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IN RE INTEREST ARBITRATION

BETWEEN

VILLAGE OF MAYWOOD, ILLINOIS,

Employer,

and

THE ILLINOIS FIREFIGHTERS' ALLIANCE, MAYWOOD COUNCIL,

Union.

ISLRB No. S-MA-92-102

FMCS No. 92-11110

Subject: New Contract Terms; Best Last Offer Selection.

1. The Arbitrator, Aaron S. Wolff, was designated by the parties pursuant to the Procedures of the Federal Mediation and Conciliation Service and the Illinois Public Labor Relations Act.

2. Hearings were held at the Village's Council Chambers in Maywood on October 8 and 9 and November 19 and 20, 1993.

Appearances and witnesses for the Village were:

Stanley L. Hill, Darlene Blaszcak, Jennifer Lee, Stanley L. Hill and Associates, Attorneys
Leonard Chabala, Village Manager, Witness
Dennis Hoffman, Fire Chief, Witness
Robert Broznowski, Finance Director, Witness
Bill Morris, Vice President, George K. Baum & Co., Witness
Lawanda Meadows, Executive Secretary, Witness
Alfonza McKinnor, Village Trustee, Witness

Appearances and witnesses for the Union were:

Gregory N. Freerksen, John Dykehouse, Witwer, Burlage, Poltrock & Giampietro, Attorneys
Raymond Guilfoyle, Executive Director, Illinois Firefighters' Alliance
John Molinaro, Union Steward, Witness
Anthony Squeo, Firefighter, Witness
Timothy McDonald, Firefighter, Witness
John Cadagin, Firefighter, Witness
Thomas Rocco, Firefighter, Witness
Peter Genualdi, Firefighter, Witness
Michael Dravo, Firefighter (and former Lieutenant), Witness

3. There was a transcript of the hearings. Post-hearing briefs were received on or about March 15 and 29, 1993 and Reply Briefs on April 8 and 9, 1993.

IN RE INTEREST ARBITRATION BETWEEN VILLAGE OF MAYWOOD, ILLINOIS, Employer, and THE ILLINOIS FIREFIGHTERS' ALLIANCE, MAYWOOD COUNCIL, Union.	ISLRB No. S-MA-92-102 FMCS No. 92-11110 Subject: New Contract Terms; Best Last Offer Selection.

FINDINGS, OPINION AND AWARD OF THE ARBITRATOR

Preliminary Statement

The parties hereto, the Village of Maywood, Illinois (the "Employer", the "Village" or "VOM") and the Illinois Firefighters Alliance, Maywood Council (the "Union") had a Collective Bargaining Agreement that expired on April 30, 1992. They could not agree on all terms of a new one. Pursuant to the provisions of the Illinois Public Labor Relations Act (the "IPLRA" or the "Act") and the procedures of the Federal Mediation & Conciliation Service ("FMCS"), the undersigned, Aaron S. Wolff, was appointed as chairman of an interest arbitration panel[1] in June, 1992.

The hearings commenced on October 8, 1992 and continued on October 9, November 19 and 20, 1992. The record consists of a

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[1] At the hearings, the parties agreed that the chairman would serve as sole arbitrator. (R. 3)

transcript of 1065 pages, numerous exhibits and briefs.[2]

In accordance with the IPLRA, the parties submitted their respective "last offer of settlement" at the outset of the hearings (VX 1, UX 12). The Union filed an amended last offer during the hearings on November 19, 1992. (UX 18) With respect to such offers, the Arbitrator's function and responsibility under §14(g) of the IPLRA (Ill. Rev. Stat. ch. 48, ¶1614) is as follows:

> (g) At or before the conclusion of the hearing held pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the Board. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

The "applicable factors" which the Arbitrator must consider are set forth in §14(h) as follows:

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[2] The transcript of the hearing is cited as "R. __", the Village's exhibits as "VX", the Union's Exhibits as "UX", and Joint Exhibits as "JX". Several exhibits are designated as "Arbitrator's Exhibits" ("AX") when the parties could not agree whose exhibit it should be. The parties filed post-hearing briefs (cited as "VB" and "UB") on March 15 and 29, 1993 and reply briefs (cited as "VRB" and "URB") on April 8 and 9, 1993. By agreement of the parties, the due date of this Award was extended from May 10 to June 9, 1993.

(h) 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:

(1) The lawful authority of the employer.

(2) Stipulations of the parties.

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

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

(A) In public employment in comparable communities.
(B) In private employment in comparable communities.

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

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

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

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

The Collective Bargaining Agreement that expired on April 30, 1992 and under which the parties (by the Act) are still operating (referred to herein as the "current contract" even though it has expired) was attained in part with the assistance of a prior interest arbitration award by Arbitrator Barbara Doering on February 28, 1991. (UX 4) The prior award considered various wage issues including EMT (Emergency Medical Technician), acting officer pay, minimum manning, and a non-economic issue, drug testing.

The present dispute raises these issues again plus many more. Indeed, almost every article of the current contract has had some change proposed in it either by the Village, the Union or both. Of course, to the extent that neither party has proposed a change in the current agreement, or where one party proposes a change which is not accepted by the Arbitrator, that current provision will remain "as is" in the new agreement.

For convenience and to fully comprehend the issues in dispute, there is attached to this Award as Appendix I the Village's "Final Offer" (VX 1) because it sets forth the entire current agreement and indicates which sections or paragraphs it proposes to change by deletions and additions. Also attached as Appendix II is the Union's "First Amended Last Offer" (UX 18) submitted during the third day of hearings. Reference to these appendices will facilitate the description, identification and resolution of the issues.

The Issues/Proposals - An Overview

1. Wages (Section II, Article I).

Both parties seek to extend the current contract for three years, i.e., until April 30, 1995. The current contract wage schedule provides:

	Old Contr.	5/1/89-10/31/90 (1st yr. Column 1)	11/1/90-4/30/91 (2nd yr. Column 2)	5/1/91-4/30/92 (3rd yr. Column 3)
Start	$22,691.51	$ 1,800.00 signing bonus per firefighter	22,691.51	$22,691.51
1 Yr	28,159.67		30,750.35	31,980.37
2 Yrs	29,456.62		32,166.62	33,453.29
3 Yrs	30,989.44		33,840.46	35,194.08
4 Yrs	33,050.91		37,132.69	39,360.65

The Union's amended last offer proposes a 2% increase for the 1st year (5/1/92 to 4/30/93), another 2% for the 2nd year (to 4/30/94) and a 4% increase for the 3rd year with retroactivity to May 1, 1992.

The Village proposes that during the 1st year of the new Contract there shall be no wage increase and that starting pay for new firefighters be reduced from $22,691.51 to $19,000. As to the 2nd and 3rd years, the Village proposes that wages be "open for negotiation for salary only at that time".

2. Shift Commander Pay (New Article).

The Union proposes a new article that would allow 12 hours of compensatory time for each duty shift that a member of the bargaining unit temporarily replaces a shift commander.

3. EMT Pay (Section II, Article II).

The Village proposes to delete the $10.00 payment per shift day for each EMT assigned to ambulance duty.

4. Wage Increase Qualifications (Section II, Article III).

The Village proposes various stricter requirements for advancement to Step 4 on the salary scale.

5. Acting Officer Pay - Engineering Assignments (Section II, Article XXIV).

The Village proposes to eliminate Article XXIV as to acting officer pay.

The Union seeks to amend it by adding a payment of two hours of overtime for each shift if "the Village suspends compensation time". The Union also seeks to have acting officer and engineering assignments offered on a seniority basis with a further requirement that a Fire Apparatus Engineer Certification ("FAEC") be "mandatory" for the operation of all vehicles "with pumps".

6. Overtime Pay (Section II, Article VII).

The Union makes no proposal as to overtime. The Village would rewrite the overtime Article to provide for overtime (time and one-half) for all time worked in excess of 192 hours per cycle and only for "actual time worked."

7. Holiday Pay (Section II, Article IV).

The Village proposes to eliminate Article IV, §2 which provides three work days of compensatory time off with pay in lieu of paid holidays each year.

8. Vacations (Section II, Article IV, §1).

The current contract and the parties' proposals as to paid vacations may be summed up as follows:

Years of Service	Current Contract	Village Proposal	Union Proposal
1-7	8 days		
8+	10		
1-2		2	4
3-5			6
3-7		4	
6-7			8
8-12		6	
9-11			10
13-19		7	
12+			12
20+		8	

The Village's proposal would also impose an eligibility requirement of 1700 hours of work during the previous year of service. The Union's proposal has a provision for pro rata payment upon termination of service.

9. Life Insurance (Section II, Article VIII).

Both parties agree to increase paid life insurance from $35,000 to 40,000, but the Village would eliminate the employees' right to purchase additional life insurance at the group rate made available to the Village.

10. Medical Insurance (Section II, Article IX).

The Union makes no proposal for change. The Village would require firefighters to pay 20% of premiums instead of a flat $10.20 payment per pay period.

11. Pension Benefits (Section II, Article X).

The Village proposes various reductions and limitations on retiree medical insurance benefits.

12. Clothing Allowance (Section II, Article XI).

The Village proposes to decrease the allowance and make it cover more items. The Union asks that members be given freedom to purchase uniforms and gear at discount stores by having the allowance paid directly to them instead of a single supplier.

13. Unused Compensation Time, Vacation or Holiday Time (Proposed New Article).

The Union proposes a new article for payment of unused compensation, vacation or holiday time upon termination of employment.

14. Tuition and Schooling (Section II, Article XII).

The Village would eliminate payment for non-mandatory courses and material.

15. Unused Vacation/Sick Leave (Section II, Article XIII).

The Village proposes reductions in these benefits.

16. Personal Day (New Provision).

The Union proposes adding a new article that would allow one personal (24 hour) day annually to attend "personal business".

17. Funeral Leave (Section II, Article XIV).

The Village proposes to amend this Article by deleting a proviso referring to minimum manning.

18. Unsafe Vehicle Clause (Section II, Article XVI).

The Village proposes deletion of this article which creates a committee to discuss "unsafe vehicle policy".

19. Switching of Days (Section II, Article XIX).

The Village would delete Article XIX which (1) creates a procedure for employees to switch regular work days, vacation days, holidays and certain other days and (2) bars the Village

from altering the vacation and holiday "picks" of firefighters.

20. Drug Testing (Section II, Article XV).

The Village proposes to permit "random" testing.

