

INTEREST ARBITRATION
under the
ILLINOIS PUBLIC LABOR RELATIONS ACT

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Illinois State Lab Rel. Bd.
SPRINGFIELD, ILLINOIS

City of Herrin, Illinois)
Employer)
and)
Illinois Fraternal Order)
of Police Labor Council,)
Union)

ISLRB Case No. S-MA-118
David A. Youngerman
Arbitrator

Date of Award: March 20, 1997

OPINION AND AWARD

Introduction.

The Illinois Fraternal Order of Police Labor Council ("the Union", "the FOP") and the City of Herrin, Illinois ("the Employer", "the City") are parties to a collective bargaining agreement ("the Agreement") effective May 1, 1995 through April 30, 1998 (Union Ex. No. 1-2, Article 32, Section 1).¹ The Union is the exclusive representative of a unit of "[a]ll full-time sworn personnel in the rank of Patrol Officer" (Union Ex. No. 1-2, Article 2).

The wage schedules for the second and third years of the Agreement were subject to a reopener (Union Ex. No. 1-2, Article 7,

¹ The exhibits and hearing transcript will be cited as follows: Joint Exhibits, "(Jt. Ex. No.)"; Union Exhibits, Book 1, "(Union Ex. No. 1-)"; Union Exhibits, Book 2, "(Union Exhibit No. 2-)"; City Exhibits, "(City Ex. No.)"; November 13, 1996 hearing transcript, "(Tr.)". In entering into the Agreement, the Union represents Williamson County Lodge #197 (Union Ex. No. 1-2, page 1)

Article 32, Sections 3, 4). The wage-reopener negotiations resulted in impasse, and on August 8, 1996, the Union filed for interest arbitration under Section 14 of the Illinois Public Labor Relations Act, 5 ILCS 315/1, 14 ("the Act") and Article 7 of the Agreement (Union Ex. No. 1-3).

The interest arbitration hearing was held on November 13, 1996. The Union was represented by FOP Labor Council Staff Attorney Gary L. Bailey and FOP Field Representative Bill Mehrrens (Tr. 5). The City was represented by City Attorney Kenneth A. Bleyer. Testifying on behalf of the City were Budget Director Jody Deaton, Police Chief Tom Cundiff and Mayor Edward Quaglia. The Union's evidence was presented through a narrative explanation by Mr. Bailey.

Only one issue is presented in this case--the wage schedules for May 1, 1996-April 30, 1997 and May 1, 1997-April 30, 1998 (Tr. 5-6; Joint Ex. No. 1). Each party's final offer incorporated both wage increases and changes in the longevity schedule (Union Ex. No. 1-6, City Ex. No. 1). The parties exchanged final offers at the hearing (Tr. 9-12; Union Ex. No. 1-6; City Exhibit No. 1).

The City and Union waived the tri-partite arbitration panel and the requirement to begin the hearing within 15 days of the Arbitrator's appointment (Jt. Ex. No. 1, pars. 7, 9). The parties further stipulated that the Arbitrator has the authority to issue an award retroactive to May 1, 1996 and that the Arbitrator is to adopt the final offer of either the Union or the City (Jt. Ex. No. 1, par. 1; Tr. 9). The parties made closing statements at the

hearing (Tr. 105-119). In addition, timely post-hearing briefs were received by the Arbitrator on January 15 and 16, 1997.²

Background.

Table 1 shows the negotiated salary schedule for the 1995-96 contract year, which provides \$0.20 per hour longevity increases after 5, 10, 15 and 19 years of service:

Table 1: NEGOTIATED MAY 1, 1995-APRIL 30, 1996 WAGE SCHEDULE

Years of Service	Hourly Salary	Annual Salary
Less than 1 w/o PTI	\$7.38	\$15,350.40
Less than 1 with PTI	\$12.09	\$25,147.20
1	\$13.25	\$27,560.00
5	\$13.63	\$28,350.40
10	\$13.83	\$28,766.40
15	\$14.03	\$29,182.40
19	\$14.23	\$29,598.40

Source for Table 1: Union Ex. No. 1-2, page 32

Both final offers increase the first three steps of the schedule by \$0.25 per hour for May 1, 1996-April 30, 1997. For May 1, 1997-April 30, 1998, the final offers increase the first three

² On January 21, 1997, the Union moved to strike several documents appended to the City's brief. The disputed documents, which were prepared by the State of Illinois Department of Insurance, contained the data from which to calculate the City's applicable contribution rates for the Herrin Police Pension Fund. The City responded to the Union's objection on January 27, 1997; the Union filed a reply on February 1, 1997. On February 6, 1997, I took arbitral notice of the disputed documents and denied the Union's Motion to Strike. The Union was offered the opportunity to submit a supplemental brief on the increased pension contribution cost. The Union declined to do so and filed a February 17, 1997 request for reconsideration of the February 6 ruling. That request was denied on March 10, 1997. The hearing was closed on February 20, 1997, the date on which I received the Union's request for reconsideration. See Section 1230.90(o)(4) and 1230.100(a) of the ISLLRB Rules and Regulations.

steps by \$0.30 per hour (Union) and \$0.25 per hour (City). Both parties also propose to change the longevity schedule. The Union proposes longevity increases at two-year intervals from 2 to 20 years, while the City proposes longevity increases at three-year intervals from 3 to 18 years. However, both final offers continue the existing \$0.20 differential between longevity steps.

Table 2 below presents the following information for the competing final offers: (1) proposed hourly salary, (2) proposed annual salary, and (3) percent increase from the 1995-96 salary.

