

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Interest Arbitration

-between-

POLICE BENEVOLENT ASSOCIATION OF
THE CITY OF BEACON

“Petitioner or PBA”

Compulsory Interest Arbitration

PERB Case No. IA2010-015;
M2010-042

-and-

THE CITY OF BEACON

“Respondent or City”

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BEFORE:

ARTHUR A. RIEGEL, ESQ., CHAIRMAN OF THE PANEL
RICHARD P. BUNYAN, ESQ., PETITIONER MEMBER
RONALD A. LONGO, ESQ., RESPONDENT MEMBER

APPEARANCES:

FOR THE PETITIONER:

BUNYAN & BAUMGARTNER, LLP by JOSEPH P. BAUMGARTNER, ESQ.

FOR THE RESPONDENT:

KEANE & BEANE, PC by LANCE H. KLEIN, ESQ.

BACKGROUND

The parties are signatories to the collective bargaining agreement between Police Benevolent Association of the City of Beacon (Petitioner) and The City of Beacon (Respondent) that expired on December 31, 2009 (Joint Exhibit [JX] 4). Negotiations for a successor agreement proved unsuccessful.

The dispute was submitted for mediation. Those efforts failed to resolve the dispute.

Consequently, and pursuant to §209.4 of the New York State Civil Service Law (*The Taylor Law*), Interest Arbitration procedures were invoked. In that connection, Petitioner filed a

Petition for Compulsory Interest Arbitration with Public Employment Relations Board (PERB) on August 13, 2010 (JX1). The City (Respondent) responded to the petition on September 13, 2010(JX2).

On December 21, 2010, PERB appointed me as the neutral member of the arbitration panel designated to hear and finally decide all relevant issues (JX3). The PBA designated Richard Bunyan, Esq. as its panelist and the City named Ronald A. Longo, Esq. to be its panelist. Hearings on this matter were held on July 26 and October 19, 2011. In addition, the Panel met in executive session on February 27, 2012.

UNRESOLVED ISSUES

THE PBA's DEMANDS

1. UNION PROPOSAL PERTAINING TO CBA ARTICLE VII COMPENSATION

Amend paragraph A as follows:

Amend the salary schedule to reflect a 5% increase for each year of the agreement. In addition, the differential for detectives shall increase to 7.5% above top grade police officer; the differential for sergeants shall increase to 15% above top grade police officer; the differential for a detective sergeant shall be 17% above top grade police officer; the differential for lieutenant shall increase to 20% above top grade police officer; and the differential for detective lieutenant shall increase to 22% above top grade police officer.

Add an additional paragraph H as follows:

All members assigned to work between the hours of 2300 to 0800, shall receive a differential equal to 10% of their respective hourly rate for all hours worked between 2300 to 0800.

2. UNION PROPOSAL PERTAINING TO ARTICLE VIII LONGEVITY

Delete paragraph A and replace as follows:

Members shall be entitled to annual longevity payments based on the following schedule:

Five (5) years of service	5% of base salary
Ten (10) years of service	10% of base salary
Fifteen (15) years of service	15% of base salary
Twenty years of service	20% of base salary

3. UNION PROPOSAL PERTAINING TO ARTICLE IX VACATION

Amend paragraph J as follows:

Employees, at their sole option, may elect to take all of their annual vacation one day at a time (Individual days).

4. UNION PROPOSAL PERTAINING TO ARTICLE XI PERSONAL LEAVE

Amend paragraph A by deleting the last sentence of the paragraph.

5. UNION PROPOSAL PERTAINING TO ARTICLE XII BEREAVEMENT LEAVE

Amend paragraph A as follows:

Members shall be entitled to take five bereavement days, with pay, and without charge or deduction from accumulated vacation leave or other time credits upon death in the immediate family. The member shall be permitted to use those days at any time within thirty days from the date of death of the family member.

Delete paragraph B.

6. UNION PROPOSAL PERTAINING TO ARTICLE XVI HOSPITALIZATION & WELFARE FUND

Amend paragraph A as follows:

All members and their eligible dependants shall be entitled to enroll in the New York State Empire Plan, Core Plus medical and psychiatric enhancements, with premiums fully paid by the City. The member shall also have the choice of enrolling in the plan known as MVP-15, with the same ability to enroll in a family plan, with premiums fully paid by the City.

Amend the first sentence of paragraph D as follows:

The City shall offer members fifty percent of the premium for the member's health insurance plan, for those members who are covered by health insurance from another source and who elect not to receive the City provided

health insurance.

Add new paragraph E as follows:

The City shall make available at no cost to the member, the CSEA Optical Plan for all members of the Association, and their eligible dependants. In the event the City is unable to obtain coverage via the CSEA, the City shall adopt a plan which is equal to or better than the CSEA plan, and make such plan available to the member and his/her eligible dependants.

7. UNION PROPOSAL PERTAINING TO ARTICLE XVII RETIREMENT

Amend paragraph E as follows:

All members who retire on or after January 1, 2010 shall be entitled to the same medical insurance, including family coverage, provided to active members, with the premiums fully paid by the City.

8. UNION PROPOSAL PERTAINING TO ARTICLE XXIII DISCIPLINARY ACTION

Amend paragraph A as follows:

All members shall be entitled to a hearing of any disciplinary charges before a neutral arbitrator. The arbitrator shall be selected by mutual agreement or pursuant to American Arbitration Association "List Only" service.

9. UNION PROPOSAL PERTAINING TO ARTICLE XXV TERMINATION (HOUSEKEEPING)

Amend paragraph B to conform to the dates of the agreement.

THE CITY'S DEMANDS

1. Provide that time off shall not be counted as time worked for overtime computation purposes. Further provide for overtime to be at the rate of time and one-half for all hours actively worked in excess of 171 in a 28 day period.
2. Eliminate compensatory time and compensatory days off for overtime, holiday pay and all other areas of compensation.
3. Amend Article IX G to provide that no more than two (2) sergeants and three (3) patrol officers may take a full vacation week at any time. Lieutenants shall not be subject to the

- paragraph. Remove language at the end of the third sentence stating “as long as three (3) officers from the same shift are on vacation at the same time”.
4. Amend Article IX J 2 to provide for not less than seventy-two (72) hours notice.
 5. Amend Article VII D to provide that out of title pay in all cases shall not be applicable until the employee has worked out of title for at least four (4) consecutive days.
 6. Amend Article VII to add a provision reducing compensation for trainees attending police academy by ten (10%) percent from patrol officer’s first year starting salary.
 7. Amend Article XI A to increase notice of intention to take leave from twenty-four (24) hours to seventy-two (72) hours. In the last sentence of Article XI amend the term “vacation period” to “vacation day or period”.
 8. Amend Article XI D to reduce “three (3) emergency personal leave days” to one (1) EPL.
 9. Any time off requests other than vacation may be revoked based upon when they were requested (i.e. subject to call) should the number of police officers reporting absent put staffing below acceptable levels.
 10. Amend Article XVI to remove all references to MVP and the New York State Empire Plan. The City will provide replacement coverage similar to the coverage currently provided.

POSITIONS OF THE PARTIES

CONTENTIONS OF PETITIONER (PBA)

The PBA argued as follows:

The Union requests the Panel to issue an award for the period January 1, 2010, through December 31, 2011, consistent with the demands set forth by the Union in its Petition for interest arbitration. The Panel should deny the Employer’s proposals and reject its generalized regressive arguments because the results of the City’s proposals would be unfair and unreasonable as will be discussed below.

The focus of the Union’s demands is simple. The City of Beacon Police Officers handle

more index crimes and effectuate more arrests than all but one of the comparable jurisdictions. Additionally, while the work of the City of Beacon police officers remains high, they have fewer police officers on the force than in 2002. The City of Beacon Police Officers earn less in pay and benefits than the police officers in comparable jurisdictions. As they are now performing more work with fewer police officers and earning less than any of the comparable communities there is a great disparity that must be addressed.

A number of the most important Union demands focus on improving the salary schedule, grade and shift differentials and the longevity payment schedule. In general, the Employer's response consists of opposing the Union's demands and making proposals that would decrease the City of Beacon Police Officer's standard of living by decreasing their current benefits and compensation level and by demanding more work for less pay. The Employer made no proposal for a wage increase. The Employer has proposed a new health care plan that would remove substantial health benefits. It has also submitted proposals that would require members to work more hours prior to being eligible to earn overtime. Given the increased work performed by bargaining unit members and the lack of any economic necessity, these regressive proposals must be rejected.

This is an Interest Arbitration brought pursuant to the statutory procedure contained in Civil Service Law (CSL) §209. As such the arbitration panel is required to adhere to the relevant statutory criteria set forth in CSL §209 (4) (v). This criteria requires consideration of, *inter alia*, the following,

- a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other

employees generally in public and private employment in comparable communities.

b. the interests and welfare of the public and the financial ability of the public employer to pay;

c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;

d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.” CSL §209 (4) (v).

The City of Beacon is located in the southwest corner of Dutchess County, in the fastest growing Mid-Hudson Region of New York State. The City sits fifty-nine miles north of New York City and approximately ninety miles south of Albany. The 2000 census placed the total City population at 13,808. The 2010 census revealed that the population grew to 15,541. The City has a total area of 4.9 square miles. The City is home to five schools (three elementary, one junior high and one high school).

The City of Beacon is governed by a City Administrator. The City Administrator is appointed by the Mayor and confirmed by the City Council. The Administrator supervises the operations of all departments and units of the City government.

The Beacon Police Department is staffed by one chief position which is vacant; one detective lieutenant; two lieutenants; two detective sergeants; five sergeants; four detectives and nineteen police officers. The total authorized manpower level is thirty-four, including the vacant chief position. This is in contrast to the staffing levels which the City maintained in 2002. At that time, the Department staffed forty officers, including a chief, six lieutenants, eight sergeants, five

detectives and twenty police officers.

The Department has experienced an increase in calls for service over the past few years. Additionally, the City is not immune to gun violence. The number of gun calls/shots fired has remained steady. The Department was recognized by the New York State Division of Criminal Justice Service for its excellence in operations. In 2010 the Department was granted the prestigious "Accreditation" certification, which indicates that the Police Department is in compliance with the recognized standards for best practices within the industry.

