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PUBLIC EMPLOYMENT
RELATIONS COMMISSION

BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

POULSBO POLICE OFFICERS ASSOCIATION

and

CITY OF POULSBO

PERC No. 22892-N-09-07042

Appearances:

Cline and Associates, by Mr. Christopher J. Casillas, on behalf of the Association.
Ogden, Murphy, Wallace, P.L.L.C., by Mr. W. Scott Snyder, on behalf of the City.

## ARBITRATION AWARD

The above-captioned parties, herein "Association" and "City," selected the undersigned to issue a final and binding decision pursuant to RCW 41.56.465. A hearing was held in Paulsbo, Washington, on January 25 and 26, 2011, which was transcribed, and the parties filed briefs which were received by March 19, 2011. [1]

Based upon the entire record and arguments of the parties, I issue the following Award.

## INTRODUCTION

The Association represents for collective bargaining purposes a bargaining unit consisting of about 14 law enforcement personnel employed by the City. The parties engaged in negotiations for a successor agreement to follow the prior agreement which expired on December 31, 2009, and they reached agreement on several issues including the three-year duration of the successor agreement which runs from January 1, 2010, to December 31, 2012.

1 The parties agreed to an extension of time for the issuance of this Award pursuant to my request.

They also agreed to the current language in Sections 10.1 and 10.2 regarding medical and dental insurance, and to raise educational incentive pay from 1% to 2% for 90 credit hours and from 2% to 4% for a BA degree.

## ISSUES

The issues in dispute are as follows:

1. Whether to eliminate the current 5% combined cap on longevity and education pay, and whether longevity pay should be increased from 1% to 1.5% for officers with 6-10 years of service.

2. Whether to raise the life insurance benefit from $5,000 to $20,000, and whether the City's 4% contribution to HRA/VEBA health saving accounts should be reduced to 1%.

3. Whether the current holiday bank should be retained.

4. Whether the City should provide for a paid jumpsuit.

5. Whether the premium pay for Detectives should be increased from 3% to 3.5%.

6. What base wages should be paid throughout the agreement's three-year duration, and how much Sergeants should receive in additional market adjustments.

7. Whether the City should contribute 1% of an officer's base wage to a new voluntary deferred compensation plan.

## DISCUSSION

### 1. ARTICLE 9 LONGEVITY AND EDUCATION INCENTIVE

The Association proposes to eliminate the current 5% cap on combined longevity and educational pay, and to raise longevity pay from 1% to 1.5% for officers with 6-10 years of service.

The City proposes the current contract language on longevity and the combined longevity and educational cap.

The Association maintains that its offer is supported by the comparability data and that the value of "the senior and more educated officers" has been diluted over time. It states that officers will continue to decline among the comparables unless the combined 5% longevity and educational cap is raised, and that this inequality will grow because both parties have agreed to raise the educational levels which would result in a 9% increase for 26 year officers with a BA degree if the cap is removed. The Association claims that its longevity proposal is supported by the comparable data even though Gig Harbor and Tumwater do not have longevity pay because Gig Harbor ties its merit pay to those reaching the top of their pay scale and because Tumwater pays a physical fitness incentive pegged to years of service.

The City counters that it "has long" had a 5% cap and that there are limits to what this benefit is worth to the City. It argues that Sergeants who do not have advanced educational degrees are not significantly impacted by the cap, and that the City's proposal places it right at the median among the comparables which is consistent with the City's population and tax base. The City maintains that there is no need to raise longevity pay and that Gig Harbor is not an appropriate comparable on longevity because it has not funded or paid any merit pay in 2010 and 2011 and because its merit pay is up to 5%, which means that that amount is not guaranteed.

The City is right about not using Gig Harbor as a comparable because it does not currently pay longevity. In addition, Enumclaw has no such longevity step and Tumwater's physical fitness incentive appears to be just that rather than a longevity payment (if someone is not physically fit after all, they apparently do not receive the incentive). [2]

As for the remaining comparables, Snohomish pays 1% for 7-9 years of service and 2% for 10-14 years; Snoqualmie pays 4% after 5 years for employees hired by May 1, 2010, and 2% for employees hired after that date; Port Orchid pays .25% for each additional year of service past 2 years; and Sumner pays 1% for 5-9 years of service and 2% for 10-14 years. [3]

Gig Harbor, Enumclaw and Tumwater thus pay less longevity than the City at this step. Snohomish and Sumner pay the same for years 5-9 but more at the ten year mark; Port Orchard pays more for years 7-10; and Snoqualmie leads the pack at 5%.

