

**IN THE MATTER OF THE INTEREST ARBITRATION**

Between

**EMPLOYER**City of Moline  
Moline, Illinois

And

**UNION**International Association of Firefighters, AFL-CIO  
Local 581**ILRB CASE NO. S-MA-15-229****IMPASSE ISSUES****ECONOMIC**Wages  
Holidays & Holiday Pay  
Hours of Work / Kelly Days  
Retirement Sick Leave Payout  
Working Out of Class  
Retiree Post Health Insurance  
Safety - Shift Staffing/Manning**NON-ECONOMIC**

Grievance Procedure

**OPINION & AWARD****PRELIMINARY INFORMATION****CASE PRESENTATION – APPEARANCES****FOR THE EMPLOYER****ARTHUR W. EGGERS**Attorney  
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**WITNESSES ( in order of respective appearance )****FOR THE EMPLOYER**

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MAUREEN RIGGS  
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**FOR THE UNION**

BRIAN VYNCKE  
Fire Captain  
Member of the Bargaining Team

JEFF SNYDER  
Fire Captain

JAMES VERSLUIS <sup>1</sup>  
Training Officer Lieutenant

**OTHERS PRESENT AT HEARING****FOR THE EMPLOYER**

SIGRID ZAEHRINGER  
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Public Safety Director

LEAH MILLER  
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TODD ALLEN  
Battalion Chief

**FOR THE UNION**

CHRIS COATS  
IAFF Representative

STEVEN REGENWETHER  
President, IAFF Local 581

ERIC BECKER  
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DAVID ESTES  
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MITCH CUNNINGHAM  
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**COURT REPORTER**

TAMMY WOLLER, CSR, RPR

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<sup>1</sup> Testified both in the Union's Case-in-Chief and as a Rebuttal witness.

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**AUTHORITY TO ARBITRATE**

January 1, 2012 – December 31, 2014 Labor Agreement, pp. 1-54 (Jt.Ex.1)

Article XXXIX, Effect of Agreement, pp. 39-40

Article XLI, Term of Agreement, p. 44

And

Ground Rules And Stipulations Of The Parties, Effective May 12, 2015 (Jt.Ex.5)

And

**THE ILLINOIS PUBLIC LABOR RELATIONS ACT, pp. 1-35 ( July, 2000 )****Section 14. Security Employee, Peace Officer and Fire Fighter Disputes, pp. 22-27****Sub-Sections (a) through (p); Sub-Section (c) as amended****CHRONOLOGY OF RELEVANT EVENTS**

Union Presented to the City Its Comprehensive  
 Proposal Relative to Changes to Twelve (12)  
 Provisions In the Predecessor 2012-2014  
 Labor Agreement; Date Not Disclosed at Arbitration

Date Negotiation Session Held Wherein the  
 City Tendered to the Union Its Proposal #1

October 17, 2014

**CHRONOLOGY OF RELEVANT EVENTS (continued)**

Date Parties Reached Tentative Agreement on the Issues

December 19, 2014

of Working Out of Class and the Preamble Clause Relative to the Union's Right to Refuse to Process Employee Grievances Determined to be Unmeritorious

Date Parties Reached Tentative Agreement on the Issues of Probationary Periods and Seniority January 8, 2015

By Letter Dated March 2, 2015 From Attorney J. Dale Berry With Copy to Attorney Arthur W. Eggers, the Arbitrator Was Informed of His Mutual Selection to Preside Over This Interest Arbitration; Date Letter Received by the Arbitrator at His Chicago Office Address March 9, 2015

By Letter From The Illinois Labor Relations Board, Dated March 5, 2015 the Arbitrator Was Apprised His Appointment as Interest Arbitrator Between the City of Moline & IAFF Local 581, Case No. S-MA-15-229 Was Confirmed; Date Letter Received by the Arbitrator at His Chicago Office Address March 10, 2015

Date First Session Convened by Agreement of the Parties to Meet in Mediation to Attempt Settlement of the Remaining Issues At Impasse<sup>2</sup> April 23, 2015

Date Parties Exchanged Their Respective Last Offers of Settlement in Accord With Their Mutual Agreement Prior to Commencement of Interest Arbitration May 6, 2015

Dates Interest Arbitration Proceedings Convened May 12 & 13, 2015

Date Parties Effected Exchange of Their Last, Best, and Final Offer May 26, 2015

Date Arbitrator Received Two (2) Volumes of Transcripts June 1, 2015

Volume I – May 12, 2015 Hearing – pp. 1-181

Volume II – May 13, 2015 Hearing – pp. 182-329

### **CHRONOLOGY OF RELEVANT EVENTS (continued)**

Date Arbitrator in Receipt of Post-Hearing Briefs

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<sup>2</sup> One issue resolved to wit: Article XIV Discipline and Discharge, wherein the Parties agreed that “all suspensions would be subject to just cause and arbitration”.

City's Post-Hearing Brief Received by Email Attachment	July 20, 2015
Union's Post-Hearing Brief Sent by U.S. Mail Post-Marked <sup>3</sup>	July 22, 2015
Date Case Record Officially Closed as of Post Mark Date of Union's Post-Hearing Brief	July 22, 2015

## RELEVANT DOCUMENTATION

### I. THE ILLINOIS PUBLIC LABOR RELATIONS ACT ( July, 2000 )

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#### **Section 14. Security Employee, Peace Officer and Fire Fighter Disputes <sup>4</sup>**

\* \* \* \*

**(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 the 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: <sup>5</sup>**

**(1) The lawful authority of the employer.**

**(2) Stipulations of the parties.**

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<sup>3</sup> In accord with Paragraph 10 of the agreed upon Ground Rules and Stipulations of the Parties (Jt.Ex.5), the Parties agreed "the postmarked date of mailing shall be considered to be the date of submission of a brief".

<sup>4</sup> Pursuant to Paragraph 11 of the agreed upon Ground Rules and Stipulations of the Parties (Jt.Ex.5), the Parties agreed to the following: "The Neutral Arbitrator shall base his findings and decision upon the applicable factors set forth in Section 14 (h) of the Illinois Public Labor Relations Act. Consistent with Section 1230.100 (b) of the Rules and Regulations of the Illinois Labor Relations Board, with respect to each economic issue in dispute, the Neutral Arbitrator shall adopt the final offer of the party that most conforms with the factors set forth in Section 14 (h)".

<sup>5</sup> Under the agreed upon Ground Rules and Stipulations of the Parties (Jt.Ex.5), the Parties, in Paragraph 1, agreed to waive a tripartite arbitration panel and instead selected this Arbitrator to serve as the Neutral Arbitrator having jurisdiction and authority to rule on those mandatory subjects of bargaining submitted to him as authorized by the Illinois Public Labor Relations Act.

- (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.

## II. GROUND RULES AND STIPULATIONS OF THE PARTIES (Jt/Ex.5)

Pursuant to Paragraph 6, the Parties agreed to the following eleven (11) comparable Communities:

Belleville	Bloomington	Champaign	Danville
DeKalb	Galesburg	Normal	Pekin
Quincy	Rock Island	Urbana	

ECONOMIC ISSUES AT IMPASSE - PARTIES' FINAL OFFERS

& ARBITRATOR'S OPINION

**WAGES**<sup>6</sup>

Proposed Across the Board Increases:

**Union Proposal****City Proposal**

January 1, 2015 - 2.5%

January 1, 2015 - 2.5%

January 1, 2016 - 2.75%

January 1, 2016 - 2.5%

January 1, 2016 - 3.00%

January 1, 2017 - 2.5%

**ANALYSIS**

As noted above from comparing the Union and the City's respective proposals, the Parties are in agreement for an across-the-board increase in wages, aka General Wage Increase (GWI), for the first year of the Labor Agreement of 2.5%.

The Union has presented sufficient evidence to show that the City has the resources and possesses the financial ability to fund the wage increases it has proposed for both remaining years, 2016 and 2017 of the successor collective bargaining agreement (CBA). The Union's own data reflects that in terms of Top Base Salary using 2013 as the benchmark data point, Moline Firefighter's rank very favorably in comparison to the other comparable communities notwithstanding the huge discrepancy in the number of years it takes for a Moline Firefighter to reach the Top Base Salary specifically, 19 years as compared to an average four (4) years for the other 11 communities. It is noted that the next highest number of years to reach the Top Base Salary is that of DeKalb at seven (7) years, followed by Quincy and Rock Island both at five (5) years. In 2013, Moline was at a Top Base Salary of \$70,727 exceeded by only one other comparable community, DeKalb at \$81,231. The benchmark data point of 2013 also reflects that in terms of hours worked on an annual basis, Urbana was the only comparable community at 2,864 hours to exceed Moline's at 2,816 hours. With regard to the Top Base Hourly Wage Rate, Belleville and DeKalb were the only two (2) comparable communities at \$26.72 and \$30.37 respectively to exceed Moline's hourly rate of \$25.12.

These same comparisons for 2015 using Union data show that of the six (6) comparable communities for which there are data available for Top Base Salary, Moline ranks second in Top Base Salary with \$74,307, only to be exceeded by DeKalb with a

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<sup>6</sup> In their respective Final Offers presented at the arbitration hearing, the City proposed the duration of the successor Labor Agreement to be three (3) years whereas, the Union proposed the duration to be two (2) years. In its Last, Best, and Final offer submitted following the close of the arbitration hearing, the Union agreed to accept the City's offer of a three (3) year agreement. Thus, all the issues presented hereinabove and the Parties' respective attendant argument in support of each item at impasse is based on a successor agreement of three (3) years in duration – beginning January 1, 2015 and ending December 31, 2017.

