

AUG 21 2000

PUBLIC EMPLOYMENT  
RELATIONS COMMISSION

IN THE MATTER OF )  
 )  
 INTEREST ARBITRATION )  
 )  
 BETWEEN )  
 )  
 SERVICE EMPLOYEES INTERNATIONAL )  
 UNION, LOCAL 120, )  
 )  
 Union, )  
 )  
 and )  
 )  
 CITY OF BURLINGTON, WASHINGTON, )  
 )  
 Employer. )

PERC CASE 14894-I-99-328

ARBITRATOR'S OPINION

AND AWARD

1999-2001

CONTRACT

HEARING SITE:

Fire Station  
Burlington, Washington

HEARING DATE:

May 4, 2000

POST-HEARING BRIEFS DUE:

Postmarked June 16, 2000

RECORD CLOSED ON RECEIPT OF BRIEFS:

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REPRESENTING THE UNION:

Kathleen Phair Bernard  
Schwerin Campbell &  
Bernard LLP  
18 W. Mercer St., Suite 400  
Seattle, WA 98119-3971

Thomas A. Leahy  
Staff Attorney  
SEIU State Council  
150 Denny Way  
Seattle, WA 98109

REPRESENTING THE EMPLOYER:

Bruce L. Schroeder  
Summit Law Group  
Suite 300  
1505 Westlake Ave., North  
Seattle, WA 98109

INTEREST ARBITRATOR:

Gary L. Axon  
P.O. Box 190  
Ashland, OR 97520  
(541) 488-1573

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I. INTRODUCTION

The 1999-2001 contract will be the first Collective Bargaining Agreement between SEIU Local 120 (Union) and the City of Burlington, Washington (Employer or City). Prior to 1999 the employees of the Burlington Police Department (BPD) were represented by the Burlington Police Guild. The Collective Bargaining Agreement between the Burlington Police Guild and the City covered the period January 1, 1996 through December 31, 1998. SEIU acquired representation rights for Burlington Police Department officers commencing with the 1999 contract.

The parties engaged in bargaining for a successor Agreement. Although the parties were able to reach agreement through bargaining and mediation on numerous issues, five core topics remained in dispute. Both sides are proposing a three-year Agreement.

In a letter dated November 19, 1999, the Public Employment Relations Commission (PERC) certified five issues for interest arbitration under RCW 41.56.450. Un. Ex. 1. The five issues are:

1. Base wage increase;
2. Specialty pay (detective-FTO-DARE);
3. Medical insurance premium payment;
4. Compensatory time; and
5. Shift differential.

This Arbitrator was selected to decide the case and a hearing was scheduled for May 4 and 5, 2000.

The Union represents sixteen sworn officers in the rank of sergeant or below. In the bargaining unit three members are sergeants and thirteen employees are police officers. The BPD is headed by Chief Bud Bowers and Lieutenant Van Wieringen. Prior to this case, the parties have resolved their disputes without the need to go to interest arbitration.

The City of Burlington is located in Skagit County along the I-5 corridor. Skagit County has a population of 100,600 and Burlington has a population of 5,635. The City's population has grown by over 29% from 1990 to 1999.

A unique feature of the City of Burlington is the presence of a large number of retail shopping malls and stores. These stores attract over 35,000 shoppers and tourists per day to Burlington. Skagit County and Burlington have a history that is rooted in agriculture and forest products. With the increase in retail activity, agriculture and forest products have diminished in importance to the economic activity in the area.

Two threshold issues developed at the commencement of the hearing. First, the parties had totally different ideas over which jurisdictions should be utilized for comparison to serve as a guide to determine wages and benefits for Burlington police officers. A second, but related issue developed over what, if any, consideration should be given to the fact Burlington's daytime population swells from a resident population of 5,635 to



approximately 40,000 people due to the presence of visitors attracted to the shopping malls.

As the hearing progressed, it became apparent that there was wide disagreement over the methodology and means by which to compare the wages and benefits of Burlington police officers with their counterparts in other cities. A significant amount of hearing time was devoted to the presentation of evidence and argument on the statutory factor of comparability. The Arbitrator directed the parties to address the comparability issue at the beginning of their post-hearing briefs. The Arbitrator advised the parties he would address the comparability issue at the commencement of the Award.

The hearing in this case required one day for both sides to present their evidence and testimony. The hearing was recorded by a court reporter and a transcript was furnished to the parties and the Arbitrator for preparation of the post-hearing briefs and Award. Testimony of the witnesses was received under oath. At the hearing the parties were given the full opportunity to present written evidence, oral testimony, and argument regarding the five disputed issues. Both the Union and the City provided the Arbitrator with substantial written documentation in support of their respective positions to supplement the testimony provided by the witnesses at the arbitration hearing.

The parties also submitted comprehensive and detailed post-hearing briefs to bolster their respective positions taken at arbitration. The approach of this Arbitrator in writing the Award

will be to summarize the major and persuasive evidence and argument presented by the parties on each of the five issues. After the introduction of the issue and position of the parties, I will state the basic findings and rationale which persuaded the Arbitrator to make the award on the individual issues. A substantial portion of the evidence and argument related to more than one of the issues and will not be duplicated in its entirety in the discussion and findings on each of the issues.

This Arbitrator carefully reviewed and evaluated all of the evidence and argument submitted pursuant to the criteria established by RCW 41.56.465. Since the record in this case is lengthy and detailed, it is impractical for the Arbitrator in the discussion and Award to restate and refer to each and every piece of evidence and testimony offered. However, when formulating this Award, the Arbitrator did give careful consideration to all of the evidence and argument placed into the record by the parties.

The statutory criteria are set out in RCW 41.56.465(1) as follows:

(1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c) (i) For employees listed in RCW 41.56.030(7)(a) through (d); comparison of the wages, hours, and conditions of

employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(ii) For employees listed in RCW 41.56.030(7)(e) through (h), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and

(f) Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

Because of the large amount of written documentation and extensive post-hearing briefs, the parties waived the thirty-day period an arbitrator would normally have to publish an award under the statute.

## II. COMPARABILITY

### A. Background

The parties have no history on the subject of jurisdictions with which to compare Burlington to utilize as a guideline for establishing wages and benefits for Burlington police officers. Without this history, the parties are starting fresh in the development of a list of comparable jurisdictions to assist in the resolution of this contract dispute.

At the arbitration hearing the Union presented a list of thirteen cities, plus Skagit County as its proposed list of comparators. Un. Ex. 41. In the Union's post-hearing brief, reference was made to fifteen jurisdictions which were not identical to the list of fourteen found in Union Exhibit 41. Included on the Union's list were several jurisdictions which were substantially larger in population than Burlington. The use of the larger populated cities was premised on geography and Burlington's 40,000 daytime population.

The Employer countered with a list of ten cities chosen primarily on population and assessed valuation. Two of the Employer's proposed cities were from eastern Washington. Except for Fife and Milton, all of the Employer's proposed cities are located outside of the central Puget Sound area. Five cities appear on both lists which the parties agreed should be used for comparators. They are as follows:

Arlington  
Chehalis  
Fife  
Poulsbo  
Sedro Woolley

The Arbitrator will include the above five jurisdictions on the list of comparators.