Table 2: THE PARTIES' FINAL OFFERS

Year of Service	<u>1996-97</u>	<u>1997-98</u>	<u>1996-97</u>	<u>1997-98</u>
	UNION FINAL OFFER	UNION FINAL OFFER	CITY FINAL OFFER	CITY FINAL OFFER
<1 w/o PTI	\$7.63/hr \$15,870/yr. +3.4%	\$7.93/hr \$16,494/yr +7.4%	\$7.63/hr \$15,870/yr +3.4%	\$7.88/hr \$16,390/yr +6.8%
<1 with PTI	\$12.34 \$25,667 +2.1%	\$12.64 \$26,291 +4.5%	\$12.34/ \$25,667 +2.1%	\$12.59/ \$26,187 +4.1%
1	\$13.50 \$28,080 +1.9%	\$13.80/ \$28,704 +4.2%	\$13.50/ \$28,080 +1.9%	\$13.75/ \$28,600 +3.8%
2	\$13.70 \$28,496 +3.4%	\$14.00 \$29,120 +5.7%	\$13.50/ \$28,080 +1.9%	\$13.75/ \$28,600 +3.8%
3	\$13.70 \$28,496 +3.4%	\$14.00 \$29,120 +5.7%	\$13.70/ \$28,496 +3.4%	\$13.95/ \$29,016 +5.3%
4	\$13.90 \$28,912 +4.9%	\$14.20/ \$29,536 +7.2%	\$13.70/ \$28,496 +3.4%	\$13.95/ \$29,016 +5.3%
5	\$13.90 \$28,912 +2.0%	\$14.20/ \$29,536 +4.3%	\$13.70/ \$28,496 +0.5%	\$13.95/ \$29,016 +2.3%
6	\$14.10 \$29,328 +3.4%	\$14.40/ \$29,952 +5.6%	\$13.90/ \$28,912 +2.0%	\$14.15/ \$29,432 +3.8%

TABLE 2 CONT'D Year of Service	1996-97	1997-98	1996-97	1997-98
	UNION FINAL OFFER	UNION FINAL OFFER	CITY FINAL OFFER	CITY FINAL OFFER
7	\$14.10 \$29,328 +3.4%	\$14.40/ \$29,952 +5.6%	\$13.90/ \$28,912 +2.0%	\$14.15/ \$29,432 +3.8%
8	\$14.30 \$29,744 +4.9%	\$14.60 \$30,368 +7.1%	\$13.90/ \$28,912 +2.0%	\$14.15/ \$29,432 +3.8%
9	\$14.30 \$29,744 +4.9%	\$14.60 \$30,368 +7.1%	\$14.10/ \$29,328 +3.4%	\$14.35/ \$29,848 +5.3%
10	\$14.50 \$30,160 +4.8%	\$14.80 \$30,784 +7.0%	\$14.10/ \$29,328 +2.0%	\$14.35/ \$29,848 +3.8%
11	\$14.50 \$30,160 +4.8%	\$14.80 \$30,784 +7.0%	\$14.10/ \$29,328 +2.0%	\$14.35/ \$29,848 +3.8%
12	\$14.70 \$30,576 +6.3%	\$15.00 \$31,200 +8.5%	\$14.30/ \$29,744 +3.4%	\$14.55/ \$30,264 +5.2%
13	\$14.70 \$30,576 +6.3%	\$15.00 \$31,200 +8.5%	\$14.30/ \$29,744 +3.4%	\$14.55/ \$30,264 +5.2%
14	\$14.90 \$30,992 +7.7%	\$15.20/ \$31,616 +9.9%	\$14.30/ \$29,744 +3.4%	\$14.55/ \$30,264 +5.2%
15	\$14.90 \$30,992 +6.2%	\$15.20/ \$31,616 +8.3%	\$14.50/ \$30,160 +3.3%	\$14.75/ \$30,680 +5.1%
16	\$15.10 \$31,408 +7.6%	\$15.40/ \$32,032 +9.8%	\$14.50/ \$30,160 +3.3%	\$14.75/ \$30,680 +5.1%
17	\$15.10 \$31,408 +7.6%	\$15.40/ \$32,032 +9.8%	\$14.50/ \$30,160 +3.3%	\$14.75/ \$30,680 +5.1%
18	\$15.30 \$31,824 +9.1%	\$15.60/ \$32,448 +11.2%	\$14.70/ \$30,576 +4.8%	\$14.95/ \$31,096 +6.6%
19	\$15.30 \$31,824 +7.5%	\$15.60/ \$32,448 +9.6%	\$14.70/ \$30,576 +3.3%	\$14.95/ \$31,096 +5.1%
20	\$15.50 \$32,240 +8.9%	\$15.80/ \$32,864 +11.0%	\$14.70/ \$30,576 +3.3%	\$14.95/ \$31,096 +5.1%

Sources for Table 2: Union Ex. No. 1-6; City Ex. No. 1

POSITIONS OF THE PARTIES

The Union notes that since both parties have proposed to change the longevity steps, this change is not a "breakthrough" issue. According to the Union, the appropriate comparable cities are DuQuoin, Benton, Chester, West Frankfort, Murphysboro, Harrisburg and Marion. It is the Union's position that this comparison is supported by the Union's demographic data. The Union contends that the City's proposed longevity schedule has not been adopted by any of the comparable cities, while that of the Union is shared by Harrisburg. The Union also stresses that longevity increases will "top out" at 20 years of service under its proposal and at 18 years under the City's proposal. In this regard, the Union maintains that most of the comparable cities provide longevity increases to at least 20 years.

The Union further argues that during the hearing, the City did not present detailed arguments about its ability to fund the Union's final offer. The Union also contends that its wage and longevity offer will not produce dire financial circumstances for the City, and stresses that most of the unit members have relatively low seniority. The Union also asserts that, despite revenue losses from the landfill closure, the City still has the financial flexibility needed to fund the Union's offer. In this regard, the Union emphasizes that the City has lowered its tax rates when the City's equalized assessed valuation has increased. The Union also contends that the property tax cap will not affect a sizeable part of the City's revenue resources.

The City argues that it cannot afford the additional costs from the Union's higher second-year wage increase and more rapid longevity increases. The City stresses that it has lost significant revenues from the landfill closure. In addition, it contends that revenues from new construction in a statutory Enterprise Zone will not be available in the foreseeable future.