21. Residency (Section II, Article XXIII).

The Union would amend this Article to eliminate residency within the Village but permit residency requirements "within the service area of the Fire Department [including] the contiguous municipalities".

22. Minimum Manning (Section II, Article VI).

The Village would delete Article VI which basically requires eight (8) bargaining unit firefighters on each shift.

23. Grievance Procedure and No Strike - No Lockout (Section I, Articles V and VI).

The Village seeks minor "clarifying" changes in these Articles.

Discussion

Preliminary Statement - The Main Issues and The Village's Financial Position

There are two basic economic issues: (1) wages and related compensation and (2) minimum manning. The Village's main motivation in seeking to eliminate minimum manning is to save money. Money, indeed, is the main motivation for most of the Village's proposals or resistance to the Union's proposals. This is because the Village has been in dire economic straits. Since VOM's "financial ability" is one of the critical factors that must be weighed in the best last offer arbitration selection process, we begin with a brief analysis of that ability.

The Village is on a fiscal year ending April 30. Testifying at the end of 1992, the Village's Finance Director, Mr. Broznowski, who had served in that position for approximately a year, stated that the Village's financial position was "very dismal." During each of the past two years, it has had deficits of about $2 million and the current year's deficit was expected to be $1.5 million.[3] Its general fund had a deficit of $3.0 million. Its audit for 1990-91 was not completed until June 1992, the reason for delay being that it's records were so bad that they had to be reconstructed. The Village has had deficits for the past five to ten years, mainly because of declining revenue, revenue which was consistently overestimated by the Village Trustees. Over the next six-month period - i.e., until April 1993 - the Finance Director anticipated that revenues would be approximately $3.2 million and expenses would be at least $4 million. (R. 731-3; see also his memo of October 5, 1992, VX 17). However, the Village was living within its estimated budget expenses. (R. 769)

A loan from the Harris Bank in the amount of $900,000 was due on December 1, 1992, but had to be extended until November 1993.[4] In the meanwhile, and for approximately the past year,

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[3] The Village Manager testified that the current deficit was $800,000 to $1,000,000 and that the deficit had been about $1 million for each of the last three years (R. 691-2).

[4] In 1991, the Village adopted a property tax increase which would have permitted repayment of the Harris Bank loan in 1992. However, believing that it could sell new bonds instead, the Village abated that tax increase at the last minute. When (Continued)

the Village has been attempting to float a new bond issue which would enable it to repay the Harris loan and refinance approximately $8 million in existing bond indebtedness. Once the $10 million bond issue is completed, there will be an anticipated savings of about $200,000 a year in interest and about $2 million in new money to pay operating expenses until a balanced budget can be achieved. (R. 734-7) (See also Village Manager Chabala's testimony at R. 692-5).

Due to its financial condition, the only way the Village could issue new bonds was with the assistance of the Illinois Development Finance Authority (the "IDFA") which acts as a guarantor by floating the bonds in its name. The IDFA imposed twenty-three conditions to the issuance of the bonds. The conditions include the Village's submitting a "proposed balanced budget for fiscal year 1994-5" and "be operating" under a balanced budget in 1995-6. (R. 743-4, 737, 723-4, 704-6, 696; VX 24). The new bonds were scheduled for sale in January or February 1993. (R. 699)

The Village's tax rate of $5.32 per $1,000.00 is one of the highest in the state. (R. 714, 742-3) The Finance Director had (as did the Village Manager) recommended a 20% property tax increase to the Village Trustees by December 1992, but the Trustees enacted only a 10% increase in the tax levy which would

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the Village's efforts to issue new bonds failed or were delayed, it had to extend the Harris loan. The Village's last minute abatement of the 1991 tax levy and failure to pay off the Harris Bank loan made the Village "dead meat in the bond market" (R. 721-4).

increase an average property tax bill of $1,500 by $60.00 a year. (R. 771, 823-4, 806-7; VX 17)

Bill Morris, Vice President of George K. Baum & Company, investment bankers who were brought in by the Village to assist in the current sale of bonds, testified,[5] among other things, as follows: Although the Village's property values are increasing, it has been operating on a $2 million annual deficit for the past three years. If the Village were in the private sector, it would be considered bankrupt. However, Morris believed that the Village had a plan which would permit a balanced budget within two fiscal years. (R. 845-7) The Village's recent 10% increase in the tax levy should produce an extra $400-$450,000 in new money by November 1993 for day-to-day operations. (R. 847) (The Village's Finance Director indicated that the 1992 10% tax levy increase will bring in about $570,000 annually beginning in September 1993. R. 737-8, 808-9)

Notwithstanding the Village's 1992 financial position, it was the conclusion of its investment banker and the IDFA that while Maywood "had some internal problems financially *** in reality [it] is a very viable community and will be in good shape 24-36 months from now." (R. 857) Maywood's problems, Mr. Morris continued, were due to its failure to raise real estate taxes over the past four or five years. This resulted in flattened

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[5] In addition to his background and expertise in investment banking in the public sector, Mr. Morris has also served as a state senator and mayor of the City of Waukegan (R. 841-4). See also Baum & Company's memo dated October 1, 1992 regarding Maywood's financial position (VX 11).

revenues while costs escalated at 5-8% a year. (R. 860) By issuance of the new $10 million bond issue, the Village can save about $200,000 a year in interest costs to use in its operating budget and, after repaying the existing bonded indebtedness, will leave about $2.3 million in new money which "is all spoken for." (R. 862-3, 847) However, one of the conditions imposed by the IDFA was that the Village attain a balanced budget by 1995-6. (R. 871-5; VX 24) In his opinion, the only way that the Village could raise revenues substantially was by increasing the real estate taxes; other means of raising revenue such as sales taxes would not produce much additional income. Other options available to the Village would be to cut salaries and jobs or impose wage freezes. Payroll is approximately 60-70% of the budget. (R. 875-8)

Since 1988, the Village's real estate tax revenue has been locked in at about $2.5 million. The only increases in real estate taxes that have been approved were state mandated for funding pensions, not for operating expenses. In Morris' opinion, and with the benefit of hindsight, the Village should have been raising its real estate tax rate annually for the past 4 or 5 years. (R. 860, 878-80)

The foregoing financial analysis or "financial crisis" of the Village is also summarized in the Village's brief (VB 1-3) which also notes that the Village has made major reductions in

expenditures, including layoffs,[6] that the Village contemplated a 20% pay cut for supervisory staff and others not covered by collective bargaining agreements[7] and later proposed but abandoned a proposal to obtain a voluntary agreement from all employees to a 10% salary reduction. (R. 701-2; VB 2).

The Union does not dispute the Village's past, present or anticipated financial position. The Union's position is that the Village's "financial missteps ... during the past decade or so should not be laid at the feet of the firefighters, particularly when positive signs abound that provided the Village abides by the more stringent budgeting, auditing and record-keeping restrictions, imposed upon it by the IDFA, *** it can expect to see itself through the fiscal problems in two to three years (R. 857)." (UB 24)

Further, the Union adds:

> "This is particularly so given that the disarray attested to in the Village's financial practices (R. 844) and the Village administration's long-standing practice of overbudgeting revenues and spending out of deficits (R. 732-3) were coupled with an unwillingness on the part of the Village Board of Trustees to levy the property taxes necessary to raise the revenues in order that the Village budget might be balanced (R. 880, 935-6)." (UB 23)

The Union also emphasizes that in 1991 the Village levied a 10% property tax increase to raise funds necessary to pay off the $900,000 loan from Harris Bank, but then rescinded the levy at

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[6] Between May and October 1992, the Village laid off 11 employees (R. 708-9; VX 12).

[7] This 20% pay cut was proposed and abandoned in November 1992 (R. 898-900).

the last minute, thereby precipitating the cash flow crisis which prompted the Village to turn to Baum & Company for assistance in issuing bonds. (R. 771-4, 844, 881) (UB 25).

The Union also observes that the Village's Manager and Finance Director both recommended a 20% increase in the property tax in October of 1992, but that the Village instead opted only for a 10% property tax increase. It also pointed to the Village's own testimony that if the Village had raised property taxes 3-5% annually over the past few years, the Village would not find itself in its present fiscal situation. (R. 823, 880, 935-6; URB 1-2) The Union, therefore, finds it "disingenuous" for the Village "to argue that its current financial condition 'mandates' the changes which the Village proposes to make to the collective bargaining agreement, or that the Village is unable to fund the modest pay increases the firefighters request." (URB 2)

Having noted the Village's financial position and the basic positions of the parties with respect to it, we turn to the specific issues to be resolved in this case.

1. Wages.

The parties have made different wage proposals for each of the three years of the proposed new three-year contract. The Union contends that "each year" constitutes "a separate economic proposal" which deserves "separate consideration" (UB 22; UX 18, p. 2). The Village does not disagree with this concept (VB & VRB, passim). The Arbitrator agrees and finds that each year's wage proposal should be identified and treated as a separate

economic issue.

For the first year of the new contract (5/1/92 to 4/30/93), the Village proposes no increase and to keep the last year's wages (5/1/91 to 4/30/92) in effect for one year (1992-3) except that the starting rate for new firefighters be reduced from $22,691.51 to $19,000. (VX 1, p. 5) As to the second and third years of the new contract, the Village proposes that they each be left open for negotiations "at that time." (VX 1, p. 5)[8]

In its original proposal, the Union sought a 5% increase for all firefighters in each year of the new contract. (UX 12) In its Amended Last Offer it sought 2% increases in the first and second years and 4% in the third year. (UX 18)

In its support, the Village stresses its "financial crisis" and "ability to pay" factor as well as the "comparison" factor, noting that VOM "firefighters currently earn on a par with that of firefighters in the surrounding communities." (VB 4-5)

The Union contends that granting a 2% wage increase in the first year would only add about $30,000 to the Village's current total annual budget of $9.4 million, a "minuscule" addition. (UB

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[8] The IPLRA, §14(g), supra, p. 2, requires the parties to submit their "last offer of settlement" and directs the Arbitrator to select the offer that "more nearly complies with the applicable factors" in §14(h). It could be argued that the Village's wage proposals for the 2nd and 3rd years of the new contract do not comply with the Act in that an offer to negotiate in the future is not really an offer of "settlement". However, the Arbitrator need not decide that question. Presumably, the Village did not want to look into the economic future and commit itself any further than necessary, but that is a luxury seemingly not contemplated by the Act or granted to the Arbitrator.