Top Base Salary of \$84,933.<sup>7</sup> It is noted that with regard to this comparison, Moline retained its ranking of number 2 among the comparable communities. As to the Top Base Hourly Wage Rate, of the five (5) comparable communities, only DeKalb at the hourly rate of \$31.76 exceeded that of Moline at \$26.39. As to annual hours worked, there was data for five (5) comparable communities which reflected that Moline at 2,816 hours exceeded the total for all five (5) communities. Data for percentage wage rate increases were available for seven (7) of the comparable communities and the GWI of 2.5% agreed upon by the Parties in Moline matched the median average GWI percentage-wise for these seven (7) comparable communities of 2.5%.<sup>8</sup> On the basis of the weighted average however, the GWI percentage wage rate increase for these seven (7) comparable communities was 2.46%.

The City calculations of Top Base Salary are based on completion of service at the 20<sup>th</sup> year of employment. Although this is a different calculation than utilized by the Union, nevertheless, both the Union and the City agree that for the year 2015, the Top Base Salary for Fire Fighters is \$74,307.<sup>9</sup> However, for 2015, the dollar amounts put forth by the City representing the Top Base Salary for the comparable communities for which data is available differ from the dollar amounts put forth by the Union. Additionally, the Union cites Top Base Salary figures for comparable communities not cited by the City whereas, the City cites Top Base Salary figures for comparable communities not cited by the Union. So for example, in 2015, the Union specified Top Base Salary for five (5) comparable communities and so did the City but they were not the same five (5) comparable communities and the dollar amounts cited were substantially different for those comparable communities that both cited. Included in the list of comparable communities cited by the City but not cited by the Union was the City of Normal. Included in the list of comparable communities cited by the Union but not cited by the City was the City of DeKalb. In adding those comparable communities to both lists, Moline's Top Base Salary drops in rank from 2 of 7 to 3 of 7, as Normal not cited by the Union but cited by the City has a Top Base Salary of \$77,117, less than DeKalb but exceeding that of Moline's \$74,307. If Urbana is added to the list based on the calculations performed by the Arbitrator, Moline drops in rank from 2 of 8 to 3 of 8.

These same comparisons for 2016 are as follows. Compared with four (4) comparable communities cited by the Union for which there are data, the Top Base Salary for Moline under the Union's proposal would be at \$76,351 only exceeded by DeKalb at \$87,068 and under the City's proposal the Top Base Salary would be \$76,165 still only exceeded

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<sup>7</sup> Subsequent to the close of the Hearings, the Union secured percentage increases in GWI for Urbana and the Arbitrator took the liberty of calculating the Top Base Salary for Urbana for the years 2015 and 2016 where these salaries had not been computed by the Union in its Group Exhibit 2. For 2015, the Top Base Salary was \$62,377 reflecting a percentage increase of 2.70% and for 2016 it will be \$64,248 reflecting a percentage increase of 3.00%. There was no data for Urbana for the other comparisons and therefore, these other comparisons were based on five (5) remaining comparable communities.

<sup>8</sup> Subsequent to the close of the Hearings, the Union secured negotiated percentage increases in GWI for DeKalb for 2015 at 2.25% and 2016 at 2.5%. Prior to securing said wage data for DeKalb, the Union's data was based on six (6) comparable communities for this comparison.

<sup>9</sup> All amounts are rounded to the nearest dollar amount.

by DeKalb. Thus, under either the Union's or the City's proposed percentage changes in GWI, Moline ranks number 2 of 5 with respect to the other comparable communities. As to the percentage increase in GWI, three (3) of five (5) comparable communities are below the percentage rate proposed by the Union, one (1) comparable community has a negotiated percentage rate equal to that proposed by the Union at 2.75% and one (1) comparable community, Urbana has obtained a negotiated rate that exceeds the Union's proposed rate at 3.00%. As an aside, Urbana also had a negotiated rate in 2015 of 2.70% that exceeded the Parties' agreed upon percentage increase in GWI of 2.5%. However, Urbana's Top Base Salary is far below that of Moline's.

Additionally, the Union sets forth data on Annual Hours worked and Top Base Hourly Wage Rates the City does not cite. For 2016 the Union cites available data for four (4) comparable communities, two (2) of which would work more annual hours than Moline under its proposal with Quincy and Moline just one (1) hour apart, Moline having the greater number of hours. Thus, under the Union's proposal, Moline would rank 3 of 5 but under the City's proposal of no change in the number of hours worked annually, Moline with the greatest number of hours would rank 5 of 5, meaning all four (4) comparable cities would work lesser hours annually. The City's position of maintaining the status quo of 2,816 annual hours exceeds that of the Union's proposed 2,756 hours by 60 hours annually. As to the relative ranking of the Top Base Hourly Wage Rate, both the Union's and the City's proposal would result in the same rank of 2 of 5 only exceeded by the City of DeKalb. However, the difference in the average Top Base Hourly Wage Rate under the Union's proposal of 10.60% above the average would be greater than that of the City's at 8.43%.

As noted in footnote 6, the Union in its Final Offer presented at the arbitration hearing proposed a two (2) year duration of the successor collective bargaining agreement whereas, the City's proposal was for an agreement of three (3) years. Subsequently, in its Last, Best, and Final Offer the Union agreed to accept the City's position on duration. As a result, the Union did not advance any Top Base Salary data for 2017 or other comparable community comparisons with the exception of specifying percentage wage rate increases for GWI negotiated by two (2) comparable communities. The City however specified a third comparable community that had negotiated a percentage rate increase for 2017. Based on the percentage increase proposed by the Union for 2017 of 3.00%, the Arbitrator calculated the Top Base Salary to be \$78,642, representing an increase in salary of \$2,291 over the projected salary of 2016. The same calculation applied to the City's proposal yielded a Top Base Salary of \$78,069, representing an increase of \$1,904 over the projected salary of 2016. As to the comparison of wage rate percentage increases for the three (3) comparable communities for which there are data, the Union's proposal of 3.00% exceeds all three (3) comparable communities whereas, the City's proposal of 2.5% exceeds that of only one (1) community, is identical to one (1) community and is only below 0.15% of the remaining community.

The record evidence reflects that the average percentage increase in GWI for the comparable communities in 2016 was 2.5% exactly the percentage increase proposed

by the City and for 2017 the average calculates to be 2.33%, below that of what the City proposes of a 2.5% increase in GWI.

The Union however advances other argument in support of its position that the higher percentage increases in GWI it proposes should be accepted by the Arbitrator. The Union presents data pertaining to Average Career Salary and to this metric it adds Holiday Cash Benefit and Premium Benefit to arrive at Total Cash Payments. Since the Parties agreed to a 2.5% percentage increase in GWI for 2015, the data presented for this comparison has not been considered by the Arbitrator for 2015. Thus, since the Union had not anticipated agreeing to a third year of an agreement, the only comparative data regarding Average Career Salary and Total Cash Payments is for 2016. Under the Union's proposal, the Average Career Salary is \$65,687 and under the City's proposal this total is \$65,527 a mere difference of \$160.00. However, in comparison to the four (4) comparable communities for which there are data available, both the Union's and City's projected totals for this metric exceed the dollar amount for two (2) of the comparable communities, falls short of \$105 under the Union's proposal for another community and is exceeded by nearly \$19,000 by the remaining community, DeKalb. With regard to Total Cash Payments, both the Union's and the City's projected amounts based on their respective proposed GWI percentage increase, \$72,992 for the Union and \$72,709 for the City, exceeds the actual Total Cash Payments for three (3) of the four (4) comparable communities for which there exist data and falls well short of the remaining comparable community, DeKalb at \$84,306.

The next argument asserted by the Union is what the Union characterizes as the Going Rate Analysis. This analysis is achieved by combining salary data set forth in five (5) year intervals through 30 years and continuing thereafter, in recognition that it takes 19 years for a Moline Fire Fighter to reach Top Base Salary, with percentage rate increases in GWI negotiated in the 2012-2014 CBA, the percentage rate increase in GWI agreed upon by the Parties for 2015, and the Union's proposed percentage rate increase in GWI for 2016 and 2017 as compared with the City's proposed percentage rate increases in GWI for 2016 and 2017. The Union submits that over the term of the 2012-2014 CBA as compared to the identified comparable communities, Moline Fire Fighters lost four percent (-4%) to the "going rate". The Union claims that if its proposed percentage rate increases in GWI are accepted by the Arbitrator for the three (3) year term of the 2015-2017 CBA, the four percent (4%) deficit will be mitigated to minus (-3.09%) whereas, if the Arbitrator accepts the City's Final Offer this deficit will only be mitigated to minus (-3.85%).

The final argument asserted by the Union in support of its proposed percentage rate increases in GWI is based on the concept of what it characterizes as a "productivity increase" that was adopted by Arbitrator Elliott Goldstein in the Interest Arbitration case, City of Dekalb and Dekalb Fire Fighters Assn. Local No. 1236, ISLRB No. S-MA-87-86 (6-9-88). This concept is predicated on a reduction in the number of Fire Fighter positions over the term of the predecessor CBA while, during the same time period, there has been a significant increase in the call volume. The Union notes this is exactly the circumstances that occurred in Moline under the 2012-2014 CBA, whereby the City

implemented a reduction of five (5) budgeted positions that was further compounded by delays in hiring replacements for vacancies in budgeted positions while during the same period of time the amount of work performed by the bargaining unit Fire Fighters continued at a high level.

