In The Matter of the Arbitration Between	)
	)
Illinois Fraternal Order of Police Labor Council	)
	)
and	)
	)
City of Mt. Vernon	)
	)
Interest Arbitration	)
	)
ILRB No. S-MA-04-123 FMCS No. 05-01283	)

OPINION AND AWARD

The hearing in the above captioned matter was held on May 10, 2005, in Mt. Vernon, Illinois, before Martin H. Malin, serving as the sole impartial arbitrator by selection of the parties. The Union was represented by Mr. Thomas Sonneborn, its attorney. The Employer was represented by Mr. Anthony Byergo, its attorney. The hearing was held pursuant to Section 14 of the Illinois Public Labor Relations Act (IPLRA). The parties agreed to waive their delegates to the arbitration panel and stipulated that they would be bound by my award as sole arbitrator. The parties also waived the IPLRA's requirement that the hearing commence within fifteen days following the arbitrator's appointment.

At the hearing, both parties were afforded full opportunity to call, examine and cross-examine witnesses, introduce documentary evidence and present arguments. A verbatim record of the hearing was maintained and a transcript was produced. Both parties filed post-hearing briefs.

The Issues

The parties stipulated that the following issues are before me for resolution:

1. Wages (proposals to modify Appendices A, B, C. And D of the expired collective bargaining agreement).

2. Health Insurance (proposals to modify Article XVII of the expired collective bargaining agreement).

3. Holiday Pay (proposals to modify Section 11.3 of the expired collective bargaining agreement).

The parties agreed that each of the above listed issues is economic within the meaning of Section 14(g) of the IPLRA.

The Statutory Factors

Section 14(h) of the IPLRA provides for the arbitrator to base his findings on the following factors, as applicable:

(1) The lawful authority of the employer.

(2) Stipulations of the parties.

(3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.

(4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services with other employers generally:

(A) In public employment in comparable communities.

(B) In private employment in comparable communities.

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

(6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

Background

The bargaining unit consists of 31 patrolmen, detectives and corporals employed by the

City of Mt. Vernon.[1] The City is situated at the intersection of Interstates 57 and 64. Its population is 16, 269. The City first recognized the Union as exclusive bargaining representative in April 1992. Their first collective bargaining agreement became effective July 7, 1993, and ran through April 30, 1995. That contract had a reopener for the wage schedule effective May 1, 1994. The parties entered into negotiations pursuant to the wage reopener, were unable to reach agreement and their dispute was ultimately resolved in arbitration before Arbitrator Steven Briggs, who issued his award on August 23, 1995. Since that time, the parties have successfully negotiated two successor agreements, the most recent one covering the period May 1, 1999 through April 30, 2004. The City also has collective bargaining relationships with the International Association of Fire Fighters Local 2429, the International Brotherhood of Electrical Workers Local 702, and a joint agreement with Laborers Local 529 and Teamsters Local 50.

In the proceeding before Arbitrator Briggs, the City proposed the following communities as comparable to Mt. Vernon: Centralia, Harrisburg, Herrin, Marion, Murphysboro, Olney and West Frankfort. The Union proposed the following comparables: Cahokia, Centralia, Dixon, Edwardsville, Fairview Heights, Jacksonville, Macomb, Marion and Mattoon. Arbitrator Briggs rejected the Union's proposed comparable communities, except for Centralia and Marion, because they ranged from 60 miles to almost 250 miles from the City. He concluded that they were not within the Mt. Vernon labor market. *Briggs Award* at 11.

Arbitrator Briggs then evaluated the City's proposed comparables, examining population, median family income, median home value, per capita equalized assessed valuation, and per capita sales tax revenue. He concluded that all of the City's proposed comparable communities were comparable to Mt. Vernon, but, because Marion, Herrin and Centralia were reasonably close to the City in population, those three communities would be considered primary comparables. *Id.* at 12-13.

The City argues that the municipalities found by Arbitrator Briggs as comparable to Mt. Vernon remain comparable to Mt. Vernon, except for West Frankfort.[2] The Union agrees that Marion and Centralia are comparable to Mt. Vernon, but contends that the other jurisdictions found by Arbitrator Briggs to be comparable are no longer comparable and urges that Effingham and Carbondale be added to the list of comparable communities.

Section 14(h)(4)(A) of the IPLRA calls for comparison of "the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services with other employers generally in public employment in comparable communities," because agreements reached in comparable communities can frequently shed considerable light on what

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[1]City Ex. 4 (seniority listing as of May 2, 2005) Un. Ex. 11 (seniority listing as of May 1, 2004) shows that as of May 1, 2004, the City employed 32 officers in the bargaining unit.

[2]At the hearing, the City included West Frankfort among its comparables but in its brief, the City has withdrawn West Frankfort because its population is no longer within 50 percent of Mt. Vernon's. City Brief at 3 n.4.

agreement the parties wold have reached had their bargaining process not broken down. There is no magic formula for determining what communities are comparable. As Arbitrator Briggs observed in his award, "The selection of appropriate comparables for an interest arbitration is educated guesswork." *Briggs Award* at 10.

The parties' negotiations process broke down over the wage reopener in 1994 and they resorted to interest arbitration. In the proceeding before Arbitrator Briggs, they offered widely divergent views of which communities were comparable to Mt. Vernon and how those communities were to be selected. As noted above, Arbitrator Briggs resolved that dispute by selecting the communities proffered by the City as comparable.

Law enforcement personnel in Illinois (or anywhere else in the United States) do not have the right to strike. Consequently, negotiations between a municipality and its police officers take place not under threat to resort to strike or lockout but under threat to resort to interest arbitration. When an interest arbitrator makes a determination of which communities are comparable, we may expect that determination to shape future negotiations between the parties, especially negotiations over similar issues to those before the arbitrator. Thus, we may presume that the parties have carried on negotiations subsequent to the *Briggs Award* with an eye on the seven communities that Arbitrator Briggs found to be comparable to Mt. Vernon.

