

OPINION AND AWARD

OF

DAVID S. PAULL

**In the Matter of the Interest Arbitration Between**

**Law Enforcement Labor Services, Inc., Local No. 185**

AND

**City of Eagan, Minnesota**

**(Sergeants Unit – 2006-07 Interest)**

BMS Case No. 07 - PN - 0021  
Date Issued: August 28, 2007

## **Appearances**

### On behalf of Law Enforcement Labor Services, Inc., Local No. 185

Dennis Kiesow  
Mike Finelan  
Steve Grimm

Business Agent  
Eagan PD – Sergeant  
Eagan PD – Sergeant

### On behalf of the City of Eagan

Margaret A. Skelton  
Lori Peterson  
Brian Klemm

Attorney - City of Eagan  
Human Resources Manager – City of Eagan  
Human Resources Intern – City of Eagan

## **Statement of Jurisdiction**

Law Enforcement Labor Services, Inc., Local No. 185 (Union) is the exclusive bargaining representative for the purpose of negotiating the terms and conditions of employment in a bargaining unit comprised of all sergeants employed by the City of Eagan Police Department (City or Employer).

The parties are signatory to a collective bargaining agreement effective for the period beginning January 1, 2004 and ending December 31, 2005 (CBA). There are approximately 10 employees classified as sergeants currently covered by the CBA.

Negotiations for a successor collective bargaining agreement were conducted, but the parties were unable to resolve all outstanding issues. On February 21, 2007, the Minnesota Bureau of Mediation Services (BMS) received a written request from the Union to submit the unresolved issues to conventional interest arbitration. On February 23, 2007, the BMS certified the following issues for conventional interest arbitration pursuant to *M.S. 179A.16, subd. 2* and *Minn. Rule 5510.2930*.

1. Call Back/Court Time – Article 11
2. Wages 2006 – Amount of General Increase for 2006 – Article 19
3. Wages 2007 – Amount of General Increase for 2007 – Article 19
4. Wage Education Incentive – Premium Pay for Advanced Degree – Article 19

5. Wage Longevity – Longevity Pay – Article 19
6. Holidays – Rate of Pay for Holidays – Article 13.3
7. Vacation – Vacation Accrual Rate – Article 17
8. Tuition Reimbursement – Article 18
9. Retiree Health Insurance – Retiree Health Insurance – Article 22

The arbitrator was selected from a panel provided by the BMS. A hearing was conducted on Wednesday, July 10, 2007, at the Eagan City Hall. The parties were provided with an opportunity to present evidence in support of their respective positions. The parties also agreed to submit post-hearing briefs postmarked Friday, August 3, 2007. The briefs were postmarked in a timely manner and the last brief was received on Tuesday, August 7, 2007.

At the hearing, the City offered as evidence a series of five exhibits entitled (1) Comparison of Eagan to Stanton Group V Cities, (2) Comparison of 2005 Sergeant Pay Range in Benchmark Cities, (3) Amended 2006 Sergeant Wages in Benchmark Cities (4) Comparison of 2006 Sergeant Pay Range in Benchmark Cities and (5) Amount Paid by Cit of Eagan for Tuition Reimbursement (1/1/05-7/17/07). The Union had no previous opportunity to review these exhibits. As a condition to admissibility, the City agreed to attach copies of these exhibits to its final brief after forwarding copies to the Union on or before July 19, 2007. With the receipt of these additional exhibits, the record was closed after the briefs were received.

## **Preliminary Matters**

### *Employment Environment*

The record indicates that the City is located approximately 15 miles southeast of downtown Minneapolis and encompasses a total of 32 square miles. The population is approximately 67, 500 residents.

In addition to the unit of 10 sergeants, the Eagan police department consists of approximately 60 sworn officers including the chief of police, a deputy chief, lieutenants and a separate bargaining unit of approximately 50 patrol officers. The City also bargains collectively with several other union groups, including a unit of clerical personnel consisting of approximately 30 employees, a unit of public works employees consisting of approximately 30-35 employees and a unit of dispatchers. The City employs approximately 102 persons in non-union positions.