The bargaining unit consists of all sworn members of the Beacon Police Department except the chief of police. The collective bargaining agreement expired December 31, 2009.

In his Interest Arbitration Award covering January 1, 1997-December 31, 1998, Arbitrator Robert Douglas found the following communities to be comparable to Beacon: the Cities of Kingston, Middletown, Newburgh, Peekskill, Port Jervis and Poughkeepsie as well as the Towns of East Fishkill, Hyde Park and Poughkeepsie. Arbitrator Douglas, in his award, stated that the panel performed a careful review considering numerous demographic factors to include the location of the entity, the form of government, the income levels of the residents, the number of housing units, the number of reported crimes, the property value of the jurisdiction, the size of the department, the size of the jurisdiction, the size of the population, the tax rates and other general socio-economic data in order to arrive at the comparable communities (PBA Exhibit [PX] 2).

The City introduced no testimony or evidence that indicated that the comparable communities identified by Arbitrator Douglas were in any way inappropriate or that they should

be changed. Accordingly, the PBA urges the Panel to adopt the same comparable communities that were determined by Arbitrator Douglas to be comparable.

The Union introduced the testimony of Kevin Decker and a financial report on the City's financial condition prepared by Decker Economics (PX 24).

A wage package that deviates dramatically from the type of salary and salary increases provided to other police officers in comparable jurisdictions, or which leaves the PBA earning significantly less salary and benefits than police officers in comparable jurisdictions, does not serve the interests and welfare of the citizens of the City of Beacon and the State of New York.

The interest and welfare of the public is not limited solely to the public's financial interest and welfare. By necessity, it also must involve the community's interest and welfare in having its police force continue to serve its essential needs and provide essential services.

Under any reasonable view, the wage proposal set forth by the City (no wage increase at all and a decrease in one category) and regressive benefit proposals will unnecessarily and invariably cause a decline in police morale as it would cause the PBA's salaries and benefits to deviate dramatically lower from the type of salary and salary increases and benefits provided to other police officers in comparable jurisdictions and it would leave the members of the PBA earning significantly less than police officers in comparable jurisdictions. This does not serve the interest and welfare of the public. Moreover, it is not supported by the evidence concerning the City's ability to pay as testified to by Kevin Decker.

It is clear from the Report of Decker Economics that the City of Beacon remains in a healthy and stable economic condition. Exhibit "D" to PX24 shows that the City of Beacon falls in the middle range of the comparable communities in Taxable Real Property Value in the

County and in the middle range in Taxable Real Property Wealth per Resident. Additionally, the value of taxable real property in the City of Beacon has increased more than the majority of comparable communities during the period 2006 through 2011 (UX24 Exhibit E). Also, Exhibit G of PX 24 demonstrates that the City has a low full tax rate compared to the rest of the comparable communities (only two of the comparables had a lower rate).

Most notably, the owner of a single family home in the City pays only one dollar sixty-nine cents (\$1.69) per day for the police protection provided by the City of Beacon. It should be noted that the \$1.69 per day covers all police department related expenses, not just those attributable to the PBA members.

With respect to revenue, the Report of Decker Economics (Exhibit K of PX 24) demonstrates that sales tax revenue has recovered from the recession and early indications from 2011 show that it will surpass pre-recession rates. Additionally, with respect to other City Revenues, Exhibit L of PX 24 shows that other actual revenue (the mortgage tax and departmental revenue) received by the City in 2010 has come off the lows of the recession and is, in fact, growing. The City's fund balance as of December 31, 2010, the last time figures for this fund balance was available was \$3,488,243.00, only \$50,000.00 less than the previous year. The City fund balance as of December 31, 2010 was 20.45% of expenditures for fiscal year 2010. The City did not provide its unreserved fund balance for 2010, however, its unreserved fund balance for 2009 was \$2,394,865.00

Decker Economics has demonstrated that if the PBA was granted a 4% pay raise and *if* the entire raise was financed through an increase in property taxes, that this raise would impact the average single family home in the amount of \$33.92 a year.

The report of Decker Economics shows that the City maintains a Moody's Investors Service Bond Rating of Aa3 which is the fourth best rating available and means that the City's bonds enjoy a high grade, high quality rating.

Kevin Decker testified that based upon his study that the City had the ability to pay fair and reasonable increases.

The City introduced the testimony and report of its financial expert, Susan Tucker. In substance, Ms. Tucker did not differ in any substantial way with respect to the City's economic condition from that provided by Decker Economics, in essence, also finding that the City had the ability to pay fair and reasonable increases.

Based upon the foregoing, the totality of the Report of Decker Economics and the uncontroverted testimony of Kevin Decker at the Arbitration hearing, it is clear the City has the ability to pay the PBA demands.

This statutory criterion requires a comparison of the peculiarities of being a police officer with regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills. The peculiarities of the policing profession are unique and cannot be compared to the peculiarities of other professions. The hazards of the police profession are well known and not present in other professions.

The unique and extensive hazards confronted by the City of Beacon police officers cannot be disputed. Police Officers face considerable risk of serious injury in the line of duty. The work performed by Police Officers requires unique physical, educational and mental qualifications as well as extensive training.

Again, for the sake of brevity, the panel can and should take administrative notice that other professions and trades simply do not face the type and degree of hazards faced by police officers and they are not required to possess the combination of physical and mental skills which are required of the police officers. In support of this proposition, the PBA supplied testimony and evidence that demonstrates the specific danger that has been faced by City of Beacon Police Officers.

PX 3 additionally demonstrates that the City of Beacon Police Officers are required to handle more crimes than any other jurisdiction in Dutchess County other than the City and Town of Poughkeepsie. Accordingly, we believe that police officers employed by the City of Beacon should be amply compensated for the unique hazards of policing in general and with respect to the specific amount of crime to which they are exposed in the City of Beacon. As such, they should be compensated in accordance with salary and benefits received by the police officers in the comparable jurisdictions.

The PBA acknowledges that one of the statutory criteria is the past collective bargaining agreements negotiated by the parties. In this regard, it is shown by the past arbitration awards and collective bargaining agreements that the police officers employed by the City of Beacon have been compensated similarly to their counterparts in the comparable jurisdictions.

Thus, in accordance with the bargaining history of the parties, we believe that the panel should close the gap on police salaries and benefits between the City of Beacon and the other comparable jurisdictions and the City of Beacon police salary levels and benefit levels must be brought up to those enjoyed by the police officers in the comparable jurisdictions.

The above analysis is applicable to the PBA's requests for salary increases, as well as as other benefits, and clearly shows that the City's regressive proposals curtailing benefits must be rejected.

The PBA made a proposal that it receive shift differentials. 6 of 10 comparable jurisdictions receive shift differentials. The modest cost of these additional benefits clearly supports the adoption of this provision.

The City made a proposal to change the health insurance coverage it provides to active and retired PBA members. This proposal must be rejected as it is speculative, regressive and difficult, if not impossible of being awarded.

The testimony provided by the City with respect to this proposal demonstrated that the details of the plan are speculative at best. The City could not provide details of how the plan would work nor would what doctors be available under the plan. Additionally, while the initial testimony provided by the City witness indicated that the PBA members would be able to use the SIGMA network of doctors, they could not say whether the PBA members could use this network in the Hudson Valley. Thereafter the PBA expert testified that PBA members would not be allowed under the plan to use the SIGMA network of doctors in the Hudson Valley, the location where the PBA members live and work. The City did not contradict the testimony of the PBA expert in this regard.

The City could not and did not provide a list of doctors that were available under its plan making any testimony regarding its effectiveness and cost savings to the PBA member speculative at best. Interestingly, testimony showed that the City could have checked what doctors were on the Empire plan and the plan they were proposing, but it did not do so. Further,

it must be noted that the City could only provide the identity of three municipalities that utilized their proposed plan and none of these entities are within two hundred miles of the City of Beacon.

A specific objection is that in some cases, the City's proposed plan would cause police officers to pay more than they are doing now even though it reduces the police officer's contribution to 20%. At most there is a de minimus savings that does not make up for the fact that police officers cannot continue to use the doctors they are using.

It must be noted that the savings projected by the City include savings that would allegedly accrue if the plan was used by retired PBA members. However, the panel cannot make awards affecting retired members who are no longer public employees. If the City unilaterally imposed such a plan on retired members the PBA would be required to bring a grievance to have the benefits contained in the CBA when these members retired reinstated.

Most notably, the CBA has been expired since December 31, 2009. It is impossible to impose the City's plan retroactively as PBA members have utilized the medical benefits of the expired CBA since that time. As the panel is only able to impose an award for the two year period of January 1, 2010 thru December 31, 2011 and as that last date has past, it is respectfully contended that this panel has no ability to impose the City's plan after December 31, 2011.

For all of the above reasons the City's proposal to change the health benefits provided to PBA members must be rejected.

For all the foregoing reasons, it is respectfully requested that the Union's proposals be granted and the City's proposals be rejected.

CONTENTIONS OF THE RESPONDENT (CITY OF BEACON)

The City argued as follows:

Beacon is located in upstate New York, within Dutchess County, approximately seventy (70) miles North of New York City. Beacon is approximately 4.89 square miles in size and had a total population of 13,808 in 2000, and an estimated population of 14,605 in 2009. (City Exhibit [CX] T).

The PBA represents one (1) Detective Lieutenant, two (2) Lieutenants, two (2) Detective Sergeants, five (5) Sergeants, four (4) Detectives and nineteen (19) Patrolmen, totaling thirty-three (33) members. (PBA Exhibit [PX] 15).

In 2010, the base payroll for the bargaining unit was approximately \$3,416,760, and when including FICA and NYS Pension payments, total payroll is approximately \$4,280,000. (PX24-P). Accordingly, one percent (1%) of payroll is approximately \$34,168 and when including FICA & NYS Pension payments at 2011 rates, approximately \$42,800. (PX 24-P).

In arriving at a determination, the Panel must review and consider all of the following criteria as detailed in Section 209.4 of the Civil Service Law:

- a) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;
- b) The interests and welfare of the public and the financial ability of the public employer to pay;
- c) Comparison of peculiarities in regard to other trades or professions, including specifically, 1) hazards of employment; 2) physical qualifications; 3) educational qualifications; 4) mental qualifications; 5) job training and skills;
- d) The terms of the collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

Section 209.4(v) (a) of the New York Civil Service Law provides that a panel should look to comparable communities and compare the wages, hours and conditions of employment of employees performing similar work or using similar skills under similar working conditions.

