



Paul Betts
Arbitrator

IN INTEREST ARBITRATION PROCEEDINGS PURSUANT TO
THE ILLINOIS STATE LABOR RELATIONS BOARD

In the Matter of an Interest Arbitration Between:

VILLAGE OF SPARTA, IL

and

POLICEMEN'S BENEVOLENT LABOR COMMITTEE

ARBITRATION OPINION AND AWARD: July 9, 2012
ILRB No. S-MA-10-285

Appearances: Ivan L. Schraeder, Attorney for the Village of Sparta; Shane Voyles,
Attorney for the Policemen's Benevolent Labor Committee.

PROCEDURAL HISTORY & BACKGROUND

This matter involves an interest arbitration between the Village of Sparta, hereinafter referred to as "Employer or City" and the Policemen's Benevolent Labor Committee, hereinafter referred to as "Union or PBLC", who represent all full-time and part-time patrol officers and dispatchers employed by the City. The City and Union have been negotiating for a successor collective bargaining agreement (CBA) to replace the contract that expired on March 31, 2010. [U1, E32]¹ Negotiations concluded with the following outstanding issues: Wage Rates, Duration, Insurance, Work Day and Work Period, Shift Pay, Longevity, Compensatory Time, Overtime Scheduling, Vacation, and

¹ "J" followed by a number means "Joint Exhibit" and the number thereof. "E" followed by a number means "Employer Exhibit" and the number thereof. "U" followed by a number means "Union Exhibit" and the number thereof. "T" followed by a number means "transcript" and the page number thereof.

Personal Days. The parties invoked the interest arbitration procedures of the Illinois Public Relations Act (Act), and using the services of the Illinois Labor Relations Board (Board), appointed Paul Betts as Arbitrator.

An interest arbitration hearing was held in Sparta, IL on February 22, 2012. During the course of the hearing, both parties were afforded full opportunity for presentation of evidence, examination and cross-examination of witnesses, and oral arguments. The parties waived the tripartite panel and agreed to waive the Act's pre-hearing and post-hearing time limits. Post-hearing briefs were filed timely. The parties agreed on the following external comparable communities: Benton, Chester, Du Quoin, and Pinckneyville. No other stipulations were provided to the Arbitrator.

The City has one other bargaining unit consisting of hourly employees in the Water / Sewer and Street Department, represented by the Teamsters, Automotive, Petroleum and Allied Trades, Local 50 (Teamsters).

STATUTORY PROVISIONS

Section 14 of the Act contains the factors arbitrators are to use when making decisions regarding issues in dispute. These factors are as follows:

- (g) ...As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).
- (h) 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, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon 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 and with other employees 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.

The Act does not mandate each of the eight factors noted above be applied to each impasse issue.

Nor does the Act assign specific weight to the eight factors. As a result, the Arbitrator must decide which of the factors are relevant and applicable.

Of the issues presented for resolution here, the following are economic: Wage Rates, Shift Pay, Longevity, and Insurance. Duration, Work Day and Work Period, Compensatory Time, Vacations, Personal Days, and Overtime Scheduling are non-economic. Pursuant to Section 14 (g) of the Act, the

Arbitrator must select, without modification, either the City's or the Union's final offer on each economic issue.

PARTIES' OFFERS

Wage Rates / Duration

The following wage offers were made by the parties. The City is seeking a four-year agreement while the Union is seeking a five-year agreement.

Effective Date	City Offer	Union Offer
04/01/10	2%	3%
04/01/11	2%	3%
04/01/12	2.25%	3%
04/01/13	2.25%	3%
04/01/14	N/A	3%

Longevity

In summary, the City proposes to convert the longevity schedule from a cents-per-hour premium to an annual lump sum payment payable on the employee's anniversary date.

The Union seeks to maintain status quo.

Shift Pay

In summary, the Union proposes an increase of five (5) cents per hour in the shift differential for night shift hours.

