Compensation and Other Factors

The statute requires the Panel to consider the overall compensation of unit employees and the continuity and stability of their employment; and permits it to use other factors "normally or traditionally" taken into account in determining the wages, rates of pay, hours, and conditions of employment at issue.

The Panel has used the Section 9 factors in making its Award in this case. Obviously, each factor does not lend itself for use with every issue and, of course, one factor or another may weigh more heavily in deciding a particular issue. At the outset

of this proceeding, the parties agreed that, where applicable, the Panel would consider each issue for the two separate fiscal years involved. For example, on wages a last final offer was submitted for the year ending June 30, 1985, and another for the year ending June 30, 1986. With those caveats, we will now explain the basis for our Award.

UNION ISSUE NO. 1 - WAGES (Economic)

Relying principally on the overall compensation received by Fire Fighters, the wages earned by their counterparts in comparable communities,[9] and the settlements made with employees in its other units, the City proposes a wage freeze for 1984-85 and a salary schedule equal to a five percent increase for 1985-86. The Union proposes a 3.5% increase the first year and an additional 6% the second year. It stresses the skills, danger, and responsibilities of the job; the deterioration of earnings compared to the CPI for the last five year period; the expectation of double digit inflation; and recent settlements made by comparable communities with their Fire Fighters.[10]

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[9] Under the ground rules that were agreed on at the pre-hearing conference, the parties did not know the identity of the comparable communities at the time they filed either their last final offers or supporting briefs. For that reason, they have argued their respective positions on the basis of there being seventeen comparable communities. The elimination of seven of those communities from consideration in this case has altered, to some extent, the factual representations that they have made.

[10] The Union also claims that the proposed freeze on wages, which was part of a four year program instituted by the City, was evidence of bad faith bargaining. A few words are in order on this point. It is neither improper nor unlawful for an employer to engage in long term financial planning; most responsible

For convenience, the two years will be discussed together. Over that period, the City's proposal would increase wages 5%, and the Union's proposal would increase them by 9.5%. Evaluating these proposals on the basis of the relevant Section 9 factors, leads one to conclude that the City's offer is more acceptable. Using the average Southfield Fire Fighter as a benchmark,[11] the wage he[12] received for 1984-85 was higher than his counterpart in nine of the ten comparable communities.[13] In overall compensation, the Southfield Fire Fighter led his colleagues in every one of the comparable communities.

The Fire Fighters also fare well when compared with other City employees (not including Police Command and Officers who are

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employers do so. An employer may not use its long term plan to frustrate good faith bargaining with the representative of its employees. The question for the trier of fact in such a case is usually whether the employer's overall conduct was lawful hard bargaining or unlawful bad faith bargaining. However, that question is not properly before this Panel for determination; we do not sit in judgment on the strategy used by a party in bargaining. The claim of not bargaining in good faith is an unfair labor practice that must be addressed to the Michigan Employment Relations Commission - the agency responsible for serving as the proctor of the bargaining process. Our job is to determine the substantive terms of the agreement; the preliminary jockeying between the parties is generally immaterial and irrelevant. According, this claim has not played a part in the disposition of the wage issue.

[11] The City defined this individual as a non-resident, with a spouse, 8.2 years of seniority, and an Associates Degree.

[12] The use of the masculine gender throughout is simply for expediency.

[13] In Sterling Heights a fire fighter at the top rate on July 1, 1984, earned $112.00 more annually than the average Southfield Fire Fighter, but he had to work 104 hours longer to do so.

covered by the parity provision of the City Charter of which more will be said shortly). They have generally received higher percentage increases than their co-workers and similarly enjoy higher wages and overall compensation.[14] I conclude that the factors set forth above outweigh those cited by the Union in support of its proposal.[15]

Recently, another Act 312 Panel published its Award covering Southfield Police Officers. That award temporized on the wage issue by adopting the union's proposal of 3.5% for the first year and the City's schedule for the second year. The result is a 5% increase in the wage schedule, but a 6.5% increase in real dollars. The Police Decision falls squarely within the "Changes in ... circumstances" provision of Section 9(g) that must be considered in the immediate case.

The City Charter declaration on parity between Police Officers and Fire Fighters has been noted above. While a literal

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[14] The Union contends that the wage freeze for those employees should not be considered in this evaluation because they were, in effect, coerced into acceptance. There is no probative evidence to support that contention. I must therefore presume that the City was able to persuade those units to voluntarily accept the freeze.

[15] I am mindful of the importance of the job that Fire Fighters perform. Without intending to be patronizing, the citizens of Southfield have every right to be proud of their Fire Department. The dangers, stress, and responsibilities that Fire Fighters face are inherent in their job and have not appreciably increased during the term of this contract. I do not see double digit inflation continuing for 1985-86 (it has increased at an unbelievable annual rate of 1% for the 12 months ending March 31, 1986) and other comparables communities have settled wages for fire fighters with modest wage increases (3% in Sterling Heights).

reading of that clause arguably might permit a 1984-85 freeze for Fire Fighters notwithstanding the Police Award, its spirit does not.

> the intent of this section ... is to assure parity of compensation and wages to policemen and firemen.

Parity would not be realized by Fire Fighters if they suffered a loss of real dollars. The voice of the people on this subject must be heeded. The words of the Charter Amendment should be given a liberal construction.

Accordingly, the Union's offer for 1984-85 and the City's offer for 1985-86 will be accepted. Those offers are reflected in Appendix "A" pages 2 and 3 of the Award which is attached hereto.

UNION ISSUE NO. 2 - PARAMEDIC PREMIUM PAY (Economic)

In 1972, the City, in conjunction with Providence Hospital, established the paramedic program which was designed to provide sophisticated and advanced medical services to its citizens. Fire Fighters who completed the training program were given a ten percent pay increase. This percentage differential was converted to a flat rate in an earlier Act 312 Arbitration. The changeover initially had no effect because the flat rate difference was 10%. As wages increased, the percentage differential fell because the flat rate remained constant. The differential is currently 8.96%.

The requirements for the paramedic program are set forth in State law. Both the City and the individual paramedic must be

licensed. The paramedic (who incidentally continues to function as a fire fighter) must complete a Basic Emergency Medical Training and Advanced First Aid Course, classroom instruction by licensed personnel, and further training conducted by nurses and physicians under clinical situations. A total of 1184 hours is required to complete the AMET program and 45 hours of continuing education must be logged every three years as a prerequisite for re-certification.

To support the return to a 10% differential, the Union points to the extensive training requirements for paramedics, their "awesome responsibilities," and a substantially increased work load. It diplomatically notes that Fire Fighter Mechanics, Engineers, and Police Specialists are paid a 10% differential even though their training, duties and responsibilities fall below that of paramedics. The City contends that based on the comparable communities, the percentage differential is not warranted. Since only three of the comparable communities even have an AMET program, consideration of this factor is of less importance.

The importance of the work, the training involved, and the fact that other Fire and Police classifications receive a 10% differential, support the Union's proposal and it is accepted: See page 4 (and Appendix "A" page 3) of the Award.

UNION ISSUE NO. 3 - FOOD ALLOWANCE (Economic)

The City pays an annual stipend of $250.00 to each Fire Fighter (in Fire Suppression only) as a food allowance. This

allowance came into being because Fire Fighters are on duty for 24 hour periods and must eat their lunch and dinner meals at their work place. To facilitate this, the City provides a fully equipped kitchen at each station. Fire Fighters either "brown bag it," are permitted to have one of their colleagues pick up "take out" orders, contribute about $6.00 per day to a "chow fund" where food is purchased on a communal basis and prepared on site, or a combination of the three.

The average Fire Fighter actually works about 100 days per year. The Union proposes that the food allowance be increased to $400.00 and says this is not really a benefit to the Fire Fighter in the classical sense, but merely reduces the amount he is required to spend for food because of a unique work schedule. The City proposes no change in the food allowance. It is willing to pay the increase, however, to employees who pass an annual physical agility test. In this regard, the City apparently subscribes to the statement by John Gunther that, "More die in the United States of too much food then of too little."

The Union vigorously objects to the City's proposal on agility testing because it was never mentioned in bargaining or during the course of this proceeding and, it argues, the offer is therefore not properly before this Panel. Absent mutual agreement, a subject that is not raised during bargaining cannot form the basis for a last final offer. Under the scheme of Act 312, the parties may contest only those items over which an impasse was reached during negotiations. However, the Union is

incorrect that rejection of this offer means that its proposal ipso facto must be selected. The City's offer of no change in the food allowance is the one that must be considered.