The Union seeks to drop five of the seven communities that Arbitrator Briggs found comparable. It has the burden to show that conditions have changed so much that these communities no longer serve as benchmarks against which the parties measure their wages, hours and conditions of employment. The City agrees that West Frankfort should be dropped because its population is no longer within 50 percent of Mt. Vernon's. I turn now to the other four: Harrisburg, Herrin, Olney and Murpheysboro.

A comparison between Mt. Vernon and the four communities at issue reveals the following data for population, median home value, median family income, equalized assessed valuation, equalized assessed valuation per capita, general fund revenue, number of full time sworn officers, number of serious index crimes, and number of serious index crimes per officer:

	Pop.	MHV	MFI	EAV	EAV - PC	GenFund Rev	FT Off	Crime Index	Crime/ Officer
Harrisburg	9860	43600	*	**	4674	3,007,167	13	67	5.15
Herrin	11000	49200	39108	***	6699	3,942,407	15	423	28.2
Murpheys-boro	8925	50100	34987	49,234,180	5786	2,607,007	16	482	30.13
Olney	8631	57600	37365	****	8593	3,564,459	12	469	39.08
Mt. Vernon	16269	57700	36660	*****	8526	11,958,960	43	1721	40.02

* 43,125 according to the Union (Un. Ex. 16); 35,667 according to the City (City Ex.6)
** 41,706,962 according to the Union (Un. Ex. 16); 45,049,301 according to the City (City. Ex. 6).
*** 84,939,536 according to the Union (Un. Ex. 16); 76,409,404 according to the City (City Ex. 6).
**** 72,528,337 according to the Union (Un. Ex. 16); 73,686,009 according to the City (City Ex. 6).
***** 146,107,994 according to the Union (Un. Ex. 16); 145,555,857 according to the City (City Ex. 6).

The Union argues that Mt. Vernon is developing economically and that these four jurisdictions are much smaller; have much lower EAVs and general fund revenues and, except for Olney, median home values; and have fewer serious crimes, and much smaller police departments. According to the Union, "these smaller jurisdictions are simply not in the same league anymore" (Tr. 20).

The Union argues that the record in the instant proceeding is significantly different from the record before Arbitrator Briggs in 1995. The Union observes that Arbitrator Briggs accepted the City's comparables and rejected the Union's because the communities that the Union proffered were flung all over the state. The Union suggests that if it had offered Carbondale and Effingham in 1995, Arbitrator Briggs may have selected them over these four smaller communities. The Union notes that Arbitrator Briggs denoted these smaller communities as secondary comparables because of their size. The Union observes that in an award concerning Carbondale, Arbitrator Briggs found Mt. Vernon comparable to Carbondale but rejected Harrisburg, Herrin and Murpheysboro as much smaller than Carbondale and as having EAVs much lower than Carbondale's. *City of Carbondale and Illinois F.O.P. Labor Council*, No. S-MA-96-83, at 8 (Briggs, Sept. 29, 1997).

The City argues that these communities remain comparable to Mt. Vernon. The City maintains that these communities remain within fifty miles of Mt. Vernon and have MFIs, MHVs and per capita EAVs within 25 percent of Mt. Vernon.

Although the Union has argued that Mt. Vernon has exploded in the ten years since the *Briggs Award*, it has not provided much comparative analysis of how Mt. Vernon's position

relative to the four communities it seeks to exclude has fared over this period. Indeed, the thrust of the Union's argument appears to be an attempt to relitigate the comparability issue in light of the record that, with perfect hindsight, it should have presented to Arbitrator Briggs, a record that does not include communities considerably distant from Mt. Vernon and includes Carbondale and Effingham. In effect, the Union asks me to review the Briggs determination de novo in light of the record developed before me.

The Union's approach, however, gives too little weight to the precedential value of the *Briggs Award*. I do not mean that the *Briggs Award* sets a precedent in the sense of having stare decisis effect. Rather, as discussed earlier, Arbitrator Briggs' determination most probably affected the framing of the parties' subsequent negotiations. Thus, the question is whether these communities' demographics and economics have changed so much relative to Mt. Vernon since the *Briggs Award* that the parties can be said to no longer be influenced by them.

The parties agree that this is the case with respect to West Frankfort because its population has dropped below half of Mt. Vernon's. With respect to the other four communities, Arbitrator Briggs relied on the following characteristics (*Briggs Award* at 12):

	Population	MFI	MHV	EAV per cap	Sales Tax Rev per cap
Harrisburg	9289	24322	32700	3572	128.89
Herrin	10857	26391	35300	4044	79.55
Murpheysboro	9176	25036	37700	3377	79.23
Olney	8664	27081	35200	4017	132.93
Mt. Vernon	16988	25432	39700	5317	161.46

The data in the record before me and the data in the *Briggs Award* allow comparisons across population, MFI, MHV, and EAV per capita. In the intervening period, all four communities have gotten closer to Mt. Vernon in population. Olney has moved closer to Mt. Vernon in the other three categories as well. In the other three communities, the gaps between them and Mt. Vernon have increased but not by so much as to suggest that the parties no longer consider them relevant to their negotiations. The sole exception is Harrsiburg EAV per capita, which was $1,745 less than Mt. Vernon in the *Briggs Award* and is shown as $3,852 less than Mt. Vernon in the record before me. Neither party has addressed the potential significance of this widening gap in per capita EAV between Mt. Vernon and Harrisburg. Considering that Arbitrator Briggs distinguished Centralia, Herrin and Marion, which he considered primary comparables, from the other three communities, I find the increase in the gap in per capita EAV does not warrant excluding Harrisburg as a secondary comparable. Accordingly, I reject the Union's argument to delete these four communities from the list of comparables.

The Union also argues to add Carbondale and Effingham to the list of comparables. Neither community was considered by Arbitrator Briggs. Because these two communities were not considered by Arbitrator Briggs, there is no reason to compare their current demographics and wealth relative to Mt. Vernon to what existed at the time of the *Briggs Award*. Rather, the appropriate inquiry is whether Carbondale and/or Effingham add materially to evaluating which party's final offer is closer to the agreement that the parties would likely have reached if their collective bargaining process had not ended in impasse. With that inquiry in mind, I turn to the data presented by the Union in support of adding these communities to the list of comparables.