The City seeks to maintain status quo.

Insurance

The City proposes the following changes to Article 21, Section 1 – Hospitalization (bold / underline indicates proposed new language; strikethrough indicates proposed eliminated language):

The Employer's present basic hospitalization program, dental insurance program, and vision insurance program, covering all employees, including employees and their dependents, shall continue in effect **as specified in paragraph 3 of this section...**

The Employer shall ~~substantially attempt~~ to maintain the same insurance coverage during the term of this Agreement **as the insurance in effect as of January 1, 2012...**

The Union seeks to maintain status quo.

Vacations

In summary, the City proposes to convert the vacation accrual schedule from days per month to hours per month.

The Union seeks to maintain status quo.

Personal Days

In summary, the City proposes to convert personal days from five (5) days per year to forty (40) hours per year.

The Union seeks to maintain status quo.

Work Day and Work Period

In summary, the Union proposes a return to a twelve (12) hour shift schedule and to make associated language changes (Article 10, Sections 1, 2, and 7) reflecting the normal work day as twelve (12) hours.

The City seeks to maintain the current eight (8) hour shift schedule.

Both the Union and City argue their proposal represents the status quo.

Overtime Scheduling

In summary, the Union proposes to replace seniority preference for full day overtime opportunities with the use of a turnsheet.

The City seeks to maintain status quo.

Compensatory Time Off

The City proposes the following changes to Article 10, Section 2 – Overtime Payment (bold / underline indicates proposed new language; strikethrough indicates proposed eliminated language):

Compensatory time shall be granted at such times and recorded in such time logs as are mutually agreed upon between the involved employee and a supervisor, provided that such compensatory time shall not exceed ~~an accumulated amount a~~ **total** of eighty (80) hours ~~per~~ **per** to any one employee **to be earned and used in one year**;...

...Only one employee per shift may be off on compensatory time at any one time...

The Union seeks to maintain status quo.

ANALYSIS & OPINION

Before analyzing each impasse issue, it should be noted that during the hearing the Union raised a procedural objection to the Employer's Health Insurance proposal based upon its belief the Employer's proposal waived the Union's right to bargain over future health insurance changes, thereby constituting a permissive or non-mandatory subject of bargaining. As such, the Union argued the issue was outside the Arbitrator's jurisdiction. Both parties provided argument over the Union's objection in their post-hearing briefs. [T89-93]

Under normal circumstances, one or both parties may petition the Board's General Counsel for declaratory rulings when the parties have a disagreement over whether the Act requires bargaining over a particular subject. [ILRB Rule 1200.143] In this particular case, the Union did not learn of the Employer's intent until the day of the hearing. Under ILRB Rule 1230.90, "Whenever one party has objected in good faith to the presence of an issue before the arbitration panel on the ground that the issue does not involve a subject over which the parties are required to bargain, the arbitration panel's award shall not consider that issue." Although the Employer argued (and the Union agreed) the subject of health insurance itself was a mandatory subject of bargaining, the Employer's response to Union questions regarding the Employer's specific proposal gave rise to the objection by the Union. During the hearing, the Union asked the Employer "...If the insurance changes in 2013, under your language, does the union still have the right to demand to bargain over the decision to change the insurance benefit levels?" The Employer responded "...To the extent that the language that we have provided in the 2013 contract proposal is as best as we can do, the answer would be no." [T88-90] To

further support its objection, the Union offered two ILRB Declaratory Rulings whereby, like here, the employer proposed health insurance language which had the effect of waiving the union's right to bargain over future health insurance benefit levels that may change during the term of the parties' agreement. Both Rulings found the employer's proposal to be a permissive subject of bargaining. [Case Nos. S-DR-11-004, S-DR-10 004, U35A, U35B]

Based upon the Employer's response to Union questioning during the hearing and guidance provided by the offered Declaratory Rulings, I concur with the Union and find the issue of health insurance no longer before the Arbitrator.