### *General Standards*

Generally, awards in interest arbitration disputes depend on the analysis of several factors, including internal wage comparisons, the employer's ability to pay, external market wage comparisons and cost of living. Where applicable, it is proper to consider the amount of turnover in the bargaining unit or the degree to which employees have been retained. The law further provides that any award consider the provisions of the Local Government Pay Equity Act, *Minn. Stat. Sec. 471.991 et. seq.* (Pay Equity Act).

However, as pointed out in the Union's brief, an interest arbitration award may not be based solely on pay equity considerations.

The parties submit differing theories of what approach should be taken by arbitrators in an effort to resolve interest issues. The City maintains that it is the arbitrator's duty to determine what the parties would have negotiated if an agreement had been reached. The City further maintains that an arbitrator ought to avoid awards that "significantly alter a bargaining unit's relative standing, whether internal or external, unless there are compelling reasons to do so." The City cites precedent in support of its position.

The Union asserts that such an approach is a practical impossibility, in that "No arbitrator can determine what the parties would have negotiated when they themselves cannot reach a settlement." Rather, the Union suggests an award that uses the "information and argument supplied by the parties during the process." Citing authority, the Union suggests that the award must reflect a result "the parties themselves would have negotiated to end a strike."

Both theories are reasonable interpretations of the pertinent law and appear to draw their respective essences from the applicable principles and the precedent setting cases. The undersigned certainly agrees with the Union that an award purporting to represent what the parties would have agreed to if negotiations were successfully concluded is a difficult task. However, the same criticism could be applied to an approach that attempts to fashion an award that might have ended a strike.

In fashioning this award, the positions of both parties will be carefully considered. It will be of great assistance to try and determine how the parties may have settled this

case, regardless of whether a strike had been called. However, regardless of what standard applies, the record will be given primacy and the evidence will be the controlling factor. With the evidence as the prime focus, undue speculation as to how these issues might have resolved in a traditional negotiation setting will be generally avoided.

The City's brief addresses the certified issues "in the order of importance to the City of Eagan." In the context in which the various proposals have been presented, this opinion and award will address the issues in the order suggested by the City.

## **Issues 2 and 3**

### **Wage Rates – General Increases 2006 and 2007**

#### **Article 19**

##### Union Proposal

The Union proposes a general increase of 4.0%, effective January 1, 2006, and a 4.0% general increase effective January 1, 2007.

##### City Proposal

The City proposes a general increase of 3.0%, effective January 1, 2006. Two options are proposed for 2007. The first option proposed by the City is a 3.0% general increase effective January 1, 2007. The second option is a 3.0% general increase effective January 1, 2007, and a second increase of 1.0% effective July 1, 2007, offered on condition that the Union accepts the City's tuition reimbursement proposal.

##### Award

Effective January 1, 2006, a general wage increase of 3.0% is awarded. Effective January 1, 2007, a general wage increase of 3.75% is awarded. The Union will not be required to accept the City's tuition reimbursement proposal as a condition for the 2007 wage increase.

## *Analysis*

### Ability to Pay

The City does not contend that it lacks the ability to pay the general increases sought by the Union. Nor does it contest the Union's estimate of the cost of its proposals. The record indicates that for 2006, the Union's proposal would cost approximately \$6736 more than the City's offer. For 2007, the Union's proposal would cost approximately \$13944 for Option I and \$10,371 for Option 2. In 2005, the top pay for the bargaining unit was \$6089.20 per month or \$35.13 per hour.

The record further shows that the City had an unreserved general fund balance of \$9.7 million in 2005. In 2006, this amount increased to \$10.3 million.

### Comparing Internal Settlements

#### Positions of the Parties

In support of its position, the City argues "great deference" must be given to the internal data, "as they indicate the terms and conditions an employer would have been willing to negotiate." Precedent is cited to support this position, as well as the position the internal comparisons are the "single most important" factor in determining wage increases in interest cases.