	Popula-tion	MHV	MFI	EAV	Gen fund rev	Gen fund Exp	Pub Safety Exp	FT Off	Crime Index
Carbondale	25597	73400	34601	184,047,313	17,086,166	17,329,616	8,641,483	60	1506
Effingham	12384	86900	45902	170,321,123	8,520,712	7,755,094	3,453,183	21	721
Mt. Vernon	16269	57700	36650	146,107,994	11,958,960	11,611,582	5,745,008	43	1721

The Union contends that Carbondale and Effingham are sufficiently proximate to Mt. Vernon geographically to be within the same labor market. The Union maintains that these communities provide a better benchmark for comparison because they are closer to Mt. Vernon than the four communities discussed earlier in terms of population, EAV, General Fund Revenue, numbers of sworn officers and level of serious crime. The Union notes that in his *Carbondale Award*, Arbitrator Briggs found Mt. Vernon to be comparable to Carbondale.

The City argues that Carbondale is not comparable because its population exceeds that of Mt. Vernon by more than 50 percent. The City observes that Carbondale is the home of Southern Illinois University and contends that this factor further strains the utility of Carbondale as a bench mark for evaluating the Mt. Vernon negotiations. The City also maintains that Carbondale's MHV is so far above Mt. Vernon's as to establish that the two communities are not comparable.

The City argues that Effingham should be rejected because it is more than fifty miles from Mt. Vernon. Furthermore, in the City's view, Effingham's MFI and MHV are so far above Mt. Vernon's as to mark the communities as too different to provide meaningful comparisons.

I agree with the City that Carbondale should not be added to the list of comparables. It is true that Arbitrator Briggs in his *Carbondale Award* included Mt. Vernon among the comparable communities but he did so without any analysis because the parties agreed on Mt. Vernon as a benchmark. The parties also agreed on several communities that were so geographically distant

from Carbondale as to be outside Arbitrator Briggs' 50 mile radius rule of thumb for determining the relevant labor market. Nevertheless, Arbitrator Briggs appropriately included those communities in the list of comparables. When the parties agree that particular communities are comparable, those communities necessarily provide the best available benchmarks for evaluating the parties' competing offers than compared to any that might result from the arbitrator's educated guess work. The parties know their own negotiations process better than any arbitrator and know what communities they look to in negotiations. That does not mean that a community that the parties look to as a benchmark necessarily looks to the parties in the same way. For example, if the Union and the City agreed for whatever reasons that Walla Walla, Washington was an appropriate benchmark for their negotiations, an arbitrator should accept that agreement and evaluate the competing offers against that benchmark. That would not mean that an arbitrator considering an interest dispute in Walla Walla would appropriately evaluate competing offers there against a Mt. Vernon benchmark.

The Union's own methodology for selecting comparables compels the rejection of Carbondale. The Union began its search for comparable communities by identifying every municipality outside the metropolitan Chicago area with a population within 50 percent of Mt. Vernon's, as reflected in the 2000 Census. The 2000 Census showed Carbondale with a population of 20,681 (Un. Ex. 15). However, that figure appears to have been in error. The Union's updated data reflects a Carbondale population of 25,597 (Un. Ex. 16). Other Census reports show Carbondale at various points in time from July 2000 onward with a population in excess of 24,000 (City Ex. 28). Using the Union's figure of 25,597, it appears that Carbondale's population exceeds that of Mt. Vernon by 57 percent. Thus, but for the error in the 2000 Census report, the Union would have never identified Carbondale as a potential comparable. I conclude that Carbondale's population is too large to add it to the list of comparables.

Effingham presents a closer question. At a distance of 58.5 miles from Mt. Vernon it is, at best, at the outer limit of the relevant labor market. Its population is much closer to Mt. Vernon's than that of Harrisbug, Murpheysboro and Olney. Its EAV is somewhat higher than Mt. Vernon's and its General Fund Revenue somewhat lower. Taken together, these figures suggest that its overall tax base is comparable to Mt. Vernon's, a factor that is relevant particularly with respect to economic issues such as those in dispute before me. On the other hand, the MHV in Effingham is 50.6 percent higher than Mt. Vernon. This suggests that the cost of housing in Effingham is significantly greater than in Mt. Vernon and the cost of housing is likely to affect negotiations over economic issues.

In his 1995 award, Arbitrator Briggs took "note of the Union's argument that the City's two selection criteria (geography and population) are biased in favor of identifying only smaller communities for comparison purposes. But the fact of the matter is that Mt. Vernon happens to be the most populated city within a fifty or even sixty mile radius." *Briggs Award* at 12. Arbitrator Briggs did not consider Effingham because neither party proposed it. It does add a city within sixty miles whose population is closer to Mt. Vernon's than most of the other comparables and it adds a city with a tax base that is comparable to Mt. Vernon's. Therefore, I

shall include Effingham in the list of comparables but will consider it a secondary comparable because of its distance from Mt. Vernon and its apparently high cost of living.

To recap, the primary comparable communities are Centralia, Herrin and Marion. The secondary comparable communities are Effingham, Harrisburg, Murpheysboro and Olney. I shall now turn to the issues in dispute.

Several of the statutory factors do not require much discussion. Each of the final offers it within the lawful authority of the Employer. The City does not contend that it is unable to pay any of the final offers. The stipulations of the parties in the instant case were procedural in nature. To the extent that there have been changes in any of the factors during the pendency of this proceeding, I shall consider those changes where applicable.

The Issue of Wages

Union's Final Offer

Bargaining unit salaries shall be increased as follows:

4% retroactively effective May 1, 2004
4% retroactively effective May 1, 2005
3.5% effective May 1, 2006

City's Final Offer

Bargaining unit salaries be increased as follows:

2.0% retroactively effective May 1, 2004
2.0% retroactively effective May 1, 2005
2.5% effective May 1, 2006
3.0% effective May 1, 2007

The parties recognize that the selection of the final offer on wages will also determine the length of the contract.