In addition, the City maintains that the Union's final offer is not justified by comparability. According to the City, the demographic data shows that Murphysboro is the community that is most comparable to Herrin. The City argues that many of the Murphysboro wage rates for 1996-97 and 1997-98 are less than those paid to Herrin Police Officers under the 1995-96 wage scale negotiated by the City and Union. As a result, the City contends that the City's final offer is fair and reasonable and that of the Union is excessive.

The City's brief details the cost differences between the final offers, comparing them with respect to salary levels and the wage increases that would be received by the individual employees in the bargaining unit. According to the City, after increased Medicare and pension payments are taken into account, the Union's final offer costs \$9,837 more than the City's offer over the two year period at issue.

It is the position of the City that when the factors of comparability and the City's declining revenues are considered, the City's final offer is the most fair and reasonable proposal and should be adopted.

OPINION

1. Statutory factors.

The Act directs interest arbitrators to "adopt the last offer of settlement which, in the opinion of the [Arbitrator], more nearly complies with the applicable factors prescribed in [Section 14(h)]" 5 ILCS 315/1, 14(g)). Section 14(h) prescribes that the Arbitrator's findings, opinions and order are to be based "upon the following factors, as applicable":

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.³
- (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,

³ See Joint Exhibit No. 1; Tr. 6-7.

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.

5 ILCS 315/1, 14(h)

Interest arbitrators identify "comparability" as the paramount statutory factor. See e.g., City of Batavia, Illinois and Illinois Fraternal Order of Police Labor Council, Lodge No. 224, ISLRB Case No. S-MA-95-15 (Berman, August 6, 1996), page 4 ("`[t]he most significant standard for interest arbitration in the public sector is comparability of wages, hours and working conditions'", quoting Arvid Anderson & Lorn Krause, "Interest Arbitration in the Public Sector: Standards and Procedures," Tim Bornstein & Ann Gosline, eds. Labor and Employment Arbitration (New York: Matthew Bender, 1991), Vol. III, ch. 63, Sec. 63.03[2], at 7.); City of Naperville, Illinois and Illinois Fraternal Order of Police Labor Council, ISLRB Case No. S-MA-92-98 (Benn, January 20, 1994), page 6, fn. 3 (comparability determinations are often "the ultimate determining factor....") In addition, the employer's "ability to pay" and the "cost of living" are also often significant. City of Batavia, at page 4.

Interest arbitration is intended to produce decisions that "approximate the outcome of free collective bargaining" County of Cook and Sheriff of Cook County, LLRB Case No. L-MA-95-001 (E. Goldstein, December 8, 1995), page 25. In choosing between competing final offers, interest arbitrators determine which offer is the "`most fair and equitable'" [City of Springfield, ISLRB Case

No. S-MA-89-74 (E. Benn, April 30, 1990), page 10, quoting Fulton County Board, ISLRB Case No. S-MA-87-35 (1987)]. See also County of Cook, at page 43 (using standard of "more reasonable" offer)

The City and Union have focused on comparability and the City's ability to pay. No evidence or argument was submitted on the cost-of-living or any other statutory factor.

2. Comparable cities.

The parties do not agree on the cities to be used as comparables. The Union's comparables are Marion, Harrisburg, Murphysboro, West Frankfort, Chester, Benton and DuQuoin. These are the cities in the Herrin area whose 1990 populations are within 50% of Herrin's 1990 population (Union Ex. No. 1-8, table entitled "Herrin Comparables"; Tr. 25-28). Patrol Officers in all seven cities are represented by a union (Tr. 29-30; Union Ex. Nos. 2-1 through 2-9). The City did not submit independent comparability evidence. Rather, it argues that Murphysboro is "far and away the most comparable to the City of Herrin" (City post-hearing brief, page 4).

Table 3 shows the 1990 population, median home value, per-capita income and median household income for each of these cities, as reported by the Bureau of Census [West Frankfort is abbreviated as "West Frnkft"]. These factors are recognized determinants of whether cities are valid comparables. See City of Naperville, at page 9. Table 3, shown on the following page, shows that the demographic data for Herrin correlates very closely with the data for the mean of the Union's proposed comparables:

Table 3: DEMOGRAPHIC DATA ON ALL PROPOSED COMPARABLE CITIES

Rank	1990 Population	1990 Median Home Value	1990 Per-capita Income	1990 Median Household Income
1	Marion 14,545	Marion \$43,900	Marion \$12,342	Chester \$24,710
2	Harrisburg 9,289	Chester \$41,300	DuQuoin \$10,613	Marion \$21,683
3	Murphysboro 9,176	Murphysboro \$37,700	Benton \$10,608	DuQuoin \$19,834
4	West Frnkft 8,526	DuQuoin \$37,100	Murphysboro \$9,997	Murphysboro \$19,066
5	Chester 8,194	Benton \$33,900	West Frnkft \$9,965	Benton \$17,895
6	Benton 7,216	Harrisburg \$32,700	Harrisburg \$9,836	West Frnkft \$17,574
7	DuQuoin 6,697	West Frnkft \$29,200	Chester \$8,706	Harrisburg \$17,258
7 city mean	9,092	\$36,543	\$10,295	\$19,717
Herrin	10,857	\$35,300	\$10,497	\$19,722
Herrin/7 city variance	+19.4%	-3.4%	+2.0%	+0.0%

Source for Table 3: Union Ex. No. 1-8 (page 1).

The City emphasizes the relationship between the Herrin and Murphysboro demographic data; e.g., the median home value of Murphysboro (\$37,700) is 6.8% above that of Herrin (\$35,300), Herrin's per-capita income (\$10,497) exceeds that of Murphysboro (\$9,997) by 9.5%, and Herrin's median household income (\$19,722) is 3.4% greater than that of Murphysboro (\$19,066). However, as Table 3 shows, each Herrin/Murphysboro variance exceeds that between Herrin and the mean of all seven cities submitted by the Union.