For year 2006, the City argues that the internal comparisons are determinative. The City also points out that for 2004, only the non-union employees received an increase of less than 3% and between 2004 and 2006, no employees received an increase greater than 3%.

For 2007, the City refers to its proposal to condition the additional 1% as an “unconventional alternative” that gives the “greatest deference to the internal comparison to the police unit.” The City notes that the tuition reimbursement benefit is used only by the police unit, the non-union group and the sergeants. The City further argues that, although the sergeants are not the largest consumer of the benefit, it still utilized the option to a “significant” extent. Essentially, the City maintains that it needs to buy a “cap” on this benefit. According to the City, “caps” have already been purchased in the police unit and that the police officers “gave up a significant benefit in order to receive a wage increase greater than the 3% received in 2004, 2005 and 2006. The City asserts that the same cap must be applied to the sergeant unit or the police unit will “rightly” feel “betrayed that they had given up a significant benefit without compensation . . . The Union cannot be allowed to use interest arbitration to obtain what they never could have received through bargaining.”

For 2006, the Union challenges the City’s evidence of internal comparisons by focusing on the police officer bargaining unit. The Union notes that the police officers obtained increases in longevity pay in years 2004 and 2005. The sergeant’s unit had no similar increase in longevity, argues the Union, and it maintains that the 4.0% increase is “required to return the margin” to an equitable level with the police officers.

For 2007, the Union contends that, “in reality,” the City’s Option 2 offer amounts to a “3.5% cost for the year.” The Union maintains that the City gave a 3.5% wage increase to the “non-union and other represented employees consistent with this cost” and the sergeants should not be “required to give up a major reduction in the tuition reimbursement benefit to receive virtually the same wage increase as other employees.”

The Union concludes by noting that the City has acknowledged there are no pay equity compliance problems. “The City does not have an internal settlement pattern,” the Union asserts, and the requested increases do “not jeopardize pay equity or disrupt an internal settlement pattern.”

#### Wage History

For year 2006, the City negotiated a 3.0% wage increase with all four of its collectively bargaining units, including the police officers, the dispatchers, the public works unit and the clerical personal. Non-Union employees also received a 3% increase for that year. In 2005 and 2004, the wages for all of these groups were similarly raised by 3.0%, with the exception of the non-union group. In this category, the wage increase was 2.50% for year 2004

For year 2007, the settlements have not been as consistent. The wages of the police officer unit, as well as the non-union employees, have been generally increased by 3.5%. The dispatcher’s wage rate has been increased by 3.0%. The clerical wage has increased by 3.67% and the public works settlement was still not settled as of the date of the hearing.

Some wage history is provided by the parties in these categories. For years 2002 and 2003, the wages rates of these various groups were increased as follows:

	<u>2002</u>	<u>2003</u>
Sergeant	4.50%	4.00%
Public Works	3.48%	3.50%
Clerical	2.70%	3.50%
Police Officers	4.50%	4.02%
Dispatcher	3.50%	3.50%
Non-Union	3.50%	3.50%

#### External Comparisons

##### Positions of the Parties

The parties first differ on an appropriate list of comparable jurisdictions. The Union generally contends that the applicable Stanton V Group provides the most comparable jurisdictions for external purposes. The list includes Eden Prairie, Brooklyn Center, Bloomington, Minnetonka, Edina, Burnsville, Apple Valley, Blaine, Richfield, Coon Rapids, Woodbury, Maplewood, Plymouth, St. Louis Park, Lakeville, Fridley, Maple Grove, Inver Grove Heights, Roseville, Shakopee, Brooklyn Park, Oak Park and Cottage Grove.

The Union also bases its proposals on what it describes as “three neighboring cities,” namely Burnsville, Lakeville and Apple Valley. The parties also refer to this short list as the Union’s “south of the river” list.