The following will evaluate each impasse issue per each party's position and the relevant statutory factors noted above.

Wage Rates / Duration

The Employer's Position: The Employer contends its final offer regarding wages / duration is more reasonable than the Union's. Its principal arguments in support of that position are summarized as follows:

1. During the last several years, general revenue balances have decreased as Police Department payroll-related expenditures have increased. This, coupled with the nation's declining economy, create the need for budgetary reductions, and therefore justify selecting the City's wage proposal.
2. The City's Police Officers are among the better paid of external comparable communities and the City's wage proposal maintains that favorable position.
3. When considering fringe benefits and hence, overall compensation, the City's proposal is more reasonable than the Union's.
4. In the last contract, the City's police officers received a percentage wage adjustment above the City's other bargaining units and employees, which has caused the other unit to play catch up.

5. The City's wage offer provides increases which allow for employees to stay ahead of inflation. Because the cost of living rate has decreased and will probably continue to decrease, the City's offer keeps the purchasing power of employees above the cost of living.
6. Regarding duration, the City's wage offer is coupled with a four-year term versus the Union's five-year term. Both internal and external comparables favor the City's proposal of four years. Internally, the Teamsters' existing contract is for four years. All of the external comparables have either a three or four-year term. Furthermore, given the uncertain economic landscape, issues regarding wages are better addressed with a four-year term versus a five-year term.

The Union's Position: The Union contends its final offer on wages / duration is more reasonable than the City's. Its principal arguments in support of that position are summarized as follows:

1. Historically, City police officers and dispatchers have received wage increases greater than three percent. From 2006 to 2009, the average general wage increase for City officers and dispatchers was 4.25%. The City's proposal is well below this, with an average general wage increase of 2.125%. The Union's average general wage increase of 3.00% more closely approximates the historical average.
2. The parties reached a tentative agreement of 3.25% for five (5) years. The Union's 3.0% proposal for five (5) years more closely approximates the actual agreement the parties reached themselves than does the City's four (4) year 2.125% proposal.
3. When looking at internal comparability, the Union's offer is more reasonable. The City and Teamsters agreed to an average general wage increase of 3.19%. Because the Union's offer of 3.00% is closer to the 3.19% agreed to between the City and Teamsters, the Union's proposal is more reasonable.
4. When looking at external comparability, the Union's offer is more reasonable. The City's wage offer has a lower average wage increase than any of the external comparables, while the Union offer is near the middle of the pack.
5. Regarding duration, the prior agreement was for a five-year period and the City never offered anything other than a five-year term during negotiations. The tentative agreement reached by the parties included a five-year term. It would be unreasonable to impose a four-year term when it was never discussed at the table. Lastly, longer contract durations promote stability.

Analysis: Neither party submitted evidence regarding factors (1) and (2) under Section 14 (h) of the Act.

Under factor (3), the Employer argues the City's General Revenue Fund (the primary source of funding for the City Police Department) decreased from 2008 to 2011, while at the same time the City Public Safety Budget increased. I respectfully disagree.

True, the General Revenue Fund year-end cash balance decreased from \$6.7 million in 2008 to \$6.6 million in 2011. However, review of evidence offered by the Employer actually shows the City Public Safety Budget decreasing as well, rather than increasing. In 2008, the City Public Safety Budget was \$1.63 million and decreased to \$1.53 million in 2011. [E3A] That being said, the balances in the General Fund are adequate for either offer and I do not find ability to pay a factor here. Both the City and Union presented arguments regarding the "interests and welfare of the public", with the City arguing the importance of fiscal responsibility given the current economic climate and the Union arguing it cannot be assumed that the interests and welfare of the public are best served by simply accepting the lowest wage offer when one considers matters such as attracting and retaining high-quality and experienced public safety employees. Both contentions are valid, but offer little guidance as to how this factor might favor one party over the other.