### **OPINION**

The record evidence clearly establishes by the majority of comparative data with that of the eleven (11) comparable communities that the salaries of Moline Fire Fighters fall within the top half of salaries notwithstanding the very long period of time of nineteen (19) years it takes to reach salary parity. At present, prior to implementing the agreed upon 2.5% GWI for 2015, the first year of the CBA, the average wage of the 58 Moline Fire Fighters is \$68,346 (CityEx.5) which exceeds three (3) of the five (5) comparable communities for which there are data at the twenty (20) year level listed on Union Exhibit 2M. This same Union Exhibit reflects that given the agreed upon 2.5% increase in GWI for 2015, the average wage will rise to \$74,307 which exceeds the salary of four (4) of the comparable communities thus advancing the salary above one (1) additional comparable community. The exhibits also make clear that until a Moline Fire Fighter attains fifteen (15) years of service, their salaries lag behind the salaries of Fire Fighters in the identified eleven (11) comparable communities as Fire Fighters in these comparable communities advance in salary at a much faster pace in terms of the number of years of service. However, the data for Average Career Salary and Total Cash Payments also make clear that Moline Fire Fighters are well compensated in comparison to the Fire Fighters in the very few comparable communities with higher salaries.

Of all the arguments asserted, the Arbitrator finds the most compelling to be the negotiated percentage wage rate increases for the comparable communities for which there are data for the years 2016 and 2017 as compared to the GWI increases proposed by the Parties. The Arbitrator finds the City's proposal to more nearly comply with the applicable factors as set forth in Section 14, Subsection (h) of the Labor Relations Act. Accordingly, the City's proposed percentage increases in GWI for the second and third years of the 2015-2017 CBA at 2.5% respectively for each year is adopted by the Arbitrator.

### **HOLIDAYS & HOLIDAY PAY**

#### **Union Proposal**

Increase Number of Holidays  
From 10 to 12

#### **City Proposal**

Status Quo – Retain  
Number of Holidays at 10

### **ANALYSIS**

In support of its position the Union relies on the Internal Comparison with all other City employees, both bargaining and non-bargaining unit employees and specifically citing the Police all of whom receive twelve (12) paid holidays as opposed to the ten (10) paid holidays currently received by the Fire Fighters. The two (2) additional holidays the Union seeks to obtain in the 2015-2017 successor CBA are, President's Day that occurs in February and Spring Holiday that occurs in April.<sup>10</sup>

The Union notes that given the two (2) additional holidays the Police have negotiated combined with their work schedules as compared to the ten (10) holidays the Fire Fighters have negotiated combined with their work schedules, has resulted in a disparity of continuous days off with nineteen (19) continuous days off for the Police as compared to fifteen (15) continuous days off for the Fire Fighters. Given these same differences in the number of holidays negotiated and the difference in their respective work schedules, results in an a two (2) to one (1) disparity in premium pay with police compensation for holiday pay double that of holiday pay received by Fire Fighters. The Union calculates that adding two (2) additional holidays will increase the number of holiday premium hours for Fire Fighters assigned a 3 platoon shift from 39.6 hours to 48 hours, an increase of 8.4 hours . Based on the mutually agreed hourly rate of \$26.39 for 2015, the Union applying the present 39.6 premium holiday hours, calculates that at top pay Fire Fighters on average per year will receive premium pay of \$1,290.56 whereas, applying the hourly wage rate of \$36.30 (rounded) for Police multiplied by the number of premium hours worked at time and a half for half those hours and double time and a half for the other half of those hours, the Union calculates that the annual holiday premium pay a Patrolman will receive is \$2,322.88. The Union submits that by increasing the number of holiday premium hours for Fire Fighters by adding two (2) additional holidays will diminish the disparity in holiday premium pay between the Police and Fire Fighters by a modest \$273.76.

The City submits that Fire Fighters have been granted a total of ten (10) holidays beginning as far back as 1980, a period of time now spanning thirty-five (35) years. The City argues that awarding Fire Fighters the additional two (2) holidays the Union seeks to obtain in the forthcoming successor 2015-2017 CBA would represent a breakthrough that cannot be supported by increasing the amount of time off already received by Fire Fighters from sick days, vacation days and Kelly Days. The City asserts that more time off would further exacerbate its difficulty with having personnel available each shift and escalate overtime costs. Nor can the Union's proposal to increase the number of holidays be supported by external comparison with the number of holidays granted Fire Fighters in the identified comparable communities which reflect that of all eleven (11) comparable communities for which data are available, three (3) communities exceed ten (10) holidays and one (1) community also provides for (10) holidays. Of the seven (7) remaining communities, three (3) provide for less than ten (10) holidays and the remaining four (4) communities grant compensation in terms of hours instead of specifying a number of holidays.

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<sup>10</sup> It is noted that President's Day was established to incorporate the February birthdates of both President George Washington and President Abraham Lincoln. The reference to "Spring Holiday" is generally used as an alternate designation for what used to be "Easter".

## OPINION

If, there were no other factors present to be considered by the Arbitrator other than the Union's argument that on the basis of the internal data that all other bargaining units the City negotiates with and all non-bargaining unit employees have been and continue to be the recipients of a total of twelve (12) holidays per year, the Arbitrator would be predisposed to accept the Union's position over that of the City's. However, the conditions of employment under which Fire Fighters perform their duties are sufficiently unique even when compared to the conditions of employment under which Peace Officers / Police perform their duties that a disparity in some conditions of employment can be defended on a rational basis. The Arbitrator is of the view that the benefit of holidays either expressed in the number of days granted or in terms of compensation is such a condition of employment.

A historic period of time approaching thirty-five (35) years for the City to maintain the number of holidays at ten (10) per year for Fire Fighters as compared to the granting of twelve (12) holidays per year to all other bargaining and non-bargaining unit employees suggests to the Arbitrator there are valid reasons to support this disparity. One of those reasons as advanced by the City and the major one the Arbitrator finds most compelling is, that when compared to all other City employees, Fire Fighters by the nature of their work schedules have significant more time off from their employment than all other employees. The Arbitrator further is persuaded by the City's position that if additional time off in the form of two (2) more holidays per year were granted, it would result in adding to the difficulty of insuring the availability of personnel to staff each shift which, in turn, would have the effect of increasing overtime costs.

While the Arbitrator agrees that internal comparisons with other bargaining units are an important consideration, here with respect to the additional two (2) holidays the Union seeks to add to the forthcoming successor 2015-2017 CBA, the internal comparisons do not support the Union's position. Furthermore, on the basis of external comparisons, adopting the Union's position would result in a ranking of number 2 among all other comparable communities only to be surpassed by DeKalb with 14 holidays per year. Given that DeKalb ranks number 1 among the eleven (11) comparable communities for most comparisons, the Arbitrator is of the view that DeKalb appears to be an outlier and probably should not have been included as a comparable community. Additionally, the four (4) comparable communities that substitute compensation for a stated number of holidays per year when analyzed relative to the amount of compensation provided reveals that the monetary amounts paid are well below the total of what would be received if the benefit were converted to ten (10) holidays per year. Thus, data for the majority of comparable communities does not support the Union's position to raise the total of holidays per year to twelve (12).

Accordingly, based on the foregoing analysis, the Arbitrator adopts the City's position. Thus, the number of holidays will remain at ten (10) per year for each year of the three

(3) year successor 2015-2017 Collective Bargaining Agreement.

## **HOURS OF WORK / KELLY DAYS**

### **Union Proposal**

Effective January 1, 2017, The Start Of the Third Year of the Successor Agreement, the Current Normal Work Week of 54.15 Hours To Be Reduced To 53 Hours By Scheduling a Kelly Day Every 18<sup>th</sup> Shift. This Will Result In An Increase in the Number of Kelly Days Scheduled Per Year From Four (4) to An Average of 6.75 and Reduce the Annual Scheduled Hours From 2816 To 2756.

### **City Proposal**

Status Quo. Retain the Current Normal Work Week of 54.15 Hours by Retaining the Scheduling of One (1) Kelly Day Every 30<sup>th</sup> Shift. By So Doing, the Number of Kelly Days Will Remain at Four (4) per Year Keeping the Annual Scheduled Hours at a Total of 2816.

## **ANALYSIS**

Looking at the benchmark data point of 2013, Moline with annual scheduled hours of 2816 works more hours than ten (10) of the comparable communities surpassed only by Urbana at 2864 annual scheduled hours. Fast forward to 2016 and of the four (4) comparable communities for which there are data, Moline at 2816 annual scheduled hours works more hours than all four (4) of the communities listed. The City of Quincy was among the four (4) comparable communities listed and the Union noted that under its predecessor CBA from May 2011-April 2014, its Fire Fighters worked a total of annual scheduled hours of 2759 but in its successor CBA, an agreement was effected beginning May 1, 2015, to reduce the work week from a Kelly Day every 18<sup>th</sup> shift to a Kelly Day every 15<sup>th</sup> shift resulting in a reduction of annual scheduled hours to 2725. The Union rejects the City's position that a change in the number of Kelly Days represents a "breakthrough" on grounds that Kelly Days are an established recognized benefit and cites as support, Arbitrator Edelman's decision in the City of Alton and IAFF Local 155, No. S-MA-96-91 (1996), wherein Edelman did not apply "breakthrough" analysis when he awarded an increase in the number of Kelly Days from five (5) to 7.1, thereby reducing the average work week hours from 53.8 hours to 52.72 hours. The Union argues that based on the disparity from the external comparisons of the comparable communities alone, its offer to reduce the Annual Scheduled Hours from 2816 to 2756 by increasing the number of Kelly Days from four (4) to 6.75 accomplished by scheduling a Kelly Day every 18<sup>th</sup> shift as opposed to the status quo of every 30<sup>th</sup> shift should be accepted by the Arbitrator. The Union asserts the above analysis also yields the same results when time off benefits of average vacation hours, personal hours, and holiday time off are deducted

from the total of Annual Scheduled Hours of work the calculation of which results in the total of Actual Annual Hours worked. Taking the Union's reduction in Annual Scheduled Hours of 2756 shown in its 2016 Analysis of Total Hours Worked and subtracting out average vacation hours of 170, personal hours of zero and 120 hours of holiday time off which total remained unchanged given the adoption by the Arbitrator of the City's proposal of status quo for holiday time off, the Actual Annual Hours worked totaled to 2466. Of the four (4) comparable communities for which there are data, two (2) of the communities have Actual Annual Hours of 2468, just two (2) hours greater than Moline, one (1) of the communities is just sixteen (16) hours below Moline's total at 2450 and the remaining comparable community, that of DeKalb works 160 hours less than Moline at 2306 Actual Annual Hours worked.