The City and the PBA agree that the following cities, which are all urban centers, should be considered as comparables: the City of Kingston, the City of Middletown, the City of Newburgh, the City of Port Jervis and the City of Poughkeepsie.

However, the City and the PBA differ as to which additional communities should be considered comparable. The City proposes that the City of Hudson should also be considered as a comparable community. The PBA, on the other hand, proposes that the Town of Fishkill, the Town of Hyde Park, the Town of Poughkeepsie and the City of Peekskill are also comparable communities.

The Panel should only consider cities, not towns, as the PBA proposes. Cities and towns are inherently different and as such, the police force's role in such municipalities also greatly differs. Cities and towns have completely different forms of government. Cities in New York are classified by the Census Bureau as incorporated places. Furthermore, while there is no minimum population or area requirement in order to become a city, cities are generally very densely populated covering small areas of land. Every city is a highly autonomous incorporated area which provides almost all services to its residents and has the highest degree of the ability to pass laws and ordinances within the bounds of the state and federal constitutions and taxing jurisdiction over its residents. Towns in New York, on the other hand, are classified by the Census Bureau as minor civil divisions. While some towns provide most municipal services for all town residents and selected services for residents of villages, some provide very little. Towns are also divided into different classes depending on population and are generally sparsely populated covering large areas of land.

Furthermore, the taxing structure of cities and towns varies greatly. In cities, where there are unpaid taxes payable to various municipal subdivisions, such as the school district, it is the city which makes these other municipal subdivisions whole. The city then has the duty to collect these unpaid taxes on behalf of the municipal subdivisions. However, in towns, where there are unpaid taxes payable to various municipal subdivisions, it is the County which makes the town, in addition to all other municipal subdivisions, whole. Thus, towns are always ensured the full payment of their tax roll. This greatly affects the amount of cash on hand that towns retains compared to that of cities.

Furthermore, the Panel should only consider those cities which lie in the Northern Counties, not cities which lie in the Southern Counties, as the PBA suggests. The City has proposed cities which all lie within Dutchess County or those Counties which border Dutchess County; Orange, Ulster and Columbia Counties. Cities in the Northern Counties all share similar economies and housing markets as opposed to cities within Westchester County. This is evidenced by the New York State Department of Labor considering the upstate labor market to include Dutchess, Orange, Ulster and Columbia Counties, but not Westchester County. Additionally, Westchester County borders New York City, allowing its population to avail itself of the New York City job market and its dramatically higher salaries. Interestingly, the PBA did not submit the cities of Yonkers, Mt. Vernon or White Plains as comparables. Yet, all of the aforementioned cities lie within Westchester County as well.

In determining comparable communities, the Panel should consider economic factors, such as median family income and median home values. The Panel should consider demographic factors, including the poverty and unemployment rates for each community, as well as non-economic factors, such as population, land area, incorporation and the size of the police force.

Contrary to the PBA's contention, in assessing comparability, the Panel is not required to adopt those communities simply because they have been previously found to be comparable in a 1997/1998 interest arbitration award, over thirteen (13) years ago. For purposes of comparing wages and hours of employment, and "similar working conditions," the fact that a municipality was found to be comparable in the past is not, in and of itself, determinative. Only those communities which are urban in nature, are in relatively close geographical proximity (within the same or bordering counties), share the same funding mechanisms, and share similar economic, non-economic and demographic characteristics of the City should be considered.

Indeed, there is absolutely no provision in Section 209 of the New York Civil Service Law (the "Taylor Law"), nor is there any case law which restricts or confines the review to those communities which were found comparable in previous arbitration awards. Rather, the requisite review is simply one of "comparable communities."

The comparable communities to Beacon are all the *cities* in Dutchess, Orange, Ulster and Columbia Counties, i.e. the Northern Counties. Towns and villages, no matter where they are situated, are simply not "comparable" to Beacon. Nor are any cities in Westchester County (or any other non-bordering county). Rather than actually comparing any relevant information, the PBA merely submits that its proposed communities are "comparable communities" simply because they were deemed comparable in an Interest Arbitration Award over thirteen (13) years ago. Indeed, economic, non-economic and demographic factors easily demonstrate that the towns and Westchester County city proposed by the PBA are not even in the same ballpark as Beacon. Accordingly, only the City of Poughkeepsie, the City of Middletown, the City of Newburgh, the City of Port Jervis, the City of Kingston and the City of Hudson are the communities the Panel should consider for comparison purposes.

The relevant and determinative non-economic data of the six (6) cities within Dutchess, Orange, Ulster and Columbia Counties, are closely aligned with the non-economic data of the City. All these communities share a common urban element, are densely populated, are approximately the same distance from New York City, and are either located within the same County as Beacon, Dutchess County, or a County that is directly adjacent to Dutchess County. (City Exhibit [CX] B-1-5).

For instance, the non-economic data for the City of Port Jervis is similar to the non-economic data of Beacon, i.e. size of police force, crime index, population density and distance from New York City (CX B-1, T,V & W). A similar analysis suggests that the Cities of Middletown, Newburgh, Kingston, Poughkeepsie and Hudson are comparable to the City of Beacon and should be considered by the Panel.

The relevant demographic data also establishes that the communities submitted by the City are comparable to Beacon and those additional communities submitted by the PBA are not. While Beacon has a slightly lower percentage of individuals (12.6%) and families (8.8%) below the poverty level compared to other comparable communities using 2009 estimated numbers, the poverty levels in Beacon are still relatively high, with double digits for individuals and close to double digits for families. (CXU). Furthermore, the unemployment rates as of April 2011 show that Dutchess, Orange, Ulster and Columbia Counties all have rates which are within ½% of each other. (CX).

A review of the relevant economic data also confirms that the communities submitted by the City are comparable to Beacon and those additional communities submitted by the PBA are not. These data concern median family incomes and home values (CXS & 2)

The additional comparables submitted by the PBA are not even remotely comparable to Beacon. Indeed, rather than actually comparing any relevant information, the PBA merely submits

that all of the communities which were once found to be comparable in a 19978/1998 Interest Arbitration Award are “comparable communities.” (PX2). The PBA contends that because these additional communities were found to be comparable the past, they must continue to be comparable here, without any rationale or logic for its position.

Over thirteen (13) years, economic, non-economic and demographic data changes. Simply because communities were once found to be comparable does not automatically render them “comparable” for purposes of the present interest arbitration. Arbitrator Jay M. Siegel, Esq. has recently found that merely because certain communities were once found to be comparable in a previous Interest Arbitration Award does not automatically make these communities comparable in a current Interest Arbitration Award. *Albany Permanent Professional Firefighters Association, Local 2007 & Local 2007-A, I.A.F.F., AFL-CIO*, Arbitrator Jay M. Siegel, Esq., PERB Case No.: IA2010-013 (Firefighters, Lieutenants & Captains), received January 5, 2012. In fact, Arbitrator Siegel specifically excluded two (2) communities in that Interest Arbitration which were found comparable in a previous Interest Arbitration between the same two (2) parties. *Id.* Indeed, a careful review of the relevant data demonstrates that Beacon is not at all comparable to the towns which the PBA put forth, nor is it remotely comparable to the City of Peekskill, a city located in Westchester County. Thus, a thoughtful and meaningful review of the relevant information should compel the Panel to accept the City’s comparables.

It is evident from all the comparable data that the proper comparable communities consist of only other cities. Even the PBA acknowledges that it is only the cities which should be deemed comparable to the City. This is evidenced by the fact that the only municipality which the PBA pointed to in Westchester County was the City of Peekskill. The PBA inexplicably ignored any of the towns or villages within Putnam County, the County which actually borders Dutchess County,

where Beacon is located, or any other towns or villages within Westchester County. The PBA's decision to jump over Putnam County, and ignore any other town or village in Westchester County, pointing only to a city within Westchester County, shows its acceptance that only cities, not towns, or villages for that matter, are comparable to Beacon.

The PBA's argument must also fail when reviewing other Interest Arbitration Awards. While the Interest Arbitration Award that the PBA points to involved Beacon, it was issued in 1998, over thirteen (13) years ago. A review of other Interest Arbitration Awards over the last twenty (20) years shows that Beacon has been held to be comparable to the communities which the City submits as comparable in the instant Interest Arbitration. (CX C). However, each Arbitration Award explains that the Panel reviewed the relevant economic, non-economic and demographic data submitted by the parties in arriving at the proper comparables. Unfortunately, the PBA has failed to provide any economic, non-economic or demographic data to support its proposed "comparable communities."

For these reasons, the City's list of "comparable communities" identifies the correct ones to consider in evaluating the parties' proposals and that the towns and those submitted by the PBA are not comparable, in any sense of the word, for the within interest arbitration.

Section 209.4(v) (b) of the New York Civil Service Law provides that in arriving at its determination, a Panel should take into consideration the "interests and welfare of the public *and* the financial ability of the public employer to pay." (Emphasis added). The interest and welfare of the public and the employer's ability to pay are two (2) separate criteria.

It is undisputed that the City is facing extraordinarily difficult and unprecedented financial challenges which warrant that the Panel obviate, or offset with concessions, the impact of any financial Award to the PBA. The interests and welfare of the residents of Beacon, a criteria

enunciated in the Statute, demands not only a thorough consideration of the financial condition of the City (a review of its fund balance), but also the financial condition of its residents. Any wage increases for PBA unit members must be paid through increased taxes to the residents of the City, a burden that they simply cannot shoulder. The evidence produced at the hearing revealed that the City will likely continue to experience a significant loss of revenue, in addition to a significant increase in expenses. Accordingly, since the City cannot take on significant additional burden in terms of funding police department personnel costs without adversely impacting the interests and welfare of the public, the City maintains that the Panel should not award any increase to employee wages.