Union's Position

The Union urges that comparison of bargaining unit salaries to those in comparable communities compels selection of its final offer. The Union's comparisons are to the four communities that it maintained are comparable to Mt. Vernon (Carbondale, Centralia, Effingham and Marion). The Union urges that starting pay in Mt. Vernon is 19 percent below the average of the comparable communities, pay after one year of service is 14 percent below the average, after five years pay is 18 percent below the average, after ten years 15 percent below average, after

fifteen years 13 percentage below average and even after twenty years it is 2 percent below average. The Union finds these discrepancies are exacerbated by the youth of the Mt. Vernon police force, observing that 60 percent of the bargaining unit have five or fewer years of seniority and the most senior patrol officer has nineteen years of seniority.

The Union maintains that under the City's final offer, Mt. Vernon police officers will fall further behind the comparable communities. The Union observes that Carbondale received a 3.0 percent increase in 2003 and the other three communities received 3.5 percent increases. For 2004, Centralia officers received a 3.5 percent increase and Marion 3.0 percent. Carbondale and Effingham were still in negotiations. Thus, the Union urges, the City's offer of 2.0 percent for each of 2004 and 2005 and 2.5 percent for 2006 will plunge Mt. Vernon further behind. In contrast, the Union maintains, its final offer provides for modest catch-up to the comparable communities, a catch-up that the Union urges is clearly justified in light of what the Union contends is the City's sound financial condition.

The Union urges that the City's final offer also causes the bargaining unit to lose ground to inflation. The Union argues that the appropriate measurement of inflation is the increase in the cost of living since the bargaining unit's last pay raise. The Union examines the CPI-U index figures from May 2003 to May 2004 and concludes that the cost of living increased 2.96 percent. From May 2004 to March 2005, says the Union, the cost of living increased 2.17 percent and by May 2005, it had increased 2.73 percent. Thus, the Union argues, the City's final offer not only pushes the officers further behind their colleagues in comparable communities, it actually diminishes their real, i.e. inflation adjusted, wages.

The Union disputes the significance of internal comparability, a factor, as developed below, relied on heavily by the City. The Union maintains that the police have always led the way with respect to wages in Mt. Vernon. The Union supports its claim by noting that the other bargaining units' contracts provide that they get the benefit of any higher settlement reached by a comparable group of employees in the City. The Union recognizes that the Teamsters/Laborers and IBEW contracts exclude police and firefighter settlements from the "me too" provision but notes that City Human Resources Director Mary Jo Pemberton testified that this exclusion was intended to refer to benefits provided to police and firefighters as mandated by statute and that the City would apply any higher wage increase awarded to or negotiated with the police to the other bargaining units.

Finally, the Union observes that the typical contract length in police negotiations in Illinois is three years. The Union accuses the City of using its wage offer to add a fourth year to the contract's duration without providing any quid pro quo for that deviation from the pattern.

City's Position

The City emphasizes internal comparability, observing that there has been internal parity among employee groups dating back thirty-five years. The City urges that the pattern of parity

has survived the representation of the police officers by the Union and has continued through four collective bargaining agreements covering thirteen years. Police and firefighters, says the City, have had identical wage increases and these public safety personnel have had identical wage increases with other City groups except for 1985 or 1986 when police and firefighters received increases while other employees had a wage freeze and 2001 when police and firefighters received a five-step adjustment on the salary schedule that other groups did not receive.

The City maintains that Arbitrator Briggs appropriately gave the factor of internal parity great weight and urges that I do the same. The City argues that if I select the Union's final offer and break the parity pattern, I will destabilize labor relations and will ignite a series of whipsaw demands as the other groups try to catch up to the police. Furthermore, the City maintains, the parity principle protects both the City and the employees by restraining one group of employees from exceeding increases granted other groups but also ensuring that each group will not be left behind in comparison to other groups.

The City contends that increases in the cost of living support its final offer over the Union's. The City offers data from the CPI-W, the Consumer Price Index for Urban Wage Earners; the CPI-U excluding food and energy costs; the CPI-U for the midwest; and the CPI-U for all cities. It summarizes these figures as follows:

Year	CPI-W	CPI-U w/out food & energy	CPI-U midwest	CPI-U all cities
2004	1.4%	1.6%	1.3%	3.0%
2005	3.1%	2.3%	2.9%	2.2%

The City maintains that regardless of which index is used, its offer of 2 percent for 2004 and 2005 is much closer to the increase in the cost of living than the Union's offer of 4 percent each year. Furthermore, the City maintains, going back to 2000, the first year of the expired contract or to 1995 when the *Briggs Award* was issued reflects that the police officers have experienced increases that have exceeded the increases in the cost of living. In the City's view, inflation has historically been running at an annual rate of 2 percent to 2.5 percent and, viewed in this light, its proposal of 2.5 percent for 2006 and 3.0 percent for 2007 is more reasonable than the Union's offer of 3.5 percent for 2006.

The City argues that its final offer maintains its relative position among the comparable communities. The City's analysis of the comparable communities excludes Effingham. The City observes that the salary schedule is relatively back-loaded compared to the other municipalities but maintains that this back-loading is to the officer's ultimate advantage because it is pay in the last years of employment that determines pension payments after retirement. The City urges that its relative standing ranges from the middle of the pack at the beginning of an officer's career to the top in the final years. According to the City, this standing is consistent with its position when

Arbitrator Briggs issued his award and should not be disrupted now. Furthermore, in the City's view, adopting the Union's final offer will grossly exaggerate the City's lead over all comparable jurisdictions with respect to final salary.

The City maintains that I should not only compare it to comparable jurisdictions in absolute terms but also relative to the median family income in those jurisdictions. When such a comparison is made, the City argues, it ranks first at one year, ten years and top pay with respect to every community either party has offered as comparable except for Carbondale.