The relevant Section 9 factors are comparable communities and overall compensation. Eight of the ten comparable communities provide food allowances; the two that do not are Pontiac, that recently discontinued the benefit, and Farmington Hills, is a volunteer department. In the eight communities with a food allowance, every one pays more than Southfield; the average is $444.00 and the median is $426.00. The comparable community test warrants an increase to $400.00.

A serious question can be raised on whether the food allowance increase is justified in light of the position of Southfield Fire Fighters at the top of the heap among their brethren in the area of overall compensation. Thus, the overall compensation test might neutralize the comparable communities factor. Here, the City's offer to increase the food allowance, albeit tied to a physical agility test, demonstrates a willingness to disregard the issue of overall compensation. Accordingly, the Union's offer is accepted (page 5 of the Award).

UNION ISSUE NO 4 - HOLIDAY PAY (Economic)

There are twelve holidays set forth in the Agreement. On average, a Fire Fighter works on about one third of the days that are designated as holidays. Each Fire Fighter receives a lump sum payment at the end of the year for eleven of the holidays and payment for the twelfth - the employee's birthday - is made in

the pay period in which it falls. The average payment to Fire Fighters is $1332.00 per year and it will increase to $1392.00 and $1404.00 respectively as a result of the new wage schedules (Appendix A of Issue No. 1).

The Union proposes that the birthday of Dr. Martin Luther King be added as a holiday and that the half days before Christmas and New Year's be enlarged into full days. The net effect of this proposal is to add two more holidays and increase the average lump sum payment to $1618.00 in the first year of the agreement and $1641.00 in the second year.

Fire Fighters in the comparable communities do not receive either the MLK birthday or the days before Christmas and New Year's as paid holidays. Only two of the comparable communities celebrate more holidays than Southfield; Hazel Park and Westland have fourteen. The Union correctly notes that the number of days is misleading and that it is necessary to look at the payments instead: Hazel Park with 14 days pays $1414.00, only $10.00 morethan Southfield at 12 days; Sterling Heights with just 7 days pays $1681.00.

The twelve holidays, computed at the new rate, places Southfield ahead of five of the comparable communities, on a par with three and behind the other two.[16] Using the comparable

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[16] In Pontiac, a fire fighter receives $1320.00 in holiday pay. If he works four of the twelve days, he receives an additional $440.00 or a total of $1760.00. As I understand it, the City contends that the first figure should be used and the Union says that the second figure should be used because the four days worked compares to the average number of holidays worked by Fire Fighters in Southfield. In Southfield, however, a Fire

communities factor and considering the overall compensation factor, an increase of two holidays cannot be justified at this time. The same result follows from an examination of other City employees. The two "parity" units have each bargained for twelve holidays and the pay corresponds to that received by Fire Fighters. Several other City units have more holidays (two at 13 and one at 14), but the rates received by those employees are substantially below the rates of Fire Fighters. For the above reasons, the City proposal is accepted (page 6 of the Award).

UNION ISSUE NO. 5 - HOLIDAYS OFF (Economic)

Fire Prevention Inspectors work eight hours per day, Monday through Friday. They have the same holiday benefits as Fire Fighters who work in Suppression; twelve holidays with payment made in a lump sum annually regardless of time worked. All Fire Fighters work on holidays that fall within their regular schedule. The Union proposes that Inspectors not work on eight named holidays if they fall during the regular work week. The principal rationale for this change is to "bring the Fire Prevention Bureau more in line with other City Departments" that are closed on each of thirteen designated holidays. Under this proposal, Inspectors could be called only in emergencies for which they would be paid at overtime rates (for all hours worked with a two hour minimum).

Fighter receives the lump sum payment regardless of the number of holidays that he works; some work less and others more than the average of four days. Thus, to compare apples with apples, the $1320.00 figure is being used.

Fire Fighters have derived certain benefits that seem to have been created in response to the unique schedule that they must work. Members of the Fire Prevention Bureau have historically received the same benefits as Suppression personnel even though they are on a "normal" work schedule.

The Union now wants Inspectors to be treated like other City employees, but not entirely like them - just for working on holidays. If Inspectors are to be treated like other City employees for the purposes of days off, it is difficult to understand why they should not be treated like those employees for pay purposes too. The Union cannot have it both ways. The comparable community factor cannot be used here because of the wide variance among the other Fire Departments in providing fire prevention services: In three communities, prevention employees (with the possible exception of a Fire Marshall) are not 40 hour employees, and; in two communities the Marshall is the only fire prevention employee. Only two of the comparable communities give prevention employees holidays off and pay them too.

Inspectors perform a function in the Fire Department that is akin to the services performed by Investigators in the Police Department. For that reason it is illuminating to examine the holiday benefit of that group of workers. Investigators work an eight hour day, five day schedule, are paid for holidays in a lump sum at the end of the year, and significantly, do not receive the holidays off. There is simply no justification to grant the Union's final offer on this issue. Therefore, the

City's final offer to maintain the status quo will be accepted (page 7 of the Award).

UNION ISSUE NO. 6 - SICK LEAVE INCENTIVE (Economic)

Prior to 1981 the parties had a traditional sick leave program; a Fire Fighter earned sick leave based on time worked. If it then became necessary for a Fire Fighter to miss work because of illness, sick leave could be used to avoid the reduction of wages and benefits that otherwise would have followed such an event. Unused sick leave was accumulated for possible future use and the amount recorded in a "sick bank." Leave remaining in the bank was liquidated on the retirement or death of a Fire Fighter (at his then current rate of pay).

The entire Sick Leave program was revamped in 1981 and incorporated in the Agreement. A Fire Fighter became eligible for sick leave from the date of hire; it was no longer earned on the basis of days worked. Sick leave was unlimited with full pay for up to 60 days and long term disability thereafter. Fire Fighters were given the option to liquidate their sick banks (with a reduced payout for current value) or freeze them in place (with payout as before). Almost everyone chose the first option. Finally, an incentive was added that paid an annual bonus for not using sick leave: Effective July 1, 1981, - $750.00 to those who used two or less days, reduced to $500.00 on July 1, 1983, and $250.00 to those who used more than two, but less than three days.

The $500.00 and $250.00 incentive payments form the basis

for this issue. The problem, according to the Union, is twofold. First, the $750.00 represented about 3% of the base rate and the current payment of $500.00 is only 1.67% of that rate. Second, when the program began 95 fire fighters received maximum incentive payments; last year only 78 did so. Conversely, in its first year only 6 men did not receive incentive payments while this number climbed to 17 in 1984. For these reasons, the Union argues that the incentives should be increased to $1000.00 and $500.00 respectively.

Neither the arguments above nor the evidence support an increase on the basis of the Union's offer. The incentive program was directly negotiated by the parties. No evidence was presented to show a linkage between the bonus and the base rate. Indeed, the voluntary reduction from $750.00 to $500.00 suggests that they were not connected. Even assuming some relationship in the two items, the Union's argument is not well founded. The base rate for 1981 is the one that must be used for comparison. Five hundred dollars is 2.02% of the 1981 base rate and 1.64% of the July 1, 1985, base rate; a change of only .38% that would not warrant a 100% increase in the bonus (or any increase for that matter).

The second reason for an increase cited by the Union does not fare much better than the first one. The Union argues that the incentive is not working because the number of Fire Fighters who received the maximum decreased and the number who got no bonus tripled. I believe that it misconceives the basis for the

bonus.

The incentive is intended for use in the limited situation where an employee has the flexibility to decide whether to remain at home or report to work. In the latter case, the employee can work without harming himself or his colleagues. On the other hand, the incentive is not meant to encourage an employee to report for work who should not be there. I am unable to conclude that the program is not working simply because fewer Fire Fighters receive a full or partial bonus. Presumably the individuals who did not get a bonus were too sick to work and, if so, increasing the amount will not materially change the situation.

Finally, the Sick Leave Program, of which the incentive is only a small part, is the most comprehensive of those offered in the comparable communities. Over the long term, Southfield Fire Fighters have greater sick leave incentives than their counterparts in those communities. Accordingly, the change proposed by the Union is not warranted and the offer of the City is accepted (page 8 of the Award).

UNION ISSUE NO. 7. - PROMOTIONS (Non-economic)

Promotions to higher rank or positions in the Southfield Fire Department are on the basis of examinations. An example of the process is sufficient for a consideration of this issue. To be eligible for promotion to Sergeant, the entry level command position, a person must: Serve as a Fire Fighter for five years; sit for a written examination that counts for 65%; appear before

a three member board for an oral examinations that counts for 35% and; receive a combined score on the two examinations of 70%.