In addition, a larger sample is generally more reliable than

a smaller sample, all other factors being equal, when drawing statistical conclusions. City of Batavia, at pages 19, 20 ("A restricted sample is unreliable in that it may capture only the mathematical extremes. On the other hand, extremes at both ends of the range will tend to balance out if the sample is large enough.")

As a result, the Union's comparables offer a better basis for salary comparison than Murphysboro standing alone.

The base-year for the comparability analysis is 1995-96, the most recent salaries negotiated by the City and Union. Table 4, presented on the following page, compares the 1995-96 Herrin salary scale and the mean salary scales of the seven comparable cities. As shown in Table 4, the negotiated 1995-96 Herrin salaries exceeded the mean salary of the comparable cities for each of the salary levels. When the variance for each salary level is averaged, the 1995-96 Herrin salaries are 6.4% higher than those in the comparable cities. This average or mean will be referred to as the "mean of the Herrin/comparables variances." Table 4 follows on the next page:⁴

⁴ The initial two steps of the Herrin salary schedule [less than one year without PTI and less than one year with PTI] are not included in this and the following tables because they are difficult to compare with the initial steps in many of the comparables. In Herrin and three of the comparables (Chester, Marion and Murphysboro), a Patrol Officer advances to the second salary step after completing required training (Union Ex. Nos. 1-2, 2-3, 2-6, 2-7; Tr. 12-13). However, in three of the comparable cities (DuQuoin, Harrisburg, West Frankfort), advancement to the second step is solely a function of time in service (Union Ex. Nos. 2-4, 2-5, 2-9). Further, Patrol Officers in Benton have the same salary throughout their first year of employment (Union Ex. Nos. 2-1, 2-2). In addition, the City and Union's proposed salaries for the initial two levels are very close, since neither is affected by the competing longevity proposals. See Table 2.

Table 4: 1995-96 SALARY SCALE VARIANCES-COMPARABLE CITIES

Years of Service	1995-96 Mean annual salary of comparables	1995-96 Herrin annual salary	1995-96 Herrin/ comparables variance
1	\$24,606	\$27,560	+12.0%
2	\$25,141	\$27,560	+9.6%
3	\$25,565	\$27,560	+7.8%
4	\$25,941	\$27,560	+6.2%
5	\$26,303	\$28,350	+7.8%
6	\$26,374	\$28,350	+7.5%
7	\$26,472	\$28,350	+7.1%
8	\$26,543	\$28,350	+6.8%
9	\$27,066	\$28,350	+4.7%
10	\$27,128	\$28,766	+6.0%
11	\$27,154	\$28,766	+5.9%
12	\$27,225	\$28,766	+5.7%
13	\$27,283	\$28,766	+5.4%
14	\$27,403	\$28,766	+5.0%
15	\$27,734	\$29,182	+5.2%
16	\$27,836	\$29,182	+4.8%
17	\$27,844	\$29,182	+4.8%
18	\$27,946	\$29,182	+4.4%
19	\$28,022	\$29,598	+5.6%
20	\$28,191	\$29,598	+5.0%
Mean of Herrin/ comparables variance	-----	-----	+6.4%

Sources for Table 4: Union Ex. Nos. 1-2 (page 32), 1-9 (1995, page 2); Union Ex. Nos. 2-1, 2-2, 2-3, 2-4, 2-5, 2-6, 2-7, 2-9)

As shown in Table 5, presented on the next page, the Union's final offer increases the mean of the Herrin/comparables variances by 1.4% [from +6.4% to +7.8%], while the City's final offer

decreases that variance by 1.3% [from +6.4% to +5.1%]:

Table 5: 1996-97 SALARY SCALE VARIANCES--HERRIN AND COMPARABLE CITIES

Years of Service	1996-97 MEAN ANNUAL SALARY comparable cities	1996-97 UNION PROPOSAL	1996-97 UNION PROPOSAL Variance with comparables	1996-97 CITY PROPOSAL	1996-97 CITY PROPOSAL Variance with comparables
1	\$25,616	\$28,080	+9.6%	\$28,080	+9.6%
2	\$26,150	\$28,496	+9.0%	\$28,080	+7.4%
3	\$26,643	\$28,496	+7.0%	\$28,080	+5.4%
4	\$27,020	\$28,912	+7.0%	\$28,496	+5.5%
5	\$27,375	\$28,912	+5.6%	\$28,496	+4.1%
6	\$27,491	\$29,328	+6.7%	\$28,912	+5.2%
7	\$27,650	\$29,328	+6.1%	\$28,912	+4.6%
8	\$27,722	\$29,744	+7.3%	\$29,912	+4.3%
9	\$27,749	\$29,744	+7.2%	\$29,328	+6.0%
10	\$28,177	\$30,160	+7.0%	\$29,328	+4.1%
11	\$28,204	\$30,160	+6.9%	\$29,328	+4.0%
12	\$28,275	\$30,576	+8.1%	\$29,744	+5.2%
13	\$28,423	\$30,576	+7.6%	\$29,744	+4.6%
14	\$28,476	\$30,992	+5.7%	\$29,744	+4.5%
15	\$28,738	\$30,992	+7.8%	\$30,160	+4.9%
16	\$28,931	\$31,408	+8.6%	\$30,160	+4.2%
17	\$28,938	\$31,408	+8.5%	\$30,160	+4.2%
18	\$29,030	\$31,824	+9.6%	\$30,576	+5.3%
19	\$29,138	\$31,824	+9.2%	\$30,576	+4.9%
20	\$29,287	\$32,240	+10.8%	\$30,576	+4.4%
Mean of Herrin/ comparables variances			+7.8%		+5.1%

Source for Table 5: Union Ex. Nos. 1-6, 1-9 (1996, page 2); Union Ex. No. 2-2 through 2-9; City Ex. No. 1; City post-hearing brief (for City salary schedule).