In the post-hearing brief, the Union stated that it agreed two cities off the Employer's list of ten comparators met the statutory test of like employers. The two cities were Port Townsend and Ferndale. The Arbitrator adopts the Union's stipulation and will add these two jurisdictions to the list which brings the total number of mutually acceptable cities for comparison to seven. The duty for the Arbitrator is to determine if any of the other eight jurisdictions proposed by the Union should be included on the list of comparators to bring the total to fifteen. With the exception of Port Townsend and Ferndale, three of the ten cities proposed by the City remain unacceptable to the Union. Thus, with this background the Arbitrator must develop a list of comparables which will comport with the statutory mandate of "like employers of similar size on the west coast of the United States."



**B. The Union**

The Union asserted that the statutory criteria supported its list of comparator cities to be:

City	Population
Anacortes	14,370
Arlington	7,350
Blaine	3,640
Chehalis	7,010
Ferndale	7,925
Fife	5,155
Gig Harbor	6,405
Lake Stevens	6,100
Medina	2,940
Mount Vernon	22,700
Port Orchard	7,255
Port Townsend	8,400
Poulsbo	6,445
Sedro Woolley	8,010
Skagit County	100,600
Burlington	5,635

Arbitrators have utilized additional factors listed in the statute that are "normally or traditionally" used in the determination of hours, wages, and conditions of employment to select comparable jurisdictions. Among those additional factors are geographic proximity to the employer, comparison of counties in which the cities are located, growth of the employer's city,



internal comparables, uses of the employee in question, total assessed property valuation, historical comparables, and comparables both parties have in common when making their proposals.

The Union maintains its list is appropriately balanced and will serve both parties well in future negotiations. In addition to the seven common jurisdictions, the Union would add:

1. Anacortes
2. Blaine
3. Gig Harbor
4. Lake Stevens
5. Medina
6. Port Orchard
7. Skagit County
8. Mt. Vernon

All of the above comparator police departments have approximately the same number of officers as Burlington, except for Skagit County and Mt. Vernon. Evaluating these eight cities with the following traditional factors will result in the Arbitrator concluding they are all like employers to Burlington.

The most important factor for determining like employers is population. Using a population band of 50 percent below and 50 percent above, the City of Burlington's population of 5,635 will encompass the following cities from the Union's list:

City	Population
Blaine	3,640
Gig Harbor	6,405
Lake Stevens	6,100
Medina	2,940
Port Orchard	7,255
Burlington	5,635

The Union next argues that geographic proximity is the second most important factor when determining like employers. Anacortes, Blaine, Lake Stevens and Mt. Vernon are in close geographic proximity to the City of Burlington and are located along the I-5 corridor. In addition, Anacortes, Mt. Vernon and Burlington are all located in Skagit County. Blaine is located in Whatcom County which is directly north of Skagit County. Whatcom County, with a population of 161,300, is similar in size to Skagit County with a population of 100,600. All four of the cities are in the same general labor market. Therefore, all five of the comparators should be placed on the final list developed by the Arbitrator.

Assessed valuation is another important factor in the determination of like employers. Using a total assessed property valuation of 50 percent below and 50 percent above Burlington's \$506,501,506 total assessed property value brings in the following cities:

City	Assessed Property Valuation
Blaine	\$371,103,783
Gig Harbor	\$621,616,211
Lake Stevens	\$295,888,618
Port Orchard	\$366,565,792
Burlington	\$506,501,506

The Union next argues that Burlington's large daytime population and unique characteristics call for the inclusion of cities with larger populations, such as Mt. Vernon, Anacortes and Skagit County, on the final comparator list. Burlington has a population which increases to over 40,000 during the day. The evidence concerning this large influx of people was undisputed. This large influx of daytime tourists and visitors influences Burlington's taxable retail sales and crime statistics. Burlington has the highest criminal offenses per officer rate in all of the comparables. Un. Exs. 7-8. With this large influx of people comes the corresponding need for police services.

In sum, the unique situation of the City of Burlington due to its high property valuation and taxable retail sales justifies comparing Burlington to larger departments such as Mt. Vernon, Anacortes and Skagit County.

Turning to the City's proposal of using East Wenatchee and Union Gap as comparators, the Union argues these two jurisdictions must be excluded from the comparator list. According

to the Union, it is inappropriate to use eastern Washington jurisdictions which are located far away from the City of Burlington. The economy of eastern Washington is radically different from the economy of western Washington and those jurisdictions along the I-5 corridor. Clearly the cost of living is higher in western Washington along the I-5 corridor than in eastern Washington. The bottom line is Burlington is not an eastern Washington city with attributes that are similar to East Wenatchee and Union Gap.

Based on all of the above-stated reasons, the Union respectfully requests the Arbitrator adopt the Union's list of comparables as like employers.

C. The Employer

The Employer begins by noting the Arbitrator should follow the traditional rule of accepting the five mutually selected cities of Sedro Woolley, Arlington, Chehalis, Poulsbo and Fife to be included on the list of comparable jurisdictions. According to the City, its proposed comparables are similarly sized while the Union's are not. The City's methodology for choosing comparables started with population and assessed valuation. The City initially developed a band of 50 percent upward and 50 percent downward from Burlington's recorded population of 5,635. This resulted in a range from 2,818 on the low end to 8,453 at the upper end of the population band.

In sharp contrast, the Union acknowledged it had no particular test for similar size. The city of Mt. Vernon, whose

population is 22,700, puts it more than four times as large as Burlington. Further, Anacortes was included which has a population of approximately 2.6 times that of Burlington. Even more significantly, the Union included Skagit County with a recorded population of 100,600. These jurisdictions are not similar-sized cities to Burlington and should be rejected by this Arbitrator.

The City next applied the similar  $\pm 50$  percent range for assessed valuation. Assessed valuation provides a measure not only of size but of relative wealth of the community. All of the ten jurisdictions chosen by the City fit within the 50 percent assessed valuation range. The assessed valuations developed in the City's study range from a low of \$253,250,753 to a high of \$759,752,259. The same cannot be said of the Union's list.

It was the Union's attempt to counter this wide variation in assessed valuation with an argument the jurisdictions are geographically close. According to the City, this argument is not sufficient to satisfy the statutory requirement of "similar size" and "like employer." Thus, mere geographic proximity cannot transform Burlington into an agency substantially larger with a significantly greater tax base than it currently has.

The City's proposed list of comparables should be adopted because they share demographic similarities. Those similarities are primarily non-central Puget Sound communities with a strong agricultural surrounding coupled with a strong retail base. Because the list of potential comparables using only population and assessed valuation resulted in 34 jurisdictions, the City attempted

to apply the like employer test to replicate the primary demographic factors applicable to Burlington. The evidence shows the central Puget Sound boom has not yet hit Skagit County. This is a demographic factor that cannot be ignored in formulating an interest arbitration award.



Recognizing that 34 jurisdictions are not a manageable number, the City, utilizing the demographic criteria, came up with the following ten jurisdictions:

<b>CITY COMPARABLES</b>			
<b>JURISDICTION</b>	<b>PUGET SOUND URBAN</b>	<b>POPULATION*</b>	<b>ASSESSED VALUATION (MILLIONS)</b>
Port Townsend		8,400	\$568
Sedro Woolley		8,010	329
Ferndale		7,925	437
Arlington		7,350	557
Chehalis		7,010	340
Poulsbo		6,445	413
Milton	*	5,680	287
Burlington		5,635	\$506
East Wenatchee		5,395	318
Union Gap		5,350	276
Fife	*	5,155	698
<b>Average</b>		<b>6,672</b>	<b>\$422</b>
<b>*Population:</b>			
● Average: 18.4% greater than Burlington			
● Largest (Port Townsend): 49% greater than Burlington			

The City explained that while Fife and Milton are in the central Puget Sound area, they were included because they were the

two closest jurisdictions in size to Burlington, located in western Washington, and are also major retail cores. The City included East Wenatchee and Union Gap because they are the two cities in eastern Washington that are closest in size to Burlington and also have a significant retail presence servicing surrounding agricultural communities. Further, they also reside next door to a much larger city, as Burlington does to Mt. Vernon. Both of these eastern Washington cities have major malls serving populations of their larger neighbor in the same fashion Burlington's malls serve Mt. Vernon.

