

INTEREST ARBITRATION

In the Matter of Interest Arbitration Between:

The City of Litchfield, Illinois)
and)
Laborers' Int'l Union of North)
America, AFL-CIO, Local 1274)

ARBITRATORS AWARD AND
OPINION

Representing the City:

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Representing the Union:

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Members of the Arbitration Panel:

City Appointed Arbitrator:

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Union Appointed Arbitrator:

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Neutral Arbitrator:

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The parties requested interest arbitration pursuant to the provisions of the Illinois Public Labor Relations Act and the Board's Impasse Resolution Rules. The effective date of appointment of the neutral arbitrator was February 5, 1990, the date of her receipt of the ISLRB's letter of notice of appointment. The parties were initially contacted on February 7, 1990 and notified

of the appointment of the neutral arbitrator. Upon mutual agreement, the parties and neutral arbitrator held an initial meeting at the Litchfield City Hall on March 6, 1990 to work out logistics for the proceedings. Thereafter two full days of hearing were held, March 15 and March 27, 1990, at which the parties presented argument and evidence. Everyone had full opportunity to present evidence, cross examine witnesses and examine documents presented. At the close of the second day of hearing, the arbitrators requested some additional documentary submissions from both parties. A full transcription was made of the proceedings. Copies of the transcript were requested to be received by all parties and arbitrators no later than April 9, 1990. The copies of the transcripts were received on or about April 5, 1990. The arbitrators discussed the issues by conference call and by letter of April 7, 1990 from the neutral arbitrator the parties were notified of the issues certified by the arbitration panel for which final offers were to be submitted. Final offers were due to the arbitrators postmarked on or about April 27, 1990. Written arguments in support of these offers were to be submitted by the parties postmarked by May 9, 1990. At the request of the Union, the date for briefs was extended one day to May 10, 1990. All submissions having been received and reviewed by the arbitrators, the arbitrators' award follows:

ISSUES

The arbitrators certified the issues to be as follows:

1. wage/salary increase*
2. addition of a shift differential*
3. increase in number of holidays*
4. increase in sick leave coverage to include first day sick in all instances*
5. availability of bereavement days*
6. change fair share from optional to mandatory
7. change method of allocating access to prime vacation times
8. provide for three year rather than one year contract.

Items with asterisks are economic issues. All of the above noted issues are mandatory subjects of bargaining.

STIPULATIONS

The parties stipulated to the lawful authority of the City of Litchfield (hereinafter City) and to the existence and terms of the prior collective bargaining agreement between the City and the Laborers' International Union of North America, AFL-CIO, Local 1274 (hereinafter Union).

FINDINGS AND OPINION

The Union represents the Police Officers in the City. The bargaining unit consists of twelve police officers. The parties agreed to an initial contract which extended from February 4,

1988 through September 30, 1989. No agreement was reached for a second, succeeding contract. The impasse on that negotiation resulted in this proceeding. The arbitration panel is charged with adopting the final offer of one of the parties on each issue.

The governing statute and rules promulgated thereunder concerning Impasse Arbitration Procedures for Protected Service Units, Sec. 1230.100, set forth a number of factors upon which the adoption of the final offer of one of the parties is to be based. The first two of these criteria, lawful authority of the employer and stipulations of the parties, are addressed by the stipulations set forth above.

I. LENGTH OF AGREEMENT

a. Proposals

In order to address the statutory considerations, make appropriate assessments of financial ability and comparisons as required, the length of the agreement must first be decided. The parties were not in accord on this issue. The Union wants a three year contract; the City wants a two year contract. The Union argues that the parties have had such difficulties coming to an agreement that the longer length would be beneficial. Recognizing the uncertainty of the financial situation of the City, the Union requests annual wage reopeners in this three year contract. The City asserts that the Union agreed to a two year contract before and it would be appropriate again. The City op-

poses the wage reopener provision. Part of the City's opposition to a three year contract is the existence of wage reopeners. It implies that if there is a re-opener provision, the parties will again reach impasse on the issue of wages unless it is settled at this time.

The City did not propose wages for year three of an agreement. Its wage proposal encompasses specific dollar amounts for two years, each year running concurrently with the City's fiscal year, May 1 through April 30 of the succeeding year. The Union's wage proposal is couched in terms of a flat percentage increase for the first year and wage reopeners for the succeeding two years.

b. Discussion

The first question is when should the new contract begin. This arbitration is the result of an impasse in negotiations for the contract which otherwise would have begun October 1, 1989. When negotiations go beyond the expiration date of a contract, it is customary for the agreement, when reached, to relate back to the date it would have begun if no impasse had occurred. In so doing, parties recognize that collective bargaining agreements cover many more subjects and procedures than wages. This recognizes the ongoing bargaining relationship by providing the written basis for administrative actions, grievances, work/leave, allocations, etc. which were made as if the provisions of the old

agreement were still in force during the time that the negotiations were taking place. It is therefore appropriate for the new contract to begin on October 1, 1989.

This is not a first time contract between the parties. A finding that the agreement which will result from this finding and determination would begin at a time other than October 1, 1989 would place a possible premium on non-agreement for one side or the other in future years. It also might unnecessarily jeopardize administrative, insurance or grievance actions initiated during the period after September 30, 1989 to the present. In this instance, the dates of the first contract (2/88 - 9/89) also indicate that the parties wanted the contract period to begin and end in the fall.

