IN THE MATTER OF THE INTEREST ARBITRATION	)	
	)	
between	)	
	)	**OPINION AND**
Jefferson County Law Enforcement Association,	)	**AWARD**
Association	)	
and	)	
Jefferson County,	)	
Employer.	)	

Before Arbitrator: Nancy E. Brown

Date of Hearing: December 9, 2008

Location of the Hearing: Madras, Oregon

Representing the Association: David A. Snyder
Snyder & Hoag
P.O. Box 12737
Portland, Oregon 97212

Representing the Employer: Bruce Bischof
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This Interest Arbitration arises between the Jefferson County Law Enforcement Association, hereinafter referred to as the "Association", and Jefferson County Sheriff's Office hereinafter referred to as the "County" or the "Employer". Nancy E. Brown was selected to serve as Arbitrator, and her Award shall be final and binding upon the parties Mr. David A. Snyder represented the Association and Mr. Bruce Bischoff represented the County hereinafter referred to as the "Employer" or the "County".

The parties submitted their last and final offers on the following issues to the Arbitrator as provided in ORS 243.746(3). At the hearing held on December 9, 2008 in Madras, Oregon, the parties had the opportunity to examine and cross-examine witnesses, introduce relevant exhibits, and argue the issues in dispute. The parties elected to submit the matter on the basis of the evidence presented at the hearing as well as post-hearing briefs

I. RELEVANT STATUTORY CRITERIA

In arriving at her Decision and Award, the arbitrator weighed and considered the following criteria set forth in the Oregon Public Employees Collective Bargaining Act, ORS 243.746(4), and the Rules of the Oregon Employment Relations Board ("ERB"), OAR 115-40-015(8):

> ORS 243 746(4) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, unresolved mandatory subjects submitted to the arbitrator in the parties' last best offer packages shall be decided by the arbitrator. Arbitrators shall base their findings and opinions on these criteria giving first priority to paragraph (a) of this subsection and secondary priority to subsections (b) to (h) of this subsection as follows:
>
> (a) The interest and welfare of the public
>
> (b) The reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies, which does not include funds in contemplation of settlement of the labor dispute, shall not be considered as available toward a settlement.
>
> (c) The ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided
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> (d) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.
>
> (e) Comparisons of the overall compensation of other employees performing similar services with the same or other employees in comparable communities. As used in this subsection, "comparable" is limited to communities of the same or nearest population range within Oregon. Notwithstanding the provisions of the subsection, the following additional definitions of "comparable" apply in the situations described as follows:
>
> > (A) For any city with a population of more than 325,000, "comparable" includes comparison to out-of-state cities of the same or similar size;
> >
> > (B) For counties with a population of more than 400,000, "comparable" includes comparison to out-of-state counties of the same or similar size; and
> >
> > (C) For the State of Oregon, "comparable" includes comparison to other states

(f) The CPI-All Cities Index, commonly known as the cost of living.

(g) The stipulations of the parties

(h) Such other factors, consistent with subsections (a) to (g) of this section as are traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of employment. However, the arbitrator shall not use such other factors, if in the judgment of the arbitrator, the factors in subsection (a) to (g) of this section provide sufficient evidence for an award.

II. LAST BEST OFFERS

The Jefferson County Law Enforcement Association submitted, in summary, the following last best offer:

1. Article V - Holidays
   Increase the number of total floating holidays from 10 to 11 days
2. Article VI - Vacations
   Increase vacation accrual in years 1-5 from 80 hours/year to 96 hours/year
3. Article X - Compensation
   Add a 5% Field Training Officer premium
4. Salary Structure - 7/1/08
   A. 7 step schedule
   B. 10% salary increase for corrections techs
   C. Minimum 4% salary adjustment for all other classification
5. Salary Structure - 7/1/09
   1% across the board increase plus a cost of living adjustment
   (100% CPI-W March –March minimum 3% -maximum 7%)
6. Article XXIII - Termination and Reopening
   2 year contract