22-3)[9] As to subsequent years, the Union points to the Village's ability and expectancy to increase revenue (UB 26-7, URB 3-5). As to the comparable pay of firefighters in the adjacent communities, the Union points to the fact that VOM firefighters must respond to more fire calls, more ambulance calls and more actual fires than the firefighters in adjacent communities in the Battalion 7 Mutual Aid Association (UB 11-13 and URB 4, citing UX's 1-A, 3, 14, 16, 17, VX 19, 20; and R. 46-8, 53-4, 61, 194-7, 205-11, 220-2, 356, 463-7, 484-9 and 592). The Village does not challenge the statistics or testimony in this respect.

The Union also notes that the Village's outside financial advisers did not recommend that the Village deny pay increases to firefighters for the next three years. (R. 823; URB 2)

According to the Bureau of Labor Statistics, as to which the Arbitrator takes arbitral knowledge, the increase in the Consumer Price Index in the Chicago Metropolitan Area for the calendar years ending 1990, 1991 and 1992 was 6.4%, 2.7% and 3.3%, respectively. For the first quarter of 1993 it was about 3.2%, annualized.[10] (These are somewhat lower than the Union guessed. See R. 64-5)

It is also a fact that during the current contract's

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[9] The Village calculates the cost of such increase at only $24,000 (VB 4) but the record indicates it is about $30,000. (R. 776, 807)

[10] On May 17, 1993, the Wall Street Journal (p. 1, col. 6) reported a somewhat higher (nationally) "4.3% annual rate so far this year" in contrast to only 2.9% last year.

three-year term which expired on April 30, 1992, firefighters with four years of service received wage increases totalling about 19% ($33,050 to 39,360 = 19%). Similarly, those with two years of service received a total increase of about 13-1/2%. However, as of 1991 the top salary for Maywood firefighters, $39,365, was just about equal to the average top salary of firefighters in the six other MAP communities (Bellwood, Broadview, Hillside, Melrose Park, River Forest and Westchester), $39,223 (UX 16). Obviously, if firefighters in the other communities receive salary increases in 1993, 1994 or 1995 and Maywood firefighters do not, the latter will fall behind on the salary ladder.

Based on all of the factors that I must and do take into account under the Act and considering the record as a whole (including the other terms of the new contract and the discussion of minimum manning, infra), it is my conclusion that the Village's wage proposal for the first year most nearly comports with those factors while the Union's proposals for the second and third years most nearly comports with those factors. Accordingly, the Village's last wage offer is selected for the first year, and the Union's for the second and third years.

One further matter must be discussed.[11] Under the Village's first year proposal (5-1-92 to 4-30-93), new hires are

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[11] Additionally, the Village proposed changes to Article III, "Wage Increase Qualifications" which are intended only for purposes of "clarification." See R. 403-6 and 568-9. The Union did not oppose or question these language changes which, on this record, should be granted.

to be paid at a reduced rate of $19,000. The record indicates there were no new hires between May and November 1992. (R. 620) If there have been new hires subsequent to November 1992, obviously they must be paid at the rate agreed upon, i.e., if one was hired unconditionally at a rate of $22,691, the Village ought not be allowed to recoup the amount paid in excess of a $19,000 rate. The Village sought a reduced starting rate only for the first year of the new contract. As to the second and third years of the new contract, the Village made no specific proposal as to new hires but left everything to future negotiations. Since the Village's offer was not accepted by the Arbitrator for the second and third years and the Union's was, it follows that any new hires in those years must be paid at the starting rate of the current contract plus the wage increases allowed by this Award.

2. Manning.

"Manning" was a central issue in this case and much evidence was devoted to it. The Village wants to delete, and the Union wants to retain, the contractual provision for minimum manning of eight bargaining unit firefighters per shift (with certain limited exceptions).

The Village's argument is stated succinctly as follows (VB 7):

> "***the Village's primary reason for deletion of the clause is the financial necessity. The minimum manning clause results in overtime pay, which adds to the financial burden upon the Village. In addition, the number of firefighters on duty per shift is a management right and not a mandatory subject of bargaining."

At the outset, it should be noted that neither party has

sought a change in Section I, Article IV, "Management Rights." Article IV provides that whatever rights management has shall not be exercised so as to "conflict with any of the specific provisions of [the] Agreement." The "Minimum Manning" provision of Section II, Article VI has been part of the collective bargaining agreement for some years.[12] It is simply too late in the day for the Village to claim that manning is an exclusive management right under this contract. Unless a union agrees to relinquish its bargained contract rights in minimum manning in the collective bargaining process, an arbitrator in an interest arbitration ought not to strip away such provision unless the employer has clearly demonstrated under the applicable factors that the provision has little, if any, redeeming aspect other than to make work for some employees.

Here, the Village has not made a case for repealing this provision. First, it may be observed that the Village sought to eliminate this article from the current contract in the prior interest arbitration award rendered on February 28, 1991, contending (UX 4, p. 3): "[T]hat it needs greater discretion in deploying personnel and that the matter should be handled in policy rather than as a contractual guarantee." Finding that manning "is not set at an artificially high level," Arbitrator

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[12] The record does not disclose exactly when it became part of the contract. It was clearly in the contract prior to the current one - i.e., in the 1986 contract (See UX 4 and R. 489). At least since 1978, perhaps since 1969, by contract or otherwise, there has been minimum manning of eight, and at times 10, firefighters per shift. (R. 652-5, 954, 1033-4)

Doering rejected this contention and sustained the Union's position to retain the minimum manning article in the current contract. (UX 4, p. 11) The record here presents an even stronger case for retaining this provision.

When the current 1989-92 contract was signed on April 18, 1991, the minimum manning on each shift was a total of eight bargaining unit firefighters (sometimes referred to as "blue shirts") and two officers (who wear white shirts). At that time the Department had six officers, three captains and three lieutenants in addition to the chief. (R. 81-3, 136-7 and 158-9)

Currently, the Department's manpower consists of 38 blue shirts on three separate shifts[13] (13 on each of two shifts and 12 on the remaining shift; thus, there is one vacancy. R. 421, 200-1, 620) The Department also currently has only three lieutenants who serve as shift commanders in charge of each shift, one to a shift (R. 85-6, 200). In June 1991, after the 1989-92 contract was signed, the Village (to cut expenses) demoted its three captains to lieutenants and demoted its three lieutenants to blue shirts (R. 80, 82-3, 88, 157, 505, 977), thereby reducing the number of commissioned officers by 50%. (R. 506, 976) Since June 1991, the only commissioned officer on a shift is a lieutenant who serves as shift commander and who is stationed at the the Village's north fire station (R. 80-3, 204).

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[13] A "shift" or work day consists of 24 consecutive hours on duty followed by a period of 48 hours off duty. (R. 200)

The direct and unavoidable consequence of the reduction in officers since June 1991 is that blue shirts must act more often as officers, including shift commander. (R. 977) As more fully discussed below, since no officer is now assigned to one of its two fire stations, a blue shirt must always act as an officer there, thus performing duties not only of firefighter but also of a supervisor; and when no lieutenant is on duty at the other fire station, a blue shirt must also take on the duties of a shift commander. These circumstances clearly make a stronger case for retention of minimum manning than in 1991 when Arbitrator Doering sustained such provision even though blue shirts then ordinarily had to perform only their own duties.

For at least twenty-four years (R. 1033), Maywood has had two fire stations, about one and one-half miles apart (R. 204-5, 261-2, 373-5, 665-6; VX 14). The north fire station (otherwise known as "Station #1") serves as Department headquarters. It is located at 8th and St. Charles Road. The second station (or "Station #2") is located at 1220 S. 17th Avenue. Both stations are located on the south side of the Chicago and Northwestern railroad tracks which bisect the Village near its northern limits. This means that should there be a fire on the far north side of the Village while a freight train is on the tracks, the Maywood Fire Department cannot readily respond and must rely on the River Forest, Melrose Park and Broadview fire departments to respond under the Mutual Aid Pact ("MAP") (R. 265, 374-5, 913).

With a minimum manning level of eight firefighters (four per

station), the Village can operate two fire engines (pumpers), one at each station, a ladder truck and one ambulance, as well as a rescue squad on those occasions when needed (R. 537).[14] Under the MAP with Maywood's seven surrounding communities, such as Bellwood, Broadview and River Forest, Maywood responds immediately when a "still alarm" (a mere report of a fire) comes in to their station or to the other villages' central dispatch (R. 48, 51-3). Maywood must respond under MAP with no less than four firefighters and a fire engine (R. 214-5, 623, 655-6, 684-6). If there is a "box alarm"[15] three different fire departments respond, each providing eight additional firefighters to Maywood's 8-man minimum manning complement when the box alarm is within Maywood (R. 49-50).

Statistics compiled by the Northlake Fire Protection District, as central dispatch for the MAP and general area, show that from January 1 to October 5, 1992, Maywood had already had 37 structure fires (defined as a building that is actually on fire) (UX 1; R. 47). The towns with the next highest structure fire totals in that period were Bellwood and Broadview, with six and five structure fires, respectively (R. 47-8, 53). Maywood would have reported automatically with four men and a fire engine on those mutual aid still alarms to Bellwood and Broadview

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[14] When there are 9 or 10 blue shirts on duty, the Village can and does operate a second ambulance which is really necessary to handle its volume of ambulance calls. (R. 55)

[15] A box alarm was described at the hearing as meaning that "our equipment and our manpower are going to be committed at that scene for a given amount of time" (R. 49, 51-3).

besides responding to the 37 structure fires within Maywood. (R. 48)

The record also shows that in 1991, Maywood had a significantly greater number of fire calls, ambulance calls and working fires than all the other communities within the MAP Battalion; only as to false alarms was Maywood topped by four other communities (UX's 14 and 16; VX's 19-20, R. 194-7, 205-11, 463-7, 592). With a population of about 27,000 and 41 firefighters (38 blue shirts and 3 lieutenants), Maywood had a population/firefighter ratio of 646. The next closest population/firefighter figure was Bellwood, with 625. River Forest, Melrose Park and Broadview had population/firefighter ratios of 552, 343 and 226, respectively (R. 209-11), indicating that relative to population, Maywood's fire department manpower levels were lower than all the other communities in the battalion, despite having a much greater number of fire calls, ambulance calls and working fires (UX 16; R. 194-7, 205-11).

The record also reflects that Maywood had 293 arson fires in the immediate past decade as compared to the next highest total in MAP communities of 69 for Bellwood. Arson fires pose additional dangers of fire accellerants and booby traps which subject Maywood firefighters to fire fighting demands unique within the MAP communities (UX 3; R. 46).