As final support for its position, the Union asserts that adoption and implementation of its proposal would completely eliminate the City's Fair Labor Standards Act (FLSA) overtime costs since at present, FLSA overtime is based on an average work week of 53 hours and maintaining the status quo, the average work week amounts to 54.15 hours. Thus every average work week in Moline results in incurring FLSA overtime of 1.15 hours. The Union notes that such overtime in annual overtime costs borne by the City amounted in 2012 to \$32,356; in 2013 to \$25,804; and in 2014 to \$26,448 for the grand total of these three (3) years of \$84,608. By scheduling a Kelly Day every 18<sup>th</sup> shift instead of every 30<sup>th</sup> shift, the average work week of 54.15 hours will be reduced to 53 hours thereby eliminating the additional 1.15 hours subject to the payment of FLSA overtime saving the City a substantial amount of money.

Additionally, in conjunction with this Hours of Work proposal, the Union also proposes to change the individual work cycle for each employee covered by the CBA so that each employee shall be scheduled to work a consecutive 27 day cycle through each calendar year. The Union proposes the first cycle will begin at 1930 hours (7:30 pm) on the first day of the cycle and end at 1930 hours on the 27<sup>th</sup> day of the cycle. Each employee's work cycle shall be established so that the employee's 18<sup>th</sup> shift Kelly Day begins at 0730 hours (7:30 am) on the last day of the second (2<sup>nd</sup>) 27 day cycle. In support of this change, the Union asserts its proposal has the further advantage of eliminating the City's administrative burden of calculating and analyzing the total hours worked by Fire Fighters in each 28 day work cycle and calculating whether their work hours exceeded the FLSA maximum for the 28 day work period of 212 hours.

The City objects to the increase in Kelly Days primarily on the basis that the Union attempted but failed to achieve this increase in negotiations for the 2012-2014 predecessor CBA and that the number of Kelly Days has remained at four (4) under the past four (4) collective bargaining agreements. However, the City concedes that on the basis of external comparison with the identified comparable communities, it falls on the lower end of the spectrum but submits it is not positioned in last place and has remained relatively constant in rank since 2007.

The City's primary objection to the Union's proposal is the Union's plan to alter the scheduled work cycle of 28 days to 27 days and the several changes that accompany

this change in the cycle. The City asserts this change and others that accompany it are totally unworkable and advances specific reasons to support its position.

### **OPINION**

The Arbitrator finds the external comparisons with the comparable communities to be compelling in support of the Union's position to increase the number of Kelly Days to achieve a reduction in the number of scheduled annual hours worked. This finding is bolstered by the City's recognition that it is at the lower end among the comparable communities with respect to the greater number of scheduled annual hours worked in comparison to those other communities. The very fact that the comparable community of Quincy agreed in their 2015 negotiations to lower the number of scheduled annual hours worked by increasing the number of Kelly Days is indicative of a movement over time to reduce annual hours of work. Accordingly, the Arbitrator adopts the Union proposal to increase the number of Kelly Days commencing the beginning of the third year of the Agreement, January 1, 2017.

As to the Union's accompanying proposal to alter the scheduled work cycle from 28 days to 27 days and the other changes needed to implement such a change, the Arbitrator concurs with the City's position the plan appears to be unworkable but, in addition, is of the view that such a change if adopted would represent a "breakthrough". Accordingly, the Arbitrator rejects this change proposed by the Union.

### **SICK LEAVE PAYOUT AT RETIREMENT**

#### **Union Proposal**

Provide the Following Step Percentage Increases in the Amount of Accumulated Sick Leave Termination Benefits an Eligible Employee Will Be Able to Convert Into the City's Retiree Health Benefits Savings Account.

- 21 years = 30%
- 22 years = 35%
- 23 years = 40%
- 24 years = 45%
- 25 years = 50%

#### **City Proposal**

Status Quo as Provided For in Article XXIV, Sick Leave Provision of the Predecessor 2012-14 Agreement, Section F: "Any employee covered by this Labor Agreement and meeting minimum eligibility requirements under the Moline Fire Fighters Pension Plan and who has less than twenty-five (25) years of service will be eligible to convert twenty-five percent (25%) of the

#### **City Proposal continued**

Employee's accumulated sick Leave into the City of Moline retiree health benefits savings account. Any employee covered by this Labor Agreement and meeting minimum eligibility requirements under the Moline Fire Fighters Pension Plan and who has twenty-five (25) or more years of service will be eligible to convert fifty percent (50%) of the employee's accumulated sick leave into the City of Moline retiree health benefits savings account.

### **ANALYSIS**

Perusal of all eleven (11) agreed upon comparable communities provide for some plan to pay Fire Fighters for unused accumulated sick leave hours whether such payment is made on an annual basis such as the plan set forth by the City of Danville or more commonly paid at some percentage of accumulated unused sick leave hours at the time of a Fire Fighters retirement in accord with a specified number of years of service. Review of a sample of the eleven (11) comparable communities that provide for a sick leave payout plan at retirement makes clear that no two plans are alike so the only external comparison that is applicable here is that Moline's plan is just as unique as all other such plans are unique to each of the comparable communities. So for example, the City of Champaign provides in its plan that Fire Fighters with twenty (20) years of service are eligible for a payout of accumulated unused sick leave hours, that the number of such hours are capped at a maximum of 903 hours, and at that capped total the payout is limited to seventy percent (70%). This plan sets forth a schedule of hours and percentage rates that starts at less than 564 hours with a payout of fifty percent (50%) up to the maximum number of the 903 hours. Between the 564 hour level and the maximum 903 hour level are three steps with percentage payout rates of 55%, 60%, and 65%. At the opposite end of the spectrum is the City of DeKalb's plan which provides for sick leave payout for those Fire Fighters who honorably separate from employment beginning at one (1) to two (2) years of service all the way through twenty (20) years and over of service. The percentage of hours subject to payout, range from five percent (5%) for Fire Fighters with the least amount of service to one hundred percent (100%) for those with twenty (20) or more years of service. There is no limit placed on the number of accumulated unused sick leave hours subject to the varying percentage rates listed in the progression schedule associated with each successive year of service up to the maximum of twenty (20) years and over. For each successive

year of service, the percentage payout of accumulated unused sick leave hours increases by five percent (5%).

The Union submits that the City's two-step payout plan starting at less than twenty-five (25) years of service and providing a twenty-five (25%) payout and a second step at twenty-five (25) years or more of service and providing a fifty (50) percent payout incentivizes eligible Fire Fighters not to retire before attaining twenty-five years of service but to continue on to twenty-five (25) years of service based on receiving a doubling of the payout for their accumulated unused sick leave hours notwithstanding perhaps a desire to retire earlier. The Union asserts that by providing yearly steps between twenty (20) and twenty-five (25) years of service with increasing percentage rates of payout up to the already established maximum payout rate of fifty percent (50%), is a "win-win" proposal for both Parties. From a safety point of view, older employees are more prone to injury so retiring with less than twenty-five (25) years of service presents the possibility of reducing the number of Fire Fighters the City might have to pay on disability. Moreover, by retiring with less than twenty-five (25) years of service the City can reap the difference in costs associated with replacing the retiring employee with a newly hired employee at a lower salary and lower benefit costs. Additionally, the Union submits that if no Fire Fighter elects to retire between twenty-one (21) and twenty-four (24) years, there is no additional costs incurred by the City under this proposal as opposed to the status quo plan.

The City submits that because there is no uniformity among external comparisons among the comparable communities that maintaining its plan is sufficient and does not require changing to the plan the Union proposes. As additional support that the current plan should not be changed is the fact that on the basis of internal comparison with the Police CBA, the Police contract contains the identical clause as that contained in the predecessor Fire Fighter CBA providing for the payout of sick leave upon retirement of eligible employees with less than twenty-five (25) years of service and eligible employees with twenty-five (25) or more years of service. The City refutes the Union's main contention in support of its plan that inserting interim steps starting at twenty (20) years of service leading up to twenty-five (25) years of service will incentivize Fire Fighters to retire with less than twenty-five (25) years of service as this contention has been shown by experience not to be correct. The City presented data for the ten (10) year span of time from August, 2005 through June, 2014 showing there was a total of nineteen (19) retirements that occurred in the Department and only two (2) retirements of the nineteen (19) were Fire Fighters with less than twenty-five (25) years of service, one (1) with twenty-four (24) years of service and the other with twenty-one (21) years of service. The distribution of the other seventeen (17) retirements is as follows: three (3) at twenty-five (25) years of service; three (3) at twenty-eight (28) years of service; five (5) at thirty (30) years of service; and the remaining six (6) retirees at the following years of service – 27 years; 29 years; 31 years; 32 years; 33 years; and 38 years. The City concludes based on this data that the sick leave payout plan does not have much if any effect on when employees in the Fire Department retire. Finally, the City notes as "strange" that the Union's proposal as set forth eliminates any time frame under which an employee may receive a 25% sick leave payout. The City asserts there is no

compelling evidence upon which to justify a change in the sick leave payout plan that has been in place contractually since 2001.