The reason the City sets forth for adoption of its proposal is that it wants to minimize the conflict for a while and not end up having to negotiate about wages again right after the arbitration determination is made. I believe the City's concern is a real one and needs to be addressed. It definitely is in the best interest of the parties and the public to minimize contractual conflicts. To the extent that this can be done by cutting down on the opportunities for such conflict to arise, the City's proposal for two years of known wage rates could dictate the length of the agreement. However, I find the City's goal also could be effected with a two or three year agreement with a wage reopener if the term for wages ran with the fiscal year rather than the contract year. Thus, the fact the City only proposed

two years of wages is not solely determinative of the length of the agreement. Avoidance or postponing confronting an issue for a time certain does not necessarily lessen the conflict or help achieve acceptable provisions at that time. The long term goal of an amicable working relationship between the parties may in fact be better achieved by shorter term contracts which would necessitate more frequent negotiations.

The second question is how long the contract should last. Both parties want at least a two year agreement. This determination will settle the dispute for the wages for at least the first year if not the first and second year of the contract. Six months has elapsed since the old contract expired. During that six months a new municipal fiscal year started. The fiscal year began May 1, 1990, after the arbitration proceedings had been initiated. According to the statute, "wage increases may be effective only at the start of the fiscal year beginning after the date of the award; however, if a new fiscal year began after the initiation of arbitration proceedings, an award of wage increases may be retroactive to the beginning of that fiscal year." 1985 Ill. Rev. Stat. Ch. 48, Par. 1614(j). Thus, whatever wage increase is adopted, according to this language it may only relate back to May 1, 1990.

The City's wage proposal runs from fiscal year to fiscal year; the Union's wage proposal speaks in terms of contract year. At the end of the hearing some discussion was had on the extent to which wages could be retroactive. The difference in proposals

reflects a lack of clarity during the discussion on the part of the neutral arbitrator with respect to the statutory requirements in this regard. Since neither proposal's fiscal viability is affected by the party's assumptions of the appropriate year for calculating the increase, the differences in the years for which the raises are proposed are being treated as language not economic proposals which are part of the question of the term of the agreement, and are herein separately decided.

The parties relationship is relatively new in that this is only their second contract. The arbitration panel believes this award should encourage communication not preclude it. Although the Union would like the agreement to extend longer, neither the Union nor the City would have problems with at least a two year agreement. We find that need, not opportunity alone, sparks the discussions of concerns which result in well thought out contractual provisions. Collective bargaining agreements frequently have different time frames than the wage proposals they incorporate. It is not unusual to find a later included wage increase in a contract that starts today. Initiating the contract on October 1, 1989 does not prevent the wage increases from going into effect on May 1, 1990 and May 1, 1991 respectively. Contractual provisions with longevity or other sequential wage increases are often couched in such terms. As long as the dates on which the wage increases will be effective occur during the contractual period, they are within this ambit. In this instance, because of

the statutory limitations on retroactivity, the wage periods shall run on fiscal year to fiscal year bases within the contractual terms.

c. Findings

1.) Therefore, in order to retain the continuous nature of the relationship and assure continuity of approach, I find that the contract starting date must relate back to October 1, 1989.

2.) Reviewing the kinds of matters at issue between the parties, the existing contractual coverage and the apparent continuing changes which the City and its Police Department are undergoing, I am persuaded that a two year contract, as proposed by the City, would be sufficient in this instance.

3.) Because of the statutory requirements, although the term of the contract will be from October 1, 1989 through September 30, 1991, the wage provisions will run from May 1, 1990 through April 30, 1991, and May 1, 1991 through April 30, 1992 respectively.

II. WAGE INCREASES

a. Proposals

The City proposes wage increases of \$.25/hr. the first year and \$.35/hr the second year for a two year contract. In support of its position the City points to what it terms to be a long term operating deficit which needs to be curtailed, the fact that it granted no wage increases to any of its employees during the past fiscal year, and the perception of the City Council that the

wages of City employees, particularly the Police, did not need to be increased since they are substantially higher than those of employees of surrounding and comparable towns and cities. The City disputes the applicability of the CPI figure of 4.8% asserted by the Union. The City claims that both in terms of other City employees and those in surrounding communities doing similar work, both public and private, the wage increases proposed for the policemen are reasonable and appropriate.

The Union proposes a 5.8% wage increase the first year with wage reopeners for the succeeding two years of a three year contract. It asserts that the Bureau of Labor Statistics index for 1989 shows an overall 4.8% increase in the cost of living. The Union claims the 4.8% increase would allow the bargaining unit members to maintain their current buying power by keeping abreast of the cost of living. The Union asserts its proposal in reality amounts to only a one percent increase and that anything less would effectively be a cut in real wages for the membership. In addition, the Union claims that the City's own personnel and budgetary figures indicate a budgeted 6% wage increase for all municipal employees. The Union objects to making the employees, and in particular the police, personally bear the brunt of past unbridled capital expenditures on the part of the City.

b. Discussion

Wage proposals must be reviewed under the applicable rules and statutory requirements in terms of the ability of the municipality to meet the costs, the prevailing wages in both the

public and private sector in comparable communities, the cost of living, the overall compensation package, and therein the interest and welfare of the public. The City's wage proposal alone works out to be an approximately 5.4% increase over a two year period. The Union's proposal exceeds this by four tenths of a percentage point for one year. In addition, the Union requests in a number of additional factors which would appreciably add to the total compensation package. They are dealt with separately. The differences between these proposals makes it worthwhile to review the context within which they must be evaluated.

Considerable emphasis in the questioning of witnesses was made by the City on the educational background of the police officers and length of time spent in training. That these educational factors were not necessarily determinative of the individual's ability to handle the job was indicated by the Chief of Police testifying about his recent experiences trying to fill a probationary officer job slot. Passing an entrance examination is required of all potential police officers. Of the seventy plus persons who applied for the position, he testified that less than half were able to pass it to be eligible to be considered further. There are apparently other determinative traits which the City wants its police officers to demonstrate not screened by educational level alone.