In 1991, Maywood also had the highest number of ambulance calls in MAP communities - 2,472. Melrose Park and Bellwood had the next largest number of ambulance calls, 2,000 and 1,547,

respectively. (UX 16) The same trend continued for the first nine months of 1992 (UX 1-A; R. 54). Within the past year or two, concern has been expressed that Maywood might be asked to leave the MAP because Maywood's high rate of ambulance calls was placing a strain on the other communities which wanted Maywood to implement a second ambulance to "relinquish the burden" on the other MAP towns. (R. 483, 55-60; UX 3, p. 2) Maywood would have to increase manning to operate a second ambulance (R. 60-1).

The Fire Chief of Maywood, Dennis C. Hoffman, testified that only a month or so before the arbitration hearings began, the fire chiefs and mayors of the MAP communities expressed concern that if Maywood reduced its manning, it might not be able to live up to its obligations under MAP. (R. 656-7)

In his (calendar) 1990 Annual Report of the Maywood Fire Department, Chief Hoffman wrote (UX 17, pp. 2-5):

> "FIRE SUPPRESSIONS: The demand for fire suppression services basically stayed the same from 1988, 1989, 1990, including the area of total dollar loss. The total fire alarms increased slightly from last years total amount of alarms. It increased from 730 to 737 total fire alarms for 1990.
>
> "Also the total number of working fires for this year increased slightly from 40 to 49 for calendar year 1990. However, generally speaking for a community the size of Maywood should not have 12 fires per year. The interesting comparison would be to the rest of the Division 7 towns. Although their combined population is three times that of the Village of Maywood, Maywood consistently has more working fires on an annual basis than that of the rest of Division 7 Villages. We have stressed over the years the need to limit our suppression capabilities to an adequate response for a single family dwelling. It would be financially prohibitive to design a fire suppression delivery system which would effectively control multi-alarm fires. Mutual aid response has been designed for these types of fireground emergencies. At this point in time, the

fire suppression delivery system cannot effectively provide an adequate response to the single family dwelling. Our manpower resources are inadequate to meet the service demands in this community. From a tactical standpoint, this community has the finest firefighters in the Western Suburban area.[16] They are aggressive, well trained and knowledgeable of their job. The fire Officers are experienced in fire ground tactics and strategy techniques for fire attack methodology; yet in some ways, they are ineffective in that the system design has provided effective individual firefighters and has failed to provide effective tactical teams. This year however the Division 7 Fire Departments has introduced the 'INCIDENT COMMAND PROCEDURE' and SOP's for all the departments to utilize at all fire scenes. For the most part it has proven to be more effective and efficient as compare[d] to the unorganized procedure the fire department had in place for communications, tactics and strategy procedures.

"The most important and immediate concern is the ladder company operations; wherein, our present manning levels contribute to our ineffective truck/rescue evolutions. Fire Administration recommends an increase in personnel of three truck Lt's and three more firefighters to provide adequate truck company evolutions at working fires, whenever budgetary considerations become resolved. Over the past few years, fire has caused an excessive loss of life and property for the citizens of this community. Related to loss of life four lives were lost as a direct result of fire in 1990.

"Several persons were injured as a direct result of fire in 1990. This also includes the injury to 15 fire-fighters for the same year. This amount of rescue work is also unusual for a small suburban fire department in that we do not have the resources capabilities to perform rescue operations simultaneous with combatting the fire; therefore, in some instances the fires have caused larger losses while

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16 It should not go unnoted that the record is clear that the firefighters and their Union have the same high regard for Chief Hoffman as he expressed for his blue shirts. To the Arbitrator's observation the Chief was a very forthright, frank and fair witness and the mutual respect between him and the blue shirts was apparent and quite understandable. Lest this praise for the Chief be taken as a denigration of other witnesses, the Arbitrator hastens to add that all of the witnesses on each side, in the Arbitrator's judgment, gave testimony on the same high ground: with candor and fairness. The integrity of witnesses should also be taken as a reflection of their counsel who also well served their clients.

we concentrated our efforts in life safety.

"The financial and physical loss from fires in 1990 has been particularly severe in terms of total fire loss as measured in a dollar value.

"Although this year is not typical in terms of dollar loss, generally the largest portion of this fire loss can be attributed to fires in single family dwellings. Individuals and families have suffered the largest direct dollar losses and the indirect intangibles of loss associated with hearth, home and personal possessions. Fire loss is [of] some consequences to the Village of Maywood as a whole in that it affects our tax base and our projected image. Boarded up, fire ravaged buildings do not reflect favorably on the community and vacant lots do not contribute greatly to the tax base."

The Chief's Annual Report for 1991 is much in the same vein. (See UX 14, pp. 2-4)

In response to this record and the Union's arguments based on it, the Village replies in part that (VRB 4):

"[T]he Union's suggestion that Maywood would be removed from the pact were it to remove the minimum manning clause is pure speculation. The Union asserts that the other members of the mutual aid pact 'could conceivably' rely upon one another and eliminate Maywood very easily. However, the Union presented no evidence that this was the intention of the pact members."

The Arbitrator agrees that Maywood's being removed from MAP is "speculative."[17] But in the next paragraph of its Reply Brief, Maywood acknowledges that the other communities have some good reasons to do just that. Thus, VOM states (VRB 4):

"The main source of Maywood's problems with the other pact members is that Maywood has many more fires than do the

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[17] However, it was not so speculative to the Village to prevent the Village from arguing later in its reply brief that "residency" requirements should be retained in part because of the Union's evidence that Maywood's continuing membership in MAP is "tenuous" (VRB 3, discussed <u>infra</u>, p. 59).

> surrounding communities. As stated in the Union's brief, Maywood had 37 fires from between January 1, 1992 through October 5, 1992. The next highest number of fires were six for Bellwood and five for Broadview. Undoubtedly, the other pact members' dissatisfaction stems largely from the large number of fires that Maywood has, compared to neighboring communities. Because of the disproportionate number of fires that Maywood experiences, the other members of the pact are forced to answer many Maywood calls without receiving reciprocal aid from Maywood."

While minimum manning "will not change the number of fires that Maywood has" (VRB 4), it will help assure that Maywood will not lessen its responsiveness to fire and ambulance calls of other MAP communities and thereby activate the potential for its removal from MAP. The financial cost to Maywood of such removal would vastly exceed whatever overtime pay is generated by minimum manning.[18]

But all speculation aside, the "primary" justification claimed for the Village's deletion of the minimum manning article is alleged "financial necessity," namely, "overtime pay." (VB 7-9) While it may be that the Village budgeted $70,000 for fire department overtime in fiscal 1992 (R. 418; VX 16; VB 8), there is no evidence as to how much of that overtime was, or would be, attributable to minimum manning.[19] Indeed, the fact that the

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[18] The Chief never quantified the actual or potential savings on overtime that might result. (See R. 414-6) He did say, on the other hand, that the cost of a fire suppression system without MAP would be "prohibitive" (UX 17, supra, p. 25).

The record also shows that a decline in the quality of fire department service or a reduction in manpower could lead to increases in homeowner insurance rates. (R. 1013-15, 1020-1)

[19] Further, money in the "overtime budget" is not always spent only for overtime. (R. 569-73)

Fire Chief recommended (at the Finance Director's request) cutting $20,000 from the overtime budget for the remaining half of the 1992 fiscal year (R. 418-20; VB 9), suggests that a substantial part of firefighters overtime is not required by minimum manning since the latter is still part of the contract. This is also in keeping with Union testimony of firefighter and Union Steward Molinaro that if the bargaining unit were at full strength of 39 members instead of only 38, there would be less overtime. (R. 169-71) The Chief also testified that when "manpower is up" overtime does "not often" occur. (R. 416) The Village admittedly is saving salary and fringe benefit costs of one starting rate firefighter by not filling a vacancy (R. 421) and the Village is hardly in a position to complain if that vacancy also results in some overtime costs which offsets some of the salary savings. But the central and agreed point is that overtime costs, even if attributable in part to minimum manning, are also attributable to other factors, including VOM's understaffing of the work force.

Further, as the Village allows, some overtime is caused by "sickness and injuries." (VB 8) Firefighting is an inherently dangerous occupation. (R. 38-40; UX 2) In both calendar 1990 and 1991, more than one-third of the Village's firefighters were injured on the job (UX 17, p. 4; UX 14, p. 4).

Nor can the Arbitrator ignore the fact that for a few days in 1992 - during the period of the arbitration hearings - the Village ignored the minimum manning provisions when some

scheduled firefighters were ill. Instead of calling in firefighters on overtime, the Village closed the South fire station and operated with six blue shirts out of the North station. (R. 638-41, 668-73).[20] This meant that a fire at the south end of the Village could have a response time of several extra minutes. A one or two minute delay in reaching a fire can be the difference between life and death (R. 665-6, 274-8). The Union steward testified that operating with only one fire station would have a definite, negative impact on safety and loss of lives. (R. 258, 268) While the Chief gave his opinion that elimination of the minimum manning contract requirement would not "create a severe safety catastrophe or problem for the Village" in "carrying out the mission of the fire department" (R. 425), he clearly implied there would be some adverse affect on safety to the public or the firefighters. Moreover, the Chief also gave his opinion that a shift with only six firefighters "maybe" would "impact unfavorably upon the health and safety of the Village of Maywood," (R. 494)[21]

Safety is a relative term which will vary with a host of different conditions as well as the eye of the beholder. Whether a six, seven or eight man crew per shift will provide adequate

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[20] Thus, while the Village may have passed a resolution to "strive" for not less than seven (7) firefighters on duty (R. 490-2), the fact is that to save overtime it has operated with only six blue shirts.

[21] The Chief also testified, with some hesitation, that a shift with only seven blue shirts would not impact upon the public safety. (R. 370, 490)

safety to the public and the firefighters is necessarily a judgmental call. The Arbitrator need not and does not make that decision. Here, it is enough to observe that firefighters also have a keen interest in safety and the minimum manning issue, which certainly bears on safety, is one in which they rightfully have an interest and in which management cannot, on this record, successfully assert exclusivity.