Finally, the City maintains that its offer is consistent with the interests and welfare of the public. The City observes that it has not had difficulty recruiting police officers and has not lost any officers to other southern Illinois jurisdictions. The City also observes that an increasing portion of the City budget has been consumed by the Police Department and urges that adoption of the Union's final offer will aggravate this trend.

Discussion

In his 1995 award, Arbitrator Briggs placed great weight on the historical parity between the police and other employee groups, particularly the firefighters. He observed that there had been absolute parity with the firefighters for twenty-five years. He recognized that for most of that period police officers were not represented but expressed concern with the destabilizing effects that breaking the pattern would have on labor relations. He continued:

> More significantly, the Union was not able to break the salary parity pattern in its first round of negotiations with the City. In free collective bargaining it agreed to 1992 and 1993 increases of 3% for each year – a figure identical to the increases negotiated by the IAFF. In view of the fact that the City and FOP did not choose to break the historical salary parity between Mt. Vernon firefighters and police officers during the bargaining for their initial contract, it would be inappropriate for the Arbitrator to do so in this proceeding unless there were compelling evidence to support such a ruling.

Briggs Award at 15.

Since the *Briggs Award,* the Union and the City have successfully negotiated two collective bargaining agreements and have maintained parity with the firefighters. This continuous reaffirmation of the parity pattern, which now extends over a thirty-five year period encompassing three negotiated agreements and one arbitration award, makes it even stronger than when Arbitrator Briggs confronted it. Internal comparability and bargaining history are two factors "which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment." These factors strongly support selection of the

City's offer.[3]

To evaluate external comparability, I have compiled the following table based on data presented in City Exhibit 12 and Union Exhibit 21. It is necessary to combine these exhibits because the City's exhibit did not include Effingham and the Union's exhibit did not include Harrisburg, Herrin, Murphysboro and Olney. The table covers wage rates for 2004. Because Effingham is still in negotiations, the table projects an increase of 3 percent, a projection used by the Union and not challenged by the City.

	Start	1 year	5 years	10 years	15 years	20 years	top pay
Centralia	33,997	36,612	38,443	39,907	40,456	42,653	43,934
Herrin	30,607	34,008	37,440	39,000	40,560	42,120	45,240
Marion	34,076	37,862	38,342	38,941	39,541	40,141	40,741
Mean for primary comps.	32,893	36,161	38,075	39,283	40,186	41,638	43,305
Effingham	34,558	38,672	45,204	45,652	46,099	46,994	46,994
Harrisburg	33,921	35,574	37,708	38,509	39,310	40,111	41,712
Murphysboro	22,660	28,552	32,878	35,257	37,080	38,471	40,994
Olney	32,718	33,800	35,922	38,480	40,165	41,018	42,286
Mean for all comps	31,791	35,011	37,991	39,392	40,459	41,644	43,129
Mt.Vernon 2003	29,705	34,680	35,972	37,660	39,437	41,365	45,693
City Offer (+2%)	30,299	35,374	36,691	38,413	40,226	42,192	46,607
Un Offer (+4%)	30,893	36,067	37,411	39,166	41,014	43,020	47,521

[3]The Union urges me to discount parity because the police have led the way on wages. However, there is no evidence in the record of whether over the years the police have been the leaders or the followers. The record clearly establishes that regardless of whether they have been leaders or followers, the police have always had the same percentage wage increases as the firefighters. I also note that although the firefighters are in interest arbitration, they have agreed to the same percentage wage increases as the IBEW and the Laborers/Teamsters.

It is apparent from the table that Effingham and Murphysboro are outliers. However, they are outliers in opposite directions and thus largely cancel each other out.

The following table compares the City's offer and the Union's offer in terms of where Mt. Vernon will rank among the primary comparables, its difference from the mean of the primary comparables, where it will rank among all comparables and its difference from the mean of all comparables.

Offer	Rank Among Prim Comps	Difference from Mean	Rank Among All Comps	Difference from Mean
City Start	4 of 4	- 2594	7 of 8	- 1,492
Union Start	3 of 4	-2,000	6 of 8	- 898
City 1 year	3 of 4	-787	5 of 8	363
Union 1 year	3 of 4	- 94	4 of 8	1,056
City 5 years	4 of 4	- 1384	6 of 8	- 1,300
Union 5 years	4 of 4	- 664	6 of 8	- 580
City 10 years	4 of 4	- 870	7 of 8	- 979
Union 10 years	2 of 4	- 117	3 of 8	- 226
City 15 years	3 of 4	40	4 of 8	-233
Union 15 years	1 of 4	828	2 of 8	555
City 20 years	2 of 4	554	3 of 8	548
Union 20 years	1 of 4	1,382	2 of 8	1,376
City top pay	1 of 4	3,302	2 of 8	3,478
Union top pay	1 of 4	4,216	1 of 8	4,392

The data in the table present a mixed picture. At the early stages of an officer's career, Mt. Vernon ranks at the bottom among the primary comparables under the City's offer and the Union's offer and ranks in the middle or toward the bottom among all comparables. The Union's offer places Mt. Vernon closer to the mid range than the City's offer. This is most apparent at ten years, where under the City's offer, Mt. Vernon outranks only outlier Murphysboro but under the Union's offer it ranks third of eight and second among primary comparables. Under the Union's offer, Mt. Vernon does not differ significantly from the average of all comparables at ten years but under the City's offer, it remains significantly below average. The picture changes during the latter stages of an officer's career. Under the Union's offer, beginning at fifteen years,

Mt. Vernon outranks all of the primary comparables and all comparables except outlier Effingham; it even outranks Effingham at top pay. Mt. Vernon officers are above average, but to a lesser extent, beginning at fifteen years under the City's offer and from twenty years onward they outrank all comparable communities except Effingham.

The mixed picture is a result of the wage structure that the parties have agreed on, apparently since their first contract. That structure rewards seniority to a greater extent than comparable communities. That structure has been maintained through consistent negotiation of across the board percentage increases as opposed to negotiating across the board flat dollar amount increases which would provide greater percentage increases to those at the low end of the scale. The latter approach appears to have been taken in Herrin.