The testimony showed police officers work odd hours. Even when off duty they are required to maintain department and activity which would not reflect negatively on the department or

their governmental employer. They must be trained and licensed in handling vehicles, weapons and sometimes animals. They must undergo training in and be good at people skills and people handling. The range of situations with which they may be confronted and with which they must be able to cope at any time is broad. The skills this requires are greater than those necessary for machinery limited or situationally limited jobs. Supervisory control over the substantive and procedural subject matter of the police function at any given time is minimal. Police must be able to communicate verbally and in writing well enough to sustain their actions in court, when necessary. They are required to be familiar with a wide range of laws, rules and regulations, both internal and external to their departments; to deal with people of all levels of education, sophistication, abilities, common sense, age and hygiene; and to make swift, judicial and logically defensible discretionary determinations. These requirements require good nerves, good judgment and good patience. Like any other talents, although they be not be used at all times, they are nonetheless factors which are expected in law enforcement officers and which are reflected in the compensation structure. Straight comparisons on a dollar for dollar basis without taking the work environment and job skills into consideration are therefore difficult to make.

1. COMPARABLE WAGES - PRIVATE SECTOR

The City presented a number of witnesses, private sector business owners in the Litchfield area, who testified that they paid their employees considerably less per hour than police were making under the old contract. In this instance, the private sector comparisons presented did not indicate that the City's police were overpaid as alleged. The problem in all instances was the position comparability. Job skills, educational background, training, certification, hazardousness, responsibility and judgment were not sufficiently similar to allow conclusions to be drawn relating to the appropriateness of the parties' proposals.

The witness who owned an auto salvage operation indicated that his employees had to be skilled mechanics and could be trained and certified if they wanted but he did not require this background. His employees work regular hours in a regular M-F workweek. Their level of responsibility was to do their job well, period. Their responsibility to their employer ended with the end of the work day. The hazards involved were readily calculatable by the employees before a task was begun. The shop had control over the work it took to do and when it had to be completed. These employees share none of the variable and/or hazardous job characteristics faced by police officers. Their wage of \$7.00/hr. thus may well indicate the appropriateness of higher wages for police officers.

Similar support was apparent from the other private sector job/wage comparison presented: retail sales clerks. Retail sales personnel were described as unskilled workers who receive on the job training in basic record keeping and sales totaling functions. Other than the people oriented skills, there appeared to be little comparable job skills. In addition to the lack of responsibility, judgment and training, testimony indicated the lack of sales clerk positions in the City and surrounding areas apparently work to keep the wages lower than they might otherwise be since there are many unskilled high school graduates waiting for any job that becomes available. The retail clerks call upon the police officers for assistance when faced with crises. To this extent their lower wages support the police officers proposed increases.

An Illinois Power Company sponsored wage survey of the Litchfield, Illinois area, dated published in January, 1988 (City Ex. 2) used to recruit businesses to the area and show comparable anticipatable area costs was presented. The average basic hourly wage rate reported in the survey was \$7.85 for unskilled, non-professional labor. (All skilled labor positions, from tool and die maker to sewing machine operator were excluded in this report.) If we postulate a minimal increase of 5% for each of the next three years to bring it on a par with the proposals at hand, the average manufacturing salary for unskilled labor would have been approximately \$9.10/hr. This does not include shift differential or other non-wage compensation factors mentioned in

the report. The chart is subheaded "EXCLUDING COLA", which apparently means that the the reported base rate figures are without the cost of living adjustments which would appear in the actual pay calculations. These factors plus the recruitment purposes for which the survey was intended to be used, indicates that the survey figures are lower than the actual pay the employees receive. Reviewing the differences in job requirements and characteristics, extrapolation to a 1989 comparable indicates a strong possibility that the public sector jobs in Litchfield, including police, are at least below and at best equal to private sector rates for comparable positions.

2. COMPARABLE WAGES - PUBLIC SECTOR

Two kinds of comparisons were presented for public sector positions: Litchfield area non-police public employees and comparable communities police department employees. Testimony from the Litchfield Superintendent of Schools indicated that a) the communities used for comparative purposes by the City for the police wages were the same as was used by the school district when it negotiated its contract, and b) the police officer wage rates used in the comparison were within the range of the comparative wages he had seen when looking at teacher's salaries. Comparisons were made with the towns of Hillsboro, Vandalia, Pana and Carlinville. (Greenville was initially included but it was not listed in the City's final argument on comparative consideration.) All of these are south central Illinois cities of similar population size and urban complexity.

A chart was presented (City Ex. 1) setting forth the comparative data as of February, 1990 for the cities noted above. The chart was made up by a secretary/clerk from information obtained from telephone inquiries she made. The City asserts that the chart indicates that Litchfield pays its police at a substantially higher wage rate than surrounding towns of similar size and make up. Because of the ad hoc nature of this inquiry, during the hearing the Union seriously questioned the value of the information as a basis of comparison. According to the testimony, the information contained in the chart came from responses obtained by a clerical employee to questions she was asked to find answers to. The questions were presented in a straight forward manner to persons in each of the towns' clerks' offices. If the person answering the questions did not know the information, blanks were left. Good intentions and careful transcription of the information obtained notwithstanding, other than the bare base wage rates, the chart is of problematic value for that which it was proffered. This is exemplified by reviewing the collective bargaining agreements between the police bargaining units and the cities of Pana and Vandalia, obtained at the request of the Union from the ISLRB by the neutral arbitrator and distributed directly to all parties by the Board.