This mixed data shows that the City's current 1% contribution places it near the middle of the comparables at this step. Some comparables pay more at other steps, but the question of whether the other longevity steps should be raised is not before me and thus need not be decided.

Accordingly, I find that the Association has failed to meet its burden of proving that the longevity step after 5 years should be increased and that the City's proposal to retain the current longevity premium should be adopted.

Turning now to whether the combined longevity and education cap should be eliminated, the parties disagree over where employees among the comparables currently max out.

The City claims that employees in Gig Harbor, Tumwater and Port Orchard max out between 3% - 5%, and that employees in Sumner, Snoqualmie and Snohomish max out at 8%,

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2 City Exhibit 5.

3 Association Exhibit 276.

8% plus $200, and 10%, respectively. [4] The Association counters that they max out much higher and that the City in 2009 was 1.9% and 2.35% behind the comparables at the 20 and 25 BA marks. [5]

Since Gig Harbor and Tumwater have no longevity, and since Enumclaw does not provide any longevity before 15 years of service, there is no combined longevity and education pay among 3 of the 7 comparables for the first 15 years. Moreover Port Orchid pays between 1% - 1¾% in longevity for the first 7-10 years and 1% for an AA and 2% for a BA degree.

Employees in those four comparables therefore cannot receive more than 5% in combined longevity and education pay during these time periods, thereby supporting the City's proposal.

I therefore find that the Association has failed to meet its burden of proving that the combined cap should be eliminated and that the City's proposal to retain the cap should be adopted.

2. <u>ARTICLE 10 HEALTH CARE</u>

The Association proposes to increase life insurance coverage from $5,000 to $20,000, and to have the City contribute 4% of each officer's base wage to a VEBA health savings account which can be used to pay current and future medical expenses upon retirement.

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4 City Brief, p. 21.

5 Exhibit 50.

The City's proposal calls for retaining the current $5,000 life insurance benefit and for contributing $654 a year to each officer's VEBA savings account which represents about 1% of an officer's salary.

The Association maintains that its proposal is supported by the bargaining history because the Association voluntarily agreed in 2008 to "reopen their contract and reduce their health benefit in an effort to save the City money"; that the City now "seeks to unravel" the deal it struck with the Association; and that "it is unreasonable to think the Association would ever reasonably consider undoing this important deal in exchange for nothing". It also states that its proposal to maintain the status quo on VEBA contributions should be awarded because the City's proposal to change it is "wholly inconsistent" with the comparables and because the City's contributions towards health and welfare benefits "must be examined in its totality". It argues that the City is paying considerably less than the comparables "on a total basis" and that it is doing so because the current health plan is inferior to the comparable health plans and because it is based on a composite rate plan which has lowered the City's health care costs.

The Association adds that the City has saved about $200,000 a year on premium costs because of the change; that the City then agreed to increase from 1% to 4% the amount it annually contributes to an officer's VEBA account in exchange for the Association's concessions to change insurance plans; and that the City's current proposal is even less than what the City paid before the change in health care plans. The Association also asserts that any reduction in this benefit would cause a significant financial hardship, and that there is no legal basis for the City's claim that percentage contributions are unlawful and that they must be expressed in flat dollar amounts.

The City states that what the "Association perceives as a take-away is in reality a function of the changing insurance market," and that when the Association agreed to change insurance plans in 2009, it knew that the City's 4% VEBA contributions would only last as long as the parties' expired MOU and that life insurance coverage would be reduced from the then $20,000 to the current $5,000. It also contends that it pays 100% of the health care premiums for all of its employees which it calls a "rare benefit in today's world"; that the internal comparables are more important than the external comparables; and that this is an important benefit when considering the parties' wage proposal. The City adds that the Association's requested 4% VEBA contribution is based upon "the loss of perceived benefits" which seeks continued "compensation for a difference that no longer exists," and that the City's proposed contribution of $654 is more appropriate because only Gig Harbor among the external comparables makes a VEBA contribution of $400.