Seniority is used in the promotion process only if two employees receive identical combined scores on the examinations. This limited use of seniority rubs the Union the wrong way. It proposes that:

> For all promotional examinations given after November 18, 1985, one point per year of service by the employee in the rank below that for which he is testing shall be added to the employee's composite written/oral examination scores, for the purpose of compiling an eligibility list.

The Union's argument goes something like this: Seniority means experience; experience should be considered because the oral examinations are subjective and a board member might be unduly influenced and; "there is a positive correlation between the experience an officer has and the confidence his subordinates might have in him."

The City opposes the change. It contends that in a prior agreement there was a tradeoff - the City agreed to drop performance evaluations as a factor in promotions in exchange for the Union's agreement to drop seniority points as a factor. Thus it argues that it would be unfair to restore the one factor without the other. The City further contends that seniority is not the equivalent of experience, in essence arguing that the former is simply quantity while the latter is quality.

An experiential component is built into the promotion procedure. A Fire Fighter must have five years experience before he is eligible for promotion to sergeant; above that level, a

person must serve in rank for two years to be eligible for promotion. These time constraints seem to answer the Union's argument on experience. Its remaining contentions are entirely speculative.

There is no probative evidence to support the theory that time in service wins the confidence of subordinates. To paraphrase the John Houseman commercial for Smith Barney," They have to win confidence the old fashioned way - by earning it." And that is usually accomplished by competence, hard work, and dedication more than anything else. There is also no evidence that any member of Boards conducting oral examinations has been partial to a particular candidate. Certainly no complaint to that effect was ever filed with the Civil Service Commission.

The foregoing, and the history of seniority points being linked to performance evaluations,[17] lead me to conclude that the promotion procedure should not be changed and the City's offer is accepted (page 9 of the Award).

UNION ISSUE NO. 8 - DUTY RELATED DISABILITY (Economic)

Under the Agreement, an employee disabled in the line of duty receives prepaid hospitalization and life insurance throughout the disability period. The Union proposes that a disabled employee receive the benefits he would normally be entitled to if working for as long as the disability continues.

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[17] In four of the comparable communities a service rating or a performance evaluation is used in selecting candidates for promotion. Other City units that use seniority as a factor also utilize performance evaluations.

The City proposes a one year limit on certain selected benefits: holiday pay, longevity pay, food allowance, furlough pay, and the uniform cleaning allowance.[18] Under both proposals the basic hospitalization and life insurance benefits continue during the disability period.

Of the ten comparable communities, seven have a time limit on the continuation of benefits. This limitation period, from six months to two years, applies to all benefits including basic hospitalization and life insurance. It is also noteworthy that of the seven communities many do not provide the full range of benefits. For example, Farmington Hills does not continue holiday, longevity, or furlough pay; Ferndale does not continue the food allowance; Madison Heights does not continue holiday pay and; Westland does not provide holiday, longevity, sick, or furlough pay, or the uniform and food allowance.

Only three comparable communities have no limitation period on the payment of benefits; Pontiac, Sterling Heights, and Waterford Township. In Pontiac, the food allowance was recently eliminated for active employees and the uniform allowance is not continued. In Waterford Township the uniform allowance is not continued. Thus, of the comparable communities, only one- Sterling Heights - has the benefits that the Union proposes here. The City's proposal would place Fire Fighters is a position parallel to a majority of their brethren in comparable

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[18] Over the past ten years, only one employee was on duty disability for longer than one year, and in that case the total was fifteen months.

communities. The Union's proposal would place them ahead of virtually all of their colleagues. Accordingly, the proposal of the City will be accepted (page 10 of the Award).

UNION ISSUE NO. 9 - SURVIVOR'S PENSION BENEFITS (Economic)

Although a Fire Fighter's pension vests after ten years, his surviving spouse is entitled to receive retirement benefits only if he had twenty years of service at the time of his non-duty related death. The Union proposes that the years of service required for a spouse to acquire vested rights in a Fire Fighter's pension be reduced to ten years. The City proposal would leave the twenty year service requirement intact.

Neither the experience in the comparable communities nor the other City units provide definitive guidance in this area. About half of the comparable communities require less than 20 years of service for the survivor's benefit[19] and half require 20 years or longer. About the same story is told in the other City units where the requirement is 20 years in the police units and 10 years in the remaining units.

The equities, however, are with the Union. Generally, the surviving spouse and children of a ten year employee need all of the financial help they can get.[20] On January 1, 1986, seventy

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[19] While there may be other restrictions in place, the range in five of the comparable communities is from three to fifteen years of service; one at 3 years, two at 5 years, one at 10 years and one at 15 years.

[20] Thirty Fire Fighters have between 10 and 11 years of service (on January 1, 1986). The average age of those Fire Fighters is 36 and the median age is 36.

three percent of the Fire Fighters had vested pensions, but less than 20 years of service. Under the current arrangement, the spouse and children of those Fire Fighters would not be entitled to pension benefits. The cost to the plan of this modification to provide benefits is not great and serves an important social need. Accordingly, the Union's proposal is accepted (page 11 of the Award).

UNION ISSUE NO. 10 - HEALTH INSURANCE FOR RETIREES (Economic)

The City does not pay for retirees' health insurance, but makes it available for them to purchase. Both parties agree that a change is in order and that the City should pay the lions share of this benefit. They disagree, however, on the apportionment of the cost. The Union proposal calls for each bargaining unit member to pay $1320.00 in three scheduled installments. The City proposal is for retirees to pay for the first two years of coverage or alternatively that they "pay" (in cash or by forgoing certain entitlements) an amount equal to earnings based upon a predetermined number of hours.

The arguments advanced by the parties in support of their respective positions are detailed and complex. For that reason, these arguments will only be summarized here. Essentially, the Union contends that: (1) most of the comparable communities pay the entire cost of retiree health insurance; (2) the Command Officers Association obtained this benefit in a 1982 Act 312 proceeding in exchange for its members giving up payment for part of their accumulated sick pay; (3) the Police Officers

Association then bargained the retiree benefit for a similar reduction in sick pay; (4) the payment it proposes is justified because its members gave up a significant part of their sick pay when the new sick leave program was put into effect; and (5) the payment of approximately $130,000.00 is really greater because the City will have that amount in a short period rather than on an individual basis as fire fighters retire.

The City says that: (1) other City units do not have this benefit; (2) the sick bank buy out "discount" negotiated in the last contract, was the quid pro quo for the "most generous [sick leave program] in existence" and the Union is, in essence, attempting to use the same concession to obtain another benefit; and (3) the Union should contribute an amount equal to that contributed by the Police Command and Police units for this benefit;

There is one Section 9 factor that strongly favors the Union's position; eight of the comparable communities pay the full cost of this benefit. If that was the only consideration, it would warrant placing the benefit into effect. Offsetting this factor are other important considerations. First, except for the Police Command and Police units, other City units do not have this benefit. Second, the two police units that have the benefit have paid for a significant portion of it. The Police Command Officers were given this benefit in an Act 312 proceeding, but were required to forfeit thirty five percent of their sick leave banks at retirement. The Police thereafter

negotiated this benefit in exchange for discontinuing early reporting time and training time.[21] Third, there is matter of the "overall compensation" factor. In this regard, the Fire Fighters are at the top of the scale among comparable communities. Finally, I conclude that the discounting of sick banks was in exchange for the sick leave program and will not support a finding that discounting those banks was equivalent to the reduction by Police units. Indeed, the discount program was optional, but almost every Fire Fighters elected it. The City proposal will provide a new benefit to Fire Fighters. The only question is the amount of the partial payment that a person must make on retirement to receive this benefit. Based on the foregoing, the City's proposal is more equitable and it is accepted (page 12 and 13 of the Award).

UNION ISSUE NO. 11 - EMPLOYEE PENSION CONTRIBUTION (Economic)

Fire Fighters contribute 5% of their base earnings toward the cost of retirement benefits. The Union proposes that effective July 1, 1985, this be reduced to 2.5% with the City paying the differential. The City proposes to maintain the status quo.

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[21] About a year before its contract expired, the Police unit agreed to a change in shifts; from five of eight hours to four of ten hours. This change eliminated the need for early reporting. The training under the new program was done during regular working hours. Nevertheless, the City continued to pay the early reporting overtime. Although the union would undoubtedly have been hard pressed to justify this continued payment, stranger agreements have been made in contract negotiations. And the testimony stands that this overtime was traded for the retiree health benefit.