The City contends that a list of nine jurisdictions, referred to as “Benchmark cities,” is a more proper comparison group than the Stanton V cities used by the Union. These cities include Bloomington, Brooklyn Park, Burnsville, Coon Rapids, Eden Prairie, Lakeville, Maple Grove, Minnetonka and Plymouth. The list was developed in connection with a 2002 salary compensation study for the City’s non-union employees. The study was sponsored and paid for by the City.

In terms of population, all of the Benchmark cities are within 20,000 of the population listed for Eagan. The Stanton Group V, by contrast, simply lists all cities above 25,000 in population. To demonstrate that each Benchmark city compares favorably to Eagan in terms of growth status, the list reflects that the City’s tax portion of the average homestead of each Benchmark city is within \$400 of the \$707 attributed to Eagan. The lowest square miles reported for the Benchmark group is 23 (Coon Rapids) and the highest is 36 (Lakeville). All the Benchmark cities have at least 7 sergeants. Bloomington has 16. All of the Benchmark cities are listed as comparable to Eagan on the Stanton Group V list.

In support of the use of its alternative comparison group, the City advises that the list was created by an independent consulting group. The record indicates that the consulting group was hired by the City to assist in the development of an over-all pay plan. The list has been used by the City for eight years. The City maintains that the Benchmark list is superior to the Stanton V in terms of such comparability factors as

population, size and “stage of growth.” The City asserts that it has used the Benchmark group consistently for eight years, whereas the Union has “provided two different comparison groups” in its presentation.

Using the Benchmark cities as a guide, the City applies a method it terms “the Q3 (75<sup>th</sup> percentile)” system for comparison purposes. Pursuant to this procedure, “about twenty-five percent of the Benchmark jurisdictions pay, on average, above the City of Eagan and about seventy-five percent of the Benchmark jurisdiction pay, on average below the City of Eagan.” The City recognizes that its Q3 method “is more difficult to use as an external comparison method for sergeants . . . because Eagan only has one pay step with its sergeant barraging unit.”

The City further explains that it seeks to achieve two goals in connection with the Benchmark list. First, the City “tries to have the highest minimum pay rate or starting pay rate, for its sergeants. . . Every other Benchmark City has a lower minimum pay rate.” Second, “For the maximum pay rate . . . Eagan, on average, tries to pay at the 50th percentile of the maximum rate of pay, as compared to the Benchmark cities . . . Eagan wants to be in the middle of the Benchmark cities for the maximum rate of pay.”

The Union contends that the Benchmark list should not be used because (1) the City has used the Stanton V Group listing in the past, (2) the Benchmark list is the result of a “unilateral” selection effort, subject to “manipulation, and (3) the wage study using the Benchmark list is based on a different type of wage schedule than that specified in the CBA.

In support of its 2006 proposal, the Union contends that in 2005, the sergeants ranked 7<sup>th</sup> on the Stanton V while police officers ranked 5<sup>th</sup>. The Union contends that the

City's officer for 2006 would "drop" the unit to 8<sup>th</sup> place, whereas the Union's proposal would move them to 6<sup>th</sup>. The Union further contends that the 4.0% increase is has proposed would place the bargain unit "at the 75<sup>th</sup> percentile recommend by the City's pay study."

The Union contends that, in 2005, the sergeants received a wage increase of 3.0%, .19% below the Stanton V average. The City's proposals for 2006 and 2007 also fall below these averages, 3.17% for 2006 and 3.26 for 2007. The Union suggests that the City's second alternative proposal for 2007 produces a similar result.

The Union also refers to the previously mentioned special list of "neighboring" cities which include Apple Valley, Burnsville and Lakeville. The Union suggests that these cities provide a "substantially greater financial package than the Eagan Sergeants" and further "provide a greater differential between Sergeant at and patrol officers wages."