Because the magnitude of the parties's 1996-97 changes are

almost identical, their 1997-98 proposed wage schedules will be determinative. However, 1997-98 salaries were available as of the hearing for only two of the comparables (Murphysboro and DuQuoin). Nonetheless, as explained below, this data allows a meaningful evaluation of the 1997-98 components of the competing final offers.

Table 6 compares the average of the Murphysboro and DuQuoin salaries with the mean salary levels of all seven comparables for 1995-96 and 1996-97. The data shows a consistent pattern in the variances between the average/mean salaries of all seven comparables and the Murphysboro/DuQuoin average salaries. When the mean of these variances are analyzed, the mean for the seven comparables is 2.7% higher in 1995-96 than the average of the Murphysboro and DuQuoin salaries, and 2.4% higher in 1996-97. In addition, with only one exception (9 years of service), the variances changed by no more than 1.0% between 1995-96 and 1996-97.

Table 6 is presented on this and the following page:

Table 6: VARIANCE BETWEEN MURPHYSBORO/DUQUOIN SALARIES AND ALL COMPARABLES

Year	1995-96 M'boro/ DuQuoin average	1995-96 Mean of all seven cities	1995-96 Variance between seven- city mean and M'boro/ DuQuoin Average	1996-97 M'boro/ DuQuoin average	1996-97 Mean of all seven cities	1996-97 Variance between seven- city mean and M'boro/ DuQuoin Average	1996-97 Change in variance from 1995-96 to 1996- 97
1	\$23,230	\$24,606	+5.9%	\$24,187	\$25,616	+5.9%	+0.0%
2	\$24,069	\$25,141	+4.5%	\$24,999	\$26,150	+4.6%	+0.1%
3	\$24,423	\$25,565	+4.7%	\$25,568	\$26,643	+4.2%	-0.5%
4	\$25,028	\$25,941	+3.7%	\$26,137	\$27,020	+3.4%	-0.3%
5	\$25,633	\$26,303	+2.6%	\$26,705	\$27,375	+2.5%	-0.1%

Year	<u>1995-96</u> M'boro/ DuQuoin average	<u>1995-96</u> Mean of all seven cities	<u>1995-96</u> Variance between seven- city mean and M'boro/ DuQuoin Average	<u>1996-97</u> M'boro/ DuQuoin average	<u>1996-97</u> Mean of all seven cities	<u>1996-97</u> Variance between seven- city mean and M'boro/ DuQuoin Average	<u>1996-97</u> Change in variance from 1995-96 to 1996- 97
6	\$25,700	\$26,374	+2.6%	\$26,924	\$27,491	+2.1%	+0.0%
7	\$25,767	\$26,472	+2.7%	\$27,143	\$27,650	+1.9%	-0.8%
8	\$25,834	\$26,543	+2.7%	\$27,212	\$27,722	+1.9%	-0.8%
9	\$25,901	\$27,066	+4.5%	\$27,280	\$27,749	+1.7%	-2.8%
10	\$26,713	\$27,128	+1.6%	\$27,649	\$28,177	+1.9%	+0.3%
11	\$26,780	\$27,154	+1.4%	\$27,718	\$28,204	+1.8%	+0.4%
12	\$26,848	\$27,225	+1.4%	\$27,787	\$28,275	+1.8%	+0.4%
13	\$26,848	\$27,283	+1.6%	\$28,087	\$28,423	+1.2%	-0.4%
14	\$26,848	\$27,403	+2.1%	\$28,087	\$28,476	+1.4%	-0.7%
15	\$27,348	\$27,734	+1.4%	\$28,087	\$28,738	+2.3%	+0.9%
16	\$27,348	\$27,836	+1.8%	\$28,387	\$28,931	+1.9%	+0.1%
17	\$27,348	\$27,844	+1.8%	\$28,387	\$28,938	+1.9%	+0.1%
18	\$27,348	\$27,946	+2.2%	\$28,387	\$29,030	+2.3%	+0.1%
19	\$27,348	\$28,022	+2.5%	\$28,687	\$29,138	+1.6%	-0.9%
20	\$27,848	\$28,191	+1.2%	\$28,687	\$29,287	+2.1%	+0.9%
Mean	-----	-----	+2.7%	-----	-----	+2.4%	-0.3%

Sources for Table 6: Union Ex. Nos. 2-1 through 2-7, 2-8

As a result, the 1997-98 increases in Murphysboro and DuQuoin salaries can be used to estimate the 1997-98 average salary levels for all seven comparable cities. Table 7 assumes that the mean 1997-98 salary levels for the seven comparable cities will increase at the same rate as the 1997-98 increase in the corresponding Murphysboro/DuQuoin average salary level:

Table 7: Derivation of Estimated 1997-98 Mean Salary Levels for Comparables

Year	<u>1996-97</u> M'boro/ DuQuoin average	<u>1997-98</u> M'boro/ DuQuoin average	Percent increase in M'boro/ DuQuoin average	<u>1996-97</u> Mean of all seven cities	<u>1997-98</u> Estimated mean salary for all comparable cities
1	\$24,187	\$25,415.20	5.1%	\$25,616	\$26,917
2	\$24,999	\$26,211.70	4.8%	\$26,150	\$27,419
3	\$25,568	\$26,782.30	4.7%	\$26,643	\$27,908
4	\$26,137	\$27,352.60	4.7%	\$27,020	\$28,277
5	\$26,705	\$27,923.00	4.6%	\$27,375	\$28,624
6	\$26,924	\$28,358.30	5.3%	\$27,491	\$28,956
7	\$27,143	\$28,363.70	4.5%	\$27,650	\$28,894
8	\$27,212	\$28,434.10	4.5%	\$27,722	\$28,967
9	\$27,280	\$28,504.40	4.5%	\$27,749	\$28,994
10	\$27,649	\$28,874.80	4.4%	\$28,177	\$29,426
11	\$27,718	\$28,874.80	4.2%	\$28,204	\$29,381
12	\$27,787	\$28,874.80	3.9%	\$28,275	\$29,382
13	\$28,087	\$29,174.80	3.9%	\$28,423	\$29,524
14	\$28,087	\$29,174.80	3.9%	\$28,476	\$29,579
15	\$28,087	\$29,174.80	3.9%	\$28,738	\$29,851
16	\$28,387	\$29,474.80	3.8%	\$28,931	\$30,040
17	\$28,387	\$29,474.80	3.8%	\$28,938	\$30,047
18	\$28,387	\$29,474.80	3.8%	\$29,030	\$30,142
19	\$28,687	\$29,774.80	3.8%	\$29,138	\$30,243
20	\$28,687	\$29,774.80	3.8%	\$29,287	\$30,398