Pana police are represented by AFSCME. As is shown on City Ex. 1, the Pana base wage scale is approximately \$1.25 less than Litchfield that for the 1989-90 year. However, as the Pana contract indicates, Pana pays shift differentials of \$.10/hr. and

\$.15/hr. for second and third shift work, and \$10.00 per month per year of service longevity pay. Without knowing the composition of the Pana workforce, it is difficult to figure out what this means. If the workforce has similar longevity to that of Litchfield, we could assume that the bulk of the officers have been on the force between four and eight years. (Litchfield had no officer at the lower longevity ranges as of the dates of the hearing.) This means their pay would be between \$.23/hr. to \$.46/hr. greater than the base of \$9.18 for 1989-90 indicated on the chart. In addition, if we assume that Pana allows officers to bid on shifts, a common practice in police departments which the Pana contract indicates is the practice there, so that the least senior persons get the third and second shifts (the less desirable shifts), the base rates are automatically that much higher per hour. What we are looking at is an approximately 9% difference in pay. Is this difference made up for or compensated by other non-wage benefits included in the compensation package? Pana provides an additional holiday, extensive non-health insurance coverage, first day sick leave benefits and more days for funeral/bereavement than does Litchfield. The overall compensation package comes out slightly lower than Litchfield, but not so measurable so to warrant a conclusion that the Litchfield salaries are out of line.

Vandalia Police are represented by the Fraternal Order of Police. Their contract includes eleven steps beyond probation in comparison with Litchfield's 6 steps beyond probation. Each step represents a 3% increase or \$.27 per step. For 1989-90, the lowest member of the Litchfield force working day shift only would make between \$10.02 per hour and \$10.56/hr. as compared with \$10.73/hr. base rate at Litchfield for the same level time period. Vandalia pays \$.25/hr. and \$.45/hr. shift differentials for second and third shift respectively. If all other benefits in the compensation package are comparable, it thus appears Vandalia's pay to its police force is almost the exact equivalent of Litchfield as of 1989. And Vandalia's 1989 contract has a reopener provision for all economic issues except vacation as set forth in Article 29, Duration.

From the chart it appears that Carlinville pays about \$.75+/hr. more than Vandalia and Hillsboro about \$.30+/hr. less than Vandalia. This places Litchfield's rates near the middle of those of its comparable neighbors. Of course, it depends upon how one looks at the numbers and the value placed on different items. The problem with these comparisons are the other elements in the compensation packages as well as the intangibles usually referred to as the working environment. Without a careful cost study of each item for comparability purposes, the exact extent of the similarities and disparities is impossible to tell. However, it

appears that Litchfield may pay out in straight wages what other communities pay out in other types of benefits included in overall compensation packages.

Within the City of Litchfield, it was asserted the average wage, including the police, was \$8.44/hr. Unfortunately, the bare average without additional information does not indicate that the police salaries are either low or high, an average being the combined mid-point of a wide range of figures but not specifically representative of any of them. Reviewing the worksheets submitted to the City accountant with the departmental proposals for the 1990-91 fiscal year budget, the ambulance department materials indicate three firefighters each paid at \$1,860.16/mo. or \$10.73 per hour, the same rate exactly as the Class D police officers, if calculated in the same way as police salaries are paid. Since this worksheet included three separate line items marked "5% raise" and "10% for overtime payments" and "10% for holiday payments" respectively, it is clear that what we have is almost direct parity between police and fire in the City of Litchfield. This is important to recognize since the information which was presented relating to prevailing wages of other city employees did not break out firefighter/ambulance crews because it is a largely "volunteer" fire department.

The proffered salaries from other Litchfield departments indicated similar comparability problems as did the salaries from the private sector described above. Hourly employees in generalist, unskilled or semiskilled positions such as clerk

typist, lake custodian, sewage plant laborer, etc., as listed on (Union Ex. 1) Resolution 18-87, are clearly lower paid on an hourly basis than salaried or skilled employees. In fact, this is recognized in the initial Whereas of the Resolution 18-87 wherein it states that the resolution excludes "department heads and assistants and members of the Police and Fire Departments." It appears that Litchfield values Police and Fire employees on the same level it does other persons in positions which require the exercise of discretionary judgment.

The job skills and characteristics of the various positions listed within the city are assumed here from the titles of the jobs as listed in the Resolution. Little comparative information was provided beyond the fact that Litchfield pays its maintenance employees and clerk typists between .3% and .7% as much as it pays its police officers and firefighters on a regular basis. (Although a shift differential is included in the Resolution, testimony indicated that few, if any employees, actually are paid such a differential. When an employee works a second shift it is usually treated as overtime and paid as such. There are longevity factors ranging from 5% to 10% of base salary for other employees which would tend to make up any differentials between these rates and police/fire rates of pay for long term employees.) If, however, other departmental budgets segregate overtime, holiday pay and other kinds of bonuses, which the 1990-91 worksheets reflect that they do, these rounded estimates based on the flat hourly starting figures presented in Resolution

18-87 indicating the difference between police/fire wages and those of other city employees may be very misleading. In other words, the actual differences in pay rates, once the longevity pay and overtime, etc. is taken into account from the segregated line items, may make the police/fire salaries much closer to those of other level City employees than is initially apparent. From the budgetary material provided it appears as if hefty raises (from 10% to 15%) were requested by many department heads for their employees for the 1990-91 fiscal year. Although their requests were generally pared down to approximately 6% across the board wage increases, it is clear that if there is any wage disparity involved here, the City personnel making the budget requests believe their employees are paid too little not that the police and fire personnel are paid too much. The 6% budgeted allocation for 1990-91 fiscal year salary increases included police officers.