In sum, the two eastern Washington cities which closely match Burlington should be included to provide geographical diversity and to provide an adequate number of comparables to preclude a disparate impact by any one comparable.

Turning to the Union's use of Skagit County, the City argues Skagit County is not a like employer. Skagit County fails the like employer test based on size and assessed valuation. Skagit County should also be rejected because the department is run by an elected official, the sheriff, unlike the traditional arrangements in a city police department. A sheriff's office provides different types of law enforcement services than a city police department.

The city of Medina should be rejected based not only because of its significantly greater assessed value, but also because of its presence in the heart of the central Puget Sound area and its dissimilar residential demographics. Medina is the

home to Microsoft founder Bill Gates. There is almost no similarity between the cities of Burlington and Medina. Moreover, the Union also proposed Port Orchard, Gig Harbor, Lake Stevens and Fircrest as comparables. Since the Union offered no explanation for their inclusion, the Arbitrator should find the Union failed to bear the burden to justify its comparables. Thus, these four jurisdictions should be rejected as dissimilar to Burlington.

The remaining city sought by the Union to be included on the list of comparators was Blaine. While Blaine falls within the 50 percent population and assessed valuation test, Blaine does not have any significant retail presence. Ironically, if the City were engaged in a results-oriented approach, it would have included Blaine since its wage rate is significantly less than Burlington's.

#### D. Discussion and Findings

The parties agree that five jurisdictions common to both lists should be included on the roster of comparators. Further, the Union in its post-hearing brief accepted Port Townsend and Ferndale off the City's proposed list as being appropriate comparables bringing the list to a total of seven cities. The Arbitrator rejects the Union's attempt to add eight more cities to the list for a total of fifteen. A comparator list of fifteen jurisdictions simply is not a manageable number.

This Arbitrator normally prefers to use a list of comparators in a range from five to ten jurisdictions. The greater the number of comparators, the more difficult it becomes to collect and maintain credible data. Also, the potential for error in

compiling the data increases as the number of comparators grows. Finally, with fifteen comparators, the ability of the parties to draw accurate conclusions is substantially diminished by the sheer weight of the data.

One of the comparators offered by the Union does not belong on the list because it fails the like employer test. Skagit County operates its law enforcement services through an elected sheriff. County sheriffs typically operate under a different system of government and provide a distinct type of law enforcement services. Skagit County is also out of the picture because of its much larger population and assessed valuation.

The Arbitrator concurs with the City that Medina, located in the heart of the Seattle metropolitan area, is a totally dissimilar community in terms of wealth and demographics. Because of the location of Gig Harbor and Fircrest, adjacent to Tacoma and the central Puget Sound area, the Arbitrator finds these two cities should not be placed on the list of comparators when the city of Milton is already present on the City's list of comparators. The inclusion of Blaine, located on the Canadian border, on the Union's comparator list would work against the Union's case because of a lower salary schedule. Blaine also lacks the significant retail presence important to the Union's case.

While Anacortes is located in close proximity to Burlington, its significantly higher population (14,370) and assessed valuation (\$1,164,708,043) remove it from the list of comparable jurisdictions. Port Orchard has some potential in terms

of population and assessed valuation, but its location as the county seat of Kitsap County and being under the sphere of the Puget Sound urban area argues against its inclusion on the comparator list. The Arbitrator was unpersuaded by the Union's argument that Port Orchard should be included on the list at this time.

The neighboring city of Mt. Vernon is a tempting target because of its geographical proximity to Burlington. However, Mt. Vernon has a population four times as large as Burlington with 22,700 people and an assessed valuation of \$1,180,787,549, as compared to Burlington's assessed valuation of \$506,501,506. In addition, the police force is over twice as large as Burlington's. While the Arbitrator does not accept Mt. Vernon as a primary comparator, Burlington certainly falls under the sphere of influence of its larger neighbor located just across the river. Mt. Vernon residents do come across the bridge to shop in Burlington.

Moreover, the Arbitrator rejects the Union's argument that the large daytime visitor population of Burlington should override the primary criterion of actual resident population and assessed valuation in this case. This is particularly true when there is no evidence in the record concerning the daytime population of Mt. Vernon. Thus, the Arbitrator finds Mt. Vernon falls into the category of what has been termed a "secondary comparator."



While the Arbitrator finds the City established an overall better case for its list of comparators, I am reluctant to include two eastern Washington cities on the roster of the ten comparables presented by the City. There are several western Washington cities that will better serve as appropriate comparators than Union Gap. In the judgment of this Arbitrator, the eastern Washington city of Union Gap should be dropped from the list in favor of Lake Stevens. Lake Stevens has a population of 6,100, slightly larger than Burlington by 465 persons. Burlington has a substantially higher assessed valuation than Lake Stevens and a slightly larger police force. Lake Stevens has the distinguishing feature of being located on the I-5 corridor some forty miles south of Burlington. Therefore, the Arbitrator will delete Union Gap, a city located approximately 200 miles away from Burlington on the east side of the Cascades, from the City's proposed list of comparators in favor of Lake Stevens.



In sum, the Arbitrator finds the list of ten comparators meets the statutory criteria and provides a reasonable group of jurisdictions to serve as a guide for formulating an Award in this interest arbitration. The ten cities are:

JURISDICTION	PUGET SOUND URBAN	POPULATION*	ASSESSED VALUATION (MILLIONS)
Port Townsend		8,400	\$568
Sedro Woolley		8,010	329
Ferndale		7,925	437
Arlington		7,350	557
Chehalis		7,010	340
Poulsbo		6,445	413
Lake Stevens		6,100	296
Milton	*	5,680	287
Burlington		5,635	\$506
East Wenatchee		5,395	318
Fife	*	5,155	698
<b>Average</b>		<b>6,747</b>	<b>\$424</b>

**\*Population:**

- Average: 19.7% greater than Burlington
- Largest (Port Townsend): 49% greater than Burlington

**ISSUE 1 - WAGES**

**A. Background**

The 1998 salary structure for police officers is a four-step schedule rising to a maximum level after 37 months of employment. The 1998 wages for police officers were as follows:

<b>CITY OF BURLINGTON BASE PAY FOR POLICE OFFICERS</b>				
	<b>STEP I</b>	<b>STEP II</b>	<b>STEP III</b>	<b>STEP IV</b>
<b>1998</b>	\$3,024	\$3,128	\$3,389	\$3,614

Sergeants were paid on a two-step salary scale with the wages listed below:

<b>CITY OF BURLINGTON BASE PAY FOR SERGEANTS</b>		
	<b>STEP I</b>	<b>STEP II</b>
<b>1998</b>	\$3,761	\$4,150

The Union proposed the following wage increases:

1. January 1, 1999, 6%;
2. January 1, 2000, 6%; and
3. January 1, 2001, 6%.

The City proposed the following:

1. January 1, 1999, 2.9%;
2. January 1, 2000, 2%; and
3. January 1, 2001, effective January 1, 2001, base wages should be increased by

an amount equal to 80% of the "All U.S. Cities CPI-W," August 1999 to August 2000, with a minimum 2% and a maximum 4% increase.