Jefferson County submitted, in summary, the following last best offer:

1. Salary Structure - 7/1/08
   Current salary structure with modified 12 steps no Non Cert pay and No six month step
   10% salary increase for corrections techs
   Minimum 3% salary adjustment for all other classifications
2. Salary Structure - 7/1/09
   3% salary increase for all classifications
3. Salary Structure - 7/1/10
   3% salary increase for all classifications

4. Article XXIII - Termination and Reopening
   3 year contract
5. Holiday, Vacation, and Field Training Officer at current contract

III. BACKGROUND

Jefferson County is located in Central Oregon with the Sheriff's office located in Madras, Oregon, the County seat. Jefferson County has a population of 22,030. This is a mixed bargaining unit of 43 members which includes deputy sheriffs, corrections officers, and dispatchers. In addition there are correction techs who are basically control operators in the jail, some cooks, and office employees. Negotiation began over a year ago. Mediation was held but no agreement was reached. The Association filed for interest arbitration and a hearing was scheduled for July 30, 2008. This hearing was postponed by the parties in order to attempt to settle. This attempt did not result in a settlement and a hearing date was set for December 9, 2008. Briefs were filed on January 24, 2009. On January 26, 2009, the Association faxed to the arbitrator and the County a Motion to Strike sections from the Employer's brief based, in summary that these sections included evidence that was not presented at the hearing. A conference call with Mr. Snyder, Mr. Bischof and myself occurred on January 31, 2009 where the parties had the opportunity to present their arguments regarding this issue. On February 2nd, I sustained the Association's Motion and the Employer immediately redacted those portions as ordered. On February 4, 2009 the hearing was closed.

IV. EMPLOYER'S ARGUMENTS

The County argues that the issue before the arbitrator is one of staffing. The Association Last Best Offer (hereinafter referred to as LBO) would result in layoffs of three to four deputy patrol officers over the next two to four years. Even their own LBO will result in at least one patrol officer being laid off. Currently the patrol officers work twenty four/seven; a reduction in staffing would negatively impact the County's ability to provide that coverage. The public supports the other functions of the Sheriff's office for example the jail levy, because the patrol officers are available to respond when needed. The patrol officers perform not only their essential function but are also the "face" of the Sheriff's Office. More holiday and vacation time exacerbates the challenge of the providing full coverage when short handed. Simply speaking, the Association is seeking more wages, more vacations, more holidays, and Field Training Premium at a time when the Department is already short staffed and under-funded. The arbitrator must give first priority to the interest and welfare of the public. In other words which LBO is in the interest and welfare of the public;the County's LBO clearly meets that test. The arbitrator therefore should not continue on and apply the secondary criteria.

If the arbitrator applies the secondary criteria, the County's LBO substantially meets that criteria as well. The County witnesses credibly testified as to the adverse economic impact of the Association's proposal beginning in 2009-2010 and beyond. The Association offered no expert witnesses or any witnesses to counter the County's testimony. The County proposes eliminating the Non Certification Step resulting in a more competitive entry level salary. This will address the recruiting issues in a much more favorable manner than the Association's proposed salary schedule which retains that first step. Jefferson County will never be in a position to pay wages similar to Deschutes County, the City of Bend, or the City of Redmond. However the comparability data places Jefferson County in a very competitive position with counties of its same size. Because negotiations create morale problems and require administrative time and expense, the three year agreement proposed by the County is in the public interest. Under the Association proposal the parties would be back negotiating in November of this year.

The County submits that there is not a single statutory criteria given the above facts and the current economic condition that would favor the Association proposal.

V. ASSOCIATION'S ARGUMENTS

The Association maintains that the core of the parties' dispute and the reason for this interest arbitration is the County's refusal to agree to replace the current 12 step salary schedule under which employees do not reach top step for ten and one-half years. Under the Association's LBO an employee would reach top step in seven years. The Association's LBO provides, in addition, reasonable wage increases that prevent the Association members from falling even further behind wages and benefits paid by comparable Oregon Counties. The modest wage increase and seven step salary schedule will bring the Association members into line with the prevailing wage practices among comparable employers and increase the ability of the County to attract highly qualified employees and once hired and trained retain them.

