INTEREST ARBITRATION

INTERIM AWARD ON COMPARABLES

IN THE MATTER OF INTEREST ARBITRATION

BETWEEN

POLICEMEN'S BENEVOLENT LABOR COMMITTEE
("Union", "PBLC" or "Bargaining Representative")

AND

VILLAGE OF SAUGET
("Village" or "Employer")

Case No. S-MA-12-340
Arbitrator's Case No. 15/037

Before: Elliott H. Goldstein
Sole Arbitrator by Stipulation of the Parties

Appearances:

On Behalf of the Union:
Shane M. Voyles, Esq., PBLC Staff Attorney
L.H. Parker, PBLC Labor Representative
Scott A. Hedgpeth, Member
Scott R. Mundy, Member

On Behalf of the Joint Employers:
J. Brian Manion, Esq., Weilmuenster & Keck, P.C.
Rich Sauget, Jr., President, Village Trustees, Witness
James jones, Chief of Police

I. BACKGROUND

The Village of Sauget (the "Village") is located within St. Clair County, along the Mississippi River, immediately to the south of East St. Louis. It covers approximately four square miles, most of which is zoned for commercial and industrial uses, the record reveals. It has three residential streets, which are home to a population of 159, according to the 2010 census. The bargaining unit contains, presently, 10 full-time officers. The inordinately high ratio of officers to residents, approximately one officer to every 15 residents, is a result of the Village's sizeable industrial/commercial base, and its night club industry and several liquor establishments with 24-hour licenses.

This matter is a proceeding in interest arbitration between the Village and the Policemen's Benevolent Labor Committee (the "Union"), the exclusive representative of the officers just mentioned, and is held pursuant to Section 14 of the Illinois Public Labor Relations Act, 5 ILCS 315/314 (the "Act"). The parties are currently negotiating for a successor to their Collective Bargaining Agreement, which had a stated effective term of May 1, 2006 through April 30, 2012, and they have selected the undersigned Arbitrator to serve as the sole Arbitrator, each party having waived provision for a tripartite panel. The proceedings are bifurcated by agreement, and the matter is presently before me for an interim determination as to the appropriate set of comparable communities for purposes of assessing the parties' respective offers, which will be tendered hereafter.

The preliminary hearing before the undersigned Arbitrator was held on April 13, 2016, at the Village Hall in Sauget, Illinois, commencing at 10:00 a.m. The parties were afforded full opportunity to present their cases as to the appropriate universe of comparables, which included written and oral evidence, both testimony and narrative. A 47-page stenographic transcript of the hearing was made, and thereafter the parties were invited to offer such arguments as were deemed pertinent to their respective positions. The briefs were received on May 27, 2016.

Prior to the hearing, the parties agreed to three communities to be included among the comparables. They are:

- Freeburg
- Lebanon
- Madison

The Union proposes an additional six communities. They are:

- Caseyville
- Dupo
- Millstadt
- New Baden
- Smithton
- Sparta

The Village proposes an additional three communities. They are:

- Fairmont City
- Venice
- Washington Park

The record reveals no bargaining history of the parties with regard to comparables. Both parties appear to acknowledge that this Village is unique when considering factors that typically guide an arbitrator’s decision as to the appropriate comparables due to the

relatively disproportionate sizes of the Village's police force, its government income and expenditures, its Total EAV, and the like, relative to its population. The Employer suggested that it is likely the smallest Illinois community with an organized police force. Exemplifying the point, a comparison of this Village with the three agreed comparables, in terms of population and department size, is as follows:

Municipality	Population	Police Force
Sauget	159	11
Freeburg	4355	10
Lebanon	4420	10
Madison	3890	10

According to the submitted data, the Village's Total EAV was nearly $43 million in 2014, which falls in the middle of the range established by the three agreed comparables. On the other hand, three quarters of that tax base is industrial/commercial and is tied to a TIF District, which means that the use of that money is restricted. The Village, therefore, points out that its Rate Setting EAV is actually $12.5 million. The Village's overall income and expenditures are, likewise, out of proportion to its population. In fact, its income and expenditures fall within the range set by the three agreed comparables, which are more than twenty times its size, by population.