The City contends that the 3% proposal for 2007 is above the percentage increase negotiated by other Benchmark cities and is consistent with the Benchmark list and consistent with the "south of the river" cities when the 1% conditional increase is also considered. The City contends that its proposal "maintains the external pattern with the Benchmark cities . . . Although many of the 2007 contracts have not settled, it also appears that Eagan would remain at the 50<sup>th</sup> percentile within the Benchmark Cities." The City asserts that the Union bases its argument that the City's proposal is "below average" on only two cities, Burnsville and Lakeville and does not acknowledge that Eagan pays more at the beginning of the tenure. "Eagan should not be required to further

increase its already high starting pay just because it has chosen to pay its police officers more than other South of the River cities,” the City asserts.

The Union further argues that its proposal is justified by increases in the cost of living. The Union takes the position that, while the bargaining unit only received a 3.0% increase of 2005, the Midwest Region CIP was increased by 3.4%. The Union notes that the CIP increase for 2006 was 2.4% and that in 2007, the prices of fuel and food have increased substantially.

On the Subject of Pay Equity, the Union notes that the City continues to remain in compliance and that its proposal would not modify this status.

#### Comparable Jurisdictions

As to the list of external comparable cities, the best result will be obtained on this record through the exclusive use of the Stanton V Group. The City has certainly produced evidence that its Benchmark list is a result of pertinent research and significant analysis. However, the goals or targets the City uses to arrive at what it believes are an appropriate and equitable wage rate suggests reduced comparability. There is no evidence to show whether the other cities included on the Benchmark list have the same or similar wage goals. It would have been helpful to review additional evidence indicating how the City arrived at its goal of paying in the 100<sup>th</sup> percentile for the starting sergeant wage and in the 50<sup>th</sup> percentile for the maximum sergeant wage.

In addition, the list was made by a consulting group that, while independent, was, at the end of the day, paid by the City. This distinguishes the Benchmark list from the Stanton listing and reduces its value as an item of probative evidence.

#### 2006 Wage Increase

The City's evaluation of the rules as applied to interest arbitration disputes is essentially correct. Internal market comparisons are, in the opinion of the undersigned, the most important factor in determining wage rates. The City has certainly submitted ample evidence to show that the emerging pattern of internal across-the-board wage increases for 2006 is 3%. This pattern supports the award for 2006.

The City's proposal is slightly below the 3.17% average increase negotiated by the Stanton V Group cities in 2006. The wage ranking of the bargaining unit does appear to drop from 7<sup>th</sup> place over all to 8<sup>th</sup> place. However, these statistical results are insufficient to override the consistent internal pattern for 2006.

#### 2007 Wage Increase

An examination of the internal wage pattern for 2007 does not produce consistent results. Although the Public Works unit has not yet settled, the police officer unit received an increase of 3.5%, as did the non-union employees. The clerical unit received an increase of 3.67%.

There is insufficient evidence to support the City's contention that the police officer cap on tuition reimbursement was tied directly to the police officer wage increase, as negotiated by those parties in 2004, 2005 and 2006. There are several differences in

the two contracts to which the cap might be attributed other than the tuition cap, such as the higher allowance for court/call back time in the police contract or the increases received in police officer longevity pay in 2005.

The award is further supported by the external data. With all but 7 jurisdictions reporting settled, the average increase for 2007 is 3.26%. The increase as awarded further preserves the ranking of the bargaining unit among the jurisdictions reporting.

The percentage is also supported by increase in the cost of living.

The City's proposal to cap the tuition reimbursement is discussed as a separate issue. As established in the next section, the evidence indicates that the police officers, and not the sergeants, were the largest consumers of the tuition reimbursement benefit. The record appears to justify the award, without considering the proposed cap.

## **Issue 8**

### **Tuition Reimbursement**

#### **Article 18**

##### City's Proposal

For 2007, the City proposes to retain the current tuition reimbursement provision, so long as the general increase in wages is limited to 3%. In the alternative, the City proposes a general wage increase of 3.0% with another 1% increase at mid-year, specifically conditioned on the award of a lifetime cap of \$7,500, applying to new sergeants only.