Turning first to life insurance, it perhaps belabors the obvious to point out that police work at times is a <u>very</u> dangerous occupation. That is why police officers need guns to protect themselves if someone is shooting and trying to kill them. Life insurance coverage of $20,000 therefore is entirely appropriate, particularly since the agreed-upon external comparables of Enumclaw, Gig Harbor, Port Orchard, Snohomish, Snoqualmie, Sumner, and Tumwater offer that amount or more ranging from $40,000 in Sumner to $300,000 in Snoqualmie. [6]

The Association's life insurance proposal is therefore adopted.

The dispute over the City's VEBA contribution savings accounts is more complicated and stems from the City's 2008 request to the Association that it agree to change the then-current

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6 Association Exhibit 258.

Kitsap Physician Services (KPS) health provider because KPS wanted to increase rates by about 53%. The Association acceded to the City's request and agreed to change to the Washington Teamsters' Welfare Trust Plan, herein "Plan" in 2009. Officers under the KPS plan previously paid 10% of the premium for dependent coverage and nothing for individual coverage. They under the current Plan do not pay anything towards the single flat-rate premium charged for both individual and family coverage.

Agreeing to the KPS plan for this bargaining unit enabled the City in 2009 to avoid spending about $91,000 in increased health care premiums, and the City in 2009 also avoided spending about $93,000 more in increased health premiums for its other represented and unrepresented employees. [7] Furthermore, the City would not have been able to switch to the Teamsters' Plan for these latter employees unless all City employees were covered by it, which is why the City needed the Association's agreement to change health insurance plans.

In exchange for the Association's agreement, the City agreed to raise the prior 1% VEBA contribution to 4% in 2009 which the City calls a "guestimate" of how much more officers would have to pay under the Teamsters' Plan. That Plan thus has more co-pays and more out-of-pocket expenses than the KPS Plan, along with reduced benefits for certain health services. In addition, officers under the KPS Plan could opt out of it if their spouses were covered elsewhere and have about $650 a month deposited into their VEBA account. Officers no longer can do so under the Teamsters' Plan which requires 100% employee participation. [8]

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7 City Exhibit 22, pp. 51-57.

8 The contractual opt-out program provided that it would end if an insurance plan required all employees to participate in its plan.

The parties therefore agreed to a quid pro quo: In exchange for voluntarily switching to the Teamsters' Plan which enabled the City to avoid spending about $91,000 more in insurance premiums in 2009 for this bargaining unit, the City agreed to raise its contribution to VEBA accounts from 1% to 4% to help offset the cost of switching plans. The City continues to reap the fruits of this bargain because it paid about $933 per month for each officer's health insurance in 2010 when the next lowest figure among the comparables was $1,224 for Snohomish. [9]

That being so, it is only fair that the fruits of the parties' bargain be shared with the officers who made it possible in the first place and who otherwise would be greatly disadvantaged if the 4% contribution were lowered because of the higher out-of-pocket health care costs they now must pay for under the Teamsters' Plan.

The City argues that the internal comparables support its position because other City employees represented by the Teamsters and its unrepresented employees now receive a $50 monthly contribution to their VEBA accounts rather than the 4% sought here, and that the external comparables support the City's proposal because only Gig Harbor contributes $400 annually to cover certain medical costs. The City also contends that the Teamsters' Plan is better than the prior KPS Plan which required officers to pay 10% of the premium for dependent coverage, and that the Teamsters' Plan has certain better benefits than the KPS Plan and the comparable plans.

It is very difficult to properly compare the Plan here which has a combined rate for both single and family coverage while the other seven health plans offered by the Association of

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9 Association Exhibit 120.

Washington Cities are tiered plans with different deductibles, co-pays, premium contributions, etc., thereby making a true apples-to-apples comparison impossible.

The best measurement of the Teamsters' Plan therefore is the value the parties themselves placed on it when they agreed that it was worth an additional 3% contribution to the VEBA accounts. While that may have been a "guestimate," nothing herein shows that that figure should be significantly changed.