II. POSITIONS OF THE PARTIES

A. Position of the Union

By virtue of their settlement as to three of the proposed comparables, i.e. Freeburg, Lebanon and Madison, the parties have effectively indicated those characteristics that they find to be most useful in determining comparability to this Village, the Union asserts, citing, AFSCME, Council 31 and County of Warren, S-MA-10-073 (Goldstein, 2011).[1] Both parties in this case thus looked at department size as an important factor, in light of the "unique policing situation created by [the Village's] nightlife," and from that "simulated" an appropriate population range.

The Union points out my own comment that "the process of compiling a list of external comparables is not a science." City Fire Fighters Local 413 and City of Rockford, S-MA-12-108 (Goldstein, 2012). Typically, arbitrators look for a labor market and/or for geographically proximate groups of communities having similar resources in determining which communities should be considered as comparables in any given case. See, City of Peru and Illinois FOP Labor Council, S-MA-93-153 (Berman, 1995); Jefferson County and Illinois FOP Labor Council, S-MA-95-18 (Briggs, 1996). The parties seem to agree that the most useful factors to be considered here are population, as established by the agreed comparables, department size, geographic proximity, and what the Union broadly refers to as financial data.

[1] In County of Warren, I noted that the elements which exist in common for agreed-up comparable jurisdictions may be used to assess other jurisdictions comparability.

The Union has proposed adding six communities, all of which lie within a 50-mile radius of the Village, an appropriate range the Union asserts. See, PBPA and City of Taylorville, S-MA-08-280 (Perkovich, 2011) The Union notes that each of the additional comparables that it proposes fall within the range set by the agreed comparables in terms of population, except New Baden and Smithton, which nevertheless fall within plus or minus 50% of that range, and each has a police force of between five and 15 officers, which is within plus or minus 50% of the size of the force in this Village.

The Union also points out that two of three among the Village's proposed additional comparables fall outside the population range established by the agree comparables. Indeed, the population of Venice, at 1,890, is more lower than a minus 50% of the low end of the agreed comparables. Moreover, the number of officers in the respective departments in these communities, Fairmont City (5), Venice (9) and Washington Park (8), are at the low end of the spectrum. In fact, proximity to the Village is the only factor that weighs in favor of the Village's proposed comparables. Otherwise, they appear to be communities with limited resources – Washington Park has twice filed for bankruptcy – that are being proposed specifically for that reason, and the relatively low pay of the officers.

Given the Village's small residential population, and the relatively small proportion of revenues that it derives from residential property taxes, Total EAV is not really an important or useful factor here, the Union suggests. Nevertheless, it notes, Total EAV, which "accounts for the enormity of the TIF District" that the

Village elected to establish, is the only means by which an apples to apples comparison may be had with the agreed and proposed comparables. Viewed from the perspective of Total EAV, the Village falls in the middle of the range set by the agreed comparables, Freeburg ($83 million) and Madison ($29 million), and all of the Union's proposed comparables fall somewhere within the range. On the other hand, none of the Village's proposed comparables fall within that range, the highest of them being Fairmont City ($25 million) with the other two being at $14 million.

The Union adds that financial data such as general fund balances, revenues and expenditures, median income and home value are not useful for purposes of a true comparison here.[2] Simply put, this Village's revenue streams are not comparable to any of the communities under consideration, and its expenditures, which come to nearly $300,000 per resident, annually, are completely out of proportion to the expenditures among all the communities at issue, the highest of which comes to around $2,000 per resident, annually. The Union therefore suggests "competitive pay" as an appropriate financial factor to be considered. The salary data submitted by the Union is as follows:

Municipality	Minimum	Maximum
Sauget	$46,184	$53,528
Freeburg	$41,303	$48,191
Lebanon	$38,985	$52,500
Madison	$44,772	$57,139

Union Proposed:

[2] On this point, the Union rejects the Village's suggestion that comparables should be limited to nearby communities with an adult entertainment industry, citing City of Rockford, S-MA-12-108, where I rejected the employer's request to exclude communities from a historical list of comparables based in part on an argument that those communities had developed new revenue sources from riverboat gambling.