Thus, the effects toward the top of the scale would appear to favor the City's offer but the effects toward the lower end of the wage scale favor the Union's offer. Most of the bargaining unit is at the lower end of the scale and the most senior member of the unit has only nineteen years of service. Furthermore, Centralia and Marion, the only primary comparables for whom such data is in the record, have agreed to raises of 3.5 percent and 3.0 percent respectively for 2004.[4] Considering the record as a whole, I conclude that the factor of external comparability marginally supports the Union's offer. However, it does not outweigh the factors of internal parity and bargaining history.

The parties disagree over which measure of the cost of living is appropriate. The Union advocates the CPI-U from May to May while the City advances the CPI-W, the CPI-U without housing and energy costs, and the CPI-U for the midwest on a calendar year basis. I do not find the CPI-U minus energy and housing costs to be helpful. This measure of the "core rate of inflation" excludes housing and energy prices because they tend to be the most volatile. Such a measure may be very significant for setting macroeconomic policy but it is not particularly useful in assessing competing wage offers in interest arbitration. Although energy and housing costs tend to be more volatile than other costs they are still costs that employees must absorb. Spikes in energy prices, for example, are just as likely to place upward pressure on wages as increases in other prices.

I find it unnecessary to resolve the remaining disputes over which indices are the most appropriate to use. Regardless of which index is selected, the City's offer for 2004 and 2005 is somewhat below the rate of inflation. The City has not even attempted to show that police officers elsewhere are absorbing reductions (albeit slight ones) in real wages. On the other hand, the Union's offer greatly exceeds the rate of inflation for 2004 and 2005, regardless of which index is used. Although the Union uses the cost of living to criticize the City's offer, it justifies its offer more on the need to catch up to comparable communities than on the rate of inflation.

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[4]The Herrin contract is in the record but it begins with 2004 and the Herrin wage rate for 2003 is not in the record. Therefore, I am unable to calculate the 2004 increase in Herrin. As observed above, for 2005, Herrin and its police officers agreed to a flat dollar amount rather than a percentage increase.

Considering the record as a whole, I conclude that the cost of living factor favors neither party's final offer.

Thus, external comparability marginally favors the Union's final offer. Internal parity and bargaining history strongly favor the City's final offer. All other factors favor neither party or are not material. Accordingly, weighing all of the statutory factors as a whole, I award the City's final offer with respect to wages.[5]

The Issue of Health Insurance

The expired collective bargaining agreement provided, in relevant part:

> Section 17.1 Coverage. The City shall continue to make available to non-retired employees and their dependents substantially similar group health and hospitalization insurance and life insurance coverage and benefits as existed prior to the signing of this Agreement. The City reserves the right to change or offer alternative insurance carriers, health maintenance organizations, or benefit levels or to self-insure as it deems appropriate, so long as the new or alternative coverage and benefits are substantially similar to those which they are replacing.
>
> Section 17.2 Cost. The City will continue to pay one hundred percent (100%) of the cost of full-time employees' individual group health and hospitalization insurance. The City will pay zero percent (0%) of the cost of family coverage above the cost of individual coverage, and the employee will pay one hundred percent (100%) of the cost of family coverage. The cost of an employee's portion of insurance premiums will be deducted from his or her paycheck.
>
> In order to control future insurance cost increases, the City at its option may increase the deductible up to $250.00 per person (not to exceed three deductibles or $750.00), as well as change coverage from 100% reimbursement for the first $5,000.00 of covered expenses to coverage for 80% reimbursement for the first $5,000.00 of covered expenses.
>
> Section 17.3 Cost Containment. The City reserves the right to institute cost containment measures relative to insurance coverage as long as the basic level of insurance benefits remains substantially similar. Such changes may include, but are not limited to, mandatory second opinions for elective surgery, pre-admission and continuing admission review, preferred provider provisions (provided such preferred provider options include a reasonable number of providers within Jefferson County), prohibitions on weekend

[5] I am not persuaded by the Union's argument that I should reject the City's offer because it results in a four year agreement. Regardless of whether a three year agreement is more common among police bargaining units generally, the parties to this proceeding are not strangers to four year agreements. The expired contract was a four year agreement.

admissions except in emergency situations, and mandatory out-patient elective surgery for certain designated surgical procedures.

Section 17.4 Life Insurance. The City shall provide, at no cost to the employee, life insurance coverage in an amount of not less than Five Thousand Dollars ($5,000.00).

. . . . .

Section 17.6 Health Insurance for Retirees. The City of Mt. Vernon shall allow employees who retire from the Police Department after 20 years of service and who are over the age of fifty (50) to continue their health insurance coverage at the retired employee's own expense until the retired employee reaches the age at which they become eligible for Medicare (currently age 62) or any similar replacement program. The City will pay zero percent (0%) of the cost of retired employees individual and family coverage premiums. The insurance coverage shall be substantially similar to the group health and hospitalization insurance as non-retired employees.

City's Final Offer

Section 17.1 Coverage. The City shall continue to make available to active full-time employees and their dependents group health and hospitalization insurance and life insurance coverage and benefits. The City reserves the right to change insurance carriers, health maintenance organizations, or benefit levels or to self-insure as it deems appropriate, so long as the new or alternative coverage and benefits are substantially similar to those which predated this Agreement.

Section 17.2 Cost. Currently, the City pays one hundred percent (100%) of the cost of full-time employees' individual group health, hospitalization and life insurance. In the event of future increases in the premium cost for employees' individual group health and hospitalization insurance, employees will make monthly premium contributions in accordance with the following schedule:

If the total premium cost is:	Then the employee will contribute:
Equal to or less than $449/month	$0.00
Between $450 and $449/month	$25.00/month
Between $500 and $549/month	$35.00/month
Between $550 and $599/month	$45.00/month
Equal to or greater than $600/month	$55.00/month

The City pays zero percent (0%) of the cost of dependent family coverage above the cost of individual coverage, and the employee pays one hundred percent (100%) of the cost of dependent family coverage. The cost of an employee's portion of insurance premiums will be deducted from the employee's paycheck.