Since the City continues to receive the quo of lesser health insurance premiums because of its bargain with the Association, I find that the City must continue to offer its quid of a 4% VEBA contribution regardless of what the internal and external comparables provide because that is what the City previously offered in order to get a health care deal benefitting both parties.

There thus is no merit to the City's claim that the Association had no reasonable expectancy that the City would continue to contribute 4% past 2009. For while the parties' agreement regarding the health plan switch terminated at the end of 2009, the parties then knew that this issue could arise in the negotiations over a successor agreement and that it ultimately could be decided in an interest-arbitration proceeding. The Association thus never gave up its right to press for a 4% contribution past 2009.

The City also argues that its proposal should be adopted because I previously have stated that "The days of 100% employer payment for insurance benefits are coming to an end." [10] Those days for all practical purposes have indeed ended and nothing herein is meant to indicate

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[10] Kitsap County vs. Kitsap County Sheriff's Guild, PERC Case No. 17687-1-03-0411 (2008).

that they should return. Rather, the only issue being decided here is whether the City should continue to be held to the terms of the earlier bargain it voluntarily agreed to, and I find that it should for the reasons just stated.

There also is no merit to the City's claim that a flat percentage contribution may be discriminatory and unlawful under IRS regulations. For while the City relies upon a letter to that effect from its health plan consultant, [11] there is no evidence that the IRS has ever ruled that flat percentages are unlawful. Absent any such ruling, there is no valid basis for finding otherwise here.

Accordingly, the Association's proposal calling for continued 4% VEBA contributions is adopted.

3. <u>ARTICLE 11 HOLIDAYS</u>

The Association proposes to keep the current language in Section 11.1.1 which allows officers to bank 3.33 hours of holidays each pay period to be used at the officer's option throughout the calendar year or "paid to the employee in the week for the pay period ending December 31."

The City proposes deletion of the current holiday bank and to establish a "pay when earned" system.

The Association asserts that the City has not met its burden of proving that there is a need to change the status quo and to revert back to prior contract language which did not have a bank. It argues that the City's claimed administrative problems in handling the bank represented a "one

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11 City Exhibit 9.

time" anomaly which can be easily fixed; that the City's proposal would limit the amount of compensatory time that can be banked throughout the year; that the "loss of the cash out option is a major concern"; and that the comparable data does not support the City's proposed change.

The City wants to revert back to prior agreements which had no such bank and which allowed officers to either select compensatory time off or be paid for the holiday during the year. The City asserts that its proposal is "based upon the difficulties of administering a program of this type for 14 employees" since almost all officers cash out their bank at the end of the year.

This is not a cost item since the City acknowledges that "there will be no change in amount of compensation paid, rate of pay, or amount of time off available."

As for the City's administrative problems, the City has experienced some problems because of the need to make manual entries and there was a foul-up in properly paying out holiday pay in the beginning of 2011. This latter problem apparently arose because the prior employee who normally handled that chore left the City's employ and it is unlikely to reoccur. Furthermore, I find that any other concerns are not serious enough to warrant doing away with the current holiday bank.

The Association's holiday bank proposal is therefore adopted.

4. ARTICLE 19 UNIFORMS

The Association proposes in Section 19.3 that the City provide one paid jumpsuit.

The City proposes the current contract language on uniforms which does not provide for a paid jumpsuit.

The Association claims that its proposal is supported by the department's past practice; the documented need for the item; and the comparable data. It also points out that about one-half of the bargaining unit members already have purchased jumpsuits with their own money and that the Police Chief Dennis Swiney recognizes the value of jumpsuits.

The City maintains that the expired agreement already provides for a Class B "functional working uniform" which the public views as more user friendly than a military-style Gortex jumpsuit, and that the issue here is cost because each one can cost $562 when fully accessorized.

A jumpsuit certainly is valuable given its versatility, durability, and adaptability to changing weather conditions. Indeed, Chief Swiney has acknowledged its usefulness and half of the bargaining unit has purchases jumpsuits with their own money, thereby showing how valuable they are.

Nevertheless, this is a cost item which must be considered alongside other cost items and it has a relatively low priority among the other monetary items.

I therefore find that the City's proposal is more reasonable and that paid jumpsuits should not be added to Article 19.