Caseyville	$47,757	$56,609
Dupo	$40,123	$50,297
Millstadt	$47,065	$49,294
New Baden	$42,108	$43,792
Smithton	$47,882	$47,882
Sparta	$38,022[3]	$51,272
Village Proposed:		
Fairmont City	$35,890	$42,224
Venice	$25,355	$29,158
Washington Park	$30,680	$35,012

An appropriate range for comparison is plus or minus $10,000 of both the minimum and maximum salaries, the Union suggests. All of its proposed comparables fall within that range, the Union points out. All of the Village's proposed comparables fall below the range, the Union additionally stresses.

The Union concludes this line of reasoning by pointing out that its comparables are clearly favored by the total of their respective points of "contact" with the Village, meaning the total of the factors just discussed in which each falls within an acceptable range for comparison. The Union contends:

> The final points of contact tally is:
> Caseyville, Dupo, and Millstadt score 4;
> Smithton and Sparta score 3;
> New Baden scores 2; and
> Fairmont City, Venice and Washington Park score 1.

For these reasons, the Union's proposed comparables should be accepted and added to the list of comparables, while the Village's proposed comparables should be rejected and not considered, the Union asserts.

B. The Village's Position

[3] The Union submits that because officers officers in Sparta receive a $10,000 increase in salary upon completion of probation, "the Union has not excluded Sparta due to this technicality."

The Village acknowledges the difficulty of deciding which communities have a sufficient number of "useful contacts" to be considered comparable to a given employer, not only as a general rule but more acutely in this case. [citing my discussion in County of Warren, S-MA-10-073, supra, at pp. 17-18. The Village adds that finding a set of communities of "similar territorial size and population density, draw upon similar resources and tax bases, have a similar mix of commercial, industrial and residential properties with similar need for Police protection," the factors that should drive that decision, see City of Willowick, 110 LA 1146, 1149 (Miles, 1998), which could be said to be truly comparable to this Village may be impossible. Indeed, under typical circumstances all of the communities under consideration here would be excluded, the Village believes.

The list of comparables in this case should really be limited to those communities that form the "local labor market," the Village urges. The Village surveys a number of awards in which arbitrators have discussed the concept of determining the local market, notably Arbitrator Steven Briggs' discussion in Calumet City, ILRB Case No. S-MA-99-128 (Briggs, 2000), at p.6, wherein he commented:

> . . . [I]t is important to underscore the importance of selecting as comparable only those in Calumet City's local labor market. The assumption here is that even if wages and benefits in another city looked attractive to police officers here, unless the differences were drastic they would most likely not be willing to pull up stakes and move to take jobs there. Put another way, the labor supply is not perfectly mobile. Employees are not inclined to leave one job for another if it means changing residences, taking the kids out of school, changing churches, doctors, etc. Accordingly, it is not realistic to use as comparables in interest arbitration municipalities so far removed from the focal city that its employees would most likely have to move their households to work there.

More particular to this case, the Village suggests, arbitrators have specifically recognized the St. Louis Metro East area as forming a distinct labor market, much like the Chicagoland area, which effectively form the universe for finding comparable communities for communities lying within its boundaries. See City of Alton and PBPA, Unit 14, S-MA-02-231 (Kossoff, 2003); Macon County Board and AFSCME, Council 31 and Local 612, S-MA-94-70 (Feuille, 1994) ("It is well known that pay levels in larger metropolitan areas generally are significantly higher than in other areas, and just as it would be inappropriate to compare Decatur-area salaries with those in the Chicago area, so it is inappropriate to use St. Louis area jurisdictions."); see also, City of Belleville, S-MA-08-157. Because the Village lies in the middle of the Metro East area, enough comparable communities can be found within 25-miles of its borders that a view of the St. Louis Metro East labor market is possible without reaching further out, the Employer insists.