**B. The Union**

If the Arbitrator were to adopt the Union's language and wage scale, it would provide the following salary schedule:

Section 8.2. Employees covered by this Agreement shall be compensated as follows:

Classification	1999	2000	2001
Sergeant - 12 months	\$3,987	\$4,226	\$4,479
Sergeant - thereafter	\$4,399	\$4,663	\$4,943
<b>Police Officer:</b>			
Step 1 - 12 months	\$3,205	\$3,398	\$3,602
Step 2 - 12 months	\$3,316	\$3,515	\$3,725
Step 3 - 12 months	\$3,592	\$3,808	\$4,036
Step 4 - 12 months	\$3,831	\$4,061	\$4,304

Un. Post-Hearing Brief, p. 11.

The Union argues its proposed wage scale is appropriate because Burlington officers have the heaviest workload of all of the comparator departments. In 1999, the Burlington Police Department had a ratio of 61.8 criminal offenses per officer. This is much higher than the ratio for any of the comparator police departments. The next closest ratio was 53.4 offenses per officer in Mt. Vernon. The Burlington ratio is still 16% higher than Mt. Vernon. The City has never disputed the heavy workload of

Burlington police officers. Chief Bowers has created a chart for the Burlington City Council to demonstrate the extreme workload of City police officers compared to other larger departments. Un. Ex. 9.

The Union asserts that its wage proposal is well within the range of comparable cities. Un. Exs. 34-35. According to the Union, its proposal is clearly justified when taking into consideration the fact Burlington police officers have the heaviest workload of the comparable cities. The Union submits the great demand that is placed on Burlington police officers clearly mandates they be paid at the top of any final comparator wage schedule.

The Union next argues the rate of growth in Burlington and Skagit County further justifies the Union's wage proposal. The growth in population of the City of Burlington and Skagit County has resulted in a heavier workload being placed on Burlington police officers. The City of Burlington's population has grown over 29% from 1990 to 1999. Skagit County's population has grown over 26% during that same period of time. The evidence presented at arbitration indicates the City of Burlington will continue to grow and prosper.

The taxable sales of Burlington are the highest of any of the Union's comparators. This is a reflection of the large number of shoppers and tourists who visit Burlington's retail center. Burlington's property valuation is in the middle of the Union's comparables. The property valuation and large amount of taxable

retail sales further justify the Union's proposal. The Union submits there is no basis for the City to argue it cannot afford to pay the Union's proposed wage increase.

The Union argued in its post-hearing brief that internal equity demanded its proposal be adopted:

Further evidence of the fairness of the Union's proposal can be demonstrated by comparing it to the public works employees at the City of Burlington. A lead operator in Waste Water Treatment will receive \$3,680 a month after working for 12 months. A Class II Operator will earn \$3,544 after 12 months. However, after 12 months as a police officer in the City of Burlington, an employee will make \$3,528 under the Union's proposal and only \$3,295 under the City's proposal. The City's proposal also places second year police officer at a lower rate than [sic] Utility I workers in the public works division. Ex. U-11; U-34.

Police officers put their lives at risk every day and deserved to be compensated appropriately for the risks they take in the line of duty. If the City of Burlington has the funds to pay these wages to the Waste Water Treatment Operators and public works employees, it certainly must have the funds to pay police officers at the rate the Union is requesting. Ex. U-11, 12; U-34.

Un. Post-Hearing Brief, p. 13.

In sum, given the large amount of taxable sales, assessed property valuation and the heavy workload of police officers, the Union's proposal should be adopted by the Arbitrator.



**C. The City**

An award of the City's proposal over the three-year period would establish a base pay for Burlington police officers which would provide the following:

CITY OF BURLINGTON BASE PAY FOR POLICE OFFICERS				
	STEP I	STEP II	STEP III	STEP IV
1999 2.9% COLA	\$3,112	\$3,218	\$3,487	\$3,719
2000 2.0% COLA	1/1 \$3,174 7/1 \$3,224	1/1 \$3,283 7/1 \$3,333	1/1 \$3,557 7/1 \$3,607	1/1 \$3,793 7/1 \$3,843
2001 Est. 2.0% COLA	\$3,288	\$3,399	\$3,679	\$3,920

CITY OF BURLINGTON BASE PAY FOR SERGEANTS		
	STEP I	STEP II
1999 2.9% COLA	\$3,870	\$4,270
2000 2.0% COLA	1/1 \$3,947 7/1 \$3,997	1/1 \$4,355 7/1 \$4,405
2001 Est. 2.0% COLA	\$4,077	\$4,493

The City asserts that its proposal is extremely fair when measured against the statutory criteria. Even if the Arbitrator uses some of the Union's own data, he will find that the City's proposal on wages is justified and conclude the Union's proposal is unreasonable. Whatever factor the Arbitrator examines, the



conclusion is inescapable that the City's proposal should be adopted.

The City's comparability data reveals that a top-step officer would make \$3,719 per month if the City's proposal for a 2.9% increase were granted for 1999. That figure does not include the \$40 per month rotating shift premium that is paid to all officers regardless of whether they are working days, swing, graveyard or a power shift. Without inclusion of this rotating shift premium, Burlington police officers are already 2.8% ahead of the average of the City's comparables, and with the inclusion of the \$40 rotating shift premium, they are 3.9% above the average.

The City next argues that adoption of its 2.9% proposal would put Burlington police officer wages 3% above the average of its comparables, and the City would also rank third among the comparables at the base wage. Further, the City's position of a 2% wage increase effective January 1, 2000, is justified based on comparability. The average of the jurisdictions which have settled through the hearing date for 2000 was \$3,733 per month. With the City's 2% proposal, Burlington's pay would grow to \$3,793 per month. The City is further proposing to increase the rotating shift premium to \$50 per month and meld that into the base pay resulting in a rate of \$3,843 per month. Thus, the effective raise for a Burlington police officer in 2000 is 3.3%. With or without consideration of the rotating shift premium conversion, Burlington's base pay would remain above the average of the City's comparables in 2000.

Even the Union's own comparability data supports the reasonableness of the City's wage offer. With all the Union's comparables, including those influenced by the central Puget Sound metropolitan area, the average is \$3,768 per month. Adoption of the City's 2.9% proposal for 1999 would be nearly 1.3% below the average. If the shift premium of \$40 per month is added, then the base pay is \$3,759 per month, less than .2 of one percent under the average of the other comparables. The focus on median versus average similarly supports Burlington's offer. With the \$3,719 offer, the City would be exactly in the middle of the fourteen comparables. The Union's proposal of 6% would put Burlington above the average and toward the top of the Union's own comparables--a result that is not justified on the record before this Arbitrator.