In sum, the Village's main argument for deleting minimum manning, that it can save some undetermined amount of overtime, leaves this Arbitrator unpersuaded. Considering the record as a whole and all of the pertinent factors, including "the interests and welfare of the public" and Maywood's "financial ability," the workload and safety of firefighters in Maywood and their relationship with MAP communities, the 50% cut in the number of officers, the fact that this provision was bargained in some years ago and its deletion recently rejected by another arbitrator, I find that the Union's position on this issue should be sustained and the Village's proposal rejected.

3. Other Compensation Issues

a. Acting Officer Pay and Shift Commander Pay.

Article XXIV of the current agreement provides for "Acting Officer Pay" as follows (JX 1, p. 14):

> "In the event that an officer is temporarily replaced by a member of the bargaining unit, the bargaining unit member performing the services of Acting Officer shall receive six hours compensatory time for each duty shift. Comp time picks shall be pursuant to Article XX of this Agreement."

The Village seeks to delete this on the grounds that firefighters

"should not be paid extra" for acting as officers, that "acting officer duties are a foreseeable part of the duties of fire-fighters," that assignment of such duties is a "management right" and that the Village cannot afford extra compensatory time off or any resulting overtime (VB 16).

The Union opposes such deletion and would add the following language to the above acting officer pay provision:

> "In the event the Village suspends compensation time, the bargaining unit member shall be entitled to an additional payment of two hours of overtime pay for each shift where such supervisory service is rendered on behalf of the department. Service of Acting Officer shall be offered to the members of the unit in order of seniority."

Additionally, the Union seeks a new article regarding "Shift Commander Pay" (UX 18, pp. 2-3):

> "In the event that a shift commander is temporarily replaced by a member of the bargaining unit, the bargaining unit member performing the services of the shift commander shall receive 12 hours compensatory time for each duty shift. In the event the Village suspends compensation time, the member shall be entitled to an additional payment of four (4) hours of overtime pay for each shift where the supervisory service is rendered on behalf of the department. Service of acting shift commander shall be offered to the members of the unit in order of seniority."

Under the current contract, a blue shirt serving as acting officer is paid six hours of compensatory time in addition to his salary. Six hours of compensatory time equals six hours of time off with pay (R. 150-5, 167-8). The essence of the Union's proposal is that if the Village does not suspend compensatory time,[22] firefighters who perform the duties of shift commander

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22 During the present Chief's five-year administration, the Village has suspended the use of comp time off for a period of several (2 to 4) months. (R. 223-4, 357, 519-20)

or acting officer would receive compensatory time in the amounts of 12 and 6 hours respectively, and that should the Village suspend compensatory time, they would then receive overtime pay in the amounts of four hours and two hours, respectively (R. 81-2, 96, 144, 157). If the Village does not suspend comp time, this proposal will not increase the Village's costs over the current contract costs.

As already noted, in June 1991, after the current contract was signed, the Village eliminated the rank of captain in the Fire Department, reduced its three captains to lieutenants and its three lieutenants to blue shirts. (See also R. 975-7) Prior to the June 1991 reorganization, the shift commander duties were performed exclusively by either a captain or a lieutenant (R. 79-81, 85-6, 159, 506). The reorganization increased the chances that a bargaining unit firefighter would perform the duties of shift commander (R. 159, 505-12). Captains and lieutenants are, of course, not part of the bargaining unit (R. 79-80). As Village Manager Chabala testified, the notion that the duties of officers became duties of blue shirts did not occur to management until the 1991 demotions of the captains and lieutenants. (R. 976-7)

The current contract provision for acting officer pay is technically broad enough to cover any rank of officer, including acting shift commander. But prior to the June 1991 reorganization and current contract, there was no need for blue shirts to serve as acting shift commanders (R. 157).

The shift commander's duties are significant and include the overall responsibility for the shift, supervising all personnel on the shift, supervising the use of all fire equipment during the shift, and being in charge at the scene of a fire (R. 149, 176-8, 505-7, 511, 976; UX 10, p.5). The duties and authority of the shift commander and of "all ranking officers or acting officers" are detailed in the Department's Rules and Regulations (the "Rules") (UX 10, pp. 7-8; R. 150).

An "acting officer" is defined in the Rules as "any department firefighter serving in a higher rank," and one who "shall have the authority and responsibility of that rank" (UX 10, p. 4; R. 76-7, 148, 510-11). Thus, an acting officer is a member of the bargaining unit acting in the capacity otherwise filled by a lieutenant or captain. When a blue shirt serves as acting shift commander, he is performing duties which prior to June 1991 were performed by the captain of each shift and which are currently ordinarily performed by lieutenants (R. 79-81, 88-95, 158, 976), who formerly were captains. The majority of the bargaining unit firefighters are able to function in an acting officer capacity to replace or substitute for what (prior to June 1991) would have been an off-duty lieutenant, but the same is not true as to the duties of a shift commander (R. 83-4).

Under the Department's current organization and staffing, the shift commander is assigned to the north station and rarely goes to the south fire station (R. 204). But because the shift commanders, since the June 1991 reorganization, are all

lieutenants, the Department is always in need of an acting officer at the south station (R. 75, 87, 165). The acting officer's responsibilities at the south station include the care and maintenance of that fire station and of its equipment, as well as the supervision and orderly function of the men assigned to that station. He also serves as interim attack officer at fires (R. 76).

The Union asserts that the much greater responsibilities of the shift commander justify the compensatory time differential between shift commander and other acting officer (R. 158; UB 20). Thus, John Molinaro, a Union steward and Maywood firefighter for fourteen years, testified: two officers are needed at the scene of a fire, the "commanding officer" and the "company officer." The commanding officer's responsibilities are performed by the shift commander or acting shift commander. The commanding officer in charge at the fire scene is responsible for the Maywood truck company, engine company and ambulances, as well as any companies that respond to a fire in Maywood on mutual aid. The "company officer" is the acting officer from the south station who serves as "interior attack officer" directing the team of firefighters who fight the fire from inside the burning structure (R. 77-8, 158).

It is rare that all of the firefighters assigned by the Department to a particular shift are actually all present on the shift at the same time, given their "Kelly days" and "designated

days off" (R. 201).[23] Usually, only eight to nine blue shirts are present per shift given that they also have "designated days off" (R. 202). When nine men are present, they include the shift commander and eight bargaining unit firefighters, one of whom would serve as acting officer at the south firestation. If there is no lieutenant on duty to serve as shift commander, the shift would consist of two acting officers, one at each firestation. While the acting officer would be serving out of rank, he would nonetheless be considered part of the minimum manning complement (R. 202-3). Approximately 50% of the time the shift officer is off-duty, resulting in a blue shirt serving as acting shift commander in his place (R. 83). During 122 of the first 280 days of 1992, there was no shift commander on duty (R. 84-7, 163; UX 3), thereby requiring the presence of an acting shift commander.

The Union contends that the additional officer and shift commander managerial duties forced on them by the Village's June 1991 reorganization justify the additional pay requested which the Union calculates would cost the Village about $12,000[24] for acting shift commanders and about $16,000 for acting officers.

The Union's proposal to amend the acting officer provision and the Village's request to delete it, may be treated as a separate issue from that of the Union's proposal for a new article as to acting shift commander pay.

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23 A "Kelly Day" is an unpaid day off during a 27-day cycle mandated by the Fair Labor Standards Act. (R. 201, 412)

24 This figure was estimated as of October 8, 1992 and on an annualized basis would be about $16,000. (See R. 163-5)

On the entire record before me, the Union has made a strong case for granting both proposals and, but for the Village's current financial condition, I would be inclined to do so. On the other hand, I would be reluctant to grant the Village's proposal to delete the present Article XXIV as to acting officer pay, particularly since this was a "new item" in the current contract added as a result of the prior award (UX 4, p. 11). Accordingly, based on a consideration of all pertinent factors, the Arbitrator finds that the Union's proposal to amend Article XXIV as to "acting officers" should be granted, but its proposal as to shift commander pay should be denied.[25]

b. EMT Pay

The Village proposes to eliminate the provision in Article II for payment of $10.00 per shift for each person assigned to ambulance (Emergency Medical Technician or "EMT") duty.[26] The Village contends that its financial condition no longer allows for such payments, that EMT duties are part of a firefighter's job and that even if EMT duty is regarded by the employees as

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[25] The Village's reduction of its three captains to lieutenants and three lieutenants to blue shirts obviously was done to cut salaries during its financial crisis. Once the financial crisis passes as anticipated, it presumably will restore its officers and resume a normal fire department operation attended by normal supervision. Should this not come to pass by the end of the new contract, the Union may with even greater justification present a bargaining request for acting shift commander pay.

[26] This provision was added to the current contract as a result of the last interest arbitration award where the Village apparently agreed that $10.00 was "appropriate" but sought some kind of a limit in the event a second ambulance was put into service (UX 4, p. 11)

"undesirable," extra pay is not justified. It also notes that four surrounding communities do not have separate pay for EMT duty (R. 394-403, 901-4; VB 5).[27]

In opposition, the Union cites the large number of ambulance calls and observes that EMT's have their own dangers, such as breaking up domestic disputes before police arrive. Since EMT duties are generally undesirable, they are usually assigned to junior employees who earn less. The Union also observes that the Village did not calculate how much it would save by this proposal and admitted it would be nominal, saving perhaps the cost of trimming two trees (URB 7-8; R. 55, 294-5, 398, 624 & 946).

Considering all of the requisite factors and the record as a whole, including total compensation under the new contract, I find no basis for eliminating EMT pay.

The Village also asked to change the phraseology in the first paragraph of Article II which would not change the meaning of the contract or have any economic impact (R. 394-6). This change was not objected to by the Union and should be granted.

c. Holiday Pay

The Village proposes to delete §2 of Article IV which grants three work days of compensatory time off with pay in lieu of paid holidays each year. The Village supports this proposal on the basis of its "inability to pay" for such days off and the fact that the "Maywood Police do not get holiday pay and work many

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27 But one of these, Broadview, employs "paramedics" who receive $1,800 a year and River Forest "might" give EMT pay of $100.00 a month (R. 567).

weekends." (VB 7)

In response, the Union notes that the Village did not establish that it would "realize any savings" by such proposal. (URB 8-9)

First, it should be observed that firefighters work different schedules than police officers and most other jobs. The Maywood firefighters' work day or shift is 24 hours. They are on duty 24 hours and then off for 48 hours. They work 48.1 hours a week. The normal schedule for Maywood police officers is 8 hours a day and 40 hours a week (UX 8, pp. 16, 17; R. 105-6, 988; 1057-8).