### **OPINION**

Absent any basis upon which a finding can be made that the Union's proposal to change the existing sick leave payout plan for retirees more nearly complies with any of the applicable factors as set forth in Section 14 (h) of The Illinois Public Labor Relations Act and as reproduced on page 6 of this *Opinion and Award*, the Arbitrator is persuaded to accept the argument advanced by the City to maintain the status quo. Accordingly the Arbitrator adopts the City's proposal to retain the present sick leave payout plan for retirees that qualify as eligible to receive this benefit.

### **WORKING OUT OF CLASS / STEP UP PAY**

#### **Union Proposal**

Increase the Differential Percentage Rates On Hourly Pay for Employees Performing the Duties of a Higher Rank Equal to the Differential Percentage Rates Applicable When Employees Are Promoted to a Position In a Higher Grade Per Article XVII, Section E 1 of the Predecessor 2012-14 CBA

Firefighter to Engineer	+5%
Engineer to Lieutenant	+6.5%
Lieutenant to Captain	+8.5%
Captain to Battalion Chief	+10.0% <sup>11</sup>

#### **City Proposal**

Status Quo as Provided For In Article XVIII, the Working Out Of Class Provision of the 2012-14 Predecessor CBA Which Reads In Pertinent Part As Follows:

...when an employee in the bargaining unit is assigned to a higher classification, the employee will be paid four and one-half percent (4 ½ %) above the employee's regular rate of pay for every hour worked.

### **ANALYSIS**

Using 2013 as the benchmark data point, the Union calculated the average percentage increases all eleven (11) comparable communities applied to hourly pay in compensating employees assigned to work out of classification. Although, as noted by the Union the designated rank classifications were not uniform among the comparable communities, nevertheless in making the comparisons, the Union deemed the

<sup>11</sup> The Arbitrator notes that Article XVII Section E 1 does not provide for the percentage increase in promotion from Captain to Battalion Chief as the Battalion Chief is not a bargaining unit position. The Arbitrator further notes the record evidence was void of any explanation regarding how this percentage figure of 10% was either based on or calculated.

Firefighter to Engineer designation as representing the base line, the Engineer to Lieutenant designation as the “first rank”, the Lieutenant to Captain as the “second rank”, and no data representing the “third rank” from Captain to Battalion Chief with the exception of one (1) comparable community, Rock Island. The Union arrived at the following average percentage increases to hourly pay for employees assigned to working out of classification: Base Line – 6.6% as compared to its proposal of 5%; First Rank – 9.4% as compared to its proposal of 6.5%; and Second Rank – 10.8% as compared to its proposal of 8.5%. As to the category of Captain performing the duties of Battalion Chief, the Union noted that the exception, Rock Island provided acting pay of 5% as compared to its proposal of 10.0%.

The Union notes there are three (3) alternative methods to fill the vacancy of a higher rank position, to wit: 1) to designate a qualified lower ranked employee to fill the vacancy of the next higher ranked position which the Union submits is the predominant method; 2) calling back an off duty officer of like rank to fill the vacancy; and 3) staff shifts with “floating” officers to fill in when vacancies occur. The Union asserts that methods 2) and 3) are more expensive to fill higher rank vacancies than the predominant method of utilizing qualified lower ranked employees.

In support of its proposal to increase the differential percentage rates applicable to acting pay when performing work out of classification, the Union argues its offer provides a modest improvement in pay consistent with the established pay grade differentials between the ranks but noting its offer will still leave Moline’s acting officer pay below the average percentage rates calculated for the comparable communities. In further support of its proposal, the Union referenced the Interest Arbitration Award rendered by Arbitrator Marvin Hill in the Deerfield Bannockburn Fire Protection District case on January 28, 2015 wherein, Hill based his award on external comparability evidence demonstrating that acting pay (that is, pay when working out of classification) was based on the established rank differentials between the promoted ranks. Here, as noted elsewhere above, those established rank differentials between the promoted ranks are set forth in Article XVII, the Wages And Other Compensation clause, Section E, Anniversary / Promotion Pay, paragraph 1 of the 2012-14 CBA (Jt.Ex1,p.16).

Since the GWI for 2015 of 2.5 % was mutually agreed to by the Parties, it is possible to calculate the maximum salaries for each of the four (4) rank classifications of Fire Fighter, Engineer, Lieutenant, and Captain. Since the number of annual hours of work for 2015 remains at 2816, it is further possible to calculate hourly pay. For Fire Fighter, the 2015 maximum salary is \$74,307.48 ( $\$72495.10 \times .025 = \$1812.38$ ) resulting in hourly pay of \$26.39 ( $\$74,307.48 \div 2816$ ). Applying the same calculations for Engineer, the 2015 maximum salary is \$81,923.25 resulting in hourly pay of \$29.09. For Lieutenant, the 2015 maximum salary is \$90,320.37 resulting in hourly pay of \$32.07. For Captain, the maximum salary is \$99,577.91 resulting in hourly pay of \$35.36. Having calculated hourly pay it is possible to compare the Union’s proposed differential percentages with the status quo differential percentage of 4.5% to obtain the dollar amount of hourly pay applicable for working out of class under both proposals.

<b><u>Union's Proposal</u></b>	<b><u>Compared To</u></b>	<b><u>City's Proposal</u></b>
<b>Fire Fighter</b> \$26.39 x 5% = \$1.32	Increase of 13 cents	\$26.39 x 4.5% = \$1.19
<b>Engineer</b> \$29.09 x 6.5% = \$1.89	Increase of 58 cents	\$29.09 x 4.5% = \$1.31
<b>Lieutenant</b> \$32.07 x 8.5% = \$2.73	Increase of \$1.29	\$32.07 x 4.5% = \$1.44
<b>Captain</b> \$35.36 x 10.0% = \$3.54	Increase of \$1.95	\$35.36 x 4.5% = \$1.59

Note: All dollar amounts listed are applicable for each hour of work performed at the higher rank.

Because the Arbitrator has adopted the City's proposal on the percentage increase in GWI for the following two (2) years and the Union's proposal on Annual Hours of Work / Kelly Days commencing the beginning of the third year of the successor CBA, January of 2017, it is possible to calculate the economic impact of the Union's proposal for both 2016 and 2017 as compared to the City's proposal applying the same methodology used to calculate the above table for 2015. In order to calculate hourly pay for 2016 it is necessary to first calculate the change in maximum salary for each of the four (4) rank classifications and divide that change by 2816 the total of annual hours of work applicable for 2016.. For Fire Fighter the maximum salary is \$76,165.17, resulting in hourly pay of \$27.05; for Engineer, \$83,971.33 resulting in hourly pay of \$29.82; for Lieutenant \$92,578.38 resulting in hourly pay of \$32.88; and for Captain \$102,067.36 resulting in hourly pay of \$36.25. For 2016, the results are as follows:

<b><u>Union's Proposal</u></b>	<b><u>Compared To</u></b>	<b><u>City's Proposal</u></b>
<b>Fire Fighter</b> \$27.05 x 5% = \$1.35	Increase of 13 cents	\$27.05 x 4.5% = \$1.22
<b>Engineer</b> \$29.82 x 6.5% = \$1.94	Increase of 60 cents	\$29.82 x 4.5% = \$1.34
<b>Lieutenant</b> \$32.88 x 8.5% = \$2.79	Increase of \$1.31	\$32.88 x 4.5% = \$1.48
<b>Captain</b> \$36.25 x 10.0% = \$3.62	Increase of \$1.99	\$36.25 x 4.5% = \$1.63

For 2017, the maximum salaries for each of the four (4) rank classifications and resultant hourly pay based on annual hours of work of 2756 are as follows: for Fire Fighter \$78,069.30 resulting in hourly pay of \$28.33; for Engineer \$86,070.61 with hourly pay of \$31.23; for Lieutenant \$94,892.84 with hourly pay of \$34.43; and for Captain \$104,619.04 resulting in hourly pay of \$37.96.

<u>Union's Proposal</u>	<u>Compared To</u>	<u>City's Proposal</u>
<b>Fire Fighter</b> \$28.33 x 5% = \$1.42	Increase of 15 cents	\$28.33 x 4.5% = \$1.27
<b>Engineer</b> \$31.23 x 6.5% = \$2.03	Increase of 63 cents	\$31.23 x 4.5% = \$1.40
<b>Lieutenant</b> \$34.43 x 8.5% = \$2.93	Increase of \$1.38	\$34.43 x 4.5% = \$1.55
<b>Captain</b> \$37.96 x 10.0% = \$3.80	Increase of \$2.09	\$37.96 x 4.5% = \$1.71

The City argues that the Union's external comparisons of the comparable communities is problematic in that of the eleven (11) communities, five (5) communities, nearly half, do not pay for working out of classification until the employee has fulfilled working a number of designated hours. This is not the case in Moline where each hour working out of class is paid the applicable flat rate of pay. Aside from Rock Island which pays similarly to Moline, the remaining five (5) communities all have a different system of paying for work performed out of classification. The City submits that given the multiple variations in the way comparable communities compensate their Fire Department employees for working out of classification, attempting to calculate an average percentage applied to hourly pay is not only difficult to achieve but, in addition is not very reliable. The City argues external comparability should be a secondary consideration due to the deference afforded the status quo as well as the history of this provision. As to the history, the City informed that it was only in the predecessor 2010-2011 CBA that the Parties established a rate of 2.5% of one's hourly pay for compensating employees for working out of classification. Prior to 2010, employees only received an increase in pay if they worked a full 24 hour shift at the higher rank classification and prior to 2001 there was no contract provision that addressed the circumstances of working out of classification. Then, in negotiations for the now expiring 2012-2014 CBA, the Parties agreed to increase the percentage rate applied to hourly pay of 2.5% to the current rate of 4.5%.