The City Administrator, Meredith S. Robson ("Administrator Robson"), and the City's financial expert, Susan Tucker, CPA ("Ms. Tucker"), testified as to the current financial situation of the residents of the City. Administrator Robson testified that when she began her employment as the City's Administrator, there were many issues with the budget that needed to be fixed. The 2008 Budget had not been accurately done and the City was dealing with a homestead/non-homestead tax rate issue. Thus, in formulating the 2009 Budget, Administrator Robson had to correct the previous year's errors. As a result, in the ensuing years since 2008, the homestead and non-homestead tax rates in 2012 drastically jumped 53% and 37% respectively. (CX NN). In 2011 alone, the tax rate increased 21.53% for homestead and 20.70% for non-homestead. Administrator Robson further testified that in 2012, the tax levy has increased approximately \$1.8 million since 2008 and more than \$3.6 million since 2004. The significantly increased property tax rate coupled with the City's already considerable percentage of families (12.6%) and individuals (8.8%) living in poverty and high unemployment rate (Dutchess County 7.3%) has already put a drain on the City's residents and they simply cannot fund any further increase in taxes. (CX U & X).

Both the City Administrator and Ms. Tucker also testified as to the financial situation the City finds itself in as a result of several exigent situations, none of which was caused by the City.

Administrator Robson testified that the City's revenue base has been on a steady decline and the City does not expect it to regain an upward momentum any time in the near future. She explained that the City's assessed value has been on a steep decline. Between 2007 and 2011, the total assessed value of property in Beacon decreased from \$1,670,940,315 to \$1,420,412,246, equating to \$250,528,069, or fifteen percent (15%). (CX CC). Furthermore, since 2008, the City's taxable assessed valuation has decreased approximately \$55 million, which equals 17%, concerning homestead properties, and \$6 million concerning non-homestead properties. (CX DD & NN).

Furthermore, there is no reason to believe that Beacon's tax base is going to increase any time in the near future. The City has not seen much new construction or renovations over the past five (5) years. The total new construction in Beacon decreased from twenty (24) new building permits issued in 2006 to only two (2) permits in 2010. (CX FF). In addition to the decrease in overall new construction, renovations have also decreased during this time period from one-hundred eighty-nine (189) permits being issued in 2006 to ninety-three (93) permits in 2010. Thus, from 2006 to 2010, the City has seen a total decrease in building permits of 55.40%. All in all, Beacon has seen a decrease in development resulting in an adverse impact on the assessables it relies upon and, therefore, a decrease in the overall tax base.

In addition to the decrease in real property tax revenues, the City has also seen a decrease in non-real property tax revenues. The sales tax that the City receives has been on the decline since 2007, with only a slight increase in 2010. (CX AA).

Furthermore, the mortgage tax the City collects has also been on the decline. The revenue the City receives from the mortgage tax has decreased from \$627,485.35 in 2004 to \$265,450.78 in 2010, a \$362,034.57 drop equating to 58%. (CX Z).

In addition to a decrease in mortgage tax revenues, State Aid that the City receives has decreased from \$2,358,664 in 2006 to \$2,152,297.54 in 2010, a \$206,366.46 drop equating to 9%. (CX BB). Administrator Robson further explained that even since only 2008, there has been a 38% reduction in mortgage tax revenue and a 5% reduction in State Aid revenue. (CX NN).

The expired contract between the City and the PBA began in 2007. When viewing 2007 as a base year, it is clear that all three major non-property tax revenues, sales tax, mortgage tax and State Aid, taken together, cannot even shoulder the burden of 2007 salary levels, let alone increases. In 2007 the total revenue received by the City for all three categories amounts to \$7,727,735.53. (CX Z, AA & BB). This 2007 revenue figure was used in part to pay for the 2007 police salaries. In 2010, the same revenue sources yielded \$7,146,616.99, more than half a million dollars less than 2007. Thus, the City has less revenue in 2010 to pay the 2010 police salaries, even without increases.

Unlike the City's revenues, the City's expenses have been sharply on the rise. Both the increase in pension costs and the health insurance costs have been a major burden on the budget. To try to reconcile the budget, the City has eliminated thirteen (13) positions through attrition. (CX NN). Administrator Robson testified that in an effort to avoid cutting personnel, the City considered twenty percent (20%) furloughs in 2011 in order to address the City's grim financial situation.

Pension costs have skyrocketed. Since 2006, pension costs have risen 53%, from \$382,653 to \$585,230 in 2011. (CX EE). The New York State Retirement fund has projected the City's police pension costs to increase another \$157,859 in 2012, or approximately 27%. (CX A & NN).

Health Insurance costs have also been steadily on the rise since 2008. Health insurance costs have risen 4.77% in 2010 and 10.02% in 2011. (CX NN). The City has seen a total increase in health insurance costs of 15.38% since 2008. Even workers compensation costs have sharply risen since 2008 by 60.03%.

Due to the decrease in revenues and the increase in expenses, the City has been trying to make ends meet by dipping into its fund balance. As such, the Fund Balance has been continuously shrinking. Ms. Tucker pointed out that from 2001 through 2005, when the City, along with the nation, was experiencing better economic times, the City's fund balance was steadily increasing. (CX A). Then from 2006 forward, the City needed to use a portion of its fund balance in order to balance the budget. Thus, as of December 31, 2010, the fund balance was back to December 31, 2001 levels. While in 2010, the fund balance slightly increased, this was due to the City's conscious efforts to tighten its belt and spend less. In fact, Administrator Robson testified that she halted spending as of October 2010. Administrator Robson also explained that while the City has been rated as Aa3 by Moody's, the City was cautioned against continuing over-use of the fund balance. (CX NN).

Ms. Tucker further explained that the Government Finance Officers Association recommends that municipalities maintain an unreserved fund balance equal to at least two (2) months of annual total expenditures as insurance against unanticipated expenditures or revenue shortfalls. (City Exhibit "A"). In accordance with this recommendation, the City should have an unreserved fund balance equal to \$2,808,215. (CX A). Unfortunately, as of December 31, 2010, the City's unreserved fund balance only equaled \$1,882,018, about two-thirds (2/3) of the recommended amount.

Administrator Robson further testified that another major concern for the City going forward is the newly enacted two percent (2%) tax cap legislation, which went into effect beginning in 2012. (CX A). Thus, the City may not raise taxes more than 2%, with an exception if the increase in pension costs goes above a 2% increase. In 2011, the total tax levy for the City amounted to \$8,640,748. (City Exhibit "A"). As such, the maximum that the City may raise taxes in 2012 is \$172,815. Ms. Tucker explained that given the current state of the economy, increasing expenses and decreasing revenues, the \$172,815 will be difficult to achieve without drastic cuts to personnel.

The City has been suffering from monstrous tax hikes in order to close the gaps in the budget. In addition to the issue concerning the homestead/non-homestead tax rates, the City had to make other budgetary corrections.

Administrator Robson testified that the Fund Balance contains \$500,000 in the 2012 budget. (CX NN). She further testified that the 2012 budget calls for just under a six percent (6%) tax increase for homestead properties and a fourteen percent (14%) tax rate increase for non-homestead properties. It also includes additional administrative fees paid to the general fund to support the water and sewer fund operations and a proposed user fee for garbage collection. Furthermore, it eliminates significant contingency funds in excess of \$138,000.

However, it does not provide adequate funds to cover the costs related to the expected retirements in 2012. In fact, many employees in the police department could retire today. Administrator Robson explained that due to increased expenses and decreased revenues, without a tax cap override, the City may be forced to not fill these vacancies once employees retire.

The PBA argues, in essence, that the state of the Federal, State and local economies are not relevant to this matter as there has been a slight uptick in the economy. However, these economies

are relevant in that they impact the residents of the City as well as the City's ability to pay. In fact, the "interest and welfare of the public" standard absolutely equates to the state of the economy. City revenues and financial capabilities are directly affected by the State and Federal budgets. The size of the State and Federal deficits is common knowledge. (CX II). Federal, State and local governments are losing jobs, industry is slowing down and consumer confidence is at an all-time low. An example of the impact in the trend caused by these deficits is the fact that the City's State Aid in 2010 was below 2007 levels. The City lost approximately \$48,330 in State Aid from 2009 to 2010. (CX BB). While the PBA may argue that this is a small amount when taken in context of the City's budget, it amounts to approximately 1% of the unit gross payroll.

The housing market in New York is also disastrous. The New York State mortgage default rate is higher than the national average and home foreclosures hit an all-time high in 2010. (CX JJ). No one can realistically argue that the City can expect significant additional revenues from the State and Federal Governments given the state of affairs.

While there are some few signs that a level of recovery may be upon us, there can be no doubt that the years in question, as relates to this award, 2010 and 2011 were dramatically bad years economically speaking. Further, even the signs of recovery are inconsistent at best and there is no reason to believe that the losses sustained in the economy in general and in the City as reflected in the Record, (i.e., mortgage tax) is likely to change anytime soon. This is further evidenced by the unemployment rate, which has doubled in Dutchess County to 8.7% as of January 2011, from 4.3% in January 2007, when the last CBA began. (CX II & 6). While the unemployment rate is starting to decrease, such decrease has not been consistent. (City Exhibit "6").

On the other hand, the unit has been relatively untouched during this time. There have been no lay-offs. There has been no diminution in benefits. The public interest therefore demands that

for the two (2) years in question, a balance clearly reflecting these economic realities, unlike prior times and prior awards, must be reflective of this new economic reality.

Accordingly, the evidence establishes that Beacon is facing a severe financial crisis. The interests and welfare of the residents of Beacon supports leaving police salaries at current levels. Further, the City cannot pay an increase from the cash on hand maintained in the fund balance without an adverse impact on its tax payers. Moreover, the PBA's expert did not dispute any of the facts set forth above regarding the City's inability to pay. Accordingly, the City requests that the Panel take into consideration the current state of the economy and the financial crisis that the City is facing and accept the inability of the taxpayers to fund an additional increase at this time.

The focal point of the City's proposals is a new health insurance plan to its active and retired employees. In this abysmal economy, by switching to the new health insurance plan the City will be able to save a significant amount of money while providing better coverage to its employees. Moreover, the new health insurance plan will result in savings to the PBA members as well. The City's proposal is to switch to a high deductible plan whereby the employees would reduce their contribution from twenty-five percent (25%) to twenty percent (20%) of the premium and the City would provide employees with half of the yearly deductible (equaling \$1,250 for family coverage and \$625 for individual coverage) in an HRA for the first two (2) years (which would carry over from year to year) and then refill the HRA each year thereafter with an additional sum of up to \$1,250 for family coverage and \$625 for individual coverage, not to exceed the maximum account balance of the full deductible (equaling \$2,500 for family coverage and \$1,250 for individual coverage).