Under factor (4), both internal and external comparability is reviewed. As indicated above, the parties agreed to use Benton, Chester, Du Quoin, and Pinckneyville as external comparables. A review of both Union and City exhibits reveal City police wages, for the most part, exceed the wages of external comparable communities. Either party's wage offer will maintain this relationship. Reviewing average annual wage

increases for the years 2010 through 2014, the average annual wage increase for external comparables is 3.44% per year, compared to the Union's offer of 3.00% per year and the City's average offer of 2.125% per year. As a result, I find external comparability regarding wages to favor the Union's proposal.

Turning to internal comparability, the City has one other bargaining unit consisting of hourly employees in the Water, Sewer, and Street Department, represented by the Teamsters. The City and Teamsters agreed to an average general wage increase of over 3.00 %, compared to the Union's offer of 3.00 % per year and the City's average offer of 2.125 % per year. [U14, E9] As a result, internal comparability favors the Union proposal.

Regarding duration, internally the Teamster's current contract is for a four-year period and therefore favors the Employer's proposal. Two of the external comparables have a three-year term, one has a four-year term, and one has a five-year duration. As a result, external comparability favors neither party.

Under factor (5), cost of living is reviewed. The following details the most recent cost of living data since January 2009:²

CPI-U January 2009 to May 2012

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.969	216.177	216.330	215.949
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672
2012	226.665	227.663	229.392	230.085	229.815							

Reviewing current data indicates cost of living is rising. Since April 2009, the cost of living as measured by the CPI-U has increased annually by 2.19 % in 2010, 3.07% in 2011, and 2.25% in 2012. Both offers look to keep pace with the cost of living.

² BLS website – <http://www.bls.gov/data/>

As a result, cost of living offers little guidance as to how this factor might favor one party over the other.

Under factor (6), total compensation is reviewed. Neither party offered any notable evidence as to how this factor would favor their respective positions.

Regarding factor (7) and items that interest arbitrators “normally or traditionally” consider under factor (8), it is important in this case to review the parties' bargaining history leading to the current impasse and the testimony of Union President Jeremy Kempfer. Union President Kempfer testified he and the City's Mayor served as Chief Spokespersons for the respective parties, with negotiations commencing in January of 2010. Initially, discussions began between Union President Kempfer and Mayor Rob Link. At some point during negotiations, Mayor Link was succeeded by Mayor Charlie Kelley. Discussions continued between Mayor Kelley and Union President Kempfer, resulting in a tentative agreement (TA) between the parties, reached on May 31, 2011. Present during the May 31, 2011 meeting when the TA was reached were Union President Kempfer, Mayor Kelley, Commissioner of Finance Gary Stephens, and the Union's Executive Board. As part of the TA, the parties agreed to a five-year term with a 3.25% wage increase in each year of the agreement. Other notable terms of the TA included a change in contract language to reflect twelve-hour workdays. On September 22, 2011, Union President Kempfer and Mayor Kelley met with the City Council regarding the TA, which was sometime thereafter rejected. [T56-77] It is important to note Union President Kempfer's testimony regarding the TA was not disputed nor challenged at hearing, although Mayor Kelley was present at hearing and available to refute Kempfer's testimony. Equally important is the fact the Arbitrator was not

provided with any reason as to why the City Council rejected the TA. In its post-hearing brief, the City suggests the changed economic circumstances relating specifically to the time frame of the parties negotiations were problematic for the City. I find this argument lacking.

According to Union President Kempfer, negotiations for the current contract began in January 2010, well after the economic downturn began. Secondly, the Commissioner of Finance for the City was present when the TA was reached and was involved in negotiations prior to the parties reaching the tentative agreement. [T58, 66, 70] In other words, any financial issues the City faced were well known prior to the commencement of negotiations and certainly before the May 31, 2011, meeting that resulted in the tentative agreement. An interest arbitrator's job is to determine the deal the parties should have reached during negotiations. Here, a deal was reached, and absent any evidence or testimony as to why the TA was rejected, I find the tentative agreement sufficiently useful in determining the agreement the parties should have reached. The Union's 3.0% proposal for five (5) years more closely approximates the agreement the parties reached themselves than does the City's four (4) year 2.125% proposal. As a result, I find this factor strongly favors the Union's proposal on both wages and duration.