A more meaningful comparison of time off is with that of other firefighters; and those in several neighboring villages (Broadview, Bellwood and River Forest) receive from nine to twelve paid holidays with extra pay if they actually work on the holiday. (R. 228-30; UX's 6, 7 & 9)

On this record and considering all pertinent factors, the Arbitrator is not persuaded by the Village that holiday pay should be deleted.

d. <u>Vacation Pay</u>

Both parties seek to alter the number of paid vacation days under Article IV, §1 of the current contract. See UX 18, pp. 4-5, VX 1, p. 7 and the summary/comparison set forth above at pp. 6-7.

In support of its proposal, the Village contends (VB 6):

"The Village has proposed that the number of vacation days to which firefighters are entitled be reduced to conform with the number to which other communities' firefighters are entitled. Further, firefighters should be required to work 1700 hours (one year) before they are permitted to use vacation days. The 1700-hour requirement is typical because management generally wants to ensure that a person will be a permanent, long-term employee before granting paid vacation time. R. 907.

"14(h)(4) Comparisons

"Pursuant to the previous collective bargaining agreement, first year firefighters receive eight vacation days off, which is much more than the firefighters in any other surrounding towns receive. R. 407.

"Because the firefighters work one 24-hour shift and are then given two 24-hour periods off, a 'two day' vacation turns out to be six 24-hour days off from work. R. 409, VX 21. A 'four day' vacation is actually twelve 24-hour days off from work. R. 410. Therefore an 'eight day' vacation is twenty-four consecutive days off. R. 991.

"Village Policemen, on the other hand, get up to fourteen consecutive twenty-four hour days off.

"Pursuant to the Village's proposal, time off would be dependent upon seniority."

The Union's post-hearing briefs do not address the vacation issue. (See UB and URB, passim) But the record shows, as the Village notes (VB 6), that firefighters are off duty (unless held over or recalled) for 48 hours after every 24 hours on duty. Further, a substantial number of the Maywood firefighters maintain part-time jobs.[28] The record also shows that the job of firefighter is very hazardous, physically demanding and

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[28] This is one of the few areas of conflicting facts. The Union steward said it was about 33% (R. 238-9); the Chief said it was about 90% (R. 682). The Village suggests that second jobs are facilitated by the unique schedules firefighters work. However that may be, it is probably also true that the high number of firefighters holding second jobs is also motivated or necessitated by economics.

stressful. (UX 2; R. 38-46, 139, 154-5, 178, 273-7, 295-6, 299-302, 445, 561-6 and 645-6). This is particularly true in Maywood where firefighters respond to and fight more arson and other fires than firefighters in surrounding communities. (R. 221-2, UX 17 and see also the discussion of manning, supra, pp. 19 to 31). River Forest, for example, "rarely" has fires; it had nine in 1991 and none in 1992 as of October (R. 244). [29]

The vacation allowance for firefighters in adjacent communities, so far as the record discloses, is as follows (UX's 6, 7 and 9; R. 287):

Years of Service	Bellwood	Broadview (working days off)	River Forest
1 to 5	5	4	5
5+ to 7			6
5+ to 10	7	7	
7+ to 9			7
9+ to 11			8
10+ to 15	9	11	
11+ to 18			10
15+ to 20	11	11	
18+			12
20+	13	11	

It should also be noted that by existing Village regulation or practice, Maywood firefighters cannot take more than five working days (15 calendar days) off consecutively for vacation at any given time. (R. 304-7)

Both parties agree that the current contract provision as to vacation should be changed and based more in accord with seniority of the firefighters. The Village's proposal, unlike

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[29] In the same 1992 period, Maywood had 47 fires (R. 291).

its position on other issues, is not based on "budgetary considerations" but rather on seeking "parity with other communities" (R. 406-7).

On the record as a whole, and considering all pertinent factors, including comparable vacation allotments in the surrounding communities, I find that the Union's proposal is more reasonable and in accord with those factors than the Village's. Therefore, the Union's vacation proposal should be adopted.[30]

e. Overtime Pay

The Village seeks to revise Article VII to limit overtime pay to hours worked beyond 192 hours per cycle, regardless of whether the overtime work was due to emergency call-back, holdover, tardiness compensation, or other reason (VB 10; R. 427-30). The Village would also limit it to actual time worked rather than, as the current contract provides, for a minimum of two hours overtime at time and one-half (VB 10; R. 429-31, 648, 679-86, 915-6). The Village emphasizes its concern for reducing overtime pay by noting that the fire department's 1992-3 budget for overtime was $70,000 (VB 10).

However, ordinarily the "overtime" budget is not used

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[30] Although no one has raised it, there is a potential problem here which arises from the fact that the first year of the new contract is already gone and during it the employees presumably received the vacation benefits provided under the current contract which, depending on seniority of the individual employee, may be greater or lesser than that provided in the new contract. Accordingly, as a practical matter and to avoid possible chaos and confusion, the Arbitrator finds that the new vacation schedule should not be completely retroactive and should not take effect until May 1, 1993.

exclusively for overtime (R. 572-3). Further, the Village did not make or offer any analysis of its overtime proposal and could only speculate that "there might be some cost savings involved." (R. 591-2, 915) The Village Manager also suggested that its proposal "might have a tendency to discourage overtime for frivolous call-ins." (R. 915) However, it is management that decides whether to call a firefighter in to work when not otherwise scheduled and presumably such decisions will not be frivolous. See, e.g., R. 590-5. Further, the Arbitrator does not consider it "frivolous" to hold over or call in a firefighter to prevent manning on a shift from falling below eight.

On the record as a whole and considering all pertinent factors, the Arbitrator is not pursuaded that this provision of the current contract should be changed.

f. Medical Insurance

The Village proposal would require firefighters to pay 20% of medical insurance premiums instead of a flat $10.20 per pay period. All other Village employees pay 20% instead of a flat rate except the police officers who now pay 15% (VB 11; R. 893). The Village views its proposal as more "equitable" in light of increasing costs of medical insurance which costs would also then become somewhat more "controllable" in its budget (R. 747-8; 916-18). The Village's stated intent is to seek to increase the police officers' share of premiums from 15 to 20% when their contract expires on December 31, 1992 (R. 917; UX 8). Although precise calculations as to savings were not made (R. 962), the

Village's testimony was that this proposal would yield "a large cost savings." (R. 597)

The Union replies (URB 10):

> "Given the health and safety risks which firefighters routinely and regularly face (UX 2), risks other Village employees do not normally face, it is not at all necessarily inequitable for the Village to assume a larger percentage of the medical insurance coverage for firefighters, particularly when the Village steadfastly refuses to negotiate salary increases of any kind for the firefighters."

In finding for the Village on this issue, the Arbitrator notes that under this Award firefighters will receive 2% and 4% wage increases, respectively, in the final two years of the new contract. In finding under all pertinent factors that the shift from a flat rate to a percentage rate is reasonable and proper, the Arbitrator is also particularly guided by the fact that the Maywood Police, who also bear heavy risks on the job, pay 15% of premiums under their 1990-2 contract and that under the River Forest firefighters' contract, firefighters pay 10% of insurance premiums from October 1991 to April 30, 1993 when their share increases to 15% (UX 9, pp. 20-1).

The Village, however, did not seek and the Arbitrator does not find it fair or equitable, that this change in medical insurance premiums should be made retroactively. It should be prospective only, i.e., only for the 2nd and 3rd years of the new contract.

The Village also proposes that Article IX be changed by deleting the provision for a joint advisory committee to study

any recommended changes in the health insurance program. This is a non-economic issue which may be treated separately. The sole basis for this proposed deletion is the committee's "non-use." (VB 11) However, the record does not indicate whether there have been any recommended changes in the insurance program and thus whether there has been anything "to study." In any event, non-use of a contract right should not, in and of itself, be a basis for abandonment. Accordingly, the Village's proposal for changing the second paragraph of Article IX, which will not save it any money (R. 595-6), is not accepted.

g. Pension Benefits

Under Article X, Pension Benefits, firefighters pensioned with an "on-the-job medical pension" receive full medical insurance for themselves and dependents.

The Village proposes to change this to 50% of single coverage. The Village also seeks the same limit as to firefighters who receive a non-duty related medical disability pension. Finally, it seeks to eliminate medical benefits for the widow and dependents of firefighters who are pensioned but die before age 65.

The Village seeks to justify these proposals by asserting that no other Village employees have them except for police officers and that the Village will seek to change the police contract when it expires in December 1992. The Village also maintains that the "normal method" for providing these benefits is for the employee to purchase life insurance (VB 11-12; R.

926-7).

The Union opposes such changes (URB 11).

Considering all pertinent factors, the Arbitrator finds no basis for making these proposed changes. These provisions are in the police and firefighter contracts because these classes of employees face greater risks and danger than other Village employees.

h. Clothing Allowance

The Village proposes to reduce the firefighter's annual clothing allowance from $400 to $200, and to have it include flashlights, batteries and gloves. The Village supports these changes on the basis of its financial crisis while asserting that the reduction is not detrimental to the firefighters. The Village maintains that the firefighters only need $200 as a clothing allowance and only use more than necessary due to misuse and misplacement. (VB 12; R. 441-2)

The Union's amended last offer does not ask to increase the clothing allowance[31] but only to change the method by which it is distributed so that a firefighter can purchase the necessary clothing and gear from suppliers who discount it and are less expensive than the sole supplier selected by the Village (UX 18; UB 28; URB 11-12). The current practice is that an account in the amount of $400.00 is established for each firefighter at a particular store (R. 522-3). The cost to obtain the blue shirt's

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31 The Union's initial last offer would have increased the allowance to $450 (UX 12).

work uniform alone is more than $110.00, excluding shoes and jackets. Jackets cost from $30 to $95. Each firefighter must have several work uniforms plus dress uniforms and other gear. (R. 326, 523-6, 632-6, 662-5, 675-6)

Considering all pertinent factors and the record as a whole, the Arbitrator finds no basis to reduce the clothing allowance or to include in it items such as gloves which cost $25-30 a pair and can require multiple replacement at a single fire. (R. 528, 663-4) Accordingly, the Village's proposal is rejected. Further, since the Union's proposal for changing the method of paying the allowance will not increase the Village's costs, the Union's proposal should be accepted.

i. Unused Vacation/Sick Leave

Article XIII contains several provisions as to unused vacation and sick leave, each of which the Village proposes to change in some respect. The Village discusses some of these proposals in its brief (VB 12-13) while the Union does not mention any of them (See UB and URB, passim).