From our review of the information provided and all of the testimony and evidence presented, it appears that Litchfield's police salary structure is not out of line with that of its comparable neighboring communities. For our purposes, that is all we need to determine at this juncture. The purpose of the statutory admonition to consider the comparable communities' salaries is to make sure the awards are in line with prevailing and/or reasonable community standards. In this regard, all that can be done is to determine what the existing wage rates and compensation packages are to insure that the one at hand is not ex-

cessively higher or lower or otherwise disproportionately out of line. Comparable community evaluation does not say anything about the increases or compensation packages proposed by the parties. It merely provides a context within which the proposal may be viewed. By finding that Litchfield's wage rate structure for its police is within the general range of its comparable communities, we have determined there is no basis to factor in a need to compensate for disparate wage rates which might otherwise be the case. The proposed wage rates now may be assessed according to their reasonableness and the City's ability to pay.

3. ABILITY TO PAY

The City's proposed wage rate increase of less than 3% per year was based more upon its perception that its police officers were overpaid than an inability to pay or a claim that the Union's position was totally out of bounds. In fact, from the figures and information presented, it is clear that the City is well able to meet the Union's request without hardship. The City is in process of shifting from an appropriations ordinance system to a budgetary ordinance system. The change was begun last year with the start of the 1989-90 fiscal year, May 1, 1989. As a result of the confusion this caused and miscellaneous other factors, the City projected a 1989-90 deficit of \$204,782 but ended the fiscal year with a \$366,700 surplus instead, a projection discrepancy of \$571,482. The surplusage is set forth in City accountant /consultant David Pritchard's letter of April 11, 1990 (requested by the arbitrators). In this letter he sequentially

attributes the various sources of increase in 1989-90 fiscal year revenues to temporary resources and/or prepayments which are not expected to recur and then proceeds to extrapolate a projected surplus in the upcoming budget year 1990-91 into a serious pattern of deficit spending which must be stopped. As is noted in the Union's brief, the anticipated deficit causing factors are capital expenditures and proposed capital projects, not salary expenditures.

Mr. Pritchard concedes his budget for the 1990-91 fiscal year anticipates a 6% increase for all employees over 4/90 budget year salary levels. Thus, the City's budget anticipates an expenditure for police salaries in excess of that which the Union has proposed. The accuracy of Mr. Pritchard's prognosis that "deficits will materialize given the City's current revenue base" does not in anyway negate the ability of the City to meet such expenditures. No personnel needs assessment has yet been completed as part of the long range City planning effort. When that occurs, involvement and inclusion of police department manpower factors may affect future contract wage negotiations. Until such time, the financial status of the City appears sufficiently solid to handle any and all reasonable wage rate and compensation package increases as described in the various Union and City proposals.

The extreme discrepancies between the budget and the actual figures support the Union's contention that annual wage reopeners would perhaps be wiser for all than precommitment to long-term obligations. In this way neither the City nor the Union membership are placed in the position of relying upon inaccurate budgetary figures to their respective detriment or of trying to force the other side to make commitments and/or promises which would in hind sight appear to have been induced erroneously. The City would validly contend that its proposal is low enough to take into account potential fluxuations in anticipated revenues and expenses. However, to accede to this argument would place the greater portion of the burden for the City's budgetary difficulties on its unionized employees. Such a result would be neither equitable nor supported by the evidence presented. Despite Mr. Pritchard's statement that "[He does] not expect the high side estimated budget errors we experienced last year to surface again . . .," it is prudent to avoid long term reliance upon these projected figures at this time.

4. COST OF LIVING

The Consumer Price Index published by the US Department of Labor, Bureau of Labor Statistics indicates an annual average of 4.8% overall increase from 1988 to 1989 for "All Urban Consumers" and again from January 1989 to January 1990. The Union produced copies of this and a number of other more localized area CPI charts for the region and heavily populated areas of the region. The Union used the US Average as the basis for its wage rate in-

crease request. Despite the City's reference to the wide variety of numbers shown on these charts, it is apparent that the Union was being consistent with the reprinted users note from BLS which states in part:

Local area CPI indexes are by-products of the national CPI program. Each local index has a smaller sample size than the national index and is, therefore, subject to substantially more sampling and other measurement error. As a result, local area show indexes greater volatility (sic) than the national index, although long-term trends are similar. Therefore, the Bureau of Labor Statistics strongly urges users to consider adopting the national average CPI for use in their escalator clauses.

The fact that the annual increase has been almost a constant 4.8% for the past two years supports its use as a basis for calculating wage increases for the upcoming fiscal year.

5. PUBLIC INTEREST

The public interest has many aspects in a matter such as this. Clearly, money savings is a major concern. But like the budget deficit, money savings must sometimes be viewed as a long term project in order to be most effective. Eliminating labor strife, employee discontent and the need for resort in the future to impasse resolution procedures like this one have a value which often translates into direct long term money savings. Because of the delay in achieving settlement on the wage issues and the parties' resort to statutorily provided impasse procedures, since by statute wages may only be retroactively assessed to the begin-

ning of the City's fiscal year, the City will have effectively reduced its outlay by seven months worth of police officer salary increases.

Equity is also a factor here. Equity is a two way street involving straight dealing on both sides. It does not preclude strong advocacy for one's position, it merely insists on the reasonableness and fairness of that position. The extent to which it is present in labor/management negotiations often is reflected in the caliber and output of the employees. In that light, with a view toward the continued long term relations between the parties, equity would indicate opting for the Union's wage proposal.