In the comparable communities, seven require a contribution of 5% or higher and only three have lower rates. Employees in all City units make the 5% contribution. In terms of "Final Average Compensation" used for determining benefits and pension benefits too, Fire Fighters in every classification stand above their counterparts in the comparable communities. Based upon the factors set forth in Section 9, there is no basis for the Union's proposal. Accordingly, the City proposal is accepted (page 14 of the Award).

UNION ISSUE NO. 12 - ANNUITY WITHDRAWAL (Economic)

The parties are in substantial agreement on this change of benefits. The Union proposes that any participant entitled to a pension benefit (whether normal service or disability) be permitted to withdraw his annuity contribution to the Plan plus accrued interest. The City proposes that the benefit be limited to normal service retirement.

In either case the cost to the Plan is not great. But there is a problem in permitting a disabled participant to withdraw his contributions. The problem stems from the fact that it is not unusual for a disabled person to recover and return to active employment. If that situation occurs, the Union proposal,

> ... leaves up in the air what happens then. The contributions are gone, have been refunded, and now the person is presumably being restored to a position that he left from. So, many times the annuity withdrawal is restricted only to service retirements, to avoid the issue of what to do with those cases.

That was the testimony of Norman Jones, of Gabriel, Roeder, Smith & Company, an actuary for the Plan.

Mr. Jones also opined that the City proposal was preferable,

> ... to avoid differences in wording between groups within the same plan that could cause confusion in the administration of the plan. So, the consistency, I think, would be very desirable. Further, [the City proposal] gives the Board a little more guidance in terms of the administration of the plan.

While the differences in the proposals are small, logic requires selecting the proposal that the Plan's professional advisor deems preferable. The City proposal is accepted (page 15 of the Award).

CITY ISSUE NO. 1 - GRIEVANCE PROCEDURE (Non-economic)

Under the 1981-1984 Agreement, a grievance is defined as a dispute "pertaining to wages, hours or conditions of employment." The City proposes to change the definition by requiring the grievant to identify the specific Article and Section of the Agreement allegedly violated. The Union proposes to retain the existing language.

Most labor contracts, including those covering fire fighters in the comparable communities, define a grievance as a dispute over the meaning, interpretation, application or enforcement of the applicable agreement. I find that concept better than either the current language or that proposed by the City because it is more precise. For that reason, the Award (page 16) adopts a modest change bringing the definition in line with the comparable communities and with most other City units. Having said that,

one other comment seems appropriate.

The definition of a grievance is secondary to the attitude of the parties who handle grievances. Thus, their judgment, experience and training are of vital importance to insure that grievances are filed only where there is a real basis for complaint and settled at the lowest possible step. A desire to settle grievances rather than to win them is essential for a successful grievance procedure.

CITY ISSUE NO. 2 LEAVES OF ABSENCE (Economic)

Fire Fighters are permitted to accumulate furlough time of twice their annual entitlement. They are paid for the excess amount that is not used by December 31 of any calendar year. The City proposes to continue the accumulation program with the excess time being forfeited - not paid. The Union proposes that the plan continue unchanged.

The City contends that a sizable number of Fire Fighters accumulate excess furlough time. It claims that this causes it to accrue a future liability that increases as wage rates increase. In addition, the City seeks to encourage the use of furloughs as a method to reduce job stress and burn-out and the excess accumulation defeats that objective.

The Union responds by saying that there is no financial justification for this change; no evidence to establish that forcing employees to take furloughs will achieve the "noble objective" of reducing stress or burn-out (indeed, requiring them to take unwanted vacations will have the reverse affect); and

finally, in the last Act 312 arbitration, the City was given the right to require individuals to take 72 hours of furlough, but it has not done so.

The evidence supports the position of the City. The right to force employees to take 72 hours of furlough was not effective. Lieutenants (who are in the bargaining unit with Fire Fighters) appear to have been reluctant to force their subordinates to take furloughs. It stands to reason, that removing employees from stressful surroundings is beneficial to their overall health. That premise is the cornerstone for the vacation benefit itself. A vacation permits employees a period for "renewal."

Among the comparable communities, eight of them do not pay for excess furlough time and require a forfeiture over the amount of furlough time permitted to be accumulated. It is also noteworthy that many of the communities have much smaller accumulation periods - five day carry over (Farmington Hills), nine days (Madison Heights), annual accumulation (Ferndale and Royal Oak), and one and one-half times the annual accumulation (Waterford Township). Similarly, the other City units also provide either for forfeiture of excess leave or give the City the right to force extended leaves (two weeks in Police Command).

These considerations prompt acceptance of the City proposal (Award page 17).

CITY ISSUE NO. 3 - COMPENSATORY TIME (Economic)

Under Section 10.8 of the Agreement, Fire Fighters can elect

compensatory time in lieu of pay for overtime, certain off-duty training or for standby hours.[22] Once having elected a conversion to compensatory time, a Fire Fighter must use the time within the work cycle - twenty eight days for those in suppression and biweekly for those in prevention. If the compensatory time is not used within those periods it is paid off.

Overtime and training averages between 200 to 250 hours per biweekly payroll period (there has been virtually no standby time for unit employees for some time). Of that number, between 70 and 80 hours is converted to compensatory time. It is significant, however, that only about 4 hours (1.5 to 2% of the total overtime and about 5% of the time converted) is actually taken as compensatory time. The City suggests that the reason that one third of the hours are converted to compensatory time in the first place is that when compensatory hours are paid off the employee pension contribution does not have to be made. The Union does not seriously dispute this assertion and argues that this actually is a savings for the City because it does not have to make the employer pension contribution on these funds.[23]

There is a split among the comparable communities on

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22 Pay for overtime and training is at time and one half and pay for standby hours is at straight time. Compensatory time is credited in the same fashion; one and one half hours for each hour of overtime worked and one hour for each hour of standby time.

23 Of course, the pension contribution made by the employee is subsequently returned to him.

compensatory time; five have it and five do not. Of the other City units, there is likewise a split. Of the units with compensatory time they are self monitoring and require a quarterly payoff only when over 80 hours are accumulated. The Fire Fighter program is much more cumbersome. The administrative work in continually converting overtime to compensatory time and then paying for the compensatory time does not appear to be justified in view of the small number of hours actually taken as compensatory time. The infrequent use of the program when considered in conjunction with the Section 9 factors, warrants the adoption of the City's proposal (Award, page 18). It is important to point out that this Award does not affect the requirement that the City continue to pay time and one-half for overtime and training and straight time for standby hours.

CITY ISSUES NOS. 4 and 5 - PROMOTIONS (Non-economic)

Act 78 of Public Acts of 1935 prohibits promotions and transfers between Fire Suppression and Fire Prevention. The City proposes to override this prohibition and to treat individuals on equivalent pay scales as being in the same rank for the purposes of transfer and promotion (Issue No. 4). A few examples will explain how the City proposal would operate. A Sergeant in Suppression and an Inspector in Prevention are on the same pay scale. Persons in those classifications would be eligible to test and become a Lieutenant in Suppression or Senior Inspector in Prevention, positions that are also equivalent in pay. In addition, a Sergeant could be transferred to the position of

Inspector and vice versa. The Union proposes to leave the statutory prohibitions in place.

A person must serve five years in the entry level position of Fire Fighter before becoming eligible for promotion. At that time he must decide whether to continue in Suppression or move into Prevention.[24] Each Division has its own progression and defined area of work. It goes without saying that the work of the two Divisions is highly specialized. The Fire Chief estimated that it took two years for an Inspector to achieve the competence to make building inspections. Personnel in both Divisions receive ongoing training in their particular job functions.[25]

It would make no more sense treating positions in the Divisions as being similar simply because pay scales were the same than to say all jobs in the City at corresponding grades were interchangeable. There is a well recognized progression in the two Divisions. No valid reason has been advanced for discontinuing the system established by the parties. The comparable communities, for the most part, do not permit lateral moves. Accordingly, the Union proposal is accepted (Award, page 19).

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[24] A Fire Fighter can actually test for both the Sergeant and Inspector positions. Upon electing a position in one branch, the Fire Fighter becomes ineligible for the position in the other branch.

[25] One Inspector cannot quite get the penchant for Suppression activity out of his system, and he has been known to answer alarms (somewhat to the chagrin of his superiors).

Act 78 also governs the filling of the position of Fire Chief. The City proposes to override that provision and "fill the position either from within, or from outside of, the bargaining unit" (City Issue No. 5). The Union proposes no change in the current provision of the Agreement.