The fairness of the City's position is bolstered by the availability of significant additional compensation every month to Burlington police officers which is not available in both the City's comparables as well as the Union's comparables. Officers in Burlington are eligible for longevity pay, educational incentives, and shift premiums. Of the bargaining unit members, one-half receive some level of education incentive, thirteen of sixteen receive longevity premiums, and all receive the rotating shift premium. Of the City's comparables, only one out of ten, East Wenatchee, provides all three premiums to its officers. Two out of the ten comparables offer shift premiums. Two out of the ten provide an educational incentive and six out of ten pay a longevity premium. The same holds true if the Arbitrator examines the

Union's comparables where only Mt. Vernon offers all three premiums. The bottom line is the City bears a significant additional cost to provide these premiums to the police officers which should not be lost in analyzing an appropriate wage adjustment.

Turning to the cost of living factor, the City argues its evidence supports the offer made in this round of bargaining. Three main reasons were presented by the City why it believed the offer is in compliance with the cost of living factor. First, Burlington police officer wages have significantly exceeded the cost of living over the last decade by more than 30%.

Second, the cost of living for officers in Burlington is significantly less than in a majority of the comparables, particularly those in the central Puget Sound metropolitan area. Housing prices are significantly less in the Burlington market than in the comparables.

Third, the City's proposal is fair in light of the current measures of the effective cost of living. Measurement of the effective cost of living supports the reliance on the Consumer Price Index as the basis for the 2001 base wage adjustments. The 2% floor and 4% ceiling on raises comports with the general inflationary range that had been borne out over the last several years. Some percentage less than 100% is appropriate, given the significant risk borne by the City in terms of benefit cost increases.

The local labor market factor supports the City's proposal. Evidence presented by the City revealed that significantly lower wage rates are paid in Skagit County than in other parts of the state of Washington. The unemployment level is higher than in the central Puget Sound area and general income levels lag when compared with other parts of the state. All of this data supports a more conservative wage award than is proposed by the Union.

An examination of the wage increases given to other major employers in the Skagit County area supports the City's proposal. The employees at Burlington-Edison School District took a wage freeze. Another major employer, Tesoro, provided a 3.5% increase. Most wage adjustments fell in the 2-3% range. Cost of living adjustments for calendar year 2000 were not significantly different among the other major employers in Skagit County.

The City's proposal is fair in the context of the general conditions in the Skagit County local labor market when compared with other portions of the state of Washington. The average annual covered wage from 1970 through 1995 published by the Washington State Employment Security Department demonstrated covered wages in Skagit County lag significantly behind the state as a whole. By 1995, the difference had grown to an annual average covered wage of \$22,209 in Skagit County versus \$27,448 for the rest of the state as a whole. Er. Ex. 3.3.4. The most recent figures available through 1998 show the average monthly wage in Skagit County for 1998 was \$2,009 per month. In contrast, for Snohomish County the



average was \$2,799, 39% greater than Skagit's, while in Seattle-King County, the number was \$3,441, 71% greater than Skagit. The same holds true for Thurston County and Pierce County where the average exceeds Skagit County's wage level by 18% and 14%, respectively.

The data on median household income shows a similar pattern. By the end of 1999, the median household income in Skagit County was \$38,756 per year. That same household in King County would have a median income of \$64,795, 67% higher than in Skagit. In Snohomish County, the median household income was \$52,063, 34% greater than in Skagit. The City's evidence graphically portrays that the prime wealth, as measured by median household income, is concentrated primarily in the central Puget Sound area, not in Skagit County. The median household income differences are also borne out in per capita income figures.

Regarding the unemployment figures, the three-year average unemployment rate in Skagit County was 6.8% at the end of 1999. This qualified Skagit County as a distressed area which is defined as a county with a three-year average unemployment rate equal to or greater than 6.4%. In contrast, the three-year average unemployment rate in King County for the same period was 3.2%, Kitsap County 5.2%, Pierce County 4.5%, and Snohomish County 3.5%. None of these counties qualified as distressed areas.

Although Burlington is not offering a classic "inability to pay" case, the City maintains it is critical to get an accurate picture of the current finances of Burlington. Rick Patrick, the



City's Finance Director, clearly pointed out the faulty analysis of the Union's approach regarding the collection of retail sales taxes. The Union asserted the City collected retail sales taxes at the rate of 8.7% on all retail sales generated in the City. In the opinion of the Union, Burlington's taxable sales tax collected was \$42,649,614. Un. Ex. 37. The City argues this number is in error by at least tenfold because the City only receives 1% of the total composite sales tax rate of 7.8%. The actual sales tax revenue for 1999 was \$4,169,790. Therefore, the Union's retail sales analysis should be completely rejected.

The rapid growth in the City has generated a number of requirements to develop the expensive infrastructure necessary to support the retail businesses. City resources must be preserved to provide money to cover the cost of growth.

Adoption of the City's offer will result in an additional cost of \$25,452 in 1999. In 2000, the \$25,452 from 1999 would continue plus an additional \$22,677 in 2000. Finally for 2001, the last two years expenses would continue, plus another \$23,436 as an estimate for the 2001 cost of living adjustment. These numbers do not include any estimate of upcoming insurance increases. If the City's proposal is adopted, the combination of additional expenditures over the three years of the contract is estimated at \$145,146. The Union's proposal would cost at least 2.5 times as much as the City's. Over the course of the three years of this contract alone, the Union's proposal would cost an additional

\$362,241. The Union has not presented sufficient evidence to justify this additional cost.

Turnover statistics do not support the Union's proposal for a significant wage increase. The lack of turnover in this unit reflects a compensation package that is sufficient and competitive to attract and retain qualified police officers. From 1999 to present, six officers have left the department voluntarily, only one of whom continue to pursue a law enforcement job in his original hometown. Thus, an above-market adjustment is not needed to attract and retain qualified personnel.

Crime rates have not changed significantly and are largely composed of shoplifting offenses that are less risky to officers than other forms of criminal activity. The record is largely undisputed that since 1996 the calls for service to the BPD have startlingly trended downward. The bulk of crime statistics involves shoplifting offenses. While there is some risk, the testimony is undisputed that shoplifting does not present the type of danger that more serious crimes would have on officer safety. The number of calls responding to vehicle accidents has remained relatively stable for the last five years.

Moreover, the testimony of Chief Bowers revealed that mall security personnel perform a number of tasks that police officers would normally perform in other areas. The mall security personnel have secured alleged suspects, prepared reports and often have evidence on videotape. Thus, although the calls are reported

for crime statistics purposes, the actual demands on the officers are reduced.

Finally, within the last year BPD has hired an additional police officer to help reduce officer workloads. The City is also in the process of hiring four more officers to be paid through grant funds to help reduce the workload on existing officers. Therefore, the City concludes the crime statistics do not justify an above-market base wage adjustment.

Based on all of the above-stated arguments, the Arbitrator should award the City's proposal as being consistent with the statutory criteria.

#### D. Discussion and Findings

The Arbitrator finds, after a review of the evidence and argument as applied to the statutory criteria, that a 3.25% increase effective January 1, 1999, applied to the existing salary schedule is justified for the 1999 contract year. Implementation of a 3.25% increase will move the top-step pay for a police officer to \$3,731 per month. Effective January 1, 2000, an additional 3% should be added to the existing wage schedule to bring the top step to \$3,843 per month. The third year of the contract shall be adjusted by an additional 3% effective January 1, 2001, increasing the top step to \$3,958 for the final year of the contract. The reasoning of the Arbitrator is set forth in the discussion which follows.