Section 1 of Article XIII provides that employees who leave the service of the Village will be paid their unused vacation. The language which the Village proposes is substantially the same except it tacks on this sentence: "The definition of vacation day is 8 hours." (VX 1, pp. 12-13) Neither the Village's nor the Union's post-hearing briefs touch on this particular proposal.

The testimony on this issue is somewhat confusing. Chief

Hoffman said its purpose was to encourage firefighters to take their vacations and thereby relieve "stress" of their jobs and to avoid the Village's buying it back unused upon retirement or termination of employment (R. 443-5). The added sentence was intended as an "incentive" to use up vacation time since vacation days would be "bought back at a rate of eight hours as opposed to 24 hours." (R. 444-5) Subsequently, the Chief said that under this proposal, the Village did not want to compensate employees for a 24-hour day with 8 hours of pay; that the additional sentence was "just for clarification" (R. 604-5) and that the pay for unused vacation time would be the "same amount that has always been in this contract." (R. 606-7) Village Manager Chabala's testimony was similar to the Chief's and similarly confusing (R. 963-9). Mr. Chabala also acknowledged that he did not "understand this [§1 proposal] very well [him]self." (R. 965) He also testified that the change in §1 was intended to clarify that only "earned" unused vacation time would be paid for. (R. 919-21)

In the Arbitrator's opinion, based on this record, the Village's proposed change to §1 of Article XIII adds more uncertainty and confusion than clarification and ought not to be engrafted into the contract.

With respect to §2 of Article XIII, the Village proposes that payment for unused sick leave be made at the end of the fiscal year (April) instead of December. The Village states that this will greatly lessen the financial burden on the Village for

two reasons: (1) it will encourage firefighters to use sick leave; and (2) the Village receives tax revenues in March, out of which the payments for unused sick leave may be more readily made. (R. 445-7, 921; VB 12-13)

The new language also clarifies that §2 is limited to the three days of annual sick leave days as distinguished from "accumulated sick leave" and "extended sick leave" which are treated in §§3 and 4, respectively, of Article XIII.

The Union offered no contrary evidence or argument. Based on this record, the Arbitrator finds that the Village's proposed change to §2 of Article XIII should be adopted.

Under §3 of Article XIII of the current contract, sick leave accrued prior to September 1, 1983 could be accumulated and the Village is required to buy it back upon the firefighter's separation from employment (VB 13). Under the Village's pProposed §3, the firefighters would be required to use up any accumulated sick leave prior to death, retirement or other separation from service; any remaining accumulated sick leave would not have to be paid for by the Village - i.e., it would be lost by the employee unless used (VB 13; R. 923). The rationale for this proposal was to save money for the Village in light of its "fiscal restraints." (R. 447)

Based on this record and considering all pertinent factors, including the overall limited compensation changes permitted under this Award, the Arbitrator is not persuaded that there is any equitable or other basis for adopting the Village's proposed

change in §3 of Article XIII.

Under §4 of Article XIII of the current contract, firefighters may receive extended sick leave for 45 days and, in addition, "disability pay" for 75 more days at 75% of full pay. The Village proposes to reduce the "disability pay" to 60 days at 50% of full pay. In support of this change, the Village relies on its financial condition and the assertion that §4 is more generous than what is available to other Village employees and "the rest of the working world." (VB 13; R. 449, 922-3)

While the record discloses little, if anything, as to the "rest of the working world," it does show that the current Maywood Police contract, which expired in December 1992, contains the same extended sick leave provisions as the current firefighters' contract (R. 991-2; UX 8). It also reveals that firefighters, unlike police officers, no longer have "light duty" jobs available for injured or temporarily disabled employees (R. 970-1). Further, firefighters have not "abused" the provisions for extended sick leave (R. 607) and, finally, it appears that the extended sick leave provisions were added to the contract when the contract was changed to disallow firefighters from accumulating their annual sick leave after 1983 (R. 575-8).

Based on this record, consideration of the pertinent factors and what is said above as to §3 of Article XIII, the Arbitrator finds that the Village has not made a case for amending §4 as proposed.

The Village also proposes to amend §5 of Article XIII to

delete reference to "family distress day." The purpose of this change, the Village says, is "merely clarification" in that there is no such thing as "family distress day" under the contract. (VB 14; R. 449-50) The Union does not dispute this and the Arbitrator finds no reason in the record to deny this proposed change.

j. Unused Compensation Time, Vacation or Holiday Time

The Union seeks to add the following language as a new article:

> "The value of a bargaining member's unused compensation time, vacations time, or holiday time shall be paid at the time the member is terminated from employment. This provision is cumulative of and is in addition to any rights the member has under Section 5 of the Wage Payment and Collection Act (Ill. Rev. Stat., ch. 48, par. 39m-5) or any other state or federal law."

This proposal by the Union is not mentioned in its post-hearing briefs (See UB and URB, passim). Nor is it discussed in the Village's briefs (VB or VRB).

The Union's testimony on this issue is scant and some of it is not clear. See R. 101-5, 182-4, 223-4, 267 and 271-2. Further, unused "vacation time" is covered in Article XIII, §1, of the current contract as discussed and disposed of above in Part 3.i., supra, pp. 47-8.

Although the record indicates that this issue was not a divisive one in the last negotiations of the parties (R. 182-3), on the record before the Arbitrator, the Union has not established a sufficient basis to adopt this new article which should be left to the next round of collective bargaining.

k. Tuition and Schooling

The Village proposes to amend Article XII by deleting provisions requiring it to pay for tuition and books for fire science courses taken voluntarily by firefighters. The Village claims it can only afford to pay for "mandatory" courses under its current "financial constraints." It also observes that: (1) firefighters are not "presently taking advantage" of voluntary education courses and (2) such benefits are not provided for other Village employees. (VB 12; R. 442-3)

The Union opposes the change and notes that the Chief could point to no cost savings under this proposal (URB 12-13; R. 598-603).

Since the Village's primary reason for this proposal was that firefighters were not really taking advantage of voluntary education programs (R. 442), it is not surprising that no present cost savings could be estimated. Given that voluntary education courses are beneficial to the Village and the firefighters (See R. 470-2), and considering all other pertinent factors, including that this proposal would have "very little impact" on the budget (R. 963), the Arbitrator finds that the Village has not made a case for this proposed change.

l. Switching of Days

The Village supports this proposal to change Article XIX as to employee requests to switch scheduled work days on the ground that scheduling is a management right and that switching may cause overtime. (VB 14) Also, insofar as Article XIX limits the

Village's right to "alter the vacation or holiday picks of the firefighters," the Village argues that it needs its "management right" to "call back firefighters from vacation or holiday where there is a disaster or large emergency." (VB 14)

In my opinion, considering all pertinent factors, the Village has not made out a case for changing Article XIX. As to employee requests for changing days, Chief Hoffman acknowledged that he has never had a problem in "vetoing" requested changes when necessary. He was unaware of any benefit in this Village proposal. (R. 616-7) Further, as to the Village's need to recall employees in large emergencies or disasters, there is no evidence that this has been a problem in the past, and, without attempting to issue a binding interpretation of Article XIX, it is by no means clear that Article XIX would bar such recalls if such need arose. Finally, it should be observed that "management rights," once ceded in a contract, are no longer exclusive "management rights" and their restoration as exclusive rights is best resolved in the collective bargaining process rather than arbitration.

m. Life Insurance

With respect to Article VIII, both parties have agreed to increase the current contract amount of life insurance from $35,000 to $40,000 but disagreed over retention of the provision allowing firefighters "to purchase additional life insurance at the group rate made available to the Village."

There is very little evidence or argument on this issue in

the record. (R. 341-6, 432-3; UB 28-9 and URB 10) The Village briefs do not even mention it.

Since this item is in the current contract and there is no evidence that its retention will cost the Village anything (R. 432), I find that the Union's proposal is more nearly in accord with the relevant factors and that this contract language should be retained.

n. Personal Days

The Union proposes that Article XIII be amended to provide for one personal day (a 24-hour period) for the purpose of personal business. This issue is not mentioned in the briefs of either party.

The Union's justification for it appears to lie in the current police contract which allows three (8-hour) personal days for police officers (R. 337-8; UX 8, p. 19) and in that "comp time" off is not always available when personal or family business dictates the need to be off (R. 337-8).

Given the facts that firefighters are granted three sick days (R. 351) and have 48 hours scheduled off after every 24 hours on duty and given the Village's current financial condition, the Union has not established under the relevant factors that its personal leave day provision should be written into the new contract.

o. Funeral Leave

This issue is not mentioned in the post-hearing briefs. The rationale for the Village's proposed deletion of the last clause

in Article XIV was in order to avoid "any reference to minimum manning in the contract." (R. 451) Since this goal is not being achieved, there is no basis or need to amend Article XIV in this respect.

p. Engineering Assignments

The Union's last offer regarding Article XXIV also contained a request to add a new §2 concerning "Engineering Assignments" as follows (UX 18):

> "Section 2. Engineering assignments shall be offered according to seniority to bargaining unit members with the further requirement that Fire Apparatus Engineer certification be mandatory for the operation of all vehicles with pumps."

The post-hearing briefs do not address this issue.

The drivers who are assigned to the Village's engines with pumps are also assigned to operate them as "engineer" at a fire scene. They have the duty of maintaining the flow of water which can be critical to the safety of firefighters inside a burning structure.[32] To qualify as "engineer," a firefighter must pass a written and practical exam given by the State and obtain a "Fire Apparatus Engineer Certification" ("FAEC"). The more senior firefighters are the most qualified for this work. It has been for many years and is the practice of the Department to use the most senior employees who are certified to work as engineers. The Union, however, asks that this safety practice be written into the new contract; it does not involve any extra pay. (R.

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[32] Firefighters can also be injured or killed if hose pressure is too high which can cause a hose to snap or whip around (R. 99).

96-101, 512-17)

Since the Union's proposal in §2 for "engineering assignments" has not been opposed by the Village in fact or by argument, will not add any cost to the Village, will be consistent with current and past practice of the parties and provide additional safety for firefighters, this proposal should be granted.

q. Contract Term

Since neither party has expressly requested a term for the new contract other than the three years which is the term of the current contract, and by implication both have sought a 3-year term, the new contract will extend for three years from May 1, 1992 to April 30, 1995.