Contrary to the County's contention that the choice is between spending more and spending less, the choice is between spending to attract qualified recruits and retain them or spending to train a never ending parade of short term employees who quickly move on to better employment opportunities. There is no question that the costs of recruitment and training are significant. In addition to cost associated with the required basic certification, a new hire requires on-the-job training as well. That means that two employees fill one position. The Association's exhibits and testimony are clear that the retention and recruitment problems have increased over the last five years. There was a 50% turnover in just the last two years. While not a panacea or a bar across the revolving door, the Association's LBO cannot reasonably be disputed that it is more likely to reduce turnover.

The Association argues that the County bears the burden of proof regarding an ability to pay. The County's budget based contentions – their cost analysis of the Association's LBO-- are flawed and drastically overstate the cost of the Association's wage proposal. This erroneous evidence should not be considered by the arbitrator. If it should be considered, the arbitrator must bear in mind that ability to pay is relative ability to pay as it is a secondary criteria. The County's budget cannot be employed to nullify the remaining statutory criteria.

The Association's LBO includes an increase in holidays; other County employees enjoy 2 holidays. The increase in vacation time will serve as an additional incentive to the retention if not the recruitment of employees. Both requests are comparable to what is offered to other comparable counties. These additional benefits should be of minimal or no cost to the County. Scheduling can be done to minimize overtime costs. The Association has proposed a Field Training Officer (FTO) pay. This is warranted considering the responsibility and extra work assumed by the training officer when training a new hire. The training time for deputies is especially lengthy and the FTO premium proposed is comparable to that paid to other deputy training officers.

The Association proposes a two year agreement. This is especially appropriate given the current local and state economy. The effects of the state and Federal efforts revive the economy will be more easily assessed as will the impact of current economic difficulties. Both parties will be in a good position to evaluate the impact of the seven step schedule, the impact of the cost of living and other changes in benefits. They can also evaluate the employee turnover.

The Association LBO whether considered as whole or analyzed issue by issue finds better support in the statutory criteria than the County's LBO. Clearly the Association's Last Best Offer serves the interest and welfare of the public. Therefore it should be adopted.

VI. DISCUSSION

The County urges that I give priority to the interest and welfare of the public and argue that their LBO meets that test. Therefore there is no need to apply the remaining secondary criteria. I was not persuaded by that argument. Over the years interest arbitrators, myself included, have found that the words "interest and welfare of the public" has meaning with regard to the secondary criteria. While not a consensus, this definition by reference to the secondary criteria is the prevailing interpretation of the statue. (Association Pre-hearing Brief footnote one lists the multitude of interest arbitrations that have adopted that interpretation) To objectively analyze which last best offer best meets the public interest and welfare; I must utilize the secondary statutory criteria. I will do so below.

A secondary statutory criteria is the reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies which does not include funds in contemplation of settlement of the labor dispute shall not be considered as available toward a settlement. In other words, a contingency fund which do not include funds available toward a settlement are not to be considered

In the first year of the Agreement both parties propose salary schedule changes with the Association proposing a seven step schedule. I find that the Association's costing of the change to the first year, seven step schedule to be more reliable. There are flaws in the County's costing for the first year; the County erred in their placement of some of the bargaining unit members. (Testimony of Rohdel and Association Post-Hearing Brief) The County however argues that the Association did not include fixed costs or insurance paid by the Employer in its calculations. While there is differing opinions and practice as to whether the fixed costs should be include, I include them as part of the costs of the LBOs. As to the cost of insurance provided by the employer, in this instance insurance was not at issue I do not include them in my analysis of the costing.