In light of all of the above and taking into account all the statutory factors and arguments presented, the Arbitrator finds the Union's proposal on wages and duration to be more appropriate.

Work Day and Work Period

Issue Summary: The parties' current contract states the following under Article 10, Section 1:

The normal work period shall be defined as forty (40) hours in the seven-day period Sunday through Saturday, consisting of five eight (8) hour work days. Days off shall be consecutive. The normal work day shall be defined as eight (8) consecutive hours. The definition of the normal work day and work period may be changed by mutual agreement between the Employer and the Union.

Utilizing the last sentence of Article 10, Section 1 above, the parties agreed to implement twelve-hour shifts per a December 18, 2010, e-mail from then Assistant Chief of Police Brian Clubb to PBPA Staff Attorney Shane Voyles. In relevant part, Assistant Chief Clubb's e-mail to Attorney Voyles reads as follows:

“ ...The Sparta Police Officers and Telecommunications have voted to go to a 12 Hour Schedule for a 3 month trial, in which management has agreed as per contract Article 10, Section 1.

With this agreement there is some small changes to the contract that needs to be made to allow this to come-about. They are as follows:

Article 10, Section 1, states the normal work period shall be defined as 40 hours in a 7 day period. This needs to be changed to “*normal work period shall be defined as 80 hours in a 14 day period.*”

In the same Section it states “The normal work day shall be defined as 8 consecutive hours” and that needs to be changed to “*12 consecutive hours.*”

In Section 2-Overtime Payment needs to read that Overtime shall be any time worked in excess of 12 Hours in a day and any time over 80 hours in a 14 day work period.

They also want that Sick Days and Vacation Days shall be used as 12 hours instead of 8 hours. And personal days will be given at 12 Hours. Most of this I believe is already correct in the Contract by referring to aforementioned days as hour-for-hour.

Holidays worked will be paid as the first 8 hours of the time worked will be paid as contract states, but the remaining 4 hours will be paid only at time and a half (Standard overtime pay)...” [U23]

Employees began working twelve-hour shifts in March 2008 and continued doing so until December 4, 2011, whereby they were instructed to return to eight-hour shifts.

The Employer's Position: The Employer contends its Work Day and Work Period proposal maintains the status quo as detailed in the current contract. The Employer argues the twelve-hour shifts were only intended as a trial, albeit extended by practice, and that the City experienced a significant increase in overtime expenditures during the trial period. The Employer also argues there was no legally adopted amendment to the contract during the trial period and City ordinances require the City Council to adopt all contracts. The City also argues the Union's requested change here constitutes a breakthrough. Lastly, the Employer argues comparability favors their proposal.

The Union's Position: The Union contends its Work Day and Work Period proposal maintains the negotiated status quo. The parties were in agreement when they went to twelve-hour shifts, but there was no mutual agreement per the contract when the Employer reverted back to eight hours. The Employer's unilateral action violated both the law and the contract. The Employer made the change from twelve-hour shifts back to eight-hour shifts after the Union had invoked Section 14(l) of the Act, thereby violating the Act. The contract language is clear and the Employer lacked the authority to change the hours back to eight without the consent of the Union. Furthermore, the Employer's proposal here was never discussed during negotiation. Throughout negotiations, the City proposed to change the definition of a work day to reflect the parties' twelve-hour agreement. A return to eight-hour shifts was never discussed nor proposed at the table by either party.