### Union's Position

The Union proposes that the current contract provision be maintained and that Article 18 remain unchanged for the term of the contract.

### Award

The proposed modification to Article 18 is not awarded and Article 18 will remain unchanged.

### *Analysis*

The City does not contend it is unable to pay the wage increase, assuming the cap is not awarded. The internal data does not appear to be very consistent with the City's proposal. The police unit has agreed to a \$7,500 lifetime cap, as the City now proposes for the sergeant unit. The non-union employees are limited to a lifetime cap of \$5,000. However, the clerical unit negotiated a 3.67% general increase for 2007, while maintaining their current unlimited tuition reimbursement. The dispatcher unit has also maintained their tuition reimbursement in an uncapped form.

There is no evidence that the bargaining unit has abused or over-used the benefit. Based on the figures as supplied by the City, the police officers appear to be the major consumer of this benefit. In 2006, the City paid out only \$4,200 for tuition reimbursement to sergeants. In 2007, the budgeted cost for sergeants was only \$6,679.

The police officer unit, by contrast, has used the benefit in significantly higher amounts. In 2006, a cost of \$12,286 was incurred by the City for police officer

reimbursement, constituting 63% of the total amount spent in the category. In 2007, 74% of the tuition reimbursement expenses were budgeted for police officers.

The exhibit submitted by the City with its brief also provides a snapshot of the extent to which the tuition reimbursement benefit has been used, based on actual expenditures, for the period beginning January 1, 2005, and ending July 17, 2007. This information indicates that the sergeants unit utilized only 29% of the total of \$145,129 expended during the period for tuition reimbursement for all groups.

## **Issue 6**

### **Rate of Pay for Holidays**

#### **Article 13.3**

##### Union Proposal

The Union proposes that the bargaining unit be paid at a double time rate for work on New Year s Day, 4<sup>th</sup> of July, Thanksgiving and Christmas.

##### City Position

The City proposes that the current contract provision be maintained and that Article 13.3 remain unchanged for the term of the contract.

##### Award

The proposed modification to Article 13.3 is not awarded and Article 13.3 will remain unchanged.

*Analysis*

The Union contends that internal evidence indicates that the City currently pays two City bargaining units, the clerical employees and the public works employees, up to 3 times their base pay for working on a major holiday. The City disputes this contention, pointing out that this rate is applicable only to overtime worked on holidays and that the Union seeks its proposal to apply to regularly scheduled shifts.

The City contends that the compensation of sergeants assigned to work holiday shifts is already addressed in the agreement. Sergeants who are required to work on holidays are paid at the standard rate. However, the City points out, Article 16.2 provides for a payment to all sergeants for 125 hours at the regular rate of pay. Thus, a sergeant who is actually working on a holiday is already paid double-time. The Union disputes this contention, asserting that the additional amounts are intended to compensate the sergeants because they are scheduled to work more hours than some other City employees.

From a market standpoint, the Union points out that 4 of the Stanton V cities provide a double time benefit. The City counters by pointing out that the market comparisons generally provide for time and one-half or double time for holidays actually worked.

The benefit is listed in Article 16, relating strictly to holidays. The holiday pay provision appears to be unique to Eagan, making both internal and external comparisons difficult. Neither the internal nor the external data is sufficient to support this proposal.

## **Issue 7**

### **Vacation Accrual Rate**

#### **Article 17**

##### Union Proposal

The Union proposes that the vacation accrual rates be increased by 8 hours at the 16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> years, to 23 days annually after 18 years.

##### City Position

The City proposes that the current contract provision be maintained and that Article 17 remain unchanged for the term of the contract.

##### Award

The proposed modification to Article 17 is not awarded and Article 17 will remain unchanged.

### *Analysis*

Currently, the maximum vacation accrual for the bargaining unit does not increase after 15 years and accrues to a total of 20 days. The Union proposes to add a single day of vacation accrual for years 16, 17 and 18, to a total of 23 days.