The City made a proposal to increase the shift differential premium to \$50 from its current \$40 and roll the

amount into base pay. In Issue 5 - Shift Differential, the Arbitrator rejected the Union's proposal to modify the way shift differential is paid. This is a small police department. Police officers rotate through the three different shifts on a regular schedule. The evidence before this Arbitrator shows the system works and presents no undue financial burden on the City. The Arbitrator concludes no justification has been shown to change the current system of paying a monthly shift differential in recognition of the disruption to Burlington Police Department officers' lives who must rotate through three different shifts on a regular basis.

#### Constitutional and Statutory Authority of City

Regarding the Constitutional and statutory authority of the City of Burlington, no issues were raised with respect to this factor which would place the Award in conflict with Washington law.

#### Stipulations of the Parties

The parties agree that the Collective Bargaining Agreement should become effective January 1, 1999, through December 31, 2001. Other than the above-stated agreement, there were no significant stipulations of the parties relevant to this interest arbitration.

#### Changes during the Pendency of this Proceeding

Regarding the factor of changes in any circumstances during the pendency of this interest arbitration and proceeding,



none were brought to the attention of the Arbitrator by the parties to this dispute.

Comparability

The Arbitrator adopted the City's proposed list of comparators, with the exception of deleting Union Gap, and adding Lake Stevens. The wage level for the 1999 comparables with the Arbitrator's awarded 3.25% to Burlington police officers provides for the following top-step salary ranking:

COMPARABLES - 1999 WAGES	
JURISDICTION	WAGE
Port Townsend	\$3,517
Sedro Woolley	\$3,674
Ferndale	\$3,693
Arlington	\$3,687
Chehalis	\$3,687
Poulsbo	\$3,798
Milton	\$3,528
East Wenatchee	\$3,356
Lake Stevens	\$3,652
Fife	\$3,891
Average	\$3,648
Burlington	\$3,731

Examination of the above chart shows for 1999 Burlington police officers will be paid \$83 above the average and rank in



third place among the seven cities at the top step. When the \$40 shift premium paid to officers is considered along with the incentive payments, this group of officers enjoys an overall compensation package that is reasonable and competitive with the ten cities.

There is absolutely no justification in the record of this case to adopt the Union's 6% proposal for each of the three years of the 1999-2001 contract. Contrary to the Union's claims of an increased workload is the evidence which demonstrated the figures were skewed because of shoplifting crimes in the malls. Burlington has not experienced a rapid rise in major crimes but has maintained a rather steady crime rate.

The City effectively discredited the Union's data concerning the retail sales tax revenue actually received by Burlington. The modest increases awarded by the Arbitrator are costs the City can afford to pay and still meet its other financial obligations.

For the 2000 contract year, the issue of comparability is more complicated because three of the comparator groups have not reached a final agreement. In those jurisdictions which have reached agreement, substantial wage increases have been bargained. Er. Ex. 3.1.6. The average salary of the seven cities, including Lake Stevens, will increase by \$306 per month to \$3,342 per month.

The data on the 2000 settlements established the City's proposed 2% increase is inadequate to maintain the Burlington Police Department's competitive wage schedule with the other ten

cities. Although the 3% awarded by the Arbitrator will cause some slippage in ranking to Burlington Police Department officers, the \$3,843 per month pay will still keep the top step comfortably positioned in the upper range of the comparator group.

The City's proposal for a 2001 wage adjustment based on the CPI driven formula is inappropriate in this case. Where a CPI factor has served as the basis for a formula driven wage increase, the effective date typically is at least two to three years in the future. By the time this Award is published over one and one-half years of the three-year Agreement will have lapsed. The 2001 increase will be effective in approximately four and one-half months. Therefore, the Arbitrator will not burden this contract with a complex CPI formula and will award a straight 3% increase effective January 1, 2001.

In reaching conclusions on the wage issue, your Arbitrator was mindful of the additional pay that members of this unit earn under the incentive plans and shift differential premium. The Arbitrator also rejected the City's proposal to add a co-pay requirement to the insurance program. The Arbitrator, when framing this award on wages, gave weight to the fact the members of this unit will continue to enjoy fully paid medical, dental and vision insurance for the duration of the 1999-2001 contract. Payment of 100% of the insurance is not the standard in the comparator group.

#### Cost of Living

Regarding the cost of living factor, the CPI for the Seattle area in 1998 and 1999 varied from 2.5% to 3.1%. Er. Ex.

3.2.2. The All U.S. Cities CPI-U for the twelve-month period ending March 2000 was up 3.7%. Er. Ex. 3.2.3. The Arbitrator concurs with the City that the cost of living factor is to be used as one of the guidelines for setting the appropriate level of wages for employees. The CPI measures price increases in a set market basket of goods and services. The CPI is not intended to measure the impact on any particular individual because not all persons purchase that same market basket of goods and services. However, the CPI is widely recognized as an important factor in determining an appropriate wage adjustment.

The Arbitrator finds the evidence regarding the cost of living supports a wage settlement less than the 6% proposed by the Union. In addition, the City's evidence proves members of the bargaining unit fared well in recent years when negotiated increases are compared with the corresponding changes in the CPI during that same period. Adoption of the City's offer for 1999 and 2000 would result in wage gains less than increases measured by the CPI. This is unacceptable for a bargaining unit composed of professional employees. The award of this Arbitrator is in conformity with recent increases in the cost of living as measured by the CPI.

The City made a persuasive argument that the differences in the cost of living in Burlington and other western Washington cities should be factored into a final award. This difference in cost of living between Burlington and other western Washington cities manifests itself in the wage levels paid to other public and

private employees in Skagit County in general. The three-year increases awarded by this Arbitrator represent a reasonable reflection of the historical cost of living differences between Burlington and other western Washington cities which are located in the immediate Puget Sound area.

#### Other Traditional Factors

A host of potential guidelines are suggested by the catchall of "other factors, . . . normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment." RCW 41.56.465(1)(f). As this case was driven by the comparability factor, neither party made a strong argument there were "other factors" at play in this dispute which would override the enumerated statutory criteria. The award of the Arbitrator is consistent with the treatment of other employees by the City. Internal equity is important, but not determinant in an interest arbitration under the Washington statute. This Arbitrator is charged with the responsibility of formulating an award for the members of this police bargaining unit, not other city-represented employee groups.

In formulating the three-year wage package this Arbitrator has taken into consideration the award in Issue 3 - Medical Insurance, to continue fully paid insurance coverage for police officers. In addition, all members of this unit will see the shift differential increased to \$50 per month effective October 1, 2000. Finally, the Arbitrator cannot ignore the fact Burlington police officers have the ability to participate in three separate

premium pay programs. This is an option that is not the standard in the comparator group.



AWARD

The Arbitrator awards as follows:

1. Effective January 1, 1999, the existing wage schedule shall be adjusted across-the-board by 3.25%.
2. Effective January 1, 2000, the wage schedule shall be adjusted across-the-board by an additional 3%.
3. Effective January 1, 2001, the wage schedule shall be adjusted across-the-board by an additional 3%.

## ISSUE 2 - SPECIALTY PAY

### A. Background

Section 8.2 provides for a detective premium of \$40 per month. The Union proposed to increase the premium pay to \$100 per month. In addition, the Union would also add field training officers (FTO) and DARE officers to those eligible for the \$100 per month premium pay. In response, the City would increase the premium pay to \$50 per month and allow for premium pay for the FTO while serving as trainer.