Currently, Beacon offers two (2) plans to PBA members: MVP and Empire Plan. However, the insurance consultants explained that it is better to have a single carrier as opposed to two (2) carriers in order to leverage the size of the participants.

The City considered an internal self-insurance program. However, the City determined that it is not big enough to provide self-insurance to its employees.

Next, the City considered moving all its employees under one (1) health insurance plan. A major benefit to this would be the elimination of administrative costs to the City. Thus, the City looked into a high deductible plan with a HRA through MVP.

Under this new plan, the City would save a significant amount of money. The City currently has 35 active PBA employees, 21 retired pre-65 PBA employees and 15 retired post-65 PBA employees. (CXMM-1). Under the current health insurance plans, the 2011-2012 projected cost to the City equals \$1,025,588.97. However, under the new plan proposed by the City, the 2011-2012 projected cost to the City would equal \$824,754.90, equaling a savings to the City of \$200,834.07.

By switching from the current plan to the high deductible model, at 2011-2012 rates, the City would save \$53,922.31 for active employees and an additional \$63,433.28 for pre-65 retirees, totaling \$117,355.59 (CX MM-2). This additional money could help fund any salary increase which the PBA may be awarded.

The City is also proposing to change the health insurance plan for retirees over 65 to the MVP Gold Anywhere Plan. This Plan has significantly lower co-pays and deductibles than the current Empire Plan. (CX MM-4). When comparing the retirees' current Empire plan versus the City's proposed MVP Gold Anywhere Plan, the City's employees generally get greater benefits from the City's proposed plan.

Low, medium and high medical users save on the total annual out of pocket costs with the City's proposed plan than with the Empire Plan, MVP-10 or MVP-15. (CXMM-5). The MVP High Deductible EPO and MVP Gold Anywhere Plan, have a Cigna network with a wide range of doctors. This network is so wide, active employees and retirees do not need a PPO. In fact, the

PBA had the opportunity to inform the City if any of its members' doctors were not covered by the City's proposed plan, and it failed to do so.

Additionally, all preventative medications are subject to the co-pay and not to the deductible. Preventative drugs are medications which may prevent the onset of a disease or condition when taken by a person who has developed risk factors for a disease or condition that has not yet manifested itself or has not become clinically apparent, or may prevent the recurrence of a disease or condition from which a person has recovered.

The PBA brought in a local insurance agent to testify concerning the current and proposed health insurance plans. Not surprisingly, the local insurance agent testified that he preferred the current health insurance plan to the new plan proposed by the City. Yet, when pressed, the PBA's insurance agent could not give any specific reasons why he did not prefer the City's newly proposed plan. In fact, the PBA's local insurance agent could not find any flaws with the City's newly proposed plan. He simply "preferred" the current plan.

The City submits that the only way it can manage to afford any type of increase in salary which the Panel may award is by the savings it will receive from this new health insurance plan. It is undisputed that the new health insurance plan is a solid, well-rounded insurance plan, without any flaws at all. Therefore, based upon the immense savings to the City and to the PBA members in these bad economic times, the City requests the Panel adopt its proposal and change the health insurance plan to the MVP High Deductible EPO.

The PBA has proposed that its members and eligible dependents shall be entitled to enroll in New York State Empire Plan, Core Plus medical and psychiatric enhancements or MVP-15, which premiums are to be fully paid by the City. Currently, members of the bargaining unit contribute 25% to the cost of their health insurance if they were hired on January 1, 1993 or after and 0% if

they were hired prior to January 1, 1993. (CX H). All of the comparable communities require at least some of its PBA members to contribute to the total health insurance premium. Thus, it is customary for police officers in the comparable cities to contribute a significant percentage of the cost of health insurance premiums.

Health insurance costs have been drastically on the rise since 2008, increasing 15.38%. (CX NN). This is an area where the City needs further relief as illustrated above, not where it can afford to make higher premium contributions. However, in conjunction with the implementation of the new health insurance plans, MVP High Deductible EPO and MVP Gold Anywhere Plan, the City has proposed to reduce the PBA members' health insurance contribution to twenty percent (20%). As such, the PBA's proposal to contribute 0% is unreasonable and out of line with comparable communities.

The PBA has proposed that all members who retire on or after January 1, 2010 be entitled to the same medical insurance as active members, with the premiums fully paid by the City. Currently, those members who were hired prior to January 1, 1993 receive health insurance paid in full by the City, whereas those members who were hired after January 1, 1993 must contribute 25% of the premiums in retirement. Due to the high cost to the City of providing such benefit and the City's lack of money to fund such benefit, the City requests the PBA's proposal be rejected. Furthermore, the City refers the Panel to the City's proposal to change the health insurance plans to the MVP High Deductible EPO and MVP Gold Anywhere Plan.

The PBA has proposed that the City provide its unit members with fifty percent (50%) of the health insurance premium for those members who elect not to receive health insurance provided for by the City. Currently, the City provides such unit members who elect not to receive the City provided health insurance with a "buyout" of \$1,000. The PBA's request for 50% of the premium is

out of line with the comparable communities, which average a lesser percentage. (CX F). The PBA has produced no evidence or testimony to justify such a high buyout amount. The granting of the PBA's proposal would have a direct negative impact on the financial well-being of the City. The City therefore submits that such request for 50% of the premium should be rejected by the Panel.

The City has proposed that "out of title pay" in all cases should not be applicable until the employee has worked out of title for at least four (4) consecutive days. Currently, out of title pay is granted after the employee has worked only one (1) day. The City of Poughkeepsie, an agreed upon comparable community, does not provide out of title pay until the employee has worked out of title two (2) consecutive weeks. (CX BBB). Furthermore, by not providing additional pay until the employee has worked four (4) consecutive days, the City would save a significant amount of money. Given the financial position of the City, the City submits that the Panel accept its proposal.

The City is also proposing that the compensation for trainees attending police academy be reduced by ten percent (10%) from patrol officer's first year starting salary. The City of Poughkeepsie, the City of Kingston and the City of Hudson, all comparable communities, pay police officers in training/Academy a lesser salary than that of a starting police officer. (CX BBB, FFF &GGG). By reducing the salary of those police officers who are attending the police academy and not yet out in the field, the City would be able to save a significant amount of money. Thus, the City submits that such request to reduce the compensation for trainees attending police academy by ten percent (10%) from patrol officer's first year starting salary be adopted by the Panel.

The PBA, on the other hand, is unconscionably demanding a 5.00% increase in salary retroactive to January 1, 2010 and an additional 5.00% increase in salary retroactive to January 1, 2011. The PBA's outrageous demand should be rejected by the Panel and the City's request should be accepted by the Panel for numerous compelling reasons. First, the PBA's demand

completely ignores the City's current financial situation, including the decrease in assessed values, the lack of growth in tax base, the decrease of non-real property taxes, and the skyrocketing health care and police retirement costs. In 2010, the base payroll for the bargaining unit was approximately \$3,416,760, and when including FICA and NYS Pension payments, total payroll is approximately \$4,280,000. (PX 24-P). Accordingly, one percent (1%) of payroll is approximately \$34,168 and when including FICA & NYS Pension payments at 2011 rates, approximately \$42,800. Therefore, to provide the PBA with its requested increases, it would cost the City approximately \$1,091,400 in 2012. (CX17).

The PBA's demand ignores the salaries of other police officers in the comparable communities. The City presented compelling evidence that the members of the bargaining unit are extremely well paid in comparison to police officers, detectives, sergeants and lieutenants from all six (6) comparable communities. In fact, at the top grade of service in 2007, 2008 and 2009, Beacon police officers are paid a higher salary than all of the police officers in comparable communities. (CX K-1 & K-2). This equates to Beacon's police officer salaries being 4.44% higher than the City of Poughkeepsie police officer salaries, 5.92% higher than the City of Port Jervis police officer salaries, 19.86% higher than the City of Kingston police officer salaries and 35.61% higher than the City of Hudson police officer salaries.

The sergeants, lieutenants and detectives in Beacon are also paid very well compared to the comparable communities. At the top salary, as of January 1, 2009, Beacon's sergeants were earning \$75,420, which is higher than the City of Poughkeepsie (\$74,866) and Hudson (\$58,410). (City Exhibit "L"). At the top salary, as of January 1, 2009, Beacon's lieutenants were earning \$79,428, which is higher than the City of Hudson (\$63,597). (City Exhibit "M"). The detectives in Beacon are paid higher than the detectives in all the comparable communities. At the top salary, as of

January 1, 2009, Beacon's detectives were earning \$71,663, which is higher than the City of Poughkeepsie (\$71,301), the City of Newburgh (\$71,253), the City of Port Jervis (\$67,590) and the City of Kingston (\$58,918). (CX N).

Furthermore, when comparing the salary increases received by unit members to increases in the Consumer Price Index (CPI), the police have fared quite well. (CX E). In 2007, 2008 and 2009, the salaries for unit members have exceeded the CPI each year, by 1.20%, 0.35% and 3.70% respectively. (City Exhibit "E"). Unit members have seen an increase of 12.75% in salary over a three (3) year period (2007-2009) (without considering the cost of steps) where the CPI has increased only 7.1% during that same period. When the City was able to provide the PBA with salary increases in the past, it has done so. Unfortunately, given the economic climate and the City's financial distress, it is clearly unable to do so at this time. Additionally, when comparing the after fifth (5th) year base salary of a Beacon officer in 2009 (\$68,179) to that of the median family income in Beacon in 2009 (\$68,655), the fifth (5th) year officer earns about equivalent to the typical Beacon *family*. (CX D & S). Thus, there is simply no justification to giving the PBA a 5.00% increase in salary retroactive to January 1, 2010 and/or an additional 5.00% increase in salary retroactive to January 1, 2011, or anything even close to 5%.