Under the current arrangement, promotions are made after open competitive examination among persons in the next lower classification who have completed two years in the rank and have five years in the department. If there are not two persons in the next lower rank, then those in the second lower rank can compete. The Civil Service Commission conducts a written examination and there is an oral examination by Fire Chiefs from other communities. No educational or training prerequisites may be required. The two parts of the examination are weighted equally and a combined score of seventy makes an individual eligible for appointment.

In contrast, applicants for most other Department Head positions in the City must meet high educational and experiential requirements. They must then undergo intensive assessment center testing performed over several days that includes a variety of job simulations or submit to extensive and repeated interviews. The successful candidate is then selected by the City Administrator with the advice and consent of the City Council.

The Fire Department, with 100 Fire Fighters, is one of the largest departments in the City and with an annual budget of six million dollars, one of the costliest to run. The Fire Chief is

essentially an administrator who must deal with the myriad problems of the Department; budget, personnel, organization, equipment, materiel and supplies. The Chief must also interact with his counterparts in other departments, his superiors and with the general public. Thus, the job requires not only fire fighting experience and the ability to command, but it requires extensive managerial skills as well.

The Union presents three main arguments. One, it says that the City has the burden (that it has not met) to prove by the overwhelming preponderance of the evidence that the "present system is inadequate and needs change" and that "its proposal is the best alternate." Two, it says that it is unfair to change the rules in midstream in that "[t]he hopes and expectations of those current lieutenants, will be unjustly dashed ..." And finally, the Union suggests that by removing the Chief from the procedure of Act 78 will subject potential candidates and the person in the position to undue political pressures.

The City contends that the procedure for selecting the Chief is too restrictive; the number of eligible candidates is limited and the system may result in the appointment of a marginal candidate. When the position of Assistant Chief was recently posted, only four of the six lieutenants applied and one is five years beyond retirement age. In addition, a combined score of seventy percent on the equally rated written and oral examination makes a person eligible for the position and, if that is the

highest score achieved, the individual would become chief.[26]

The test urged by the Union for changing a contract term is, in my opinion, too limited. A party seeking to change a provision must advance a reasonable, rationale, and good faith basis for doing so. The Section 9 factors must also be considered. But the test for changing a provision is basically the same as that for any other issue before the panel for disposition. Stability in the relationship dictates that changes not be made casually or on whim.

With the growth of the City, the increase in finances, and the focus on administrative skills, it is important that the person selected as Chief have superior qualifications for the job. The successful candidate will have both the experience and education for the position. The men who are lieutenants may very well have the necessary qualities and qualifications to be Chief. No one suggests otherwise. Indeed, one of them may even be selected when there is a vacancy because it is the City's policy to promote from within the organization.

The person selected as Chief will benefit from knowing that he (or she) is considered the best candidate for the job. That, too, should have a positive affect on the staff. This change will encourage lieutenants and others to further prepare

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[26] In 1978, there were two applicants for the position of Police Chief. One applicant failed the assessment center testing while the other barely passed - scoring seventy-one. The latter individual had to be appointed. The City suggests that under the current procedure the same scenario could occur in the Fire Department.

themselves if they aspire to the position. I regret the possibility that some of the lieutenants may feel disappointed by this change. In the process of collective bargaining, however, they must know that unless a benefit is vested, there is no guarantee that it will continue intact. Often, provision are negotiated that change the way things have been done in the past. In a viable society, change is bound to occur and fortunately or unfortunately - depending on ones outlook, this item is one of them.

The position of Chief is outside the Fire Fighter bargaining unit. As the head of the Department, the Chief is part of management. He answers to the Public Safety Director and those above that position. Therefore, it is difficult to insulate the position from politics. That does not mean that the job should become a political football, changing with every change in Administration. Rather, it means that the Chief must be responsive to the needs of several constituencies; the command officers, the fire fighters, the administration, and above all the citizens of Southfield. A competent administrator will be able to transcend petty politics.

Each of the Section 9 factors has been considered in reaching this determination. The shortcomings of the current procedure, the need for a qualified administrator, the treatment of other positions under this contract, the practice with other City departments, the interest of the community, and the practice of other employers, dictate the adoption of the City's offer.

For the reasons above, the City proposal will make for a more effective Chief (Award, page 19).

CITY ISSUE NO. 6 - MAINTENANCE OF CONDITIONS (Non-economic)

Section 18.1 of the agreement, provides that:

> Wages, hours and conditions of employment in effect at the execution of this agreement, shall, except as stipulated herein, be maintained during the term of this Agreement.

The City claims that the clause has been improperly used by the Union to restrict it from carrying out management functions in operating the Department. It would remove the provision from the Agreement. The Union disputes the assertion and proposes that the clause remain in the Agreement.

On a number of occasions the Union has challenged the right of the City to alter various changes or proposed changes in procedures that affected its membership. In many of these instances it relied for its claim on Section 18.1. Some of the disputes were settled, but two of fairly recent vintage were arbitrated. In one case, Arbitrator Ruth Kann found that the City had not violated the Agreement. In the other case, Arbitrator Jerold Lax found that it had and he relied in part on Section 18.1 for his finding.

The problem here is not the filing of grievances - because the evidence does not show that the Union has done so recklessly or irresponsibly. Moreover, the filing of grievances - even some that do not prove meritorious - has a cathartic effect and is necessary for a successful relationship between the parties.

Rather, the problem is the vagueness and uncertainty of the provision. Thus, Arbitrator Lax found an inherent conflict between the Maintenance Clause and the Management Rights Clause in that each "is arguably capable of swallowing the other clause."

To help alleviate the problem of ambiguity, I believe that the clause should be slightly altered as set forth in the Award (see page 20).[27] It is important to note that this change does not override the Lax Decision. In fact, as I read that Decision it was predicated on past practice and the change here is not intended to remove past practice as a consideration in deciding future disputes between the parties.

CITY ISSUE NO. 7 - LONGEVITY (Economic)

Under the Agreement, Fire fighters receive longevity pay that is based on a percentage of base salary and increases with years of service. The formula is: 1% - 3 years, 2% - 5 years, 4% - 10 years, 6% - 15 years, and 8% - 20 years. The City would substitute a flat rate for the percentage and would maintain the same periodic steps. The Union proposes that no change in the formula be made.

The City argues that this is a costly benefit and that there is a trend among the communities cited by the parties as comparable to shift this benefit from a percent of base to a flat

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[27] There is about an equal split in the comparable communities and other City units between those that have a Maintenance of Conditions clause and those that do not.

rate. Finally, it says that the flat rate it proposes will maintain the benefit at current rates during the term of the Agreement. None of the arguments advanced by the City warrants a change in the longevity benefit.

The cost of the benefit is really immaterial. The benefit has been in the contract for some time and no contention that it cannot be afforded has been made. In the comparable communities, except for Westland, every one of them pays longevity on a percentage of base (and in many instances the percentages are more favorable than in Southfield). While one community negotiated a two tier benefit - maintaining the percentage approach for current employees and applying a flat rate for new hires - that single incident hardly demonstrates a trend. The Agreement serves as the basis for a long term relationship and it would be naive to look at the impact of the change only during its term. For these reasons, the Union proposal is accepted (Award, page 21).

CITY ISSUE NO. 8 - HOLIDAY PAY (Economic)

Under Section 23.2 of the Agreement, personnel on duty and who work from noon to 3:00 P.M. on Good Friday receive four hours of compensatory time.[28] The City proposes to eliminate this payment for reasons that are somewhat obscure; the overall compensation of Fire Fighters does not warrant a continuation of this benefit and it is not justified by virtue of what the

[28] With the elimination of compensatory time, this would convert to four hours of straight time pay.

comparable communities pay. The Union proposes that the benefit continue.

Where aa economic benefit is part of a the collectively bargained agreement, there must be a reasonable and rational basis for removing it. Only when a cogent reason for eliminating the benefit has been established are the Section 9 factors considered. Here, the City has leaped over the first requirement and seeks to justify removal based on overall compensation and comparable communities. This procedure would mean that a party negotiating a new or novel benefit would find it subject to risk in a subsequent Act 312 proceeding simply because others did not have it. That was not the intent of Section 312.

I find no basis advanced for the change; the cost is not a factor because it amounts to a negligible part of the City's operational budget for the Department (three tenths of one percent). No other valid reason for removing the benefit was advanced and the Union proposal is accepted (Award, page 22).

CITY ISSUE NO. 9 - HOSPITALIZATION (Economic)

The City pays the full cost of hospitalization for Fire Fighters and their dependents. It proposes that Fire Fighter pay 30% of any increases over the baseline cost of December 1984. The Union proposes no change in the current arrangement.