It is clear from the County's own costing of both their and the Association LBO that the County's proposal is approximately $18,000 more costly for the first year. I have difficulty with the County's costing in the second and third years. The County has calculated the Association's proposal at 8 percent: A March to March CPI of 7% plus 1%. While that figure may be the worst case scenario, I do not find a CPI of 7% to be the basis for a realistic projection of second year costs. While the CPI was above 6% in July 2008, it was declining rapidly by December as was the economy The January CPI W does not show a significant increase. Nor did I find persuasive the County's costing of the third year of the LBO. This increased the second year costs by 10% for the contract year 2009-2010. This would assume another 7% increase in the CPI. The Association on the other hand proposed a two year agreement making a third year cost difference more speculative and therefore problematic.

The Sheriff testified that his office is required to provide a jail, a dispatch service, search and rescue and civil service. The jail is supported by a jail levy, community corrections moneys from the State, a contract with Crook County and $500,000 from the Counties general fund. The dispatch service is funded by the telephone tax, contract of our services to other entities, $90,000 from the general fund and $50,000 transferred over from the jail budget These functions are supported by dedicated funds and as such can be used only for jail and dispatch costs.

Regarding the dispatchers, the County put into evidence a newspaper article dated 2004. At that time there was a financial deficit for Fiscal year 2004-2005 of $85,000 While the article focused on the inability to answer calls when bathroom breaks were needed, the crux of the article was the impact of the deficit on the County's ability to have two dispatchers on duty at all times (County Exhibit 15) The County stated that this is true today.

I was not persuaded that there was an inability to pay the costs related to Dispatch. While the "bathroom break problem" may still exist, the Sheriff testified that when fully staffed during most of the peak times there are two dispatchers on duty. From July 2005 to June 2008 the turnover for dispatchers has been 8 employees. (County Exhibit 13) Currently they are short staffed by two dispatchers. (Testimony of Coosne) I was not persuaded that current short staffing was caused by lack of funds as was the case in 2004; an equally reasonable cause would be the turnover within that department. There was no evidence that now or in the immediate future, there was or would be a financial deficit as reported in 2004.

The Jail operates on dedicated funds as well. The largest revenue source is the jail levy. A second component is the contract with Crook County with the third component $500,000 coming from the general fund. The fourth component is from Community Corrections These were the major funding sources for the jail. The revenues from the jail levy are dedicated for the jail; there was no indication that this source of revenue would not be available. The general fund component has a historical basis – a promise to the community when they supported the first jail levy. This promise has been kept by policy through the County commission and budget committees. (Testimony of the Sheriff) There was no indication that this promise would not be kept in the near future. The Sheriff testified that the contract with Crook County for jail services would go from 35 beds to 30 but would still be in the neighborhood of six or seven hundred dollars. It was unclear as to whether that would result in any appreciable loss of income. The last large component was from the State for Community Corrections functions and there is the possibility that this fund will be reduced due to the State's budget deficit. Even if this possibility should become a reality, the revenue generated is $120,000; a small portion of the overall jail budget. There was no testimony that the loss of the jail's funding source would result in layoffs of Correction Officers or Correction techs. The Correction Officers represent the larger segment by far of the bargaining unit members. Their was no indication that dedicated funds for the fiscal year 2008-2009 would not be available for a settlement.

The Sheriff in his testimony explained that the Jail as well as Dispatch is supported by dedicated funds and revenue from these two departments cannot be used to fund Patrol Deputies. Their funding is general fund revenues. Therefore it is from Patrol that layoffs would have to come. The County maintains that if the Association's LBO is adopted the Sheriff would be forced to layoff two to three patrol deputies in addition to the one position that would be negatively impacted if their own LBO is adopted. In addition as a result of a 2003 arbitration decision the County is still short staffed by one position even today. The County maintains that if required to lay off three to four additional deputies there would no longer be 24/7 coverage. The response time would be longer. Less patrol coverage would negatively impact public safety. In addition and equally important is the fact that the Patrol Deputy is the "face of the Sheriff's Office". The Sheriff testified that it is the patrol deputies and their ability to quickly respond that builds and maintains public support for the Jail Levy.