The pattern of yearly increases in the four percent (4%) neighborhood that existed for so long was predicated upon a consistently growing tax base which was fairly universal throughout the Hudson Valley for a good part of the 90's and up through the beginning of the Recession in 2008. This trend allowed for constant salary increases without a substantial burden of increased tax rates. However, that base is now not only no longer increasing, but in fact has decreased. It could be argued that salaries should be decreasing at the same rate. The City is not making this argument. However, the Record before the Panel clearly does not support an increased burden caused by an

Award. Furthermore, as illustrated above, the salaries in other admittedly comparable communities lag behind the 2009 Beacon salaries by between 4.44% and 35.61%. This fully supports the City's position to decrease the salaries of trainees attending police academy by ten percent (10%) from patrol officer's first year starting salary. It is simply not fair to ask the taxpayers of the City, who have already seen a tax rate increase of 53% and 37% since 2008 for homestead and non-homestead respectively, to shoulder the burden of an additional tax increase, where its police are already earning the same as the median family income and where they are already far better paid in comparison to the police in comparable communities.

The City has proposed that no more than two (2) sergeants and three (3) patrol officers may take a full vacation week at any time. This is a significant issue to the City. In conjunction with this proposed language, the City has proposed to delete from the third sentence of Article IX(G), "as long as no three (3) officers from the same shift are on vacation at the same time," after "The officers shall have the option of signing anywhere on the schedule that is available." By limiting full week vacations for sergeants and patrol officers to times where no more than two (2) sergeants and three (3) patrol officers are on vacation, this will reduce the amount of unnecessary overtime that is currently needed and thus save the City a significant amount of money. There is no doubt that overtime is a necessary function of the operation of a police department. Such factors as sick-time, parades, and even serious violent activities all result in unavoidable overtime. Vacations also result with overtime as well. However, the number of officers currently permitted to take vacation at the same time cannot be deemed as "necessary" overtime. The City's ability to schedule and avoid "too many vacations at the same time" will have very little (if any) impact on PBA members while allowing the City to avoid paying for extra avoidable overtime is significant. Therefore, the City

submits that in these financial times, where every penny counts, the Panel should accept the City's proposal and limit full week vacations.

The City has also proposed increasing the notice that must be given to take individual vacation days from forty-eight (48) hours to seventy-two (72) hours. The reasoning for this is the same: by requiring additional notice to the City, the City will be better able to schedule officers to cover shifts thereby reducing overtime costs and saving the City a significant amount of money. As such, the City submits that its proposal should be accepted by the Panel.

The PBA has alternatively proposed that unit members be allowed to take all vacation days one (1) day at a time. Currently, unit members must take vacation days in week long blocks, except for five (5) days per year, which may be taken one (1) day at a time. The PBA has offered no testimony or evidence as to why the current practice should be changed. The City submits that the granting of this proposal will result in an increase in avoidable overtime and thus, additional costs to the City, which it cannot currently bear. Therefore, the City submits that the PBA proposal be rejected and the City's proposals be accepted.

The PBA has proposed that the rank differentials increase for detectives from 5.1% to 7.5%, for sergeants from 10.6% to 15.0%, for detective sergeants from 13.0% to 17.0%, for lieutenants from 16.5% to 20.0% and for detective lieutenants from 19.5% to 22.0%. Such increase should be rejected as it is unwarranted.

The Detectives in Beacon already have a higher rank differential than the City of Middletown (5%), the City of Port Jervis (5% in 2010) and the City of Newburgh (5% first year detectives). (CX O). Moreover, the City of Kingston and the City of Hudson detectives do not even receive a detective rank differential. Furthermore the PBA's requested increase to 7.5% is even higher than the City of Port Jervis' 2011 rank differential (5.5%) and the City of Poughkeepsie's first

and second year detectives rank differential (6%). This, in conjunction with the fact that Beacon's detectives are already the highest paid of the comparable communities, makes the PBA's proposal unwarranted.

Similarly, the PBA's request for an increase in the rank differential for sergeants, detective sergeants, lieutenants and detective lieutenants is also unwarranted. Beacon's unit members are already well paid compared to the comparable communities and thus do not require an increase in the rank differential to "catch up". Thus, the City submits that the PBA's proposals should be rejected by the Panel.

Likewise, the PBA's request for a night shift differential is unjustified. The PBA is requesting a night shift differential of 10% for the 11 pm to 8 am shift. Currently, the PBA does not receive any night shift differential. Similarly, the City of Port Jervis, the City of Kingston and the City of Hudson also do not provide for any night shift differential. (CX R). However, the comparable communities which do provide for a night differential provide for such for the 12 am to 8 am shift, not for a shift beginning at 11 pm. Moreover these night shift differentials are for substantially less than the PBA is requesting. Therefore, the PBA's request for a 10% shift differential for the 11 pm to 8 am shift is completely out of line with the comparable cities. Moreover, given the City's current financial situation, it is submitted that no adjustment to the differentials should be adopted by the Panel.

The City has proposed that each step in Longevity be increased by three (3) years and that the percentage increase at the final step be removed. The City has also proposed that the calculation of Longevity only include time actually worked. Conversely, the PBA has requested a decrease in the number of years in order to qualify for longevity, an increase in the amount of longevity and a change from a set dollar amount to a percentage, which are completely unjustified.

The City is requesting that unit members qualify for longevity payments after ten (10), thirteen (13), eighteen (18) and twenty-three (23) years of service. The PBA is requesting that its members qualify for longevity payments after five (5), ten (10), fifteen (15) and twenty (20) years of service, a change from seven (7), ten (10), fifteen (15) and seventeen (17) years of service, respectively. The City has requested that unit members earn \$2,000 at the final step with no additional percentage. As of 2009, the PBA receives longevity payments of \$500 after seven (7) years, \$1,000 after ten (10) years, \$1,500 after fifteen (15) years and \$2,000 + 1.92% after seventeen (17) years. (CX Q). Conversely, the PBA has demanded that in addition to actually decreasing the number of years in order to qualify for longevity payments to five (5) and ten (10) years of service, it is also requesting that the amount of longevity be increased and changed to five percent (5%), ten percent (10%), fifteen percent (15%) and twenty percent (20%).

Looking to the comparative communities in 2008, there is no consistent pattern of longevity payments. The schedule of such payments in Beacon is shorter than that in some communities and longer than that in others. Beacon is in the middle of the road.

By decreasing the number of years for a unit member to be eligible for the various levels of longevity, this would increase the total payments made to each unit member over the course of his/her employment with the City; another cost the City simply cannot bear. The PBA has not produced any evidence or testimony as to why these qualifying longevity years should be decreased and therefore, in light of the City's financial condition, it is the position of the City that the PBA's proposal be rejected and the City's proposal to increase the qualifying years be accepted.

Turning to actual longevity payments, the City has requested the final step be reduced to only \$2,000 with no additional percentage, and the PBA has requested a change from a flat dollar amount to a percentage of base salary. The only comparable community which uses a percentage is

the City of Kingston. (CX Q). Every other comparable community uses flat dollar amounts. However, the PBA is requesting a significantly higher percentage than even Kingston receives.

Furthermore, Beacon's 2009 longevity payments are in the ballpark of all the other comparable communities. (CX Q). As such, the PBA's proposal is completely unreasonable. When calculating the flat dollar amount associated with the PBA's requested percentages, the PBA's proposal is approximately triple the longevity that the City of Poughkeepsie, the City of Port Jervis, the City of Kingston and the City of Hudson earn, quadruple what the City of Newburgh earns and significantly higher than the City of Middletown earns. Beacon unit members already fare well, especially when considering that Beacon's base salary is higher than the other communities even without an increase. Given the City's dire financial situation, the PBA's request for increased longevity payments and percentages rather than a flat dollar amount should be rejected and the City's request to remove the percentage at the last step should be accepted.

The City has proposed that the calculation of Longevity only include time actually worked. Providing police officers with longevity payment is to reward them for length of service. They should not be rewarded for time not actually worked. Given the City's current financial condition, the City submits that its proposals be accepted by the Panel.

The City has proposed that the PBA be required to provide seventy-two (72) hours' notice when taking personal leave as opposed to the current twenty-four (24) hours' notice. This notice must be provided, except in the case of an emergency. The City has also proposed that the number of emergency days (which do not necessitate the requisite notice) be reduced from three (3) to one (1). However, the total number of personal days unit members receive, five (5), would not change. The City of Middletown and the City of Hudson are the only two (2) comparable communities which provide for five (5) personal days. (CX H). Thus, while the City is not proposing to reduce

the number of personal days unit members receive, since the City provides a high number of personal days, the City submits that it needs more notice in order to operate efficiently and appropriately schedule its staff. Furthermore, the lack of notice creates increased avoidable overtime and costs to the City. As such, the City submits its proposal to increase the amount of hour's notice for personal days and its proposal to decrease the number of Emergency Personal Leave days is appropriate and should be granted by the Panel.

The PBA has also proposed that language stating that personal leave not be taken before or after a vacation or holiday except with approval be deleted. The PBA has offered no testimony or evidence as to why the current language should be deleted. Therefore, the City submits that the PBA's proposal should be rejected by the Panel.

The PBA has proposed that unit members be allowed to take five (5) bereavement days non-consecutively within thirty (30) days from the date of death of a family member. Currently, unit members must take such leave in five (5) consecutive days. However, on approval of the Chief of Police, for cause, a unit member may elect to split such bereavement leave. Beacon provides its unit members with the most bereavement leave out of all the other comparable communities, except it provides an equal number of days as the City of Poughkeepsie. (CX I). In providing unit members with a significant amount of bereavement leave days, the City requires that all days be taken consecutively. The use of non-consecutive days within thirty (30) days from the date of death would cause an increase in overtime and thus place a financial strain on the City. The PBA has produced no evidence or testimony to support its need to take bereavement leave non-consecutively within thirty (30) days, and as such, and in consideration of the City's current financial condition, the City submits that such request should be rejected by the Panel.

The City has proposed that any time off requests, other than vacation, may be revoked based upon when they were requested (i.e. subject to call) should the number of police officers reporting absent put staffing below acceptable levels. This includes sick leave, personal leave, compensatory time, etc. When the number of police officers reporting absent puts staffing below acceptable levels, in order to ensure the safety and welfare of the public, the City must call in officers for overtime to properly staff such shifts. This additional overtime burden is draining the already scarce resources of the City. By granting this proposal, the Panel would be allowing the City to save on overtime costs, which aggregates to a substantial amount of money. As such, the City submits that the Panel should accept its proposal.