Sources for Table 7: Union Ex. No. 2-4, 2-8; Table 5.⁵

Table 8 compares the parties' proposed 1997-98 salary schedules with the estimated mean salary levels for the comparable

⁵ The data in the "percent increase in M'boro/DuQuoin average" column is rounded to one decimal point for presentation in Table 7. However, when calculating the 1997-98 estimated mean salary levels for the comparable cities, the actual percent increase, to 7 decimal places, was used.

cities. As shown in Table 8, the mean of the Herrin/comparables variances is +5.5% under the Union's final offer and +2.6% under that of the City:

Table 8: 1997-98 COMPARISON OF PARTIES' FINAL OFFERS AND ESTIMATED SALARY LEVELS FOR COMPARABLE CITIES

<u>Years</u>	<u>1997-98</u> UNION FINAL OFFER	<u>1997-98</u> CITY FINAL OFFER	<u>1997-98</u> ESTIMATED MEAN SALARY LEVELS OF COMPARABLE CITIES	<u>1997-98</u> UNION OFFER Herrin/ comparables variance	<u>1997-98</u> CITY OFFER Herrin/ comparables variance
1	\$28,704	\$28,600	\$26,917	+6.6%	+6.3%
2	\$29,120	\$28,600	\$27,419	+6.2%	+4.3%
3	\$29,120	\$29,016	\$27,908	+4.3%	+4.0%
4	\$29,356	\$29,016	\$28,277	+3.8%	+2.6%
5	\$29,356	\$29,016	\$28,624	+2.6%	+1.4%
6	\$29,952	\$29,432	\$28,956	+3.4%	+1.6%
7	\$29,952	\$29,432	\$28,894	+3.7%	+1.9%
8	\$30,368	\$29,432	\$28,967	+4.8%	+1.6%
9	\$30,368	\$29,848	\$28,994	+4.7%	+2.9%
10	\$30,784	\$29,848	\$29,426	+4.6%	+1.4%
11	\$30,784	\$29,848	\$29,381	+4.8%	+1.6%
12	\$31,200	\$30,264	\$29,382	+6.2%	+3.0%
13	\$31,200	\$30,264	\$29,524	+5.7%	+2.5%
14	\$31,616	\$30,264	\$29,579	+6.9%	+2.3%
15	\$31,616	\$30,680	\$29,851	+5.9%	+2.8%
16	\$32,032	\$30,680	\$30,040	+6.6%	+2.1%
17	\$32,032	\$30,680	\$30,047	+6.6%	+2.1%
18	\$32,448	\$31,096	\$30,142	+7.7%	+3.2%
19	\$32,448	\$31,096	\$30,243	+7.3%	+2.8%
20	\$32,864	\$31,096	\$30,398	+8.1%	+2.3%
Mean	-----	-----	-----	+5.5%	+2.6%

Sources for Table 8: Union Ex. No. 1-6; City Ex. No. 1; City post-hearing brief (for City salary schedule); Table 7 above.

Table 9 offers a three-year perspective on the relative position of Herrin salary levels and those of the comparable cities:

Table 9: NEGOTIATED SALARIES (1995-96), CITY AND UNION FINAL OFFERS (1996-97, 1997-98) AND SALARIES IN COMPARABLE CITIES

Years	<u>1995-96</u>	<u>1996-97</u>	<u>1996-97</u>	<u>1997-98</u>	<u>1997-98</u>
	BASE-LEVEL	UNION FINAL OFFER	CITY FINAL OFFER	UNION FINAL OFFER	CITY FINAL OFFER
	Herrin/ comparables variance [from Table 4]	Herrin/ comparables variance [from Table 5]	Herrin/ comparables variance [from Table 5]	Herrin/ comparables variances [from Table 9]	Herrin/ comparables variance from Table 9]
1	+12.0%	+9.6%	+9.6%	+6.6%	+6.3%
2	+9.6%	+9.0%	+7.4%	+6.2%	+4.3%
3	+7.8%	+7.0%	+5.4%	+4.3%	+4.0%
4	+6.2%	+7.0%	+5.5%	+3.8%	+2.6%
5	+7.8%	+5.6%	+4.1%	+2.6%	+1.4%
6	+7.5%	+6.7%	+5.2%	+3.4%	+1.6%
7	+7.1%	+6.1%	+4.6%	+3.7%	+1.9%
8	+6.8%	+7.3%	+4.3%	+4.8%	+1.6%
9	+4.7%	+7.2%	+6.0%	+4.7%	+2.9%
10	+6.0%	+7.0%	+4.1%	+4.6%	+1.4%
11	+5.9%	+6.9%	+4.0%	+4.8%	+1.6%
12	+5.7%	+8.1%	+5.2%	+6.2%	+3.0%
13	+5.4%	+7.6%	+4.6%	+5.7%	+2.5%
14	+5.0%	+5.7%	+4.5%	+6.9%	+2.3%
15	+5.2%	+7.8%	+4.9%	+5.9%	+2.8%
16	+4.8%	+8.6%	+4.2%	+6.6%	+2.1%
17	+4.8%	+8.5%	+4.2%	+6.6%	+2.1%
18	+4.4%	+9.6%	+5.3%	+7.7%	+3.2%
19	+5.6%	+9.2%	+4.9%	+7.3%	+2.8%
20	+5.0%	+10.8%	+4.4%	+8.1%	+2.3%
Mean var- iance	+6.4%	+7.8%	+5.1%	+5.5%	+2.6%

Table 10 examines the degree to which each of the final offers changes the 1995-96 base level relationship between Herrin salaries and those of the comparable cities. As shown below, when the competing final offers are evaluated over the two-year period at issue (1996-1998), the Union's offer makes the smallest absolute change in this negotiated base-level relationship.