The County argues that as a result of this arbitration award severe layoffs are a strong possibility. The Sheriff calculated the necessary layoffs as (1) one lost position as a result of the earlier arbitration award, (2) one lay off if the County's proposal is adopted and (3) two to three additional layoffs if the Association proposal is adopted. This would result in a potential staff reduction of four to five Patrol Deputies While I do find the Sheriff's testimony to be credible, it is necessary to consider his comments in context.

In regard to the current lack of one deputy position as a result of the earlier arbitration, the Sheriff acknowledged that this was a result of many factors coming together at the same time. The Sheriff's office had to relinquish several grants. The contract with the community of Crooked River Ranch was coming to an end. Yet the County and the Association negotiated after the arbitration award and the more costly seven step schedule was not adopted. While I find the fact that the department is one deputy short even now to be true; I was not persuaded that that this reduction in staff was solely the result of an overly generous arbitration award As to the fiscal years in question in this arbitration, the County offered no specific reductions in grants or contracts

The Sheriff was concerned that their proposal was developed months ago and since then there has been a decline in the local economy. His concern was that even their LBO would result in the layoff of one patrol deputy. The proposed salary schedule eliminated the non certified level increasing the entry level costs of a non certified new hire. However the Sheriff also testified that there was adequate funding for the first year of their proposal. Monies had been budgeted for the increased costs of the County's new salary schedule. (Testimony of the Sheriff) This salary schedule is not currently in place therefore from July 08 to February 09, these additional funds have so far not been expended. Any new hires would be within the remaining four months of this fiscal year. In addition by the County's own testimony and calculations the County's proposal was more costly for the first year than that of the Association and these funds are budgeted for 2008-2009.

Officer Diaz is the school resource officer and is paid nine months of the year by the Madras School District. The Sheriff spoke to the fact that this position will likely revert back to the Madras Police Department. There are two other Patrol Deputies that are funded by Portland General Electric and their function is restricted by that contract. They are not available for regular patrol duty. The fourth position not out of the general fund is a deputy stationed at Camp Sherman. The general fund pays only for incidental costs related to this position. There was no evidence on the record that these contracted positions represent the actual cost or are greater or less than actual cost. Therefore I can only conclude that these four positions would not be impacted by any increases in wages due to the adoption of either LOB

The Sheriff calculated that if the Association's LBO was adopted this would result in two to three additional layoffs over the next three to four year. I concur with the Association's argument that the County's calculations for the first year are flawed as well as the County's costing of the 2nd and 3rd years are overstated. This is significant as the Sheriff testified as follows. "Well, in looking at the impact and the costing numbers that was done by finance, even our offer is, in my opinion, going to cost some positions. I believe conservatively, if we look at three years, even I looked ahead by looking back how much our budget has grown so I can see what our growth is, the very best case scenario over three years probably would be one or two even under our proposal. And then there is, granting that I'm basing this on the financial numbers we've been discussing today, at $300,000 difference in about three more (positions)." The financial numbers he was relying on were overstated.

In its Post-Hearing Brief, the Association made individual calculations of patrol deputies wages for fiscal year 2008-09 and 2009-10 for both their and the County's proposals. The Association's calculations were based on the CPI-W minimum of 3% plus one; a more realistic projection of future CPI. The Association LBO total for patrol officer's salary for those two years was $574,104; the County's cost was $574, 236. Even adding the fixed costs the difference does not approach the $300,000 difference upon which the Sheriff based his projection that adoption of the Association's LBO would result in two to three additional layoffs.[1]

The Association LBO proposes a two year agreement while the County proposes a three year agreement. The County argues that if a two year agreement is adopted, the parties will be back in negotiations in November of this year. Considering the tension that accompanies negotiations and the time and cost to the parties, a three year agreement is in the public interest. I find a two year agreement definitely to be in the public interest. Considering the declining economy, a two year agreement will allow the parties to negotiate with that uncertainty a more known quantity. Whether the CPI continues to decline will be known giving a more realistic basis for the third year. Whether the state and federal plans to stabilize the economy have been successful will hopefully be clearer. The impact of the declining local economy on property tax collection can be evaluated as well as the impact of the second year of the Agreement on the general fund. Under these very uncertain economy conditions, I find the Association's two year term of agreement to be very persuasive.