The City characterizes the reason for this change as part of

a cost containment program.[29] The theory, presumably is that an employee who pays part of a premium will be less likely to seek medical attention or will be more likely to monitor charges. No probative evidence was presented, however, to show that medical costs would be contained simply by having employees share in the payment of the premium.[30]

Even accepting the cost containment argument as valid, no basis exists for accepting this proposal. Not one other comparable community requires its fire fighters to share in the premiums for their hospitalization. And other uniformed city employees do not pay premium costs either. For those reasons, the Union proposal is accepted (Award, page 23).

CITY PROPOSAL NO. 10 - UNION BUSINESS (Non-economic)

The Agreement does not contain a provision on "Union Business." Instead, various practices have been established dealing with Union meetings, grievance investigations and handling, negotiations including attendance at Act 312 proceedings, and participation in union conventions.

Both parties recognize the need to codify the activity

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[29] The assumption is that since the City is self-funded, the reference to containment is to medical cost rather than premium costs.

[30] Blue Cross and Blue Shield is much better able to contain cost through its monitoring and auditing of hospitals and doctors than are individual subscribers or participants. Indeed, if the City proposal had been in place over the past few years, it is difficult to see how the small payment by the members would have had any affect on the cost of their medical services.

dealing with Union Business. The City contends that Union Business activity has been abused, but more important has the potential for abuse since there are no contractual guidelines on the subject. Accordingly, it proposes specific and restrictive language to remedy this situation. The Union dismisses the claims of abuse and proposes contractual language that would continue the present arrangement. Of necessity, its proposal is very general and vague.

Even though Fire Suppression is a unique operation with employees spending twenty four hour periods together and all persons in the fire station are members of the bargaining unit, it is still necessary for efficient and effective operations to have ground rules for the conduct of Union Business on City time and property. Representatives of the City and the Union should be aware of what can be done on Union Business and the procedure for doing so.

The Award is a combination of the proposals from the Union and the City. For the most part, the provisions put into effect the practice that has been followed[31] with some minor limitations that do not appear overly restrictive, but that are necessary for the sound administration of the Department. For example, the section on the Bargaining Committee sets forth the number of employees (5) on the Committee; the number who may participate during regular hours without loss of pay (3); recognizes that,

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31 The provision does not affect the practice of the parties concerning the release of employees to attend Union State and National Conventions.

where appropriate, additional members may also be paid;, and provides that the parties notify each other of the names of their bargainers. The provision hopefully accommodates the needs of both parties in what is believed to be a reasonable form (Award, pages 24, 25).

Donald F. Sugerman, Chairman
September 3, 1986

The Delegates have dissented
from various parts of this Opinion,
as noted on the pages of the Award.

Dennis B. DuBay, City Delegate
September 4, 1986

George H. Kruszewski, Union Delegate
September 4, 1986

	Bloomfield Township	Madison Heights	Waterford Twp.	W. Bloomfield	Dearborn	Dearborn Heights	Livonia	Sterling Heights	Warren	Westland
I Physical Characteristics										
Pop. 21,4 - 79,3	45	36	68	46	87	65	100	108	156	85
Sq. Mi. 2.8 - 33.3	26	7	35	31	25	13	36	37	35	20
Density 1741 - 7443	1721	5050	1931	1459	3700	5331	2912	2962	4671	4147
Chg. Pop. .75 - 8.6	4.3	.4	5.8	8.7	-4.5	-4.4	-4.1	-.9	-3.0	0
House Units 7.7 - 31.3	14.7	13.0	23.8	13.6	35.6	23.4	33	34.5	54.5	29.9
Med. Val Hse. 26,5 - 87	128,1	39,7	49,5	108,3	49,1	46,8	64,1	65,8	47,2	45,3
Med. Fam. Inc. 18,6 - 35,2	47,1	22	24	40	27	28	32	30	27	25
II Fiscal Information										
SEV 1983 136 - 1364	1013	404	692	807	1841	609	1540	1317	2087	613
SEV 1984 136 - 1393	1042	413	702	842	1848	600	1542	1346	2126	609
SEV 1985 138 - 1537	1086	441	715	896	1783	601	1594	1409	2128	616
Chg SEV .26 - 5.3	7.2	8.9	3.3	11.0	-3.2	-1.3	3.5	7.0	1.9	304
Comm. 13.7 41.4	8.7	16.1	17.6	6.2	16.9	10.0	10.1	12.4	9.6	23
Ind. 1.3 - 30.8	0.4	20.5	4.6	0.2	20.8	1.0	17.2	10.1	19.3	2.6
Res. 29.9 - 74.2	87.3	46.6	71.2	90.8	39.7	84.9	60.7	64.9	53.6	69.2
Per. 4. - 25.6	2.4	16.5	5.9	2.2	23.7	5.9	11.8	12.5	17.3	5.0
Per Cap. 6,392 - 19220	23	11	10	18	20	9	45	32	13	7
Per Auth. F/F 5.4 - 13.7	14.2	11.4	20.7	19.6	15.6	13.2	17.7	15	11.7	10.9
Tax Rating 52 - 75	50.7	59.4	53.9	49.7	49.7	60	60.3	58.9	59.3	52.1
Tax Levy 7.8 - 27.9	9.0	13.0	10	7.8	15.5	15.8	9.7	10.8	8	9.6
III Fire Service										
F/F Auth. 12 - 131	73	36	54	41	118	46	87	88	178	56
ISO 3 - 6	4	5	6	8/9	5	4	4	4	4	4
Citizen F/F Ratio 576 - 1071*	613	984	1999	1061	768	1472	1205	1239	905	1510
Fires Per F/F 3.2 - 7.*	2.8	7.5	13.4	5.5	5.5	7.	5.8	6.6	5.6	10.
3yr Avg. No. Fires 108 - 825*	185	296	452	202	660	821	505	587	1001	557
3yr Avg. Prop. Loss 359 - 3,256	602	1220	1604	1451	2794	1040	1804	1729	4645	1225
Fire Runs Per F/F 14.9 - 19.08*	12.3	17.6	29	13	11.6	14.8	12.1	15.3	6.	19.4
EMS Runs Per F/F 19.5 - 49.6*	14.3	34.4	60.2	20.7	33.8	45	33.5	21.4	14.8	46.6

* Farmington Hills excluded from composite

CHART "A"

STATE OF MICHIGAN
DEPARTMENT OF LABOR
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Arbitration Between:

CITY OF SOUTHFIELD, MICHIGAN,

-and- **MERC Case No. D84 E-1617**

SOUTHFIELD FIRE FIGHTERS ASSOCIATION, LOCAL 1029, IAFF, AFL-CIO.

ARBITRATION PANEL:
Donald F. Sugerman, Impartial Arbitrator and Chairman
Dennis B. DuBay, City Designee and its Attorney
George H. Kruszewski, Union Designee and its Attorney

AWARD

The Arbitration Panel met and conferred on April 18, 23 and May 3, 1986. This Award takes the form of a specific contract provision for each issue in dispute between the Union and the City. Where "Economic" issues are involved, the provision is the Last Final Offer by one of the parties. Where the issue is "Non-economic" the provision may either be a Last Final Offer from a party, a modification thereof, or new language altogether.. The collective bargaining agreement between these parties for the two year period beginning July 1, 1984, and ending June 30, 1986, consists of the terms and conditions in their 1981 - 1984 collective bargaining agreement as modified or amended by this Award. Where no effective date is mentioned on succeeding pages, the provision becomes effective July 1, 1984. An Opinion explaining this Award will be issued shortly.