Over both years, the Union's final offer slightly increases the Herrin/comparable cities ratio to +6.7%, a change of 0.2%. However, the City's final offer reduces the negotiated variance by 2.5% to +3.9%, and thus significantly skews that base-level ratio. See City of Springfield, pages 23-25, 30 (city's offer accepted because union's wage offer exceeded the increases received by other city employees and thus skewed the relationship between police employees and other employees); City of Naperville, page 35.

Table 10 is presented on the following page:

TABLE 10: SUMMARY OF 1995-96, 1996-97 AND 1997-98 VARIANCES BETWEEN HERRIN SALARY LEVELS AND THOSE OF COMPARABLE CITIES

	Mean variance between Herrin and seven city comparables	Change from 1995-96 base-level variance
1995-96 [Table 4] Negotiated Herrin Salaries	+6.4%	-----
1996-97 [Table 4] UNION FINAL OFFER	+7.8%	+1.4%
CITY	+5.1%	-1.3%
1997-98 [Table 9] UNION FINAL OFFER	+5.5%	-0.9%
CITY FINAL OFFER	+2.6%	-3.8%
1996-98 [Table 9] Cumulative two year variance between FINAL OFFERS and comparables:		
UNION	+6.7%	+0.2%
CITY	+3.9%	-2.5%

For the reasons stated above, I have concluded that the Union's final offer is more reasonable than that of the City with respect to the comparability factor.⁶

3. The interests and welfare of the public and the City's ability to pay.

Section 14(g)(3) of the Act requires the Arbitrator to consider "[t]he interests and welfare of the public and the financial ability of the unit of government to meet" the costs of the final offers. See 5 ILCS/315/1, 14(g)(3). The City asserts

⁶ The City emphasizes that the structure of its proposed salary schedule is similar to that of Murphysboro, in which Police Officers receive longevity increases at three year intervals. However, focusing on Herrin's relationship with all seven comparables is more meaningful than comparing the proposed schedules to that of one city. City of Batavia, at pages 19, 20.

that "the City has insufficient resources to fund the wage increase which the Union has demanded" (City brief, page 3). In particular, the City stresses that it no longer receives revenues from its municipal landfill, which was closed in 1994.

The City has the burden of providing sufficient evidence to support arbitral reliance with respect to its ability to pay. County of Cook, at page 26; City of Springfield, at page 18. The City's burden is not satisfied by a "generalized argument." Rather, the City must provide sufficient evidence to show "a real inability to pay the costs of the Union wage proposal. ... The plea of inability to pay must come not as a budgetary limitation, but as an economic fact of life for the particular unit of government, i.e., there is no ability to meet the increased costs." County of Cook, at pages 26-28 (emphasis in original).

In addition, the "relevant inquiry does not focus upon the uncertainty or adversity that may be caused by funding the Union's offer. The determinative factor concerns the [employer's] 'financial ability ... to meet these costs.' (emphasis in original) The [employer] must therefore show an 'inability' to pay" City of Springfield, page 19. Thus, the City must show that granting the Union's final offer "will create a substantial adverse impact of its fiscal capabilities" City of Springfield, page 18.

The two-year cost difference in the parties' final offers is \$9,837.00 (City brief, page 13). As detailed below, I have concluded that the City has shown that the landfill closure has diminished its revenues, but has not shown that it is financially

unable to meet the incremental cost of the Union's final offer.⁷

The landfill had provided substantial revenue for the City. In fiscal year 1994, gross landfill revenues (\$1,038,305.60) comprised 30.0% of the total revenues in the City's General Fund (\$3,459,260) (Union Ex. No. 1-10, page 3; City Ex. No. 4 [City's November 20, 1996 post-hearing submission], page 2).

Table 12 shows the impact of the landfill closing on the City's net revenues:

Table 12: Revenues, Expenses and Net Revenues from City Landfill

Source of Funds	FY 1994	FY 1995	FY 1996
Landfill gate [120-032] ⁸	\$ 168,173.95	\$ 140,770.45	\$ 0.00
Landfill office [120-033]	\$ 870,131.68	\$ 456,946.65	\$ 0.00
Landfill transfer tax [120-033]	not in FY 1994 budget	not in FY 1995 budget	\$ 105,654.55
Sale of Landfill Equipment [120-035]	not in FY 1994 budget	not in FY 1995 budget	\$ 45,000.00 [one-time sale]
Total Revenue	\$1,038,305.60	\$ 597,717.10	\$ 150,654.55
Total Expenses	\$ 625,631.79	\$ 477,217.89	\$ 318,259.34
Net Revenue	\$ 412,673.90	\$ 120,499.21	-\$ 167,604.79

Source for Table 12: City Exhibit No. 4 (page 2 and revenue master reports for FY 1994, 1995, 1996)

⁷ The differential two-year wage costs are \$8,423 (City brief, Table 8, page 11). In addition, the increased wages result in increased Medicare costs (\$122) and pension payments (\$1,292) (City brief, page 13). Because the City has made a final offer, the Arbitrator must focus on the City's ability to pay the cost difference between the Union and City's final offers, even though the City has not identified funding sources for the employer's own final offer (Tr. 93-94). See City of Springfield, at pages 18-19 (absence of budgeted funds dedicated to wage increase not dispositive when employer was able to make a salary offer).