Because of the delay in implementation from October 1, 1989 to May 1, 1990, the effect is for the 5.8% increase to be the only increase for these employees over a 19 month period of time. Viewed in this light, it can be seen as representing a 1.9% increase to cover the the first seven months and a 3.9% increase for the year May 1, 1990 through April 30, 1991, figures very similar to the average percentage increases (2.3% for year 1 and 3.1% for year 2) the City offered in its two year proposal. By allowing reopening wage negotiations only prior to the start of the new fiscal year, both parties will have opportunity to reassess the status of the City's finances and other obligations, and the City planners will be able to take their proposals and agreements into consideration when planning the new fiscal year budget.

c. Findings

The appropriate proposal on the wage increase issue is the Union's. The increase shall be 5.8% with wage reopeners for subsequent years. As noted in the discussion on the length and term of the agreement, although the contract year shall extend from October 1, 1989 through September 30, 1991, the wage provision shall run concurrently with the City's fiscal year from May 1, 1990 through April 30, 1991, with annual reopener for the fiscal year 1991-92 beginning May 1, 1991.

III. SHIFT DIFFERENTIAL

a. Proposals

The Union proposes a second shift differential of \$.10/hr and a third shift differential of \$.20/hr. It asserts the necessity of this as a form of fairness to those officers to compensate them "for the enhanced danger associated with such shifts, and . . . for the loss of time and convenience" The City proposes no shift differentials be included in the contract. It points to the Chief of Police's concern over ease of implementation of record keeping as the rationale in opposition to this change.

b. Discussion

The Union's proposal emphasizes maintaining the status quo between City employees. Since shift differentials of the same hourly rates as here proposed by the Union are included in the Resolution 18-87, even though largely unused, the Union asserts

they ought to be granted police officers, who do regularly work second and third shifts. The Union also emphasizes the increased expenses which working odd shifts entails.

One of the prime arguments in favor of Litchfield's wage rate comparability with its neighboring communities, supra, was from the standpoint of the packaged elements. Litchfield appeared to provide more in the base wage rate and other cities appeared to provide more in other compensation related elements, including shift differentials. The proposed shift differential would add an additional \$1,248 to the total wage package (two persons per eight hour shift for a total of 2080 hours per year at \$.10/hr. and \$.20/hr respectively) and a maximum of approximately \$60/yr. +/- to the pay per officer.

Whether +/- \$60 per person justifies the expense in administration is perhaps questionable. However, the City's concern over the administration of shift differentials can be dissipated by appropriate use of a good database on the computer the Chief of Police testified was available for use. On the other hand, the same factors which prompted this concern serve to raise questions of the viability of the Union proposal. Unlike other cities which have shift differentials for their police officers, Litchfield officers do not bid on shifts and do not work consistently in the same shift every day of the week. In fact, almost all of the officers take turns manning second and third shift positions so that there are at least two persons assigned to each such shift each day. This kind of equitable allocation of work

precludes the argument that shift differentials are methods of supplementing lower paid officers who, due to lack of seniority, end up with the less desirable late shifts. It also weighs against the added expense argument since such expenses are evenly allocated among all of the officers. To add a shift differential as well as adopt the proposal for the higher wage increase would tend to throw the Litchfield rates out of alignment with those of its neighbors.

c. Findings

As proposed by the Cityt, the contract shall remain as it is without a shift differential provision.

IV. ADDED HOLIDAY

a. Proposals

The Union proposes adding a ninth holiday to those allowed police officers. Its asserts discrimination against Police Officers because nine holidays are accorded other City employees while police officers have only eight official holidays and three personal days in their contract. The City proposes that no change be made in the contract with respect to the number of holidays. It asserts that the Union's designation of this added holiday as a "floating" holiday takes it out of realm of equivalence since neither group of employees enjoy a "floating" holiday, ie. one which the employee may take at his/her option.

b. Discussion

The Union's claim for an additional holiday is based upon a reading of the provisions of Resolution 18-87 in which the city employees other than Police and Fire get eight and one half paid holidays and each regular full time employee gets his/her birthday as a paid holiday as well. In the Union contract, the police officers each get eight full holidays and three personal days. The Union did not show that other City employees had the same amount of personal days enjoyed by police officers and no such provision appears in the above cited Resolution. In fact, it appears that the count is off in either direction. If personal days are considered holidays, police officers get eleven days. Other City employees get either 9 1/2 days, if one counts the birthday holiday, or 8 1/2 if one does not, according to the resolution which purports to embody all of the pertinent rules and regulations concerning similar benefits for non-police and fire employees. The difference between the police contract and the Resolution list beyond the birthday holiday is that Christmas Eve is considered a half day holiday for other City employees.

Even if it were only one more day rather than a day and a half or merely a half day, the Union proposal would cost the City approximately \$1,525 additional per year calculated on the basis of an eight hour holiday for each person at the new rates of pay (eight hours times two). According to the Union contract, police officers are paid double time for holidays. (Those employees who worked the holiday would earn their regular pay as well but the

cost to the City would remain the same.) Non-police/fire employees are only paid time and one half for holidays. Thus, although the police officers may have one less eight hour holiday, because of the different rates at which their holidays are calculated from those of other City employees, the effect is only 1/2 day difference in pay. It is apparent that this in fact was the basis of the 1/2 day Christmas Eve holiday for other City employees: holiday equity with the police officers.