Section 17.3 Cost Containment. The City reserves the right to institute cost containment measures relative to insurance, subject to the limitation that the insurance remain substantially similar to the prior coverage. Such changes include, but are not limited to, increased deductibles, co-pays, and out of pocket maximums; reduced lifetime caps; coverage limitations; mandatory second opinions for elective surgery, preadmission and continuing admission review; preferred provide provisions; prohibitions on weekend admissions except in emergency situations; and mandatory out-patient elective surgery for certain designated surgical procedures.

Section 17.4 Life Insurance. The City shall provide, at no cost to the employee, life insurance coverage in an amount of not less than Ten Thousand Dollars ($10,000.00).

. . . . .

The City's offer eliminates Section 17.6 concerning retiree coverage.

Union's Final Offer

The Union agrees to accept the changes to plan design and benefits previously made by the City and currently in effect (as of May 10, 2005). The Union proposes that should the City make further substantial changes to the plan, the Union shall have the right to demand bargaining over the impact of such changes, with any impasses in such bargaining submitted to Section 14 interest arbitration. The Union proposes that there be no adjustments to the current premium sharing: the employee remains responsible for 100 percent of the costs of family coverage and the City remains responsible for 100 percent of the costs of single coverage

City's Position

The City admits that it is seeking a "break through" by requiring the employees, for the first time, to pay a portion. of their premiums for singe health insurance. The City observes that the IBEW and Teamsters/Laborers have agreed to this arrangement provided that the police and firefighters have the same arrangement. The firefighters are also in interest arbitration on the health insurance issue.

The City maintains that its final offer is justified by the increasing cost of providing health insurance and by national trends in premium cost sharing between employers and employees. The City observes that it experienced a 22.08 percent increase in premium in 1999. In 2000, Blue Cross proposed a 34.1 percent premium increase. The City was able to achieve a

3.86 percent reduction in premiums by switching to Right Choice. In 2001, Right Choice increased the premium by 9.60 percent. In 2002, to avoid a proposed 36.67 percent premium increase, the City switched back to Blue Cross which reduced the increase to 23.96 percent. In 2003, the premium increased 10.09 percent, and in 2004, 3.34 percent. In 2005, Blue Cross proposed a 41.0 percent premium increase so the city switched to Health Alliance which resulted in an increase of 13.42 percent. The City notes that since 1999, the effective date of the old contract, health insurance premiums have increased a cumulative 82.9 percent, above the average national increase in this period of 80.7 percent. The City further points out that its premium for individual coverage is $5832 per year, almost 58 percent higher than the national average of $3695 ($3808 for PPO coverage comparable to that provided by the City).

The City contends that national trends support its final offer. The City argues that as of 2004, only 21 percent of all employers nationally paid 100 percent of individual coverage premiums and among large employers only 11 percent did. On average nationally, in 2004, employees contributed 16 percent of premiums for individual health insurance coverage. In contrast, the City urges, its offer would result in employees contributing 5.1 percent of the premium cost in 2005, far less than the national average.

The City recognizes that among the comparable communities, only Marion requires employees to contribute to the cost of individual health insurance coverage, but notes that employee contributions in Marion are considerably greater than the City is proposing. The City also suggests that the quality of insurance benefits is higher in Mt. Vernon than in many of the other comparable communities.

Union's Position

The Union contends that the City has not made the case for a break through. The Union argues that among the City's own comparables and among the Union's comparables, the only community in which employees pay anything toward individual health insurance coverage is Marion. However, the Union urges, in Marion, the employer pays 25 percent of the cost of family dependent coverage whereas in Mt. Vernon, the City pays nothing toward dependent coverage. The Union further observes that in all communities advanced by one side or the other as comparables, the employer pays part of the cost of family coverage except for Herrin, Murphysboro and West Frankfort.

The Union contends that the City has offered no quid pro quo for this break through. The Union observes that the City offer comes on the heels of changes in the health insurance benefit that imposed a $250 deductible, reduced the portion of fees covered by insurance from 90 percent to 80 percent for in-network providers and from 70 percent to 60 percent for out-of-network providers, increased co-pays for prescription drugs and increased the out-of-pocket maximum from $1,000 to $2,000.

Finally, the Union observes that the City's offer eliminates Section 17.6 of the agreement

which gives retirees a right to participate in the group plan at their own expense. The Union argues that the City has offered no justification for eliminating this provision and such elimination alone justifies rejecting the City's final offer.

Discussion

Both parties agree that the City is seeking a break through on health insurance. Generally speaking, a party seeking a break through in interest arbitration bears a heavy burden of persuasion. This is because evidence of what the parties have freely agreed to in the past is generally strong evidence of what they most likely would have agreed to again had their negotiations not broken down. In the instant case, the evidence of bargaining history is particularly strong. The City and its police officers have struck a bargain whereby the City pays the entire cost of individual coverage and the employee pays the entire cost of dependent coverage. This is the same bargain that the City has struck with its other bargaining units. It is a bargain that deviates from the pattern in most of the comparable communities. In every comparable community except for Herrin and Murphysboro, the employer contributes to the cost of dependent coverage. Presumably, in reaching their bargain, the City and its employees' representatives tailored the deal to their particular circumstances. To deviate from the agreed-on arrangement, the City bears a heavy burden of justification.

Internal parity provides no support for the City's case. None of the other bargaining units have agreed to absorb some of the costs of individual coverage. The IBEW and the Teasmters/Laborers have agreed only to be bound by the outcome of the police and firefighter proceedings. The firefighters are also in interest arbitration over health insurance. Regardless of which offer I select, parity will be maintained with the IBEW and Teamsters/Laborers and whether it will be maintained with the IAFF will be up to the arbitrator presiding over that proceeding.

The City bases its case on two factors. First, the City argues that its costs have increased dramatically, higher than national averages. Second, it argues that the national trend strongly supports employees sharing in the cost of individual coverage.