The Village, accordingly, rejects the Union's suggested 50-mile radius, which the Union draws from PBPA and City of Taylorville, S-MA-08-280, the Village also notes. Taylorville is a well-populated community, over 11,000 residents, in a sparsely populated area, the Village points out. In contrast, this Village is a small, sparsely populated community lying in the middle of a densely populated metropolitan area. The Village suggests that more appropriate areas for comparison, in this case, would be set according to the 25-mile range, which Arbitrator Robert Perkovich found useful in Village of Cahokia, Case No. S-MA-00-215 (Perkovich, 2003), or, perhaps, a

county-based range, such as St. Clair and Madison Counties, as Arbitrator Sinclair Kossoff adopted in City of Alton and PBPA, Unit 14, S-MA-02-231 (Kossoff, 2003).

The Village goes a step further, however, and suggests that the assessment of the proposed comparables should favor communities lying within the American Bottom, a flood plain in which much of the Metro East area sits. The communities lying within the flood plain are all situated nearby neighboring East St. Louis, a community "which is notorious for its high crime, declining property value and population" the Village asserts. These communities are reliant more on commercial and industrial development than on residential development, "the traditional vehicle for growth." With this in mind, the comparable universe would ideally be limited to a 10-mile radius, in order to capture communities that have similar future economic outlooks, the Employer believes.

I am emphatically told that the communities included on the Village's list of proposed comparables all lie within 10 miles of this Village and share many of its characteristics – Washington Park and Venice, for instance, have adult entertainment, which presents unique policing problems, regarding which Mayor Sauget and Chief Jones each testified in some detail. The Union's list of proposed comparables, on the other hand, includes remote communities, New Baden and Sparta, for example, both of which lie beyond the Village's 20-mile residency requirement. Moreover, the Union's list of proposed comparables favors, overall, bedroom communities with healthy residential tax bases, the Employer notes.

As the Village sees it, the bottom line is that using the Village's proposed additional comparables, the universe of comparables includes four communities within 10 miles of the Village and two communities lying between 10 and 25 miles of the Village. If the Union's list is selected, the comparables universe would be larger – the Village also notes that I have in one case found that a comparable universe of four communities was adequate. See, MAP, Chapter 471 and Forest Preserve District of DuPage County, Case No. S-MA-08-290 (Goldstein, 2009)(finding that four comparable employers was sufficient) - but the final list of comparables would include only two communities within 10 miles of the Village, five communities between 10 and 25 miles of the Village, and two communities more than 25 miles away. The Village's proposed comparables are, put simply, more reflective of the local market than are the Union's proposed comparables, the Village argues.

Looking at the traditional comparability factors, the Village suggests that many of them, i.e. population, department size, etc., are of little use in this case due to the uniqueness of this Village. In terms of population, all of the proposed comparables are much larger than the Village, the Village acknowledges - most are clustered between 3,000 and 4,500 residents. The closest among the comparables in size, vis-à-vis the Village, are Venice (pop. 1,890) and Fairmont City (pop. 2,635), which are among the Village proposed comparables.

Department size, per se, also appears as a non-issue. However, as Mayor Sauget and Chief Jones each testified, the vast majority of calls for service in the Village come from its night club and adult

entertainment industries. The only other communities under consideration here that have live adult entertainment are Washington Park and Venice, the Village maintains.

Median home value for the Village is $71,700. Its median household income is $55,000. The Village's proposed comparables all fall within a range of plus or minus 50% of the Village in these two economic categories, except that median household income in Washington Park falls slightly below the range, at $25,401. The Union's comparables, on the other hand, include Millstadt, Smithton, Freeburg and New Baden, which have median home values ranging from $124,500 to $171,000. These are affluent bedroom communities, which, for the most part, lie along or outside the periphery of the Metro East area, says the Village.

This Village is very much an industrial community, with 84% of its EAV being industrial property – only Venice comes within a range of plus or minus 50% by that measure, at 46%, and Fairmont City comes near that range, at 40%. Looking strictly at Rate Setting EAV, meaning the "value of the property that a municipality may levy taxes upon for its needs," the only communities among those under consideration here that come within plus or minus 50% of the Village's EAV of $12,469,832, are Fairmont City, at $16,635,123, Venice, at $12,066,667, and Washington Park, at $7,652,199.