5. <u>ARTICLE 25 SPECIAL PAYS AND PREMIUMS</u>

The Association proposes in Section 25.2 to raise the current 3% premium for Detective assignments to 3.5%.

The City proposes the current contract language and its 3% premium.

The Association states that three of the external comparables, i.e., Enumclaw, Gig Harbor and Sumner, pay their Detectives a 5% premium and that the average Detective premium among the six comparables paying this premium is 3.68%. [12] It also argues that its proposal still leaves Detectives "behind the market" and that there is a need for the increase because the City offers fewer specialty premiums than the comparables.

The City contends that the premium should not be increased because some comparables do not provide for Detective pay and because the current 3% premium is "consistent with the City's current placement at the mean. . . ."

The comparable data on this issue is mixed. Three comparables pay 5% premiums, but Port Orchard pays .75%, Snohomish pays 3%, and Tumwater pays 3.30%. Three of the comparables therefore are below or near the 3% premium now paid by the City.

That being so, there is no need to raise this premium and the City's proposal is adopted.

6. APPENDIX A: WAGES

The Association proposes to increase all base wages by 3.5% in 2010; 3% in 2011; and 3% in 2012. It also proposes to provide Sergeants with additional market adjustments of 3% in 2010 and 1.5% in 2011.

The City for 2010 proposes a 1.7% market adjustment for all officers plus an additional 4.7% for Sergeants. It for 2011 and 2012 proposes the CPI-U 100% Seattle/Bremerton/Tacoma index with a 1% minimum and a 3% maximum.

The Association states that the external comparables support its offer; that "data based on apples-to-apples matches should be applied" and that the City's modified total compensation analysis should be rejected; and that comparables should be based on an average wage and "not the medium figure" as claimed by the City. It also argues that City "lags far behind the

[12] Association Exhibits 287, 289. Snoqualmie does not have a Detective position.

comparables" and that the Association's alternative complete total compensation analysis shows the size of that gap. It adds that its offer is supported by the settlement data and the City's "unique fiscal strength, the improving economy, and the workload and safety factors. . . ."

The Association also asserts that it is appropriate to project settlement trends because only three of the seven comparables have settled contracts beyond 2010, [13] and that the most "egregious" error in the City's data is its omission "of any data relating to how much each comparable contributes towards health insurance. . . ." It also states that the City's "recruitment and retention problems necessitate awarding the Association's wage proposals," and that the public interest supports its proposal because that will improve employee morale.

The City maintains that "it is not possible" to average the City with the comparables because some of the comparables are much larger and wealthier and that medium wages rather than average wages thus must be used. It also states that while it "is not attempting to make an inability to pay case," it nevertheless is "fiscally irresponsible and inappropriate" for the Association to propose fixed wage increases of 9.5% for officers and 13.5% for Sergeants when the CPI declined last year.

The City adds that it has been facing serious fiscal problems over the last several years because about 68% of the City's total revenues come from declining sales and real estate taxes; because residential and commercial development has dramatically dropped; and because the closing of several local car dealerships have resulted in a substantial drop in tax receipts. The City also points out that it has spent about 2.3 million in reserves since 2008 to help make up for

[13] The Association thus has applied that 1.83% average settlement rate to the unsettled contracts to Snohomish, Snoqualmie and Tumwater to project what their settlements may be for 2011.

its financial shortfall; that it has instituted a voluntary lay-off program leading to nine layoffs; that it has eliminated or reduced four positions; and that it has not filled three open positions.

Having experienced the County's greatest financial crisis since the Great Depression, it is not surprising that the City recently has faced very severe fiscal problems and that it has taken the above-noted steps aimed at shoring up its finances. At the same time, the economy is improving which is why both parties are able to point to mixed data in the record in support of their respective positions.

The CPI is important in determining what wages should be awarded for 2010 because the negative CPI establishes that both parties' offers are above that figure, [14] and that there will be a tangible increase in take-home pay regardless of what wages are awarded, particularly since almost all health care costs which are included in the CPI will be paid by the City.

The City's 1.7% wage offer for 2010 is closer to the 2.17% average settlement reached by six comparables with settled contracts. [15]

As for 2011, the City's offer matches the CPI with a 1% minimum and a 3% maximum, while the Association's 3% wage offer is above the comparables with settled contracts - i.e., Enumclaw, Gig Harbor and Port Orchard which averaged 1.83%.