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[1] The County raised the issue that the Association had not included the additional cost when an employee gains an immediate or advanced certificate. The employee moves to the new classification and then in six months moves to the next step. I reviewed the current certification status of the bargaining unit members and noted that the cost of training made it difficult for Officers to obtain a higher certification. (Testimony of the Sheriff) I conclude that the additional costs would not significantly raise the cost of the Association proposal in the second year

In summary, I find that the County has the relative ability to pay. The Dispatch and the Jail, the greatest number of bargaining unit members, are dedicated funds as described above There was no evidence on the record that those funds will not be available to fund the Association's LBO in years one and two. There was no mention of layoffs within those two departments. (Testimony of Sheriff, County Exhibits 14 and 3 at Volume 3) Had there been that possibility surely the County would have entered this evidence into the record. The County's LBO the first year exceeds that of the Association and is in the budget I find that the County has the ability to pay within its budgetary perimeters the cost of the Association's LBO at a more realistic 4% for the second year. While negotiations can be tedious and adversarial, a two year agreement is by far the better option in these uncertain economic times.

The other two secondary statutory criteria are interconnected

(d) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.

(e) Comparisons of the overall compensation of other employees performing similar services with the same or other employees in comparable communities. As used in this subsection, "comparable" is limited to communities of the same or nearest population range within Oregon. .....

The parties provided me with comparability data based on overall compensation. While the parties did agree on six comparable counties in population, there were two disputed counties – Tillamook and Union counties. The County argues that these two counties should not be included because they contract services The Association points out persuasively that other counties on the list of comparable counties also contract out services. I agree and will include Tillamook and Union Counties A list of eight comparable counties should give a broader range especially as the two counties in question have comparable population to Jefferson County. The Association presented a graph showing the overall compensation for the top step Patrol Deputy earned over a ten year period. The average total compensation over that same ten year period was $413,675 while a Jefferson County deputy would earn $368,652 --a noticeable difference. The County developed charts using six counties which provided an average total compensation for those six. Their data included all three departments: dispatch, jail and patrol. However when one examines the underlying documentation the County has included the certification premiums in the Jefferson County total compensation but not on several of the comparable counties This is significant in the classification of Correction Officer and Patrol Deputy as their wages are augmented by certification premiums In addition, the County's averages do not include Tillamook or Union counties. Wasco County apparently does not reflect the wage increase granted in January 2008.

From the County's chart I did conclude that Jefferson County employee insurance contribution was in the middle of the comparisons as was the Employer's contribution. While the evidence related to comparability I found to be limited, it supports a conclusion that Jefferson County's low step wage lacks behind the average. This is true of the top step as well but less significantly While comparability is one of the statutory criteria, I did not find Jefferson County total compensation to be so out of line with the averages of comparable counties.[2] However the Association LBO will arguably preserve Jefferson County's comparability position

The ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided is another secondary statutory criteria. The parties agree that turn over is a problem in the Sheriff's Office. The Sheriff testified that when potential applicants call and ask the beginning salary – the entry non certified wage --they often do not follow through with an application. To attract qualified applicants who can survive probation, the County has proposed elimination of the non certified wage. The Association argues that an employee remains on that step until he/she obtains a basic certification. The time period differs from several weeks for Dispatchers, approximately 16 plus weeks for Correction Officers and 9 months for Patrol Deputies Because this is not a lengthy time, the non certification wage scale is not a compelling reason that potential application does not apply It is instead the fact that it takes 10 ½ years to reach top step; therefore they propose a seven step salary schedule. The Association maintains that it is the current schedule that discourages employees from remaining with the County more than a few years.