For these reasons, the list of comparables should include only Fairmont City, Venice, Washington Park, Madison, Freeburg, and Lebanon, the Village concludes.

III. DISCUSSION

Both parties have cited my discussion of comparables in County of Warren, S-MA-10-073, particularly noting my comments regarding the uncertainties inherent in the process of determining the contours of the relevant labor market for any given community and, even more specifically, determining which among the comparability factors, which I refer to as "useful contacts," typically population, department size, EAV, general fund expenditures and income, and the like, are most instructive in any given case. In County of Warren, S-MA-10-073, supra, I said that an assessment of those useful contact points was essential. While I continue to believe that statement to be valid, I find, in this case, that a point-by-point assessment of the contacts is largely not helpful, because of the plain fact that only 159 people live in Sauget, as opposed to the much larger group of people who work in Sauget or who enter and leave the Village to visit the bars and night clubs. This is a unique place as regards labor market and comparability, I find.

As regards comparability, put simply, the Village is something of an anomaly, I suggest. In fact, each party's position in the instant case has some merit, depending on the point of view taken, and appears equally flawed, as the point of view is changed. Viewed from the perspective of a resident, it seems clear to me that this Village "looks" more like the Village's proposed comparables, meaning that home values and personal income are relatively low, compared to the slightly more affluent communities among those proposed by the Union. On the other hand, the size of the Village's government, its income

and expenditures, seems to me to be more closely aligned with the Union's comparables, for the reasons stated already.

Frankly, the three agreed comparables do not give me much guidance in narrowing the field, I add. The agreed comparables include, on the one hand, Madison, which appears to closely align in most points of useful contact with the Village's proposed additions, i.e. population and department size, median home value and household income, and EAV, and, on the other hand, Freeburg and Lebanon, which appear much like the "affluent bedroom communities" that are included among the Union's proposals. The question, it seems to me, leans more toward exclusion than inclusion, because none of the communities under consideration really readily resembles this Village, I hold.

Moreover, beyond the obvious limitation imposed by the record here, I am convinced that a search of the entire state would not likely reveal any truly comparable communities. Therefore, I believe that the best course for this proceeding is to err on the side of inclusion, in order to obtain a picture of what the "general labor market in the area presently supports," Forest Preserve District of DuPage County, S-MA-08-290, at p. 25, utilizing a sufficient sampling of communities, meaning local communities with similar sized departments and some similarities in other economic areas, that the economic disparities might balance out.[4] My belief that this is the appropriate course is bolstered by the fact that officers in this unit would be at or near the top of any group of comparables I might deem

[4] I note the Village's assertion that I approved a much smaller list of comparables in Forest Preserve District of DuPage County, S-MA-08-290

appropriate. Claims relating to “catch up,” at least in wages, are not likely to arise and, therefore, percentages are likely to be key. See, County of Cook and Sheriff of Cook County and Teamsters Local Union No. 714, L-MA-95-01 (Goldstein, 1995)(suggesting that in the absence of a proven need for a “catch up” in wages, a comparison with wage increases received among the external comparables should proceed on a percentage-to-percentage basis). In this case, geographic proximity - the parameter of the actual labor market- is the key factor and I so hold.

Based on the foregoing, I will exclude only New Baden and Sparta. I do so because New Baden, although only five miles beyond the furthest among the agreed comparables, Lebanon, which is 25 miles from the Village, also employs only five officers; and Sparta, which, on the other hand, employs ten officers, is nearly fifty miles from the Village, well outside any labor market established in the Metro East area, which I find to be a critical factor in this case.

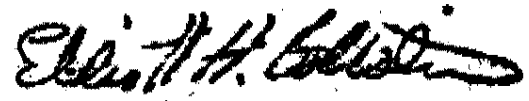
IV. INTERIM AWARD

For the foregoing reasons, the resulting list of comparables will include the following communities:

1. Caseyville
2. Dupo
3. Fairmont City
4. Freeburg
5. Lebanon
6. Madison
7. Millstadt
8. Smithton
9. Venice
10. Washington Park

IT IS SO ORDERED.

Date: August 15, 2016



Elliott H. Goldstein
Arbitrator

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