Analysis: Under factor (1), the Employer argues there was no legally adopted amendment to the contract during the period of time when employees were working twelve-hour shifts. The Employer argues City ordinances require the City Council to adopt all contracts, and absent City Council adoption, no City official has the legal authority to adopt, modify, or otherwise bind the City to a contractual obligation. [E29] As a result, the Employer argues the Union is asking the Arbitrator to alter the existing agreement as a breakthrough principle and to violate the principles concerning the lawful authority of the employer. I respectfully disagree.

The ordinances cited by the City do not take precedence over the Act. Furthermore, a breakthrough analysis would be appropriate here if the Union was proposing something new to the parties that required significant change. Here, the Union is simply proposing language reflecting the twelve-hour work day scheme the parties had previously agreed to and had worked under for over a 3 ½ year period. In fact, since April, 2005, employees have spent an almost equal amount of time working under an eight-hour day as they have a twelve-hour day. The Union's proposal is nothing new or unfamiliar to the parties – it simply modifies contractual language to reflect the parties' approximately 3 ½ year period of functioning under twelve-hour shifts. As such, I find the Employer's breakthrough argument lacking.

Both sides argue they are proposing the status quo. The Employer argues the Union is requesting a change to existing contract language and is therefore changing the status quo. The Union argues their proposal represents the negotiated status quo because it reflects the mutual agreement the parties reached in December, 2007. That agreement resulted in employees working twelve-hour shifts from March 2008 through November

2011, when the Employer unilaterally reverted back to eight-hour shifts. It is important to note the Union filed for mediation / arbitration under Section 14(1) of the Act on March 2, 2010. Section 14(1) states the following:

During the pendency of proceedings before the arbitration panel, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under this Act. The proceedings are deemed to be pending before the arbitration panel upon the initiation of arbitration procedures under this Act.

Section 14(j) of the Act states “Arbitration procedures shall be deemed to be initiated by the filing of a letter requesting mediation as required under subsection (a) of this Section.” In other words, at the time the Union requested and filed for mediation / arbitration, employees were working twelve-hour shifts and had been doing so for the two years prior. Employees then continued working twelve-hour shifts until November 2011. Based upon all of the above, I find the Union’s position more accurately represents the status quo than the Employer’s position.

Looking at both internal and external comparability, none of the comparable communities work twelve-hour shifts. Nor do the Teamsters. As a result, both internal and external comparability favors the Employer.

As with wages and duration, it is important in this case to review the parties' bargaining history leading to the current impasse. The City argued the reason for reverting back to eight hours from twelve hours was due to an increase in overtime pay expenditures due to the twelve-hour shifts. To support that position, the Employer offered evidence showing such increases. Using 2008 as a base period (the year the parties initially agreed to trial twelve-hour shifts), it is evident overtime expenditures for the City increased from 2008 to 2009. Also evident is a decrease in overtime

expenditures from 2009 to 2010, although not to the prior lows of 2008. [E8] In total, this evidence is supportive of the City's argument. However, City actions during negotiations are at odds with their argument. Proposals presented during negotiations are typically representative of the underlying desires of each party. Here, it was the City, not the Union, who initially proposed maintaining twelve-hour shifts and changing contract terms to reflect those twelve-hour shifts. Furthermore, there was never any discussion during negotiations for anything other than a continuation of the twelve-hour shift scheme. [U2, T63-64] Lastly, the tentative agreement reached between the parties included a continuation of twelve-hour shifts and related language changes. [T68, 71-72] If the Employer had concerns with the twelve-hour shift arrangement, those concerns should have been presented to the Union during negotiations rather than to the Arbitrator at hearing. Again, an interest arbitrator's job is to determine the deal the parties should have reached during negotiations. Here, a deal was reached, and given the discussion above, I find this factor strongly favors the Union proposal.

In light of all of the above and taking into account all the statutory factors and arguments presented, the Arbitrator finds the Union's proposal regarding work day and work period to be more appropriate.

Shift Pay

The Employer's Position: The Employer here proposes the status quo while the Union is requesting a breakthrough. The Union's proposal will create an automatic increase in pay of over \$300 / employee compounded by overtime and other pay adjustments associated with base pay computations. Furthermore, status quo is more reasonable when looking at both internal and external comparables.