The fact is that the police officers cannot have it both ways. Either they are professionals at an equivalent level of job responsibility to merit being treated like department heads, department assistants or other salaried personnel, or they are hourly employees like the unskilled or semiskilled workers with wage rates listed in Resolution #18-87. If the police officers salary is not comparable with these other persons for purposes of calculating wage rates because of the differences in job characteristics, the perquisites which augment the straight wage rates and go to make up the total compensation package may allowably be differently assessed as well. For other employees the argument of being allowed time off to spend with their families may be acceptable. Police are different. They must work holidays. The holiday factor for police is really just another day for which an officer receives special amounts of pay. In this instance, equity is therefore the Union's only argument. There is insufficient basis to determine a lack of equity with regard to days off with pay, including holidays.

c. Finding

The City's proposal to allow the contract to remain as it is with no change in the number of holidays is adopted.

V. BEREAVEMENT LEAVE

a. Proposals

The City proposes a change in contract language that would effectively limit pay for bereavement leave to those days which would have been working days for the individual employee. If one or more of the three consecutive days would have been the employee's day off, no pay shall accrue for such days. The Union proposes that the contract remain unchanged.

b. Discussion

The concept of paid bereavement leave is a benefit to an individual employee at a time of personal tragedy and need. It is obvious that the City views this as an assurance that at a time of personal need, an individual is assured that he/she will not be penalized for taking time off. The Union perceives this as an acknowledgment that a person will need at least three days off from work, paid, whenever those days occur in order to personally deal with the outward vestiges of personal tragedy. Paid leave, according to the Union's logic, is a bargained for benefit without the necessity of any concomitant business rationale.

In fact, the paid for benefit concept is the direction toward which the idea of paid bereavement leave has developed. It is a not uncommon provision in collective bargaining agreements. The payment provisions often have no relationship to an individual's work schedule or position level. With a stable work force, it is questionable if the City is even required to pay out one or two days pay a year under this clause. Whatever way it is viewed, to take it away or curtail it in any fashion now would deny the employees the benefit without any real advantage accruing to the City. While the cost to the City is minimal, the benefit to the individual employee when s/he needs it could be perceived as enormous.

Further, the idea of paid bereavement leave without pay is a contradiction in terms. It would require individual determinations whether someone is eligible for the leave on certain days. The idea of bereavement pay is usually to lessen an individual's stresses and worries at a time of tragedy, not give them something more to worry about such as whether they are eligible for the paid leave. Apparently from the witnesses presentation the opposition to this provision developed because of the perception that one individual abused the privilege. This is not an economic issue for the parties. No morbidity information or other financial data were provided by either party to assess this leave as a part of the compensation package. There is no reason to change it at this time. Rather than make a farce of the provision, it would be better to leave it as it is.

c. Finding

The Union's proposal that there shall be no change in the existing contract provision with respect to bereavement days is adopted.

VI. SICK LEAVE

a. Proposals

The Union proposes that the sick leave coverage be expanded to include the first day in all instances. The City opposes any change in sick leave coverage.

b. Discussion

The parties included a provision in their first contract that allowed employees to be paid sick leave for the first day only one time a year. All other times, the first day sick was unpaid leave. Paid sick leave, even if accrued, could not be used until the second day of sick leave. This was true without regard to the reasons someone was sick or the day, time or duty to which they would have worked.

Apparently this provision was the result of concerns maintained by the Chief of Police that some individuals were using sick leave when they were not sick to get away from having to serve desk duty. Whatever the original rationale, a review of sick leave used during the preceding calendar year, City Ex. 11, indicates that such a problem no longer exists. Of the total of approximately 40 days of sick leave absences used by the entire police force in the entire year, one person, a person with eight

days absent during the year, had a majority of those days appear on one of the two days when he was regularly assigned to work desk.

Perhaps a flat rule to prohibit possible abuse was necessary prior to the existence of a collective bargaining agreement when there was no easy way other than peer pressure to stop such abuses. Abuse of sick leave is now something which can and should be dealt with through the available grievance mechanism. Tighter control of the workforce and the way in which days off are taken and covered by others is possible under a collective bargaining agreement. The officers have already accumulated the leave they would use for this purpose. Revising the method of calculating when the leave may be used in no way changes the entitlement to the sick leave or amount of payment for a day of sick leave. This was never an economic issue for the parties. It was presented as a matter of principle and is dealt with here as such. There appears no ongoing basis for the concern which originally prompted the provision; other means are now available to curtail possible abuse.

c. Findings

The proposal of the Union is adopted. Sick leave will be paid as of the first day of leave.

VII. VACATION SCHEDULING

a. Proposals

The City proposes that the following provision be added to Article XIII of last year's contract provision on vacation scheduling:

Section 2(d). For all of the employees, a maximum of three (3) consecutive weeks may be chosen for any one (1) vacation period.

The Union asks that the provision be changed to read:

Any one (1) employee shall be limited to the taking of a maximum of three (3) weeks of his or her accrued vacation during the period from June 15th through August 15th, so as to permit the maximum number of officers to enjoy a vacation during the prime summer months. This clause will in no way affect the number of vacation weeks to which the officer is entitled, but rather only limits the time period in which such vacation (or a portion thereof) may be scheduled. Should any time be available after all officers have had an opportunity, pursuant to seniority, to schedule up to three (3) weeks vacation within such period, the remaining period may be chosen pursuant to seniority.

b. Discussion

This is a scheduling issue, not an economic issue. From the testimony and City Ex. #10, it appears that desirable summer vacation times have been taken up by senior employees according to the perception of the more junior employees. The Union wants to try to curtail abuses and enable more officers time off during the summer. It asserts that the City's proposal would not cure the problem and merely enable the existing senior employees to continue to close out more junior employees from desirable vacation periods. The Union's proposal would limit the officers to

three weeks maximum during the summer months; the City's proposal would limit the officers to three weeks at any one time at any time during the year.