In support of this proposal, the Union contends that the 20 day accrual rate has not kept pace with the market. According to the exhibit offered by the Union, the average accrual rate for police sergeants among the Stanton V cities is 22.4 days per year. The Union's exhibit also shows that the average vacation accrual for the 18 year of service is just slightly over 20 days.

The City responds by noting a "very strong internal pattern for vacation accrual." This internal pattern encompasses every other union and non-union person employed by the City. All of these units accrue vacation at the same rate. This definite internal pattern is quite persuasive when considering a benefit that is provided for all internal groups.

The Union takes the position that this consistent internal pattern should be disregarded, because of the "unique duties and conditions worked only by Police Officers."

The unique efforts made by police officers and police sergeants in the service of their communities cannot be denied. Nor should they be disregarded. However, there does not appear to be any internal support for the proposal. Similarly, the market comparisons are insufficient to justify the proposal. The 22.4 day average results from those contract provisions that continue to accrue vacation time even beyond the 18 years proposed.

## **Issue 5**

### **Wage Longevity – Longevity Pay**

#### **Article 19**

##### Union Proposal

The Union proposes to provide an option to permit the sergeants unit to waive the educational incentive and replace it with increased longevity pay at the following rates – 1% increase after the first year, 2% increase after the third year, 3% increase after the 5<sup>th</sup> year of 4% increase after the 7<sup>th</sup> year.

##### City's Position

The City proposes that the current contract provision be maintained and that part of Article 19 relating to longevity pay remain unchanged for the term of the contract.

##### Award

The proposed modification to Article 19 relating to longevity pay option is not awarded and that part of Article 19 will remain unchanged.

##### *Analysis*

In internal support of its proposal, the Union contends that the longevity provided to the police officers “far exceeds the 4.0% requested by the Union for either the education incentive or longevity after 7 years as a sergeant.” The City counters by noting that the police officers have negotiated longevity pay into their contract, but do not receive both longevity pay and educational incentive pay, as do the police sergeants.

The internal evidence is ambiguous. From a market standpoint, it does not appear on this record, that any comparable jurisdiction has agreed to the option proposed by the Union.

#### **Issue 4**

### **Wage Education Incentive**

#### **Article 19**

##### Union Proposal

The Union proposes to add a new incentive for the attainment of a job-related Masters degree in the amount of 4% of base pay.

##### City's Position

The City proposes that the current contract provision be maintained and that part of Article 19 relating to the educational incentive pay remain unchanged for the term of the contract.

##### Award

The proposed modification to Article 19 relating to educational incentive pay is not awarded and that part of Article 19 will remain unchanged.

### *Analysis*

The Union relies on the contentions and data made in support of the proposal for a longevity pay increase. Additionally, the Union points out that 12 out of the 24 Stanton V cities provide “educational incentives, merit incentives or longevity. The Union points that that Apple Valley has a program similar to that requested providing up to 6.5% of the base wage. The Union further refers to the following programs: Burnsville – 4%, Coon Rapids – 9%, Woodbury 9%.

However, the City correctly points out that the longevity payment plans provided by other jurisdictions are problematic in terms of comparability. The City argues that a wage education incentive is a separate benefit from longevity pay and must be separately supported. Although, in many cases, education enhances longevity, the external evidence is not necessarily the same. The City correctly asserts that the “longevity payment given in other jurisdictions for years of service is an entirely different benefit” than the proposed additional pay for attaining a Master’s Degree.

The City also notes that although Burnsville currently provides an education incentive for the Master’s Degree, that jurisdiction limits tuition reimbursement. Under the present contract, the City already reimburses for the entire cost of the degree.

**Issue 1**  
**Court/Call Back Time**  
**Article 11**

Union Proposal

The Union proposes an increase of one hour from the present 2 hours of court/call back time provided for in the current CBA.

City Position

The City proposes that the current contract provision be maintained and that Article XI remain unchanged for the term of the contract.