## OPINION

An in-depth review of the Union's analysis of the percentages applied by comparable communities to compensate employees for working out of classification reflects little uniformity among the applicable percentage rate figures applied by the communities to determine the dollar amount paid to compensate employees for performing the duties of a higher rank classification and, moreover, only the City of Champaign provided for increased percentage rates to be applied for assuming the duties of each higher rank as the Union proposes here. Five (5) communities provided for percentage rates that were higher for assuming the duties of one of the higher rank classifications but lower for assuming the duties of even a higher rank classification. For example the City of Quincy that provided for a Baseline increase of 2.5%, 8.1% for the First Rank classification, and then dropping down to 5.1% for the Second Rank classification. Three (3) comparable communities provided for a constant percentage rate applicable to all higher rank classifications such as for example Rock Island that provides for a 5.0% increase in hourly pay at Baseline and the same 5.0% increase in hourly pay for employees assuming the duties of all three (3) higher rank classifications. With regard to the Baseline percentage rate, six (6) of the comparable communities provide percentage rates higher than those proposed by the Union whereas three (3) of the communities provide for Baseline percentage rates below the Union's proposed rate of 5.0%. Of the remaining two (2) comparable communities, Bloomington is shown not to have a Baseline percentage rate and as already referenced, Rock Island's Baseline percentage rate exactly matches the Union's proposed 5.0%.

It is quite clear from this review that it comports with the City's argument, that the Union's calculation of average percentage rates used to compare the Union's proposed percentage rates bear little relationship to the rationale advanced by the Union to support its proposal. Said rationale is the consistency in percentage rates that would obtain between those proposed for working out of classification and those already provided for by the CBA in Article XVII Section E 1 applicable to Promotion Pay. Consistency among these percentage rates while a desirable goal coveted by the Union certainly is not one shared by the City given the vast divide between the Union's proposed percentage rates and the status quo percentage rates proposed by the City. The three (3) Tables referenced hereinabove depict in stark terms the vast difference in the economic impact the Union's proposed percentage rates on hourly pay would have in compensating lower rank employees for assuming the duties of a higher rank classification. Given the array of various ways in which comparable communities have agreed with their respective unions to compensate employees for working out of classification, the Arbitrator views the Moline method of paying for such service as just another unique way of compensating its employees. Thus, the Arbitrator judges the external comparisons of the comparable communities advanced by the Union in support of its proposal not to be sufficiently persuasive to warrant adopting its proposal. Accordingly, the Arbitrator adopts the City's proposal.

## RETIREE POST HEALTH INSURANCE

### Union Proposal

Modify existing language of Article XXIII, Health Benefits And Life Insurance, Section D, Continuation of Coverage After Retirement to Read as Follows:

If a retiree, once eligible, becomes ineligible to be covered by another health insurance program or leaves such other employment, that retiree shall be allowed coverage under the city's group health insurance program, **at the bargained for rate paid by retirees in the same age category for like coverage.**

### City Proposal

Status Quo. Retain the Following Language of Article XXIII, Section D Which Reads as Follows:

If a retiree, once eligible, becomes ineligible to be covered by another health Insurance program or leaves such other employment, that retiree shall be allowed coverage under the city's group health insurance program **but at the employee's cost.**

### Analysis

The Union asserts the City relies on external comparisons with the identified eleven (11) comparable communities to support its proposal to maintain the status quo. However, the Union argues that most of the comparable communities do not have contract language addressing the issue. The City maintains that because there is almost no support for the Union's proposal on the basis of external comparisons to change the status quo its proposal should be adopted by the Arbitrator.

The Union acknowledging the paucity of external comparisons with the comparable communities sufficient to support its proposal submits that greater weight should be given to internal comparisons, noting that the language change it seeks is the identical language the City has agreed to with respect to the police and AFSCME units. The City counters this argument by noting it does not provide the benefit the Union seeks here in its contract with the United Auto Workers. The Union acknowledges that the UAW contract does not include the retiree health insurance benefit it seeks here but notes that said contract is the City's only exception and that in any event, the employees the UAW represent are a small bargaining unit of library employees.

The Union argues that the benefit change it seeks here is supported by common sense asserting that the City actually benefits when employees who retire accept employment with another employer who provides health insurance since allowing an employee to return to the City's plan and pay the group rate as opposed to paying the COBRA rate encourages the employee to elect to be covered by the other employer for as long as that employment continues. Concomitantly, the Union asserts, continuing the status quo with respect to this benefit discourages firefighters from searching out and

accepting alternative retirement opportunities which can result in cost saving for the City.

The City argues the Union failed to present any evidence of how retirees are actually affected by the provision as it now exists or, provide any evidence the provision has caused a hardship on retirees or, has had an impact on current employees' decisions. The City submits that as it is unusual for an employer to pay for health insurance coverage of retirees, it is a challenge for the Union to claim the system as it currently operates is unworkable. The City asserts that as the record stands there is simply no justification for the subject language of Section D of Article XXIII to be changed as the Union has so proposed.

### **OPINION**

The Arbitrator concurs that external comparisons with the comparable communities does not provide any guidance for determining the adoption or rejection of the Union's proposed change to the language of Article XXIII, Section D of the CBA. On the other hand, this is not the case with respect to internal comparisons with CBAs of other City bargaining units which the Arbitrator finds as compelling evidence to adopt the Union's proposal. The Arbitrator agrees with the Union's argument that the change in language it seeks has the potential to be beneficial to the City as well as the retirees of the department. Accordingly, the Arbitrator adopts the Union's proposal.

### **SAFETY - SHIFT STAFFING / MANNING**

#### **Union Proposal**

To Establish Minimum Daily Shift Manning Be Maintained at 16 Employees and Rewrite the Second Paragraph of Article XXXIII, Section G Of the 2012-14 CBA, to Read as Follows:

**Consistent with its authority under the Municipal Code, 65 ILCS §10.2.1-4, 6.3**  
the city agrees **not to privatize ambulance service or otherwise use a person who has not qualified for regular appointments under the provisions of Division 2.1 as a temporary or permanent substitute for a classified member of the Fire Department.**

#### **City Proposal**

Status Quo. To Leave Unchanged Section G of Article XXXIII Which Reads as Follows:

**Staffing.** The city shall assign no Less than three (3) employees to in-service pumper, no less than two (2) employees to each in-service aerial unit, no less than two (2) employees to each in-service ambulance and no less than three (3) employees to each in-service quintuple combination pumper ("Quint"). It is understood, however, that emergency situations may require the staffing of a unit on a

temporary basis of fewer staff required or by the use of administrative staff, provided the city takes prompt action to return that unit to its minimum staffing requirement consistent with current practice.

The above staffing levels are agreed to by the union in exchange for the city's agreement as to four (4) items below for the period of January 1, 2012 through December 31, 2014 only.

1. The city agrees not to privatize the ambulance service.
2. The city agrees to keep all four (4) stations open.
3. The city agrees not to lay off any members of the union.
4. The city agrees to eliminate no more than five (5) bargaining unit positions in the department through attrition and not to reduce the rank of current employees as part of staff reduction measures.

### **ANALYSIS**

A review of the extensive applicable documents in evidence associated with this issue makes clear that the staffing provision negotiated in the predecessor 2012-2014 CBA was borne of a long very public airing of the pitched battle waged by the Parties over their respective positions and the compromises both Parties eventually made in order to reach an accommodation and settlement of the manning provision. By such recognition on the part of the Arbitrator, it is unnecessary to delve into the specifics of the bargaining history that produced the terms set forth in Section G of Article XXXIII for the history is well known by the Parties as well as the general public. Said history has fulfilled its intended purpose of informing the Arbitrator for the purpose of determining which of the present proposals should be adopted.

The Union asserts its proposal will preserve the key elements which were the basis of the settlement reached on the manning provision. The Union submits awarding its proposal will preserve the compromises, that is, the *quid pro quo* both Parties made and agreed to, to achieve the “win-win” settlement. Specifically, the Union avers that providing for maintaining a minimum daily shift manning of sixteen (16) bargaining unit employees will ensure a constant and predictable level of service on a daily basis. The Union explains the underpinning and motivating force of its proposal, lies in the fact that prior to the expiration of the predecessor 2012-2014 CBA, the City initiated unilaterally a policy of instituting “brownouts” of fire stations which in essence is a partial closure of a station in which the engine is shut down temporarily and the citizens residing in the district served by the station are not notified of the loss of service. In contrast, the Union asserts, when a station is closed public notice is issued providing an opportunity to debate the cost/benefit of the action. Such was what occurred with respect to the City’s proposal to subcontract ambulance services in negotiating the predecessor 2012-2014 CBA. This “open process” of debate will not occur the Union submits if the City’s proposal is accepted as this will have the effect of allowing the City to continue to engage in the surreptitious tactic of instituting “brownouts”. Additionally, the Union claims brownouts are a dangerous method of reducing overtime costs. Furthermore, in un-disputed testimony Captain and Training Officer James Versluis in noting that to effectively fight a structure fire in a typical ranch home, sixteen (16) firefighters are needed at the fire scene, explained that brownouts adversely affect the safety of firefighters and the public because inherent in a brownout situation less than sixteen (16) firefighters are available.