The Association claims that its 3% wage proposal for 2012 is more reasonable than the City's offer because "as the economy continues to gain steam and inflation starts to creep back in, likely pushing the CPI index back up to more historic levels, settlements will likely move accordingly into a range that overlaps the Association's 2012 base wage proposal."

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14 City Exhibit 2.

15 Association Exhibit 109.

The problem with this claim that it is based upon speculation that the economy will continue "to gain steam" when in fact it may not; and that inflation will start "to creep back in" when in fact it may not; and that that will "likely" push up the CPI when in fact it may not; and that settlements "will likely" overlap the Association's proposal when in fact they may not.

All other things being equal, tying the City's wage proposal to the CPI in 2011 and 2012 makes better sense because the CPI will reflect major trends in the economy and what wage increases will be granted to deal with changing economic conditions which now are unknown.

But the Association claims that things are not equal because the officers here are paid much less than their counterparts among the comparables, and that the need for catch-up is more important than the CPI.

The parties disagree over where the City should be placed among the comparables with the Association asserting that averages should be used for comparison purposes, and the City claiming that the medium must be used to account for the City's smaller valuation, smaller sales tax receipts, and smaller population. The parties also differ over how to measure total compensation and whether the total compensation here is significantly less than the comparables.

Medium figures may be appropriate when there are very significant outliers which skew meaningful comparisons.[16] But that is not the case here even though the comparables vary regarding population, valuation and tax receipts since these differences can be effectively smoothed out when the data is averaged out.

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16 See Mount Vernon Police Services Guild and City of Mount Vernon, Washington, PERC No.20682-1-06-048 (Reeves, 2007).

Furthermore, any such differences still can be considered even when averages are used because the City can still point out that it ranks seventh in population, fifth in assessed valuation, and fourth in sales tax revenues - all of which show that the City cannot afford to be number one and that it will have great difficulty in meeting all of the Association's economic demands.

Averages therefore should be used, as that is the more commonly accepted method for making comparisons. [17]

As for total compensation, the City acknowledges "the difficulty of comparing different types of benefits" and that the "base wage is clearly the most important factor in determining an employee's compensation." [18] The Association adds that a total compensation approach "is both confusing and contrary to the statutory mandate," and it thus has put together what it calls its "alternative complete compensation analysis . . ." which it states is based upon "two distinct and novel approaches" which includes employer contributions to health care and VEBA contributions. [19]

The parties therefore have presented conflicting data in support of their claims over whether the officers here lag among the comparables in total compensation. But it is very difficult to obtain a true comparison because officers here are covered by a single composite rate health insurance premium which is not matched anywhere else and because almost all of their health care costs are paid for. In addition, the Association's data does not include the value of

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17 See for example Spokane Transit Authority, (Torosian, 2006); City of Tacoma (Police), (Gaunt, 2008); City of Redmond (Police), (Wilkinson, 2007).

18 City Brief, p. 4.

19 Association Brief, pp. 11, 23.

take-home vehicles which is a considerable benefit; it includes 5% merit pay for Gig Harbor even though it is not currently being paid; and some of it includes education pay for Sergeants even though they do not receive it. The City's data, in turn, does not account for the amount of time it takes to progress through wage schedules, thereby exaggerating the importance of higher starting wages.

Given such shortcomings, the best way of determining whether the officers here deserve catch-up is to consider their base wages vis a vis their comparables, along with education, longevity and premium pay. [20]

In 2009 officers with 5 years' experience at the no degree, AA and BA levels were 2.67%, 3.60% and 4.34% below the monthly averages. [21] Officers at the 10 year mark with no degree, the AA and the BA levels were 2.56%, 3.48% and 4.22% below the monthly averages. Officers with 15 years' experience at the no degree, AA and BA levels were 2.23%, 3.25% and 3.98% below the monthly averages. Officers with 20 years of experience at the no degree, AA and BA levels were 1.95%, 2.87% and 4.53% below the monthly averages. Officers with 25 years' experience with no degree, AA and BA levels were 1.43%, 3.27% and 4.92% below the monthly averages.