Donald F. Sugerman

George H. Kruszewski

Dennis B. DuBay

UNION ISSUE NO. 1 - WAGES (Economic)

APPENDIX "A"

Effective July 1, 1984

Rank/Position	Start	6 Mos	12 Mos	24 Mos	36 Mos
Fire Fighter	20783	21822	23588	26651	30046
Paramedic - F\F	30936	32007	32737		
Driver - Eng.	30936	32007	33053		
Mechanic	30936	32007	33053		
Sr. Mechanic	33943	35009	36054		
Inspector	33943	35009	36054		
Sergeant	33943	35009	36054		
Paramedic - Sgt.	36955	38010	38745		
Sr. Inspector	36955	38010	39061		
Lieutenant	36955	38010	39061		
Fire Marshall	39946	41012	42062		

Donald F. Sugerman, Chairman

George H. Kruszewski, Union Delegate

Dennis B. DuBay, City Delegate

May 3, 1986

UNION ISSUE NO. 1 - WAGES (Economic)

APPENDIX "A"

Effective July 1, 1985

Rank/Position	Start	6 Mos	12 Mos	24 Mos	36 Mos
Fire Fighter	21085	22140	23930	27040	30480
Paramedic - F\F	31385	32470	33530		
Driver - Eng.	31385	32470	33530		
Mechanic	31385	32470	33530		
Sr. Mechanic	34435	35515	36575		
Inspector	34435	35515	36575		
Sergeant	34435	35515	36575		
Paramedic - Sgt.	37490	38560	39625		
Sr. Inspector	37490	38560	39625		
Lieutenant	37490	38560	39625		
Fire Marshall	40525	41605	42670		

Donald F. Sugerman, Chairman

Dennis B DuBay - Concurrent

Dissent as to Paramedic Increase

Dennis B. DuBay, City Delegate

George K. Kruszewski, Dissent except as to Paramedic Differential Increase

George H. Kruszewski, Union Delegate

May 3, 1986

UNION ISSUE NO. 2 - PARAMEDIC PREMIUM PAY (Economic)

The Paramedic Premium Pay shall be the amounts set forth in the schedule of Wages (Union Issue No. 1) above.

Donald F. Sugerman, Chairman

George H. Kruszewski, Union Delegate

Dennis B. DuBay, City Delegate

May 3, 1986

UNION ISSUE NO. 3 - FOOD ALLOWANCE (Economic)

24.1: Effective July 1, 1984, the City shall provide an annual food allowance of $250 per year for all employees, except those assigned to the Fire Prevention Bureau, payable each July.

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

24.1: Effective July 1, 1985, the City shall provide an annual food allowance of $400 per year for all employees, except those assigned to the Fire Prevention Bureau, payable each July.

Donald F. Sugerman, Chairman

George H. Kruszewski, Union Delegate

Dennis B. DuBay, City Delegate - Dissent

May 3, 1986

UNION ISSUE NO. 4 - HOLIDAY PAY (Economic)

23.1: Effective July 1, 1984, all uniformed personnel shall be paid at the regular rate for twelve (12) holidays per calendar year, based on the following holidays:

Memorial Day	Veteran's Day
Independence Day	Christmas Day (1.5 days)
Labor Day	New Year's Day (1.5 days)
Columbus Day	Employee's Birthday
Thanksgiving Day	Employee's Anniversary (Hire) Date
Day After Thanksgiving	

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

UNION ISSUE NO. 5 - HOLIDAYS OFF (Economic)

14.3: Fire Prevention Bureau personnel shall work all holidays that fall during the normal work week as assigned. Personnel shall receive holiday pay as stipulated herein.

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

UNION ISSUE NO. 6 - SICK LEAVE INCENTIVE (Economic)

10.1: C. 1) Any employee who has used two (2) or less sick days during the preceding fiscal year shall receive an incentive payment of $500.

2) Any employee who has used more than two (2) but not more than three (3) sick days during the preceding fiscal year shall receive an incentive payment of $250.

3) For duty-related injury, illness, or disability, there shall be no charge to sick leave for purposes of the above incentive payments.

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

UNION ISSUE NO. 7 - PROMOTIONS/SENIORITY (Non-economic)

15.2: Effective forthwith, and until a validated testing procedure has been established and implemented with the input and concurrence of the Union, all promotions shall be made exclusively on the basis of written and oral examinations. The following weights shall be assigned to an employee's scores on the written and oral examinations, unless modified by mutual agreement of the parties:

	All Promotional Positions Up To and Including Sergeant or Equivalent	Lieutenant or Equivalent	Captain-Asst. Chief Fire Marshal or Equivalent
Written Exam	65%	60%	50%
Oral Exam	35%	40%	50%

If two employees receive identical combined scores on the written and oral examinations, seniority shall be used to break the tie.

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

UNION ISSUE NO. 8 - DUTY RELATED DISABILITY (Economic)

27.9: Every employee utilizing the disability income protection program shall be entitled to the following benefits only:

a) Non-Duty Disability

Participate in hospitalization program at employee's own expense commencing four (4) months from date of illness and/or accident.

b) Duty Disability

1. During the first twelve (12) months following the date of the duty disability the employee will receive the following benefits:

(1) City paid hospitalization program
(2) City paid life insurance program
(3) Holiday Pay*
(4) Longevity*
(5) Food Allowance*
(6) Furlough*
(7) Cleaning Allowance*

For purposes of this Section, an employee must return to active service (i.e., actually present and working) for a period of six (6) months to reestablish eligibility under Section 1. above.*

2. After the first twelve (12) months following the date of the duty disability the employee will receive the following benefits:

(1) City paid hospitalization program
(2) City paid life insurance program

*Effective May 3, 1986

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

UNION ISSUE NO. 9 - SURVIVOR'S PENSION (Economic)

Effective July 1, 1985, Section 6(1)(i) of Act 345 shall be amended to read as follows:

> A member who continues in service on or after the date of acquiring 10 years of service credit and who does not have an option I election, provided for in subparagraph (j), in force, and dies while in service of the city or village before the effective date of his retirement, and leaves a surviving spouse, the spouse shall receive a pension computed in the same manner as if the member had (1) retired effective the day preceding the date of his death, (2) elected option I provided for in subparagraph (h), and (3) nominated the spouse as survivor beneficiary. Upon the death of the spouse the pension shall terminate. A pension shall not be paid under this subparagraph on account of the death of a member if benefits are paid under subdivision (2) on account of his death.

Donald F. Sugerman, Chairman

George H. Kruszewski, Union Delegate

Dennis B. DuBay, City Delegate

May 3, 1986

UNION ISSUE NO. 10 - HEALTH INSURANCE FOR RETIREES (Economic)

26.4: A. Normal Age and Service Retirement. Subject to the provision of this Section 26.4, the Employer will make available the following retiree health insurance benefit for all Employees and their spouses:

> Blue Cross/Blue Shield, or equal to Blue Cross/Blue Shield, for Employee and spouse - Comprehensive Hospital Certificate MVF-1, D45NM, ML, $2.00 Rx, MM#2.

In the event of eligibility for Medicare Insurance, the retiree and/or his spouse shall make application for said insurance. The Employer shall then provide a hospitalization and medical insurance program to supplement Medicare to equal the hospitalization and medical insurance coverage as provided above.

B. If an employee elects to receive employer paid health insurance upon retirement, according to the specifications and conditions set forth in this Section 26.4, he/she shall contribute to the cost of such health insurance by selection of one of the following options:

Option A. The employee shall pay the cost of the insurance for the first twenty four (24) months of his/her coverage under the above program after his/her retirement. To continue his/her eligibility under this provision, the retiree must remit the cost of each monthly premium to the City one month in advance. In the event the retiree elects this option and becomes ineligible for participation because he/she is covered by alternate insurance as set forth in this Section 26.4 prior to the completion of his/her twenty-four (24) months of payments, the retiree will re-commence payments upon his/her return to the program for the remaining unpaid balance of the twenty-four (24) months, it being understood that the retiree's first twenty-four (24) months of coverage will be paid by the retiree.

Option B. Upon retirement the employee shall contribute to the cost of the insurance by: (1) cash payment; (2) forfeiture of accumulated hours for which the employee would otherwise be entitled to payment at the time of retirement under this agreement; or (3) any combination of cash payment and forfeiture of hours as elected by tne employee.

The value of such contribution under this option shall be equal to the hours or the cash equivalent of the hours at the employee's then current rate of pay (based upon 2,912 hours per year) as follows:

Fire Command Officers (Sergeants and above or the pay equivalent)	588 hours

Fire Fighter (Below Sergeant or the pay equivalent) — 441 hours

Employee(s) must make election prior to the actual date of retirement. The election shall be executed in writing and shall be irrevocable once retirement commences.

C. In the event a retired Employee receiving hospitalization benefits identified in 26.4, and who receives hospitalization and medical insurance from any subsequent employer, then the retiree shall not be covered by the Employer's hospitalization and medical insurance for the duration of said employment. However, the retiree shall be eligible to return to Employer coverage should such subsequent insurance cease as soon as permitted by the regulations of the insurance carrier but in no event later than the next open enrollment period.

D. Should the retiree elect the surviving spouse option as part of Act 345 retirement, then the City shall continue to provide health insurance for the surviving spouse, unless he/she is otherwise eligible for health insurance through his/her own employment or through subsequent marriage.

E. In the event retirees from the Police Department contribute to the payment of the increases in the costs of health insurance, retirees from the bargaining unit will contribute on the same basis and to the same extent as retirees from the equivalent rank in the Police Department.