### B. The Union

The Union argues the increase in specialty pay for detectives and field training officers is justified by the heavy demands placed on officers for the same reasons as expressed in the Union's proposal for an increase in wages. Further, officers working as a detective or FTO require unique skills which should be properly rewarded for the expertise and skills these police officers bring to the Burlington Police Department.

Turning to the DARE officer, the Union asserts the specialty pay comes about because of community outreach which places the officer at schools and in contact with students. Working in the schools and with students requires special skills and patience which should be rewarded with extra pay. The \$100 specialty pay provides both an incentive and a reward for officers to get involved in the DARE outreach program.

C. The City

The City has agreed on specialty premiums for detectives and for the FTO while serving in a trainer capacity. According to the City, this proposal is more than fair in relation to both the City's comparables and the Union's. The FTOs should only be paid the premium while they are assigned to oversee the training of newly-hired officers. The FTO program typically lasts for approximately three months where the time is split between two FTOs. Over the last three years, Burlington has only hired three new officers. The City submits it is appropriate that FTO officers should only be paid a premium when they are actually training new officers.

With respect to the DARE officer, the City notes none of its comparables have a premium for the DARE officer and only two provide a premium for detectives and three for FTOs. Er. Ex. 4.1. Both Sedro Woolley and Ferndale provide the same \$50 premium, as proposed by the City. These cities also only provide a premium for the FTO when that person is serving in a training capacity.

An examination of the Union's comparables reveals that only one of the fifteen pays any premium for a DARE officer, three of fifteen for an FTO, and four of fifteen for detectives. Er. Ex. 4.2. There is no support for the Union's FTO proposal allowing a premium even in months with no FTO duties.

The City avers there is a special benefit for DARE officers in that during the school year they do not have to rotate off of day shifts. DARE officers benefit from a regular schedule

without the inconvenience of working swing and graveyard shifts. The officers work with children to help them stay out of trouble and by the nature of their work are at significantly less risk of harm. The detectives also share this intangible benefit in that they generally work day shifts and do not have to rotate as do other officers.

**D. Discussion and Findings**

The evidence presented by the Union does not justify adoption of the Union's proposal. In the judgment of this Arbitrator, the Union has made no compelling showing for its proposal to increase the detective premium by \$60 per month, and to make the FTO and DARE officers eligible for the premium in the manner proposed. There is no logical basis for paying the FTO premium to an officer while they are not engaged in FTO training duties. The City's proposal is justified, whether one looks at its comparators or the Union's comparators. Therefore, the Arbitrator will award the City's proposal on this issue to be effective October 1, 2000.

**AWARD**

The Arbitrator awards that Section 8.2 be modified to provide for a \$50.00 per month detective premium effective October 1, 2000. New language shall be added to Section 8.2 to state:

Effective October 1, 2000, FTO Premium - Fifty Dollars (\$50.00) per month during training.



### ISSUE 3 - MEDICAL INSURANCE PREMIUMS

#### A. Background

Currently the City pays 100% of the cost for full family medical insurance for all police officers. In 1999, full family coverage for medical, dental and vision insurance cost the City \$702.30 per month, per officer. The City proposed a co-payment of 90% by the Employer and 10% by the employee for premiums effective the first full month after publication of the Award. The Union would continue current contract language.

#### B. The City

The City begins by noting that it has absorbed significant additional cost to maintain the insurance program for members of this bargaining unit. According to the City, the absence of any contribution by the employees means there is no recognition of the costly nature of the health insurance benefit or any financial incentive to control costs. If employees share in the cost of the insurance premium, there will be greater attention paid to cost containment in the three benefits that are currently provided.

The City next argues that modest premium sharing is supported by the comparables. Even the comparables proposed by the Union have forms of insurance cost containment not reflected on Union Exhibit 30.

In sum, employers like Burlington are increasingly turning to a variety of mechanisms to control steeply escalating

health insurance costs. The City's proposal is reasonable and does not ask for significant contributions from employees.

C. The Union

The Union proposes that no changes be made in the current language regarding insurance benefits because there is simply no evidence to justify a change in the status quo. According to the Union, Burlington police officers are offended that the City is actually trying to take away benefits from them during a time of growth and expansion for the City. The City has not lost any revenues which would entitle them to take away medical benefits.

The Union argues in the overwhelming majority of the comparators, 100% payment of medical insurance by the employers is the standard. In addition, the City of Burlington pays 100% in the most recent public works contract with the Teamsters. The City simply cannot make an inability to pay argument in regard to medical benefits given the current economic climate, and the fact they are already providing full medical benefits to public works employees.

Based on all of the above-stated arguments, the Arbitrator should recommend that current language remain unchanged in the 1999-2001 contract.

D. Discussion and Findings

The 1999-2001 Collective Bargaining Agreement will be the first contract between this Union and the City of Burlington. By the time this contract is implemented, there will be less than

18 months to go before the Agreement expires. The Arbitrator finds the City has not demonstrated sufficient justification for adopting a co-pay in this first contract.

A review of the comparators reveals that out of ten cities, three are still paying 100% of the insurance cost. Members of this unit enjoy a comprehensive and competitive insurance program. There are no issues before the Arbitrator concerning the level of insurance benefits. In this round of negotiations, the Union did not propose expanding the insurance program.

The Arbitrator's finding in this issue should not be taken as a signal the City's proposal is without merit. The trend is clearly moving in the direction of employee contributions to the insurance programs. With this contract expiring in approximately 18 months, the parties will have the opportunity to examine the insurance issue again. At that time the parties will have substantially more experience and information about costs and benefits of the existing program.

The days of 100% employer payment for insurance benefits are coming to an end. This award on the insurance issue should be taken by Union members as a warning that on expiration of the 1999-2001 contract the time will be right to expect employee contribution to insurance programs based on what the comparators are paying. In continuing the 100% employer-paid insurance, your Arbitrator took this decision into account in formulating the award on the wage issue.

**AWARD**

The Arbitrator awards that Article XII - Health and Welfare Benefits shall remain unchanged in the 1999-2001 contract with the City paying 100% of the cost of the existing plans.

## ISSUE 4 - COMPENSATORY TIME

### A. Background

Currently only detectives and those on the drug task force receive compensatory time. The City proposed to continue the status quo. The Union proposed to add a new section to Article 7 - Overtime. The language would read:

Section 7.5 - Compensatory Time. Compensation for overtime shall be in the form of additional compensatory time off at time and a half or extra pay at time and a half at the employee's option. No employee shall accumulate more than forty (40) hours of compensatory time in one (1) year or carry over more than forty (40) hours compensatory time in a succeeding year.

The City presented alternative language at the arbitration hearing in the event the Arbitrator was persuaded that compensatory time should become part of this Collective Bargaining Agreement.

### B. The Union

The Union begins by asserting the City offered no valid reason why it continues to refuse to offer compensatory time for all of its officers. In view of the fact the City already offers compensatory time to detectives, all employees should be given the same opportunity for compensatory time. The Union points to most of the comparators which offer compensatory time to officers. The City provides employees under the public works contract with compensatory overtime. Further, compensatory time is justified



because Burlington police officers bear a heavy workload and would benefit from the ability to use compensatory time.

Regarding the City's argument that it would be too difficult to offer compensatory time to all of its officers, the Union submits this claim is simply without merit. Smaller police departments throughout the state are able to provide compensatory time for their officers. The Union submits the City should extend the compensatory time currently being provided to detectives for all of its officers.