Adopting the City's proposal for 2010 thus would result in even bigger lags because its 1.7% wage offer is less than the 2.17% average settlement among the settled comparables.

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20 See City of Elma (deGrasse, 2009); Inter City Transit (Axon, 2008).

21 Association Exhibit 47.

I therefore find that the Association has established the need for catch-up and that it outweighs the CPI, the internal comparables, and the other factors favoring the City's 2010 proposal.

The Association's 3.5% wage proposal for 2010 therefore is adopted because the City is not making an inability to pay argument. [22]

As for 2011 and 2012, some officers will still lag in the comparables even with the 3.5% wage increase being granted in 2010.

However, they still will have almost all of their health care costs paid for by the City which is an almost unheard of benefit. When that is coupled with the fact that the City is still struggling with how to deal with its difficult financial situation, I find that the City's wage proposals tied to the CPI for those years is more reasonable and should be adopted because the economy is too uncertain to provide for the 3% guaranteed wage increases the Association seeks.

Turning to the issue of Sergeants' pay, the record establishes that Sergeants are underpaid. In 2009 a Sergeant at the ten-year mark with no educational degree lagged 6.87% behind the average of the comparables, [23] and such a Sergeant in 2010 was 8.51% behind the comparables. [24] The Association thus points out that even with the City's proposal, Sergeants

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22 The Association advances a number of additional reasons relating to workload, safety, recruitment, retention, etc., as to why its wage proposal should be adopted. Given the importance of the comparability data, I find that it rather than these other factors governs the resolution of this issue.

23 Association Exhibits 52, 60.

24 Exhibit 77.

still would be "behind the market by 4.21%" in 2010.[25] In addition, while the Sergeants' differential over patrol officers in 2010 was about 12.73%, the average differential among the comparables was about 17.84%.[26]

Given this very significant disparity, I find that the City's 4.7% market adjustment for 2010 should be adopted over the Association's proposal which spreads out that same amount in 2010 and 2011 because there is a need to correct this problem as soon as possible.

7. DEFERRED COMPENSATION

The Association proposes that the City upon the executive of the agreement match employee contributions of up to 1% of an employee's base salary in a new voluntary deferred compensation plan.

The City opposes creating such a plan.

Three comparables - i.e., Port Orchard, Snohomish and Tumwater - do not have any deferred compensation plans. Four comparables - i.e., Enumclaw, Snoqualmie, Sumner, and Gig Harbor - have such plans and they respectively contribute $50 a month; $100 a month; $185 a month and 6.20% of the employees' salary.[27] But Gig Harbor does not participate in the Social Security program and its deferred compensation payment represents what would be paid under that program. Since the City's officers are covered by Social Security, Gig Harbor is not a true comparable and will not be considered.

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25 Association Exhibit 47.

26 Association Exhibit 64.

27 City Exhibit 5; Association Exhibit 285.

Comparables therefore are evenly split, with three of them having such plans while three do not.

Since the Association's proposal is not supported by the overwhelming majority of the comparables and given the City's difficult financial situation, I find that the City's proposal is more reasonable and that it should be adopted.

In light of the above, I issue the following

## AWARD

1. The City's proposal to retain the current 5% cap on combined longevity and education pay and to retain the 1% longevity premium for officers with 6-10 years of service is adopted.

2. The Association's proposal to raise the life insurance benefit to $20,000 and to retain the current 4% contributions to VEBA health saving accounts is adopted.

3. The Association's proposal to retain the current contract language regarding the holiday bank is adopted.

4. The City's proposal to not pay for a jumpsuit is adopted.

5. The City's proposal to retain the current 3% premium pay for Detectives is adopted.

6. Wages

   A. The Association's proposal for 3½% across-the-board wage increases for 2010 is adopted.

   B. The City's proposal tying 2011 and 2012 wage increases to the CPI and providing for 1% minimum and 3% maximum wage increases for those years if adopted.

C. The City's proposal providing for an additional 4.7% market adjustment for Sergeants in 2010 is adopted.

7. The City's proposal to retain the status quo and not create a deferred compensation plan is adopted.

Dated at Madison, Wisconsin, this 20th day of May, 2011.

Amedeo Greco /s/

Amedeo Greco, Arbitrator