Award

Effective January 1, 2007, Article XI will be modified to provide for 3 hours of court/call back time.

*Analysis*

The Union bases its Court/Call Back Time proposal both on internal and external factors. Internally, the Union refers to the Eagan police officer contract. This agreement has provided for 3 hours in call back and court time since 2004. Externally, the Union points out that the contracts for 18 of the 23 Stanton V cities provide for at least 2.5 hours. Four jurisdictions provide for 3 hours or more.

The City argues that the Union is incorrect in listing Coon Rapids as a jurisdiction that provides 3 hours for this benefit. Rather, the City contends that the Coon Rapids contract provides for only a 2 hour benefit. The City also distinguishes the cities of Eden Prairie and Burnsville. Eden Prairie, the City contends, does not include call back time in its benefit. Burnsville limits call back to public safety emergencies only.

On the merits, the City notes that, based on its Benchmark group, only one of these cities pay at the rate of 3 hours for call back and court time. The City also maintains that it calculates call back and court time based on a rate of pay that includes the educational incentive, a factor that is not present for five of the Benchmark cities.

The Union's internal position is persuasive on this record. The Union seeks the same benefit that the police officer's contract has included since 2004. As previously discussed in this award, internal consistency among the various employed groups is of prime importance in any interest analysis. Considerable weight is generally given to internal comparables, except when the record clearly suggests the absence of a settlement pattern. In this context, the fact that the sergeants receive a minimum of 3 hours pay for call backs and court time provides a sufficient basis to award the Union's proposal.

It is noted that this particular benefit is specific to those employed in the police department categories.

## **Issue 9**

### **Retiree Health Insurance**

## Article 22

### City Proposal

The City proposes to provide the bargaining unit the option to waive retirement health insurance and to receive a differential of \$.80 per hour in exchange.

### Union Position

The Union proposes that the current contract provision be maintained and that Article 22.5 remain unchanged for the term of the contract.

### Award

The proposed modification to Article 22.5 is not awarded and that part of Article 22.5 will remain unchanged.

### *Analysis*

In support of its position, the City notes that the 80 cent differential was calculated by an actuary and that the option has already become part of the police officer contract. The City refers to the 2005 CBA, wherein the Union “agreed to reach an agreement on retire health insurance.” The City takes the position that by opposing this new provision, the Union has violated its prior agreement. The City also points out that the bargaining unit “do not lose anything by adding this language to the contract.”

The Union counters that there no compelling need exists, as none of the bargaining unit members are considering this option. The Union also opposes the proposal on the grounds that the City “will not commit that this benefit will continue if a

Sergeant is promoted” and that, assuming a promotion, a promoted employee could lose the benefit.

There does not appear to be sufficient evidentiary support to consider this proposal.

## **Summary of Award**

### Issue 1: Court/Call Back Time – Article 11

Effective January 1, 2007, Article XI will be modified to provide for 3 hours of court/call back time.

### Issues 2 and 3: Wages 2006 and 2007– Article 19

Effective January 1, 2006, the bargaining unit shall be awarded a general wage increase of 3.0%. Effective January 1, 2007, the bargaining unit shall be awarded a general wage increase of 3.75%.

### Issue 4: Waged Education Incentive – Article 19

The proposed modification to Article 19 relating to educational incentive pay is not awarded.

Issue 5: Longevity Pay – Article 19

The proposed modification to Article 19 relating to the longevity pay option is not awarded.

Issue 6: Rate of Pay for Holidays – Article 13.3

The proposed modification to Article 13.3 is not awarded.

Issue 7: Vacation Accrual Rate – Article 17

The proposed modification to Article 17 is not awarded.

Issue 8: Tuition Reimbursement – Article 18

The proposed modification to Article 18 is not awarded.

Issue 9: Retiree Health Insurance – Article 22

The propose modification to Article 22.5 is not awarded.

August 28, 2007  
St. Paul, Minnesota

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David S. Paull, Arbitrator