The City has proposed that time off shall not be counted as time worked for overtime computation purposes. The City further proposed that overtime be paid for all hours actively worked in excess of 171 in a 28 day period. Paying police officers overtime for time not actually worked is a waste of City resources. Given the City's current financial condition, the City submits that its proposals be accepted by the Panel.

The City has proposed that compensatory time and compensatory days off for overtime, holiday pay and all other areas of compensation be eliminated. The provision of this compensatory time causes the City to utilize other police officers to cover these shifts at overtime rates. These additional overtime costs are a substantial burden to the City, one which it simply cannot shoulder. Therefore, the City requests that the Panel accept its proposal.

The PBA has proposed that the City provide unit members and their eligible dependents with the CSEA Optical Plan at no cost to the member. Only half of the comparable communities provide its police with an optical plan. (CX G). The PBA has not produced any other evidence or testimony to support its request for optical coverage at no cost. The City is already too strained

financially to require a new cost to be added without relief in other areas. Therefore, the City submits that such request should be rejected by the Panel.

The PBA proposed that all members be entitled to a hearing of any disciplinary charge before a neutral arbitrator who shall be selected by mutual agreement or pursuant to the American Arbitration Association "List Only" service. However, the PBA has not produced any evidence or testimony as to why the Panel should make such change. Similarly, New York Civil Service Law Section 75 provides protection for officers charged with discipline. Therefore, it is the position of the City that they should not be altered.

The PBA made six (6) proposals concerning detectives, concerning the schedule for detectives, the schedule for detective sergeants and detective lieutenants, vacations, on call, on call pay and requested time off. However, the PBA has not produced any evidence or testimony as to why the Panel should grant any such proposals. Furthermore, all of the proposals concerning detectives would increase costs to the City, money which it simply does not have. Therefore, it is the position of the City that, in light of the City's current financial condition, such proposals would add further costs to the City and thus should not be altered.

For the reasons above, the City requests that its demands be adopted in their entirety, and that the PBA's demands be rejected.

OPINION

§209 of the New York State Civil Service Law (*Taylor Law*) sets forth the parameters which an Interest Arbitrator must utilize in deciding terms and conditions of employment. These criteria are as follows:

- a. Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees

performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;

b. the interests and welfare of the public and the financial ability of the public employer to pay;

c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills.

d. terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including but not limited to, the provision for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

With these criteria in mind, I turn to the specific issues before me. The first such matter is the initial criterion, the determination of the comparable jurisdictions.

I must first observe that the broad category of comparable jurisdictions is limited to other police departments. I will elaborate on this further in my discussion of the third criterion under the Taylor Law.

Within this context, the parties agree that the following cities are comparable to Beacon: Kingston, Middletown, Newburgh, Port Jervis and Poughkeepsie. The PBA argued that Peekskill should be included within the list of comparators. However, a recent award authored by Arbitrator Selchick in connection with an interest arbitration involving the City of Peekskill does not include Beacon. The Selchick panel limited the Peekskill comparables to Westchester County cities. It also gave some consideration to the City of Rye.

The PBA also wanted to include the Towns of East Fishkill, Hyde Park and Poughkeepsie. The PBA relied on an interest arbitration award issued by Arbitrator Douglas that covered the period 1997-98 (PX2). For its part, the City of Beacon disagreed with the PBA relative to the inclusion of Peekskill and the previously identified Towns.

As to Peekskill, I find that it is not an appropriate comparator. Just as Beacon was not viewed as a comparator for Peekskill, the reverse is also true.

With respect to the matter of the towns, the financing of cities and towns are very different. Interestingly, the Selchick panel limited the comparators to the City of Peekskill to other Westchester cities. I agree that towns and cities are not comparable.

As a consequence, I conclude that the comparable jurisdictions to the City of Beacon are cities in Dutchess County as well as in counties contiguous to Dutchess, i.e., Orange, Ulster and Columbia. Those cities are Kingston, Middletown, Port Jervis, Poughkeepsie and Newburgh. The City wanted to include Hudson as a comparable. I find that Hudson has some areas of comparability (location) and other differences (size, population). Thus, the panel gave less weight to Hudson than to the other cities.

Criterion (b) concerns the interests and welfare of the public and the financial ability of the public employer to pay for the costs associated with increases in wages and improvements in benefits. I will first address the interests and welfare of the public.

It is unquestioned that the needs of the public are met by a well paid and well maintained corps of police officers that operates safely and efficiently. It is also clear that a police force with good morale is essential. Positive morale results in higher productivity and a flow of high quality candidates for the positions available.

The issue of the City's ability to pay requires a different kind of analysis. It would first be helpful to describe it. Beacon is located in Dutchess County and is adjacent to the Hudson River. It is about 70 miles north of New York City. It is bordered by Columbia, Orange, Ulster and Putnam Counties. It is west of Connecticut (CX B1&2). In terms of area, it is comprised of 4.9 square miles and, in 2009, had a population of 14,605 (CX T).

The median income in Beacon in 2009 was \$68,600. In the same year, the poverty level among individuals in Beacon was about 12% and was 8% for families. The crime index in Beacon is the same as or lower than that of the comparable cities.

There are no separate unemployment statistics for Beacon but the current rate of unemployment in Dutchess County is 7.5%. It rose from 4% to 8.5% between 2007 and 2011 and has recently dropped somewhat.

Relevant economic indices such as Mortgage Transfer Taxes, Building Permits, Sales tax revenue, State Aid, assessed property values, Fund balances and uncollected taxes have decreased over the past five years. In the same five year period pension costs have risen from about \$380,000 to \$585,000.

Having reviewed the data, I must conclude that the City is unable to pay the wage increases proposed by the PBA. However, this need not be an "all or nothing proposition." I find that the City is able to finance more modest wage increases. This conclusion is based in the data entered as evidence. Moreover, the City did not argue that it is *unable to pay* for reasonable increases in salaries to the members of the PBA.

In sum, in terms of the second criterion of the Taylor Law, I conclude that the City has the *ability to pay* for appropriate improvements in the collective bargaining agreement. This is

particularly true in the presence of concessions from the PBA.

Criterion (c) is based upon a comparison of the peculiarities of the job of members of the unit involved in the interest arbitration with other trades or professions, including specifically hazards of employment, physical qualifications, educational qualifications, mental qualifications and job training and skills. It is clear that police personnel are faced with serious and unique hazards. Police personnel, in general, and, in this case, police officers, risk death and serious injuries regularly. There is a strong similarity between police officers and other law enforcement units relative to the specific considerations in this criterion. Thus, this criterion is satisfied when the PBA is compared with other police departments. It should not be surprising that the comparability with respect to salary and benefit considerations is matched by a comparison with other units within the cities of the northern counties and not with other trades or professions. Law enforcement is unique and those employed in this field can only be compared with others in that field.

The final statutory criterion requires a consideration of past collective bargaining agreements between the parties with respect to compensation and fringe benefits. This criterion mandates that the instant proceeding not be viewed in a vacuum, but rather in the context of prior negotiations and awards between the PBA and the City of Beacon, as well as recent awards and settlements involving other police units in comparable units. Having discussed the relevant statutory criteria, I now turn to the parties' specific proposals. The length of the contract is the first issue to consider.

Both parties indicated that a two year successor agreement is appropriate. I concur. The predecessor agreement expired on December 31, 2009. A two year contract will expire on

December 31, 2011. These are unsettled economic times and it may be imprudent to require the parties to make a longer term commitment until the implications of the current economic situation become clearer. Under the circumstances, an Award with a term of January 1, 2010 through December 31, 2011 is appropriate.

The parties had significant differences over the matter of salary increases. The City proposed no "across the board" wage increases while the PBA sought 5 %. As I previously noted, the City does not have the ability to fund 5% annual increases but it does have the ability to pay for more modest wage increases.

In order to assess this matter, I reviewed the top salaries in Beacon and compared them with those in comparable jurisdictions. As of December 31, 2009 the top salary for Beacon police personnel was as follows: Police Officers (19)-\$68,179, Detectives(4)- \$71,563, Sergeants(5)- \$75,420, Detective Sergeants (2)-\$77,043, Lieutenants (3)- \$79,428 and Detective Lieutenants- \$81,473 (CX D). It should be added that the wage scale for police officers includes five salary steps while top salary in all the other titles is achieved after one year. The numbers in parentheses reflect the number of people in those titles. The position of Chief of Police has recently been filled and there evidently are no Detective Lieutenants at this time (PX 1).

Since the standards under the Taylor Law include a comparison to other relevant jurisdictions, I have concluded that it would be appropriate to compare where Beacon ranks relative to other jurisdictions. I have used top salaries in 2009 as a baseline for this analysis.

As of December 31, 2009, Beacon police officers' top salary was the highest of those in comparable cities (CX K1, PX 8). I hasten to add that the CBAs in Middletown and Newburgh expired on December 31, 2008 and no data was entered on the parties' exhibits for those police

departments.

However, subsequent to the preparation of the parties' exhibits the City of Newburgh came to an agreement with its PBA and that stipulation provides for a wage freeze through December 31, 2012. Thus, the top salary in Newburgh through the period of this award was \$65,369.

As to Middletown, as of December 31, 2008, the top salary for police officers was \$64,676 which was lower than that of Beacon in both 2008 and 2009 (CX K1). I can make no comment about Middletown currently since there has not yet been a resolution of the wage scale in that city. Therefore, I can safely say that the salary scale in Beacon in 2009 was the highest of its comparators.

The next step in the analysis was to determine the top salaries in the comparable cities in 2010 and 2011. The purpose of this review was to determine the increase in wages needed in Beacon if its police officers were to retain their position of having the highest base wage of all of the comparable police departments. In 2010, the top salary in the comparable departments ranged from \$51,782 (Hudson) to \$68,558 (Port Jervis) (CX K2).

If the top salary for police officers in Beacon were increased by 2% as of January 1, 2010 the new top salary would be \$69,542. That would still be the highest of its comparators. Therefore, the PBA is awarded a 2% increase effective January 1, 2010.