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[2] The exception being the wages for the correction techs. However the parties are in agreement that this classification should receive a 10% increase.

Reviewing Association Exhibit 12 bargaining union members in all classifications appear to leave the County for higher paying positions within two to four years. While I acknowledge that recruiting qualified applicants is a problem, retention is an equal if not great challenge. This is especially true as the cost of training any of the three classifications so that they obtain their basic certificate is costly. There is the training at the Academy itself, wages while the employee is at the Academy In addition further "on the job training" means that the two employees fill one position. The Sheriff estimates that for example it costs $100,000 for a patrol deputy to obtain the basic certificate. Jefferson County faces a difficult challenge as its local labor market includes larger, more prosperous local governments and Deer Ridge State Penitentiary.

Both proposed salary structures have merit. In the long run however a seven step schedule has the potential to improve recruitment as well as retention. While the entry non certification wage is discouraging to applicants, a potential applicant can also consider the timeframe for achieving basis certification state and weigh the fact they he/she can reach the maximum salary in seven rather than ten and one half years. One can reasonably assume that the ability to reach top wage in seven years would encourage employees to remain especially considering that employees leave for better paying jobs within two to four years. The improvement in vacation accrual could be another factor in improving retention. I find the Association's LBO has the greater potential to improve both recruitment and retention.

The CPI-All Cities Index, commonly known as the cost of living is a secondary statutory criteria. Both the County's and the Association's proposal for both the first and second year will provide a wage increase that is more likely higher if not at least equal to any increase in the actual CPI. Therefore I did not give much weight to this criteria.

The Association Last Best Offer includes increased floating holiday and vacation accrual plus Field Training Officer (FTO) pay. Their LBO increased the floating holiday pay by one day. The Association maintains that this increase will be cost neutral as the County has the ability to approve such leave only if there is someone to cover the shift for said employee. Thus reducing any overtime costs. This increase has the potential to be cost neutral though I find the comparability with the non represented two floating holidays to be less than persuasive.

The increase in vacation accrual is supported by the comparables: the majority of the counties provide 8 hours for deputy sheriffs, correction officers comps are less than eight hours in those counties that contract to NORCOR; this is true of dispatchers as well. While this increase has the potential to increase the costs for the County, by the same token one could view this as a positive factor for retention as a number of the current bargaining unit members have been employed one to five years. The testimony of the Association as to the responsibility and extra work involved as a field training officer was persuasive. This is true whether in dispatch, the jail or patrol. The FTO pay could also impact retention as it is the more senior deputies and dispatchers that would be filling this function. While this is a cost factor, there was no evidence on the record that the Association's proposal for FTO pay was unreasonable.

I might agree in theory with the County that in the declining economy such additional demands could be better left to another round of future bargaining. However I must accept as a package the final last best offer. I do not conclude that the additional cost of vacation or FTO alone warrant rejection of the Association LBO.

There were no stipulations by the parties to this interest arbitration.

I find that the factors in subsection (a) to (g) of this section of the statue provide sufficient evidence for an award. Therefore I will not use any other factors as are traditionally taken into consideration in the determination of wages hours and other terms and conditions of employment.

V. CONCLUSION

Based on the evidence, the statute and for the reasons discussed above, I conclude that the Association's Last Best Offer is in the interest and welfare of the public. The Association's LBO overall best meets the secondary statutory criteria. In particular I find in this uncertain economy the two year term of the Agreement to be most persuasive. I conclude that the seven step schedule proposed by the Association has the greater potential to improve retention and thereby reduce recruitment and training costs. The seven step schedule may also prove to improve the recruitment of qualified candidates who will remain with the County. The County has the relative ability to pay for the cost of the Association's proposal. Therefore based on the record and the statutory criteria, I make the following award.

VI AWARD

The Last Best Offer of the Association will constitute the parties agreement.

Respectively submitted this 27th day of February 2009

Nancy E. Brown
Arbitrator