The Union does not agree with the City’s argument that the ISO audit report regarding the Department’s staffing practices support its proposal as Captain Versluis testified he was involved in the discussions between the Department and the ISO Auditor wherein, the Auditor’s assessment and rating were based on assurances the brownouts were a “temporary thing”. With regard to the comparable communities, the Union asserts based on its evidence, Union Exhibit 10, shows that as a matter of either policy or express contract language, all maintain constant shift minimums and none engage in a practice of browning out. The Union claims the City’s practice of browning out not only is an exception to its own prior practices, it also represents an exception to the established norm.

In further support of its shift staffing (manning) proposal, the Union claims it will allow it to utilize the grievance procedure to enforce the existing limitation as provided for by the applicable Civil Service provisions of the Municipal Code on the City’s authority to subcontract Paramedic work. The Union submits its proposed language changes are necessary to ensure the City acknowledges this limitation and complies with the applicable Civil Service provisions of the Municipal Code. In citing the specific applicable Municipal Code in its proposed language supplanting the entire second paragraph of Section G, that impacts management rights and the working conditions of members of the bargaining unit, the Union asserts is wholly consistent with other such references to statutes contained in the successor CBA carried over from the predecessor 2012-2014 CBA, such as, for example, Article X, the Seniority clause,

Section A, Article XII, the Continuing Conditions of Employment clause, Section A and numerous other provisions of the CBA as noted. Additionally, the Union argues, including such statutory references in the CBA allows it to enforce the terms by initiation of grievances is also consistent with Section 8 of the Act (IPLRA) which favors grievance / arbitration as the preferred method for resolving contract disputes.

In anticipation the City will advance an argument its proposal on manning represents a “breakthrough”, the Union notes the issue of staffing has been the subject of extensive prior bargaining. In addition, the Union’s counter its manning proposal does not represent a breakthrough is buttressed by the fact the General Assembly has acted to make “shift” manning a “per se” mandatory subject of bargaining by amending Section 14 (i) of the Act (ILPRA), which now reads in pertinent part the following:

***In the case of fire fighter, and fire department or fire district paramedic matters, the arbitration decision shall be limited to wages, hours, and conditions of employment (including manning and ...) (Un.Ex.6).***

The Union maintains that the external comparables show that manning is a condition of employment that is amenable to voluntary agreement between contracting parties. The Union asserts its proposal preserves the tradeoffs the City conceded to the Union in the negotiations for the predecessor 2012-2014 CBA but, it also provides a re-balancing of the *quid pro quo* that will better serve the interests of the parties as well as the public welfare over the contract term and offer a better foundation for future negotiations. The Union submits its proposal consists of the following elements:

- ***Limitations on the City’s management authority are removed as to closing stations and layoffs;***
- ***Cost saving measures are retained including:***
  1. ***5 bargaining unit positions have been eliminated;***
  2. ***Shift staffing has been reduced from 18 to 16 bargaining unit employees.***

The Union submits it gains through adoption of its proposal the following:

- ***Apparatus staffing as previously agreed;***
- ***Shift staffing of 16 by maintaining in service the 3 engines, 2 ambulances and 1 quint on a daily basis as contemplated under the 2012 – 2014 CBA.***

As a final argument its proposal should be adopted by the Arbitrator, the Union argues that the City’s position of eliminating from its (the Union’s) proposal requiring the City to comply with Civil Service Procedures relative to staffing the Fire Department is a stance

by the City of insisting to impasse upon a permissive subject of bargaining which is a violation of Section 10 (a) (4) of the Act (ILPRA), which reads as follows: Section 10, Unfair Labor Practices, subsection (a), It shall be an unfair labor practice for an employer or its agents: (4) **to refuse to bargain collectively in good faith with a labor organization which is the exclusive representative of public employees in an appropriate unit, including, but not limited to, the discussing of grievances with the exclusive representative.** The Union submits the violation by the City occurs in the form of a waiver of its rights under the Firefighter Substitutes Act as the City's Final Offer seeks to delete language from the 2012 settlement that limited its right to subcontract Paramedic work. The City's Final Offer retains the four (4) limitations on what it is prohibited to do but it does not change the period of time these four (4) limitations will be in force and effect. Thus, given the clear language that accompanies these four (4) limitations, to wit, "for the period January 1, 2012 through December 31, 2014 only", constitutes a waiver by the Union of its statutory Civil Service rights. The Union asserts this inherent waiver of its rights brought to the fore by the City's Final Offer represents a fatal flaw in the City's proposal which is reason enough for the Arbitrator to adopt its manning proposal.

As to the issue of manning as a mandatory subject of bargaining, the City acknowledges this as beyond dispute and has been for quite some time but asserts this fact does not diminish the extra burden placed upon any party, in this instant case the Union that proposes a breakthrough item. That burden, the City submits requires the Union to show the current system is broken in order to justify the changes it proposes to the existing language in the contract (CBA). The City asserts the status quo on manning was the product of a mutual compromise by the Parties in negotiations for the predecessor 2012-2014 CBA and therefore the Arbitrator should preserve the status quo by adopting its proposal. The City objects to the Union's proposal to strike from the language of the manning provision the four (4) limitations in the second paragraph asserting that retaining the language captures the bargaining history which has value and directly relates to the emphasis placed by interest arbitrators on awarding what the parties would have agreed to had bargaining continued [without ever having reached and declared an impasse]. More specifically, the City maintains that bargaining history demonstrates the range of possibilities for those particular parties and contextualizes the issue.

The City posits that if the Arbitrator here decides not to strike the language set forth in the second paragraph of Section G, Article XXXIII pertaining to the *quid pro quo*, reflecting the compromises reached by the Parties on the staffing (manning) issue, then the shift manning must remain the same. The City asserts that when examined closely, the Union's proposal consists of two parts, to wit, 1) it creates minimum shift manning [16 bargaining unit employees] and 2) it deletes the *quid pro quo* language. The City notes that not only does it disagree with both parts of the Union's proposal but that structured in this way, it fractionalizes the issue, that is, it splits a single issue into multiple sub-issues which is not favored in interest arbitration citing as support of its position on this point the case, *village of Skokie and FOP*, S-MA-00-008-139 at p. 12 (Briggs, 2010). The City informs the *quid pro quo* had been borne of the starting

positions of the Parties whereby the Union began negotiations seeking a shift manning provision but compromised and ended up with rig manning and it commenced negotiations seeking to privatize the ambulance service but ended up agreeing to restrictions on privatization and layoff as set forth in the second paragraph of Section G, Article XXXIII. The City argues this bargaining history weighs in favor of retaining the language, even though it acknowledges those restrictions have expired.

The City asserts the current staffing is not broken and disputes the Union's entire rationale for its proposal based on the advent of "browning out" a station when short staffed during the time the 2012-2014 CBA was in effect. In countering the Union's claim that brownouts pose a threat to public safety, the City notes its ISO rating which has considerable importance in the insurance underwriting process was renewed effective May 15, 2015, remaining at the same level it was prior to instituting "brownouts". The City refutes the Union's contention the ISO rating remained unchanged because the ISO investigator was told that the brownouts were temporary. The City asserts the ISO report provides no indication that the rating was based upon a temporary situation of brownouts. On the contrary, the City notes the ISO report under the section pertaining to "Credit for Company Personnel" recognizes 14 on-duty personnel on shift with an engine out of service during a brownout situation. The City asserts therefore that the record lacks conclusive evidence the brownouts were not taken into consideration when the ISO rating was awarded. The City maintains that the fact the ISO rating remained constant is an indication the system as it currently operates, that is, without shift manning, is not broken.

The City argues that even on the basis of external comparisons with the eleven (11) comparable communities, the Union's proposal of shift manning is not supported noting that only seven (7) of the communities provide for shift manning and none of the seven (7) provide for staffing as high as sixteen (16) bargaining unit employees. Manning among these seven (7) communities range from a low of nine (9) to a high of fifteen (15) with a median average of twelve (12) bargaining unit employees. The City argues the Union has failed to substantiate either of its claims that the seven (7) identified comparable communities have had a past practice of minimum shift manning or, that no other comparable communities have instituted brownouts. The City asserts that shift manning if awarded will pose several operational challenges one of which will be an increase in overtime costs given the considerable variation in the number of employees on a shift due to vacation days, Kelly Days, medical leave, USERRA, FMLA, and General Assembly leave. The City submits that because the Arbitrator must select between no shift manning and the Union's comparatively high number of sixteen (16) employees with no authority to impose shift manning at a lower number of employees, the Union's proposal will be problematic for the City. Thus, for all the foregoing reasons articulated, the Arbitrator should adopt the City's proposal of status quo on the issue of manning.

## OPINION

The Arbitrator concurs in the general principle that an arbitrator's decision in matters of contract interpretation should not provide either party with a gain it could not have achieved in collective bargaining. However, this is a principle applicable to grievance arbitration only and **does not nor was it ever meant to be applicable to interest arbitration.** The principle when applied to grievance arbitration has merit in that the parties have already bargained the terms of a contract and when they did so, they each came to an understanding of what they believed had been gained and lost through their respective compromises. The essence of arbitrating the terms of a contract clause in an ongoing collective bargaining agreement is, on the part of an arbitrator, based on the evidence adduced, to discern if there was a meeting of the minds when the parties negotiated the subject provision or provisions in dispute and, if not, then to construe the meaning of the subject provision(s) that represents the more reasonable application under the given prevailing circumstances. Interest arbitration differs significantly from grievance arbitration in this respect in that the parties have not agreed to a resolution of an issue that is the topic of negotiations and failure to achieve a mutually acceptable resolution results in an impasse. Thus, under the Act (IPLRA), a resolution of the parties opposing proposal(s) / position(s) on economic issues can only be determined by an arbitrator who lacks the authority to make changes in their respective proposals and must choose one or the other with the caveat that in making the choice the arbitrator does not adopt a proposal that represents a "breakthrough". The common dictionary meaning of a "breakthrough" as it relates to collective bargaining is the adoption of a proposal by an arbitrator advanced by either party that results in a new, dramatic and far reaching term or condition of employment. Barring the granting of a breakthrough the choice of a proposal in interest arbitration will always result in a gain to one of the parties that could not be achieved in bargaining, which is the entire rationale underlying the interest arbitration process.