Effective May 3, 1986

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

UNION ISSUE NO 11 - EMPLOYEE PENSION CONTRIBUTION (Economic)

33.1: As currently in effect under State Act 345. Retirement eligibility at age 50 with 25 years of service. Employee contribution 5% of earnings base for retirement purposes.

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

UNION ISSUE NO. 12 - ANNUITY WITHDRAWAL (Economic)

33.5: Effective May 3, 1986, employees in the bargaining unit shall have available to them, in addition to the retirement options already in place, an annuity withdrawal option as follows:

A) Definition: The annuity withdrawal is the option that allows members to withdraw their accumulated contributions (with interest credited under the pension plan) at retirement and thereby forfeit the portion of their retirement allowance which was financed by their contributions.

B) A member wishing to elect this option must make written application to the Act 345 Pension Board no later than one hundred twenty (120) days prior to the effective date of his retirement.

C) The Pension Board shall refund the member's contributions as set forth in A. above within thirty (30) days of the date of the members's retirement. The one hundred twenty (120) day notice may be waved at the sole discretion of the Pension Board; however, under no circumstance can it be increased.

D) The parties agree that the interest rate used to determine the reduction in retirement allowance as provided in A. above shall be based upon the interest rate for an immediate annuity published monthly by the Pension Benefit Guaranty Corporation (PBGC). The most current index prior to the member's retirement date shall be used. This option is only available for normal service retirement. A member who elects the annuity withdrawal option shall have his annual pension reduced accordingly as determined by the Pension Board Actuaries.

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

CITY ISSUE NO. 1 - GRIEVANCE PROCEDURE (Non-economic)

9.1: Definition: A grievance is a dispute between the City and either an employee or the Association over the meaning, interpretation, application or enforcement of this Agreement.

(This provision is effective May 3, 1986)

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

CITY ISSUE NO 2 - LEAVES OF ABSENCE (Economic)

10.3: (C). Maximum accumulation of furlough time shall be twice the employee's annual accumulation. All furlough time in excess of twice the employee's annual accumulation shall be forfeited. Any employee who has in excess of the allowable maximum accumulation will have until December 31, 1986, to reduce his/her accumulation to the allowable maximum. If said employee does not reduce his/her excess vacation leave to the allowable maximum by December 31, 1986, such excess accumulation shall be forfeited.

(Effective May 3, 1986)

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

CITY ISSUE NO. 3 - COMPENSATORY TIME (Economic)

10.8: (A) Training* Department Requested or Member Requested with Department Approval) - The City will pay all reasonable expenses upon receipt of proper receipts for member while attending training. Compensatory time and/or overtime shall not be earned, but member shall receive regular compensation. Cash expense advance may be available upon proper request.

10.8: (B) Stand-by - Straight-time hours number of hours required to stand by at home. (Does not apply to Alert.)

10.8: (C) Physical Training - Maximum one (1) hour per week when attended.

*Upon conclusion of all non-resident or other training on a duty day, employee must return to duty as soon as possible.

Effective May 3, 1986

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

CITY ISSUE NOS. 4 and 5 - PROMOTIONS (Non-economic)

15.1: (A) Promotions shall be made in accordance with the provisions of Act 78, Public Acts of 1935, as amended, except as modified or otherwise provided in this Agreement.

15.1: (B) Notwithstanding Section 15.1(A), the provisions of Act 78, Public Acts of 1935, as amended, and the regulations adopted thereunder, shall not apply to the filling of the Fire Chief position, it being understood that the City may fill the position of Fire Chief either from within, or from outside of, the bargaining unit.*

15.1: (C) The provisions of Act 78, Public Acts of 1935, as amended, shall not apply to the position of Fire Chief.*

*Effective May 3, 1986

Donald F. Sugerman, Chairman

Dissents as to A & C
Concurs in Band C

Dennis B. DuBay, City Delegate

Dissent as to City Issue #5(B)

George H. Kruszewski, Union Delegate

May 3, 1986

CITY ISSUE NO. 6 - MAINTENANCE OF CONDITION (Non-economic)

13.1: Wages, hours and conditions of employment in effect at the execution of this Agreement shall, except as stipulated herein, be maintained during the term of this Agreement. This provision is subordinate to, and shall not supersede or negate any other provision of this Agreement.

Effective May 3, 1986

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate

May 3, 1986

CITY ISSUE NO. 7 - LONGEVITY (Economic)

19.2: Longevity at retirement shall be paid on the basis of the full quarter from date of actual retirement (January 1 through March 31 - one quarter (1/4); April 1 through June 30 - one half (1/2); July 1 through September 30 - three quarters (3/4); October 1 through December 31 - full).

Years Service	3 Years	5 Years	10 Years	15 Years	20 Years
Percentage	1%	2%	4%	6%	8%

Donald F. Sugerman, Chairman

George H. Kruszewski, Union Delegate

Dennis B. DuBay, City Delegate

May 3, 1986

CITY ISSUE NO. 8 - HOLIDAY PAY (ECONOMIC)

23.2: Payment for holidays, except birthday, shall be made annually in December of each year. Newly hired personnel shall be paid on the basis of date of hire and number of above holidays occurring after said date of hire. Duty assignment on a holiday shall not affect holiday pay. Personnel on duty and who work between the hours of twelve (12) o'clock noon to three (3) P.M. on Good Friday shall receive four (4) hours straight-time pay.

Effective May 3, 1986

Donald F. Sugerman, Chairman

George H. Kruszewski, Union Delegate

Dennis B. DuBay, City Delegate

May 3, 1986

CITY ISSUE NO. 9 - HOSPITALIZATION (Economic)

26.1: The City shall provide paid hospitalization insurance with coverage and benefits the same as or equal to that as is currently in effect with Blue Cross-Blue Shield MVF-II, Optical Insurance, major medical rider and the drug prescription certificate with a two dollar ($2.00) deductible.

Donald F. Sugerman

Donald F. Sugerman, Chairman

George H. Kruszewski

George H. Kruszewski, Union Delegate

Dennis B DuBay - Dissent

Dennis B. DuBay, City Delegate

May 3, 1986

CITY ISSUE NO. 10 - UNION BUSINESS (Non-economic)

ARTICLE _____
LOCAL ASSOCIATION BUSINESS

_____ Grievance Committee: The Grievance Committee shall be composed of three (3) employee members. The Grievance Committee shall represent employees for the purpose of processing grievances as provided in the grievance procedure established by this Agreement. Members of the Grievance Committee shall be permitted to investigate and process grievances on their shift without loss of normal duty compensation, after receiving approval from their supervisor on duty, which approval shall not be withheld except in case of an emergency. A record of time spent shall be initialed and retained. The time spent shall not be abused.

_____ Bargaining Committee: The Bargaining Committee shall be composed of up to five (5) employee members, two (2) non-employee representatives, and legal counsel. Three (3) employee Bargaining Committee members shall be entitled to participate without loss of normal duty compensation when meetings are held during their regular working hours. Other members of the Bargaining Committee may be compensated on the same basis, if approved by the City. The function of the Bargaining Committee shall be to negotiate new or modified agreements with the City (including attendance at Act 312 hearings). The Union in submitting its demands to the City shall at the same time advise the City of the names of all persons who are members of the Bargaining Committee. The City shall, prior to negotiation, advise the Association of its Bargaining Committee, and either party may change its membership without notice.

_____ In addition, the City will give three (3) hours per week Union time to the office of the President and one and one-half (1-1/2) hours per week Union time to each of the offices of the two Vice-Presidents of the Local Association, subject to the following:

A. Union time remains with the office.

B. All hours will be terminated upon election of new President and/or Vice-President.

C. No more than eight (8) hours may be used in any given calendar week.

D. In the event the Local Association President and/or Vice-President requires Union time off, he shall obtain prior approval from the shift or bureau commander a minimum of twenty-four (24) hours in advance.

_____ The City will give one (1) hour Union time per week to the Secretary or Treasurer of the Association, subject to the same conditions as above.

_____ Union Conventions: The above provisions do not apply to attendance at the Biennial Conventions of State and National Fire Fighters Associations.

_____ The Union shall inform the employer of its elected officers and representatives within fifteen (15) days of their election.

_____ The Union may schedule meetings on Fire Department property, with the prior approval of the Chief (which approval will not unreasonably be withheld) and further provided such meetings are not disruptive of the duties of the employees or the efficient operation of the department.

Signed and Effective on
May 3, 1986

Donald F. Sugerman, Chairman

Dennis B. DuBay, City Delegate

George H. Kruszewski, Union Delegate