The Union's Position: During negotiations, the City offered to increase longevity by five cents. Furthermore, both internal and external comparables support the nickel increase.

Analysis: Looking at external comparability, neither Du Quoin nor Pinckneyville offer shift differential. Benton provides a shift differential of ten cents / hour for second shift and fifteen cents / hour for third shift. Chester provides a shift differential of forty-five cents for employees working a shift that begins between 3:00 p.m. and 5:59 a.m. The current CBA for the parties calls for a fifteen cent premium for employees working second shift and a twenty-five cent premium for employees working third shift. Comparing the current premium to the externals, I find external comparability strongly favors the Employer's offer.

Turning to internal comparability, the Teamsters are not provided a shift premium (although the Union argued the Teamsters receive a twenty-five cent shift premium, the premium they are provided is for the operation of certain equipment, not shift premium). As a result, internal comparability also favors the Employer's proposal.

In light of all of the above and taking into account all the statutory factors and arguments presented, the Arbitrator finds the Employer's proposal on shift differential to be more appropriate.

Longevity

The Employer's Position: The Employer proposes longevity be converted from an hourly premium to a one-time lump sum payment.

The Union's Position: The Union proposes maintaining the status quo. The Employer's proposal is intended to reduce the impact of longevity for hours worked in

excess of 2080. For the Employer to achieve this change, it must show a proven need for the change, the proposal must meet the identified need without imposing an undue hardship on the other party, and there must be a quid pro quo. The Employer failed to meet this burden. External comparability also favors the Union's proposal.

Analysis: Looking at external comparability, Benton, Chester, and Pinckneyville all provide longevity as a percentage of the hourly rate. Du Quoin pays a "Length of Service Bonus" whereby the city increases the wage rate for employees who have over twenty years and less than twenty-five years of service by twenty percent for one pay period each year. Employees with over twenty-five years of service have their wage rates increased by twenty-five percent for one pay period each year. All told, external comparability favors the Union's position.

Internally, the Teamsters provide longevity as a lump sum, thereby favoring the Employer's proposal.

The Employer proposes a change to the status quo and therefore bears the burden of persuading the Arbitrator the change is necessary. Although the Employer explained the mechanics of its proposal at the hearing, there was little notable argument as to why the change was necessary. Furthermore, the Employer did not provide any argument in its post-hearing brief regarding the need for the change.

In light of all of the above and taking into account all the statutory factors and arguments presented, the Arbitrator finds the Union's proposal on longevity to be more appropriate.

Compensatory Time

The Employer's Position: The Employer proposes compensatory time be earned and used in one year and that only one employee per shift be allowed off on compensatory time at any one time. At the hearing, the Employer argued its proposal was meant to limit the effect of overtime compounding (when the Employer utilized overtime coverage for an employee who was off on compensatory time).

The Union's Position: The Union proposes to maintain the status quo and argues the Employer's proposal is subject to a breakthrough analysis, which the Union argues the Employer failed to meet. Furthermore, neither internal nor external comparables are supportive of the Employer's position.

Analysis: Internal comparability is not a factor here, as the Teamsters are not provided compensatory time. Looking at external comparability, Du Quoin offers compensatory time which may accrue and be used to a maximum of eighty hours per year. Pinckneyville offers compensatory time which can accrue up to 120 hours and can be carried over from year to year. Chester caps compensatory time at 40 hours. If overtime is worked after a Chester employee has accrued a total of 40 hours, the employee is paid time and one half the regular rate of pay. Benton employees are not provided compensatory time. None of the comparables providing for compensatory time have language limiting compensatory time usage to one employee per shift as the Employer proposes here. The Employer's proposal also mandates the eighty hour limit of compensatory time be earned and used in one year. None of the other comparables have this limitation. As a result, external comparability favors the Union's position.