Turning now to 2011, the highest top salary for police officers in comparable cities was \$71,160. I have concluded that a 2% increase for Beacon police officers as of January 1, 2011 would result in a top salary of \$70,932 and an additional 1% increase as of July 1, 2011 would produce a top salary of \$71,640. This increase would also maintain the comparable position of

Beacon relative to its comparators. Thus, the PBA is awarded a 2% wage increase effective January 1, 2011 and an additional 1% increase as of July 1, 2011.

I have done a similar analysis with respect to the ranks above that of police officer. I have determined that top salary for sergeants in Beacon in 2009 was within \$800 of that of Poughkeepsie and Port Jervis (CX L). Applying the increases awarded to police officers will result in retaining approximately the same difference in salary in 2010 and 2011.

In 2009 lieutenants in Poughkeepsie had a top salary that was about \$4,000 higher than that of Beacon (CX M). The increases described above will maintain approximately the same spread in top salaries.

The top salary of Beacon detectives in 2009 was slightly higher than that its highest comparators (CX N). The 2% and split 3% increases in 2010 and 2011 leaves Beacon in the same position relative to its comparators.

Having reviewed the top salaries of all of the police titles in the bargaining units of Beacon and its comparators persuades me that a 2% increase in wages as of January 1, 2010, a 2% increase in January 1, 2011 and a 1% wage increase as of July 1, 2011 is appropriate and is awarded. It represents a responsible balance between the needs of the members of the PBA and the City of Beacon's "ability to pay." It is also consistent with the importance of comparing the wage scale in Beacon with comparable jurisdictions.

As noted above, the increases in salary must be viewed within the context of concessions granted by the PBA. In this respect I have determined that a restructuring of the salary schedule for new hires is appropriate. This restructuring involves a lowering of the starting salary to \$42,000 and with the creation of a new schedule consisting of two additional salary steps with

each of the steps being \$4,000 apart except for an increase of \$5,643 between the salary after six years of service and that received after seven such years. Therefore, as of December 31, 2011, all newly hired police officers will be paid \$42,000. Their wage schedule will then be as follows:

After 1 year- \$46,000

After 2 years- \$50,000

After 3 years- \$54,000

After 4 years- \$58,000

After 5 years- \$62,000

After 6 years- \$66,000

After 7 years- \$71,643

The cost of the wages of a police officer hired as of December 31, 2011 from the time of hire until the completion of seven years of service will be \$449,643. This stands in comparison of the cost of a single police officer over the same period of time but was hired prior to December 31, 2011. The cost of such a police officer over the same time frame is \$544, 155. This revision of the wage schedule for police officers hired after December 31, 2011 will save the City just under \$95,198 per newly hired police officer for the period of his hiring until s/he attains top salary on the new schedule. Such a savings will be significant and will help to fund this award.

A third issue to be considered relates to health insurance. The City proposed deleting MVP and New York State Empire Plan from the CBA and substituting a similar but less costly plan. It also proposed reducing the contributions of bargaining unit members from 25% to 20%. The PBA vigorously opposed this proposed change.

The City asserted that the proposed plan would result in a saving of about \$117,000 for current employees and retirees (CX MM). The PBA's objections concerned the City's failure to provide the names of the doctors available under the proposed plan. It also pointed out the closest municipalities using the proposed plan were at least 200 miles away.

I have reviewed the record relative to this matter and sympathize with the City's desire to reduce the cost of health insurance. However, the objections raised by the PBA are valid. It is very difficult for the panel to award this proposal in the absence of definitive data as to matters concerning the nature of the medical care that PBA members and their families will receive. Much more information would be needed to persuade this panel that the substitution of the proposed plan would be the equivalent of the existing coverage. Therefore, the City's proposal concerning health insurance is denied.

I should note that it appears that the first time that the PBA learned of the details of the City's proposed new provider of health insurance for its members and their families was at this proceeding. Under the circumstances, it is not surprising that the PBA was not receptive to the concept.

To the extent that discussions concerning health insurance will probably be part of the negotiations leading to the CBA resulting from this Award, the City would be well advised to begin those discussions at the earliest possible date. The issue of health insurance is complex and the likelihood of reaching a meeting of the minds is enhanced in the presence of an ongoing dialogue.

It is necessary to comment on the proposals set forth by the parties which have not already been discussed in this Award. All of these proposals are rejected. This is not to say that

none of these proposals has merit. I must indicate that the terms of this award will have expired on December 31, 2011. The parties are free to consider them during the negotiations of the CBA to succeed the instant award.

In sum, I have carefully considered the relevant statutory criteria, as well as the pertinent prior interest arbitration awards in arriving at my findings. I believe that this Award properly balances the rights of the members of the PBA to improved wages with the City's obligation to carefully spend the tax dollars raised and to otherwise protect the public welfare and interests.

Thus, based on the above, I make the following

AWARD

1. **TERM-** This Award shall cover the period January 1, 2010 through December 31, 2011.
2. **SALARY-** Amend the base salary contained in Article VII ¶A of the CBA such that the base salary in the 2009 salary schedules will be increased by the following percentages:

As of January 1, 2010- 2%

As of January 1, 2011- 2%

As of July 1, 2011- 1%

See Appendix A

Amend the base salary contained in Article VII ¶B of the CBA such that the base salary in the 2009 salary schedules will be increased by the following percentages:

As of January 1, 2010- 2%

As of January 1, 2011- 2%

As of July 1, 2011- 1%

See Appendix A

Effective December 31, 2011, newly hired police officers will be compensated in base pay as follows:

Base salary- \$42,000

After 1 year- \$46,000

After 2 years- \$50,000

After 3 years- \$54,000

After 4 years- \$58,000

After 5 years- \$62,000

After 6 years- \$66,000

After 7 years- \$71,643

3. **HEALTH INSURANCE-** The proposal made by the City of Beacon is denied.
4. **ALL OTHER PROPOSALS-** All of other proposals irrespective of whether they were discussed herein are denied.

Dated: March 15, 2012
Hewlett Harbor, NY

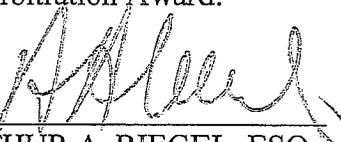


ARTHUR A. RIEGEL
CHAIR OF PANEL

AFFIRMATION

STATE OF NEW YORK)
COUNTY OF NASSAU)

I, Arthur A. Riegel, Esq., affirm that I am the individual describe in and who executed the foregoing instrument which is my Opinion and Interest Arbitration Award.



ARTHUR A. RIEGEL, ESQ

EMPLOYER PANELIST

I, Ronald A. Longo, Esq. Employer member of the Interest Arbitration Panel (concur with) (dissent from) the numbered elements of the above Interest Arbitration Award as follows:

- 1. Term- Concur Dissent
- 2. Salary Increase- Concur Dissent
- 3. Salary schedule for officers hired as of 12/31/11 Concur Dissent
- 4. Health insurance Concur Dissent
- 5. All other proposals- Concur Dissent


RONALD A. LONGO, ESQ.

Sworn to before me this
19th day of March, 2012


Notary Public

MONIQUE M. MASCUNANA
Notary Public, State of New York
No. 01MA6003807
Qualified in Westchester County
Commission Expires March 09, 2014

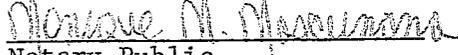
EMPLOYEE PANELIST

I, Richard P. Bunyan, Esq., Employee member of the Interest Arbitration Panel (concur with) (dissent from) the numbered elements of the above Interest Arbitration Award as follows:

- 1. Term- Concur Dissent
- 2. Salary Increase- Concur Dissent
- 3. Salary schedule for officers hired as of 12/31/11 Concur Dissent
- 4. Health insurance Concur Dissent
- 5. All other proposals- Concur Dissent


RICHARD P. BUNYAN, ESQ.

Sworn to before me this
19th day of March, 2012


Notary Public

MONIQUE M. MASCUNANA
Notary Public, State of New York
No. 01MA6003807
Qualified in Westchester County
Commission Expires March 09, 2014

APPENDIX A

COMPENSATION

ARTICLE VII ¶A

<u>TITLE</u>	<u>1/1/10</u>	<u>1/11/11</u>	<u>7/1/11</u>
<u>DETECTIVE LIEUTENANT</u>			
BASE SALARY	\$81,954	\$83,593	\$84,429
AFTER ONE YEAR	\$83,102	\$84,765	\$85,612
<u>LIEUTENANT</u>			
BASE SALARY	\$78,632	\$80,204	\$81,006
AFTER ONE YEAR	\$81,017	\$82,637	\$83,463
<u>DETECTIVE SERGEANT</u>			
BASE SALARY	\$77,695	\$79,249	\$80,042
AFTER ONE YEAR	\$76,928	\$78,477	\$79,252
<u>SERGEANT</u>			
BASE SALARY	\$74,203	\$75,687	\$76,444
AFTER ONE YEAR	\$76,928	\$78,467	\$79,252
<u>DETECTIVE</u>			
BASE SALARY	\$71,992	\$73,432	\$74,166
AFTER ONE YEAR	\$73,096	\$74,558	\$75,304

ARTICLE VII ¶B

<u>POLICE OFFICER</u>	<u>1/1/10</u>	<u>1/1/11</u>	<u>7/1/11</u>
BASE SALARY	\$55,148	\$56,251	\$56,814
AFTER ONE YEAR	\$62,897	\$64,155	\$64,797
AFTER TWO YEARS	\$65,107	\$66,409	\$67,073
AFTER THREE YEARS	\$67,323	\$68,669	\$69,356
AFTER FOUR YEARS	\$68,479	\$69,848	\$70,546
AFTER FIVE YEARS	\$69,543	\$70,933	\$71,643

APPENDIX B

COMPENSATION FOR POLICE OFFICERS HIRED ON OR AFTER 12/31/11

BASE SALARY	\$42,000
AFTER 1 YEAR	\$46,000
AFTER 2 YEARS	\$50,000
AFTER 3 YEARS	\$54,000
AFTER 4 YEARS	\$58,000
AFTER 5 YEARS	\$62,000
AFTER 6 YEARS	\$66,000
AFTER 7 YEARS	\$71,643