Clearly, the City's health insurance costs have increased substantially. Indeed, the City is to be commended for continuously shopping competing insurance providers to keep cost increases as low as possible. Certainly, those increased costs are a factor that the parties had to contend with in negotiations. However, there is no contention by the City that it lacks the ability to pay the increased costs. The cost increases that the City has had to absorb provide some support for the City's final offer but do not outweigh the significance of bargaining history.

There is some inconsistency between the City's position on health insurance and its position on wages. The City objected to considering Effingham as a comparable community with respect to wages because, in the City's view, Effingham is too far from Mt. Vernon. However, the City asks that in deciding which final offer on health insurance I will award, I look

to national trends among employers and employees generally (as opposed to local government employers or law enforcement employees) rather than the local labor market. Certainly, national trends with respect to health insurance are in the minds of negotiators and to a limited extent define the atmosphere in which negotiations take place. However, trends in the local labor market are a much more reliable indicator of what the parties would have agreed to had they not reached impasse than general national trends. Accordingly, I find that the national trends only marginally support the City's final offer.

Of all the comparable communities, only Marion provides for employees to share in the costs of individual health insurance premiums. Not only is Marion an outlier on single coverage, as noted above, in Marion the employer also contributes to the cost of dependent coverage, making it even less reliable as a proxy for the Mt. Vernon negotiations. In every other comparable community, the employer pays the full cost of single coverage and in most of them, the employer contributes to the cost of dependent coverage. The factor of external comparability strongly supports the Union's final offer.

One other factor supports the Union's final offer. Section 14(h)(6) provides for consideration of "the overall compensation presently received by the employees." In the instant proceeding, I have awarded the Employer's final offer on wages. I have done so even though the Employer's final offer provides wage increases that are less than the increases in the cost of living and that are less than the increases negotiated in two of the three primary comparable communities. I find it unlikely, in light of the wage settlement, that the parties would have agreed to transfer some of the cost of single health insurance coverage from the employees to the City had they not reached impasse.

To summarize, the increase in costs supports the City's final offer and the national trends marginally supports the City's final offer. However, bargaining history and external comparability very strongly support the Union's final offer. The strength of that support is augmented when the competing final offers are considered in the context of the employees' overall compensation. Accordingly, I award the Union's final offer on health insruance.

The Issue of Holiday Pay

The expired collective bargaining agreement provided in Section 11.3:

> In lieu of paid holiday leave, each eligible employee will receive as holiday pay 96 hours pay per year at his regular, straight-time hourly rate of pay. This pay will be distributed evenly and on a pro-rata basis on all paychecks for the year (i.e. 3.69 hours pay per paycheck).

<u>City's Final Offer</u>

In lieu of paid holiday leave, each eligible employee will receive as holiday pay 88 hours

pay per year at his regular, straight-time hourly rate of pay to compensate for the City's eleven (11) observed holidays. This pay will be distributed evenly and on a pro-rata basis on all paychecks for the year (i.e. 3.3846 hours pay per paycheck).

Union's Final Offer

No change in Section 11.3.

City's Position

The City argues that its final offer is supported by internal parity and external comparability. The City maintains that all other City employees who work a standard forty hour week receive eleven paid holidays, or eighty-eight hours of paid holiday time per year. Although the expired collective bargaining agreement with the Union recognizes eleven holidays, it provides for payment equivalent to twelve eight hour days in lieu of paid holiday leave. The City urges that its change is necessary to preserve the strong internal parity that characterizes the relationship among all of its bargaining units. The City further argues that even after its proposed change, it will rank at the top among the comparables with respect to holiday pay.

Union's Position

The Union argues that the holiday pay provision has existed since the parties' first collective bargaining agreement and has continued through every contract since. The Union contends that the City has offered no quid pro quo for reducing the holiday pay compensation and cannot justify this give back, particularly in light of its position on wages and health insurance. The Union urges that any adjustments to holiday pay be made through negotiations, not through interest arbitration.

Discussion

Bargaining history strongly supports the Union's final offer. The holiday pay provision was negotiated in the parties' first contract and has been retained ever since. The City has a heavy burden to justify its final offer that essentially amounts to a reduction in wages for all bargaining unit employees.

The City has relied on internal parity and external comparability to justify its proposed give back. Neither factor alone justifies this proposed reduction in compensation nor do the two factors taken together justify it.

Internal parity actually supports the Union's final offer. The City's agreement with the IAFF provides for 144 hours at the 40-hour rate (i.e. the equivalent of twelve twelve-hour days). The City has proposed to reduce firefighter holiday pay by one twelve-hour day and the parties are in interest arbitration over that proposal. As discussed with respect to the issue of wages,

although the City's police and firefighters have generally maintained parity with the other bargaining units, at times they have received benefits that the other units did not receive. Nevertheless, for thirty-five years, regardless of whether they maintained parity with or received settlements higher that the other units, the police and firefighters have maintained parity with each other. The fact that the other units have a different approach to holidays lends no support to the City's argument for changing how the police are compensated for holidays when that method is comparable to how the firefighters are compensated. Indeed, it is the police and firefighters that actually have to work on the holidays and therefor are compensated with cash unlike other City employees who receive paid time off for the holidays.

External comparability also does not justify the proposed reduction in compensation. Although the City may remain at the top in holiday pay, its ranking is offset by its much lower ranking in wages when considering the years of service that characterize most of the employees in the bargaining unit. Moreover, as discussed with respect to health insurance, the employees are to receive wage increases that are lower than those received in the primary comparable communities for which we have data and that are lower than the increases in the cost of living. Considering the employees' overall compensation, I find it highly unlikely that if the parties had not reached impasse, they would have agreed to the City's offer reducing holiday pay. Accordingly, I award the Union's final offer.

A W A R D

Based on all of the factors provided in Section 14(h) of the Illinois Public Employees Labor Relations Act, and for the reasons set forth in the opinion above, I award as follows:

1. The Employer's final offer with respect to wages;
2. The Union's final offer with respect to health insurance; and
3. The Union's final offer with respect to holiday pay.

Chicago, Illinois _____

September 12, 2005 Martin H. Malin, Arbitrator