Here the Employer requests a change from the status quo. Simply put, there was insufficient argument and evidence presented to persuade the Arbitrator and support the change.

In light of all of the above and taking into account all the statutory factors and arguments presented, the Arbitrator finds the Union's proposal on compensatory time to be more appropriate.

Vacation / Personal Days

The Employer's Position: The Employer argues its proposal simply revises the wording of the Vacation article and Holidays/Personal Days article to change the reference from days to hours. The Employer argues the change is meant to reflect the conversion rate associated with an eight-hour day. The conversion from days to hours has no impact on employees as they will neither lose nor gain time from the change in language.

The Union's Position: The Union argues the Employer's proposal is inconsistent with what was proposed during negotiations. Furthermore, the Employer's proposal presents obstacles regarding the parties' future ability to revise the work day. Internal comparability favors the status quo rather than the Employer's position and external comparability is inconclusive.

Analysis: Internally, the Teamster's vacation and personal time is expressed in terms of days rather than hours. Therefore, internal comparability favors the Union's proposal.

Looking at external comparability, Benton employees accrue vacation in hours / month, and personal time is provided annually, in either six eight-hour days or five ten-

hour days. Chester and Pinckneyville use days for both vacation and personal time. Du Quoin employees accrue vacation in hours. Based upon the above, external comparability favors neither party.

Here the Employer requests a change from the status quo. Again, there was insufficient argument and evidence presented to persuade the Arbitrator and support the change.

In light of all of the above and taking into account all the statutory factors and arguments presented, the Arbitrator finds the Union's proposal on vacations / personal days to be more appropriate.

Overtime Scheduling

The Employer's Position: The Employer did not provide any argument at the hearing or in its post-hearing brief regarding the Union's overtime scheduling proposal.

The Union's Position: The Union's proposal seeks to replace seniority preference for full day overtime with the turnsheet method that is currently used for partial day overtime. The Union argues its proposal would impose no additional burden on the Employer, eliminate inconsistency, and generate cost-savings for the Employer because lower-paid junior employees would be eligible to work overtime that is currently offered to high senior employees.

Analysis: The parties currently have two methods for scheduling overtime. Seniority is used if the overtime assignment is for a full shift while a turnsheet is used if the overtime is for a partial day. [T15-19, E32] The Union is proposing that all overtime be offered via the turnsheet.

Internally, the Teamsters utilize an overtime equalization record. Externally, both Benton and Chester use a turnsheet method for overtime scheduling. The contracts for both Du Quoin and Pinckneyville are vague as to how overtime is scheduled.

I find the Union's proposal reasonable and beneficial to both the Employer and members of the unit. The Union's proposal would simplify the parties' current practice while equalizing overtime opportunities within the unit. If overtime equalization via a turnsheet is used rather than seniority as the basis for scheduling overtime, there leaves little doubt the Employer would realize some cost-savings, even if those savings may be small. As indicated above, the Employer did not provide any argument or evidence to dissuade the Arbitrator from the Union's proposal.

Based upon all of the above, I find the Union's proposal on overtime scheduling to be more appropriate.

Although I may not have repeated every item of documentary evidence or testimony nor all of the arguments presented in the respective briefs, I have considered all of the statutory factors, relevant evidence, testimony and arguments presented in rendering this Opinion and Award.

AWARD

Having heard or read and carefully reviewed the evidence and argumentative materials in this case and in light of the above Opinion, the following is adopted:

1. Wages / Duration -- Union Offer
2. Work Day and Work Period -- Union Offer
3. Shift Pay -- Status Quo
4. Longevity -- Status Quo
5. Compensatory Time -- Status Quo
6. Vacation / Personal Days -- Status Quo
7. Overtime Scheduling -- Union Offer
8. In addition, all of the parties' resolved issues are hereby incorporated into this Award.

Dated this 9th day of July 2012.



Paul Betts, Arbitrator