In the case at bar the City's argument that adoption by the Arbitrator of the Union's proposal on manning would represent a breakthrough as it would negate the compromises made by the Parties in negotiations for the predecessor 2012-2014 CBA, is found by the Arbitrator to be non-meritorious. A simple straightforward reading of the second paragraph of Section G which lies at the heart of the City's position objecting to the Union's proposal states unambiguously that the four (4) delineated items (read certain specified restrictions the City agreed to regarding actions either taken or not taken by it in exchange for the Union's agreement regarding staffing levels), would be in effect for the two (2) year duration of the 2012-2014 Agreement **only.** In very plain English, the City and the Union mutually agreed to **sunset** this portion of the Section G provision. In other words, there was a "meeting of the minds" on the part of the Parties in negotiating this portion of the provision that the compromises that produced the *quid pro quo* settlement of the contentious manning issue would no longer be effective after December 31, 2014, leaving the manning issue to be revisited and re-negotiated in any successor collective bargaining agreement if so elected by either party. The City's position to retain and carryover this portion of Section G into the successor 2015-2017 CBA unaltered is a total negation of what the Parties intended when they mutually

agreed that the four (4) restrictions would terminate as of December 31, 2014. The City even acknowledges this point in its post-hearing brief. However, notwithstanding this acknowledgement, the rationale upon which the City bases its position to retain the language as is in the successor CBA, is that it preserves the history of the tradeoffs that were made by the Parties in negotiations to resolve the manning issue. The City posits preserving the history is critical in any subsequent interest arbitration of the manning issue such as here in this interest arbitration for the central purpose of informing the Arbitrator as to the possible alternative solutions the Parties could have pursued and agreed to had negotiations continued without the intervention of a neutral third party; meaning, preventing the interest arbitrator from adopting a “breakthrough” proposal which the City contends would be achieved if this Arbitrator adopts the Union’s proposal.

The Arbitrator concurs in the City’s position that bargaining history is an important consideration to be taken into account by an arbitrator in assessing competing proposals advanced by parties in interest arbitration. However, preserving the history can be achieved simply by introducing predecessor collective bargaining agreements in evidence in interest arbitration proceedings accompanied by relevant documentation associated with prior negotiations such as handwritten notes of bargaining sessions recorded by either party. This is the standard and accepted procedure followed by parties in interest arbitration as opposed to the City’s approach proposed here of retaining an outdated provision in the successor 2015-2017 CBA. Furthermore, incorporating an outdated provision in a successor agreement acts as a barrier to any effort by either party to amend, repeal or replace such provision in any future negotiations, the very antithesis of the collective bargaining process. In this negotiations for the 2015-2017 successor CBA, the Arbitrator finds the Union was well within its rights to pursue amending Section G of Article XXXIII in this interest arbitration as there is no evidence in support of the City’s position that the issue of manning was settled for all time by the compromises made by both Parties and mutually agreed to that resulted in the settlement of the predecessor 2012-2014 CBA.

The Arbitrator rejects the City’s main contention that adoption of the Union’s proposal would represent a breakthrough as the Arbitrator finds nothing in the Union’s proposal that embraces a term or condition of employment that is new, dramatic or far reaching. The record evidence as presented by both the City and the Union reflects that minimum shift manning has been an issue negotiated as well as arbitrated by numerous communities and in the case at bar, has been incorporated in CBAs of seven (7) of the eleven (11) identified comparable communities. The fact that all seven (7) of these communities provide a shift minimum of less than the proposed sixteen (16) bargaining unit employees is found not to be consequential in that the size of each fire department and the type of equipment operated by each fire department varies coupled with possible differences in applicable safety requirements unique to each comparable community all account in substantial part for the differences in the number of firefighters constituting the shift minimum.

Any contentions not addressed in the foregoing discussion are deemed by the Arbitrator not to be of such importance as to alter the bottom line decision to adopt the Union's proposal on the manning issue.

**NON-ECONOMIC ISSUE AT IMPASSE – PARTIES' FINAL OFFERS**  
**& ARBITRATOR'S OPINION**

**GRIEVANCE PROCEDURE – ARTICLE IX, STEP 5**

**Union's Position**

To partially strike language from the last sentence of Step 5, the following: *party requesting arbitration to strike first* and add the following language: **order of striking from the panel determined by a coin flip.**

**City's Position**

Status Quo. Step 5 reads as follows:  
If the grievance is not settled in the fourth step, either party (the city or the union) shall have the right to request arbitration within ten (10) calendar days of when the Step 4 answer is due by giving notice, in writing, to the other party and requesting a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service. The panel of seven (7) arbitrators shall also be certified by the National Academy of Arbitrators. The parties shall alternately strike names with the **party requesting arbitration to strike first.**

**ANALYSIS**

The Union advances the following three (3) reasons in support of its position the Arbitrator should adopt its proposal to wit:

1. Placing the burden on the Union to strike the first name on the list [as it is traditionally the party that always requests arbitration] is contrary to policies established under the Act.

The Union notes that requiring it to make the first strike places it at a disadvantage in the process of alternately striking a panel always listing an odd number of names of arbitrators whether it be five (5) names, seven (7) names, nine (9) names or beyond, informing that the party that strikes second is the party that ultimately strikes last among the two (2) remaining names thus determining the selection of the arbitrator. The Union further notes that always striking the names of arbitrators on the panel first enhances the advantage of the party striking second if the first or third or any alternate odd number strike that follows the first strike is a name the party striking second would have also struck. Additionally, the Union references the Act (IPLRA) as encouraging the determination of which party strikes a panel first on an ad hoc basis as opposed to a contractual obligation such as here requiring the Union always to be the party that strikes first. Specifically, the Union points to Section 14 (c) which states in pertinent part the following:

***Unless the parties agree on an alternative selection procedure, they shall alternately strike one name from the list provided by the Board until only one name remains. A coin toss shall determine which party shall strike the first name*** (emphasis by the Arbitrator).

In addition, the Union notes that Section 8 of the Act sets forth a strong public policy favoring the resolution of contract disputes through arbitration and that the current contractual provision requiring it to always be the first party to strike a panel of arbitrator's names is prejudicial to exercising its rights under Section 8.

2. The Union argues that the City's proposal to maintain the status quo or in other words to continue requiring it to be the party that always strikes a panel of arbitrators' names first, constitutes a waiver of its statutory right under Section 14 (c) to a coin flip.
3. On grounds of external comparisons among the eleven (11) comparable communities, the Union has shown that ten (10) of the communities provide for the right of firefighters to determine the order of striking by a coin flip as provided for pursuant to Section 14 (c) of the Act.

In opposition to the Union's proposal, the City presents the following counter-argument:

*Whatever arguments the Union might make about the uniqueness of the City's method for choosing arbitrators, the Union must still overcome the heightened burden in making a breakthrough proposal. The Union did not demonstrate how the current system is broken, which must be shown before the statutory factors under Section 14, including external comparability, should be considered. Therefore, the current contract language should be maintained.*

## **OPINION**

The Arbitrator respectfully disagrees with the City's position that the Union's proposal represents a breakthrough. On the contrary, the Union's proposal embodies such an established procedure of long-standing that it is beyond any question. Furthermore, contrary to the City's asserted objections to the Union's proposal, the Union has successfully shown that by provision of the controlling statute, specifically Section 14 (c) of the Act (IPLRA), a coin flip in determining which party goes first in striking a panel of arbitrators is referenced as a viable alternative to any existing procedure addressing which party proceeds first to strike the names listed on a panel. Second, the City's position that the Union failed to support its proposal on the basis of comparability has been shown by the evidence to be just plain wrong. If anything, the City's status quo position requiring the Union to always be the party to proceed first in striking an arbitration panel so deviates from the norm in the way parties select arbitrators that it qualifies not only as unique as described by the City itself in its post-hearing brief but, as truly odd among a variety of procedural arrangements set forth in nearly all contractual grievance provisions that provide for an ad hoc method of determining which party is to strike the panel first.

Accordingly, based on the foregoing discussion, the Arbitrator adopts the Union's position on this non-economic issue.

**AWARD****ECONOMIC ISSUES;**

- |                                      |  |
|--------------------------------------|--|
| 1. WAGES                             | ADOPT CITY PROPOSAL                                    |
| 2. HOLIDAY PAY                       | ADOPT CITY PROPOSAL                                    |
| 3. HOURS OF WORK / KELLY DAYS        | ADOPT UNION PROPOSAL<br>TO INCREASE KELLY DAYS<br>ONLY |
| 4. RETIREMENT SICK LEAVE PAYOUT      | ADOPT CITY PROPOSAL                                    |
| 5. WORKING OUT OF CLASS              | ADOPT CITY PROPOSAL                                    |
| 6. RETIREE POST HEALTH INSURANCE     | ADOPT UNION PROPOSAL                                   |
| 7. SAFETY – SHIFT STAFFING / MANNING | ADOPT UNION PROPOSAL                                   |

**NON-ECONOMIC ISSUE**

- |  |                      |
|--|----------------------|
| 8. GRIEVANCE PROCEDURE<br>– ARBITRATOR SELECTION | ADOPT UNION PROPOSAL |
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**George Edward Larney  
Sole Arbitrator**

**September 4, 2015**