The Union objects to the City's proposed alternative compensatory language offered for the first time at the arbitration hearing. The City had time during the negotiations to respond to the offer regarding compensatory time. By allowing the City to offer this proposal at the arbitration hearing, the City is undermining the bargaining process. If the parties had the opportunity to negotiate this issue, the Union submits the parties could possibly have reached agreement and avoided arbitration on the compensatory overtime issue.

### C. The City

The City takes the position the Union has failed to justify its compensatory time proposal in light of the tremendous expense and scheduling difficulties which would result from implementation of the program. In the view of the City, the Union offered no evidence to justify the new language extending compensatory time to all police officers. The City asserted there are a number of reasons why maintaining a limited scope of

compensatory time is the appropriate course to follow in the 1999-2001 Collective Bargaining Agreement.

First, compensatory time brings with it tremendous expenses because officers asking to take compensatory time must be provided one and one-half hours off for each hour of compensatory time taken. Because police officer coverage must be maintained, another officer has to be brought in, usually at overtime, to cover the work. If that officer in turn asks for compensatory time in lieu of overtime, the City must pay one and one-half hours for each hour of coverage. This proposed system quickly escalates into significant expense and operational problems to the department.

Second, the reason the City wishes to maintain the status quo is the difference between the work of detectives and of regular police officers. Detectives in most cases do not have to have positions filled while they are absent. The work of investigating outstanding criminal complaints would be placed on hold while the detectives are gone. On the other hand, the City must maintain 24-hour police coverage to protect its citizens.

Third, the City maintains the Union's proposal is flawed because it failed to offer a comprehensive policy. For example, the proposal does nothing to address how use is determined or what would happen, if anything, by way of cash out. The new policy also does not address management's right to schedule compensatory time at a period convenient to the Employer. As the moving party, the Union has failed to meet its burden with a comprehensive proposal on this subject.

A review of the comparable contracts reveals that Ferndale, Fife and Poulsbo have no provision for compensatory time in lieu of paid overtime. Of those contracts who allow some form of compensatory time, many require agreement by management before compensatory time is allowed, as in the Port Townsend and Milton contracts. Other contracts provide for control over the amount of compensatory time. These types of details are lacking from the Union's proposal which provides a compelling reason for its rejection.

The City offered alternative language in the event the Arbitrator believed compensatory time should become a part of the contract. According to the City, its alternative language would fill in many of the holes in the Union's proposal for compensatory time. The City views its alternative language as providing a means to control the use of compensatory time and still provide police services to the citizens.

#### D. Discussion and Findings

The starting point for examining this issue is to recognize the fact we are dealing with a small department with sixteen officers. Minimum staffing levels must be maintained for officer safety reasons and to provide adequate police services for the citizens of Burlington. Currently, the Burlington Police Department must provide coverage for police officers absent on sick leave, vacation leave, disability leave and training.

Adoption of the Union's proposal would compound an already serious problem of officer availability and maintenance of

appropriate staffing levels. Er. Ex. 6.1. The Arbitrator concurs with the City's argument the Union's proposal leaves too many questions unanswered on how the compensatory time language would be applied. The Arbitrator also is reluctant to award a proposal which presents a real potential for unlimited liability of compensatory time. Where compensatory time is offered in the comparable jurisdictions, the language is specific and precise as to how the program will be applied. In addition, the language found in those contracts which do allow for compensatory time provide a system whereby management controls the program so that adequate police services can be assured and compensatory time liability is limited.

The Arbitrator holds addition of a compensatory time program might be appropriate at a future date. However, carefully crafted language is an absolute necessity to make a compensatory time program successful for both parties in a small police department. Because of the major impact a compensatory time system would have on the Burlington Police Department, this Arbitrator is unwilling to create language of his own out of proposals offered by either party.

**AWARD**

The Union's proposal shall not become a part of the successor Agreement, and the status quo should be continued.



## ISSUE 5 - SHIFT DIFFERENTIAL

### A. Background

Section 8.5 of the Collective Bargaining Agreement regarding shift differential contains language which states:

8.5 Shift Differential: Employees regularly assigned to rotating shifts and straight night shifts shall receive \$40.00 per month premium over their regular scale of wages.

The Union would delete the current provision and substitute new language to read:

8.5 Shift Differential: Employees working rotating shifts will receive a premium of 60 cents per hour for swing shift and 80 cents per hour for graveyard shift. Swing shift is defined as 2:00 p.m. to 10:00 p.m. and graveyard shift is defined as 10:00 p.m. to 6:00 a.m.

The City proposed to abandon a rotating shift premium and to take the \$40 per month, increase it to \$50 per month and apply it to the base pay. Er. Ex. 1.6.

### B. The Union

The Union argues that its proposal for a shift differential truly rewards employees for working the graveyard and swing shift, which is the entire point of a shift differential. The shift differential has traditionally been separate from an employee's base wages and the Union proposes to keep it this way. The Union submits its proposal for the change in shift differential

should be adopted so premium pay truly reflects shift differential and rewards employees for working the more undesirable shifts.

C. The City

The City takes the position that the Union's proposal is unworkable and contains some serious gaps in its language. According to the City, the Union has failed to meet its burden of proof on this issue for a change in shift differential. Only two of the ten City comparables provide any shift differential. Of the Union's comparables, only two of the fourteen provide any type of shift differential. Therefore, the comparability factor does not support the Union's proposal.

In recognition of the vast majority of the Union's and City's comparables, the City proposes to abandon the rotating shift premium of \$40 per month. The City proposes to take the \$40 per month premium, increase the amount to \$50 per month and apply it to the base pay. The City submits its proposal to maintain the shift premium dollars for officers, and to have it reflected in base wage is very reasonable.

D. Discussion and Findings

Both parties made proposals to change the current program on shift differentials. However, neither party made a convincing case that there was any compelling need to change the existing method of providing for shift differential pay. The program appears to have worked for the parties, and no evidence was

presented that the shift differential program was burdensome to administer.

The Arbitrator recognizes the current shift differential program is unique to Burlington. The program provides differential pay in recognition of the fact officers in this bargaining unit do work rotating shifts. Police officers who work rotating shifts find significant disruption to their personal lives. It is appropriate that this system of scheduling officers on a rotating basis during the course of a year should yield financial recognition. The parties are also directed to the Arbitrator's discussion regarding the compensatory time issue as an additional reason for maintaining the existing shift premium payment system. Given there is no evidence before this Arbitrator that the current system is financially unreasonable or unmanageable, the Arbitrator will award that current contract language be continued.

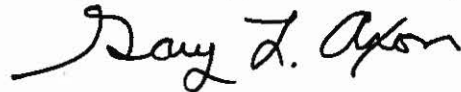
**AWARD**

The Arbitrator awards that Section 8.5 be continued in the 1999-2001 contract unchanged.

## CONCLUSIONS

In accordance with the statutory criteria and rules of the Public Employment Relations Commission, this Arbitrator has awarded a series of contract provisions which will serve as a constructive basis for mature and stable relations between the parties. There was obvious merit to the positions taken by both sides on the five issues submitted to interest arbitration. The Arbitrator has not awarded anything radical or drastic for inclusion in the 1999-2001 contract. The Arbitrator has not split the difference between the parties. The Award is based on record evidence which reasonable people could settle their differences within the context of the statutory criteria.

Respectfully submitted,



Gary L. Axon  
Interest Arbitrator  
Dated: August 16, 2000