⁸ The bracketed references are to the line numbers of these entries in the FY 1996 revenue master report. Landfill transfer tax replaced Landfill Office as item 120-033 in the FY 1996 revenue master report (City Ex. No. 4).

The City is also responsible for certain post-closure expenses until the year 2009 (City Ex. No. 2, page 2). These expenses are paid from the General Fund (Tr. 70, 92). As of the November 13, 1996 hearing, the City had incurred post-closure expenses totaling \$141,179.50 for FY 1997. An additional \$15,000 expense was due shortly after the hearing (Tr. 69-70, 91-95).

However, the City's post-closure costs are, by nature, contingent. Thus, while the City has shown that it may face additional post-closure expenses in FY 1997 and FY 1998, the record does not contain evidence that those additional expenses will occur or how much they will be. City of Springfield, pages 18-19; County of Cook, page 26.

Moreover, even assuming that the City incurs additional post-closure expenses, the City has not shown that it will have "no ability to meet" the \$9,837.00 two-year differential cost of the Union's final offer. County of Cook, at page 27. The City maintained positive cash balances in FY 1994, 1995 and 1996 despite the severely reduced landfill revenues in those years (Tr. 61-62; Union Ex. No. 1-10, page 2). The city had a deficit in 1992, but that was before the landfill closure (Union Ex. No. 10-10, page 2).

Further, two other major revenue sources--property and sales tax receipts--have increased annually from FY 1992 to FY 1996. Sales tax revenues increased by 29.4% in that time period, from \$808,251 to \$1,045,729.39. Property tax revenues increased by 46.5%, from \$416,136 to \$609,693.99 (Union Ex. Nos. 1-10 [page 3])

and 1-11 [page 1]). In addition, FY 1996 revenues exceeded budgeted levels for the State sales tax, State replacement tax, State Income tax and Williamson County real estate tax (Union Ex. No. 1-11, page 1). Moreover, there is no evidence that the City has maximized its tax rates, even with the advent of the property tax-cap law.

As stressed by the Union, then, the City has been able to meet its expenses despite the revenue losses from the 1994 landfill closure.

It is not an interest arbitrator's task to make political decisions as to how the City should allocate or spend its funds. Rather, an arbitrator's inquiry is limited by statute to "the financial ability of the unit of government to meet" the cost differences between the Union and City's final offers [5 ILCS/315/1, 14(g)(3)]. County of Cook, at page 38; City of Springfield, at page 19.

Based on the foregoing discussion, I have concluded that the City has not sustained its burden with respect to its "inability to pay" defense. Nor is there evidence that the interests and welfare of the public will be jeopardized by the Union's final offer.

Compare City of Venice, ISLRB Case No. S-MA-92-200 (D. Traynor, September 18, 1995), pages 9, 11-13, 18-19 (employer's inability to pay defense sustained; city was raising funds from all available sources and was already using the maximum available tax rate; city lost two major revenue sources in fiscal year at issue; city's General Fund had deficit of \$2.4 million; city was issuing

checks without sufficient funds to pay those bills, was "barely able" to meet insurance premiums and was behind in paying its utility, trash disposal and repair bills). See also County of Cook, at pages 28, 35-38 (projected \$150 million deficit not sufficient to sustain inability to pay defense); City of Springfield, at pages 17-19 (inability to pay defense rejected even though city had already abolished public safety positions and laid off employees).

4. Cost-of-living.

Neither party submitted evidence or arguments on the cost-of-living. I will take arbitral notice (see City of Springfield, at page 28) of a 3.3% increase from December 1995 to December 1996 in the Consumer Price Index for all Urban Consumers ("CPI-U"), and a 2.9% increase in the CPI-U from May 1995 to May 1996 (U.S. Department of Labor, CPI Detailed Report, data for December 1996, page 11; CPI Detailed Report, data for May 1996, page 5).

5. Conclusion

The comparability factor strongly supports the Union's final offer. This is shown when both offers are compared at the end of 1997-98. The Union's final offer slightly increases the Herrin/comparable cities ratio to +6.7%, a change of 0.2%. In contrast, the City's final offer reduces the negotiated variance by 2.5%, and thus significantly skews the 1995-96 base-level ratio.

As discussed, the City has not sustained its burden of presenting sufficient evidence that it is unable to pay the cost difference between the Union and City final offers. Nor does the

record show that the Union's final offer harms the interests and welfare of the public.

The cost-of-living increases are more consistent with the City's offer than with that of the Union. However, I agree with Arbitrator Benn's conclusion that in "basically non-inflationary times," comparability determinations outweigh the impact of the cost-of-living factor. City of Naperville, page 28. The other statutory factors, which were not discussed by the parties, are not relevant to this dispute.

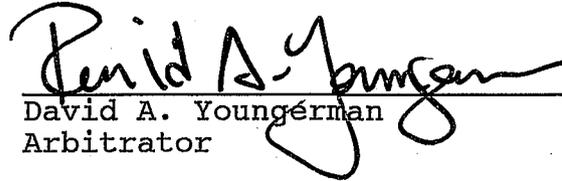
Based on the foregoing, I have concluded that the Union has presented the most equitable and reasonable final offer, and that the Union's final offer "most nearly complies" with the applicable statutory factors. 5 ILCS 315/1, 14(g).

The parties stipulated that I have the authority to issue an award retroactive to May 1, 1996 (Jt. Ex. No. 1, par. 1). Neither party presented evidence or argument that the award should not be retroactive.

As a result, I am adopting the Union's final offer, retroactive to May 1, 1996.

AWARD

The final offer of the Union is adopted. The wage schedule for 1996-97 will be made retroactive to May 1, 1996.


David A. Youngerman
Arbitrator

P.O. Box 4493
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Issued: March 20, 1997