In fact, it is questionable whether either proposal will cure the perceived problem. The 1990 vacation schedule, City Ex. 10 showed no officer taking more than three weeks during the summer months and no officer taking more than three weeks at one time. The existing contractual provisions detailing the method of picking vacation leave times and the number of vacation days available when, to each person, is comparatively complex and cumbersome. Perhaps it needs revision through ongoing additional negotiation. The Union's proposal would potentially cause more administrative problems. By its wording, it incorporates policy as well as procedural guidance to be added to a non-policy section of the contract. The City's proposal is simpler, more universal in applicability (for those who like Christmas time vacations) and may in fact cure the problem. It should be tried first.

c. Findings

The City's proposal is adopted. The Vacation provision of the collective bargaining agreement shall include a new Section 2(d) worded:

Section 2(d). For all of the employees, a maximum of three (3) consecutive weeks may be chosen for any one (1) vacation period.

VIII FAIR SHARE

a. Proposals

The Union proposes that all non-union members in the bargaining unit, regardless of date of employment, be required to pay their fair share of their representational expenses to the Union. The City wants no change in the fair share contractual provision.

b. Discussion

The Union claims that everyone should share in the expenses of bargaining, arbitration, such as this proceeding, and whatever else is necessary for it to do to provide the representation for which it is statutorily mandated as exclusive bargaining agent. New employees are required to contribute their fair share, if they are not members. Older employees are not so required. Apparently there are three officers in the bargaining unit who are not members of the Union and do not make any contribution to their representation. The Union asserts its claim on the basis of equity and fairness.

The City contends that it is not democratic for an individual to pay for something for which he has not voted. It also claims that the Union has not indicated the amount of money it would collect from said individuals and therefore it claims the proposal is not workable.

This is not an economic proposal between the parties. Although adopting fair share for all may cause some individuals to pay out more money from their paychecks, the amounts are not an expense for the City to be concerned with.

In fact, union representation is an example of pure majority rule and is probably the one truly democratic action our laws sanction. It is direct vote, not representational. It is strict majority rule. We as a people are so used to individual protections from majority tyranny and individual rights tempering majority rule, we often forget what pure majority rule is all about. In Union shops, if 50% plus one person vote for the Union, all must be members and pay dues regardless of their individual proclivities or vote. A fair share provision does not require individual bargaining unit members to be members of the union. It does require individuals who are receiving benefits from Union representation to pay their fair share of the cost of that representation. Usually this comes out to a percentage of the Union's regular dues. Once approved, the amount which must be paid out to cover an individual's fair share can be calculated. The actual amount of assessment is not a barrier to adoption of a fair share contractual provision.

In the present instance, testimony indicated that non-union members have availed themselves of the benefits of union representation through the grievance process. It is also true that for the first time since the Union has represented the officers a new person has been hired (or will be in the near future). The result, with a new hire, will be that some non-union members will be paying fair share and others will not. This disparity will inevitably cause problems in the future and may exacerbate seniority based privilege allocation resentments. Testimony by

the Chief of Police indicated that all three officers who would be affected are senior and earning top money, ie. able to afford the payment which fair share would require of them. Grievance representation does not depend upon seniority. The addition of seniority provisions in the contract do go to the advantage of senior employees. Asking them to pay their fair share when others in the same unit are doing so merely eliminates any possible discriminatory questions in this regard in the future.

c. Findings

The Union's proposal is adopted. All employees in the bargaining unit not members of the Union shall be required to pay their fair share of representational expenses regardless of the date of hire.

CONCLUSION- THE TOTAL COMPENSATION PACKAGE

The total compensation package adopted here centers around a wage rate increase of 5.8%. Because of the time it has taken to get to this settlement, the wage increase in fact will be the only increase the employees receive over a period of 19 months. The total annual wage increase to be paid by the City for the members of the bargaining unit will be \$9,278.65, less than half of the salary of one of the two senior officers who retired or left the department during the past year. Testimony indicated that the City intended to fill only one of the two vacancies. The City's ability to pay this increase was not seriously in question.

The employees' compensation package remains constant except for the change in wage rates. No new holiday, no change in bereavement leave pay, and no shift differential augment this monetary gain. The pension, required by statute, remains the same. No changes were made to insurance, vacation or other benefits. The sick leave accrual and payment remain constant although when an employee may use it has been slightly liberalized. No changes were made to existing bereavement leave pay. In this way, Litchfield remains competitive with its neighboring communities and internally consistent with the salaries of other City employees.

Changes have been adopted for scheduling vacation times but not for the amount of vacation for which an individual is eligible. All members of the bargaining unit will hereinafter share in the cost of their union representation. Operational changes have also been effected in the structure of the contract. The term of the contract will be two years, running from October 1, 1989 through September 30, 1991. It shall include wage reopeners for new wage proposals to go into effect as of the start of each succeeding fiscal year for which the contract shall be in force, ie. May 1, 1991. By initiating wage negotiations concurrent with the fiscal year budgeting process, it is hoped that the parties will be successful in avoiding impasse in the future.

Signed this 15th day of June, 1990


Anne L. Draznin
Neutral Arbitrator

I concur with the findings adopted for the following provisions:

I, III, IV, VII

I do not concur with the findings adopted for the following provisions:

II, V, VI, VIII

Date: 6-21-90

Dale Bruhn
Dale Bruhn

City Appointed Arbitrator

I concur with the findings adopted for the following provisions:

I, II, III, VI, VIII

I do not concur with the findings adopted for the following provisions:

IV, V, VII

Date:

6/25/90

Michael O'Hara
Michael O'Hara

Union Appointed Arbitrator