4. Non-Economic Issues

a. Drug Testing

Article XV provides for a drug testing program based on "probable cause." Asserting a claimed need to more adequately protect public safety, the Village seeks to provide also for random testing. (VB 14; R. 453-4)

In its reply, the Union observes (URB 13):

> "Chief Hoffman could point to no study or analysis of any kind which would support the Village's position that it should have a 'management right' to test firefighters for drugs or alcohol on a random basis (R. 610-1). The Chief admitted that as long as he had been Maywood's fire chief [33] the department had never had probable cause to test any firefighters for drugs or alcohol (R. 611-2, 616). As the Village can point to no articulable, rational basis to alter

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[33] Chief Hoffman has served as Chief for five years (R. 357).

the current agreement on this issue, the current provision should be left in place."

Based on the record and considering all pertinent factors, I find that no basis has been shown to alter Article XV.[34]

b. Residency

By Village ordinance, Village employees must reside within the Village (R. 318; 324-5). However, under Article XXIII of the current contract, members of the Union who were employed prior to August 15, 1975 "shall not be required" to be residents within the Village as a condition of continued employment. The Union proposes to eliminate any residency requirement within Maywood but to allow the Village to require employees to be residents "within the service area of the Fire Department which includes the contiguous communities." Most of the firefighters reside within the Village (R. 681).

The Union contends (UB 2-4) that the present residency requirement is "superfluous" in light of the mutual aid pact which permits the Village to obtain sufficient manpower at a fire scene "immediately" without relying on on-duty personnel in Maywood or "calling back" off-duty Maywood firefighters living in the Village. It points to the Chief's testimony that emergency call backs of off-duty Maywood firefighters are "infrequent" and "limited" (R. 590-3; UX 14).

The Union also relies on the fact that as to surrounding

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[34] In 1991, the prior interest arbitrator also found the Village's case on this issue "unpersuasive." (UX 4, p. 12)

communities, three do not have residency requirements, one has one that is not enforced and only two have such requirements (R. 320-3, 356, 460-3; VX 18; UB 4). Finally, the Union states (UB 5):

> "Maywood's housing stock is limited, and most men in the Department are effectively locked into a particular size and type of home by the residency requirement for the duration of their careers in Maywood (R. 317, 323). Acceptance of the Union's proposal would provide them with a benefit that would not be of any cost to the Village whatsoever."

The Village asserts that this issue is not arbitrable. Under §14(i) of the IPLRA, firefighter arbitration decisions "shall not include ... residency matters." However, this subsection also provides that:

> "To preserve historical bargaining rights, this subsection shall not apply to any provision of a fire fighter collective bargaining agreement in effect and applicable on the effective date of this Act."

The Village argues that current Article XXIII merely "refers to <u>retroactive</u> residency and assumes that the Village has a residency requirement in place. [35] Since only retroactivity of residency requirements has been bargained in and not residency itself, the Village contends that the latter issue is not arbitrable. (VB 15, VRB 1-2).

The Arbitrator finds this issue to be arbitrable. The current contract provision clearly concerns residency requirements thereby making it an appropriate subject for arbitration under the above-quoted grandfathering exemption in the statute.

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[35] The Village does not assert that Article XXIII was not in the Contract when the IPLRA became effective in 1984.

As to the merits, the Village contends the residency requirement should remain so that firefighters "can respond to emergency calls more quickly." (VRB 2) While emergency call-backs may be infrequent, each one must be responded to promptly (VRB 3). As to the Union's contention that the MAP has made residency "superfluous," the Village invokes the "sauce for the goose is sauce for the gander" rule by pointing to the Union's evidence and argument that the Village's continuing membership in MAP is "tenuous" (VRB 2).[36] The Village also notes that all other Village employees have residency requirements by ordinance unless "grandfathered out" (R. 318; VRB 3). Finally, the Village relies on the fact that three of seven surrounding villages have residency requirements (another has a 10 mile radius requirement) for firefighters even though they have far fewer fires than Maywood. (R. 460-3; VX 18; VRB 3 and VB 16) The record also shows that even though most Maywood firefighters now live in the Village (R. 431), it still can take 30 to 60 minutes or longer to round up a full crew on an emergency call back basis. (R. 678-82) As the Union observes elsewhere, response time to a fire is critical to safety of the public and that response may be affected by a delay in emergency call back responses of employees.

Based on the entire record and the pertinent factors, the Arbitrator finds that the Union has not made a case for changing

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[36] Of course, by taking this position the Village supports the Arbitrator's earlier conclusion that minimum manning should remain in the contract.

the residency requirements which have been in place for about 18 years.

c. Unsafe Vehicle Clause

The Village proposed deletion of Article XVI as being "unnecessary" since the Village "acquired a certified mechanic to repair all fire department apparatus as of last year." (R. 455) The Union offered no counter-evidence and neither party mentioned this proposal in their post-hearing briefs. On this record and given no evidence that a committee was ever created or did anything or will be needed, the Village's proposal ought to be allowed.

d. Grievance Procedure and No Strike - No Lockout

The Village also proposes several minor changes in the grievance procedure, Section I, Article V, ¶¶2 and 7. This issue is not mentioned in the parties' briefs. The word "oral" is proposed to be added to ¶2 for clarification and to distinguish between oral and written grievances at steps two and three. (R. 379-80)

Also, as to ¶7, the Village would delete the last sentence on the ground that the Union has no "right to approach the Fire and Police Commission in disciplinary matters." (R. 581; see also, R. 380-2)

Since there is no evidence or argument contrary to the Village's position as to Article V, these changes should be made.

The Village's similar proposed change to Article VI of Section I, "No Strike - No Lockout," which substitutes the "Board

of Police and Fire Commissioners" for the "Village," is also granted for the same reasons.[37]

Award

For the reasons set forth in the Opinion, which Opinion is incorporated in this Award by reference, the Arbitrator awards as follows:

1. Wages: The Village's proposal as to Section II, Article I is selected for the first year and the Union's proposal is selected for the second and third years of the new Contract.

The Village's proposal as to Section II, Article III (Wage Increase Qualifications) is accepted.

2. Manning: The Village's proposal is not adopted and the Contract will remain unchanged in this respect.

3. Acting Officer Pay: The Village's proposal is rejected and the Union's is accepted.

4. Acting Shift Commander Pay: The Union's proposal is not adopted.

5. EMT Pay: The Village's proposal to eliminate EMT pay is not adopted, but its proposal to change the language in ¶1 of Article II is accepted.

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[37] On a minor housekeeping point, the Arbitrator makes this suggestion. The current contract is divided into two sections, Section I and Section II with numbered Articles I, II, etc. in each section. To avoid confusion and for simplicity, the Arbitrator recommends that on re-writing the new contract, the sections be eliminated and each article numbered consecutively with cardinal numbers ("one," "two," etc.) rather than roman numerals ("I," "II," "XXIV," etc.)

6. Holiday Pay: The Village's proposal is not accepted.

7. Vacation Pay: The Union's proposal is adopted and the Village's is rejected.

8. Overtime Pay: The Village's proposal is not accepted.

9. Medical Insurance: The Village's proposal is accepted but not insofar as it sought to amend the second paragraph of Article IX.

10. Pension Benefits: The Village's proposal is not accepted.

11. Clothing Allowance: The Village's proposal is rejected and the Union's is accepted.

12. Unused Vacation/Sick leave:

a. The Village's proposal to change §1 of Article XIII is rejected;

b. The Village's proposal to change §2 of Article XIII is accepted;

c. The Village's proposal to change §3 of Article XIII is rejected;

d. The Village's proposal to change §4 of Article XIII is rejected;

e. The Village's proposal to change §5 of Article XIII is accepted.

13. Unused Compensation Time, Vacation or Holiday Time: The Union's proposal is not accepted.

14. Tuition and Schooling: The Village's proposal is not accepted.

15. Switching of Days: The Village's proposal is not accepted.

16. Life Insurance: The amount of insurance is no longer in issue since the parties agree on it. As to the remainder of their proposals on life insurance, the Union's is accepted and the Village's is rejected.

17. Personal Days: The Union's proposal is not accepted.

18. Funeral Leave: The Village's proposal is not accepted.

19. Engineering Assignments: The Union's proposal is accepted.

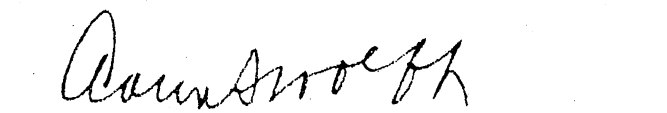
20. Contract Term: Since neither party has requested a term other than for three years, which is the term of the current contract, the new contract term shall also be for three years - May 1, 1992 to April 30, 1995.

21. Drug Testing: The Village's proposal is not accepted.

22. Residency: The issue is arbitrable, but the Union's proposal is not accepted.

23. Unsafe Vehicle Clause: The Village's proposal is accepted.

24. Grievance Procedure and No Strike-No Lockout: The Village's proposals on these issues are accepted.



Aaron S. Wolff, Arbitrator

Entered at Chicago, Illinois
this 24th day of May, 1993.

Blumberg No. 5113
PLAINTIFF'S EXHIBIT
VOM NO. 1

VILLAGE OF MAYWOOD'S BEST, FINAL OFFER

- 5/1/89 to 4/30/92 Firefighters' contract with additions and deletions offered by the Village of Maywood for the current contract to run until 4/30/95:
  - Additions to 5/1/89 contract: **[in bold and brackets]**;
  - Deletions to 5/1/89 contract: underlined;
  - * = section or paragraph changed (additions or deletions).

A G R E E M E N T

This Agreement is entered into by and between the Village of Maywood, Illinois (hereinafter called the "Village") and the Maywood Firefighter's Alliance (hereinafter called the "Union").

SECTION I

Article I
Recognition and Representation

PREAMBLE

* WHEREAS, this Agreement entered into this ____ day of _____, 1991 **[1992]**, by and between Village of Maywood, Illinois, hereinafter referred to as the "Village" and the Illinois Firefighters Alliance, Maywood Council, hereinafter referred to as the "Union" has as its purpose the promotion of a harmonious and mutually beneficial working relationship between the Village and the Union and

WHEREAS, the Village has voluntarily endorsed the practices and procedures of collective negotiation as a fair and orderly way of conducting its relations with its Firefighters insofar as such practices and procedures are appropriate to the functions and obligations of the Village to retain the right to operate the Village government effectively in a responsible and efficient manner; and

WHEREAS, it is the intent and purpose of the parties to set forth herein their full and entire Agreement covering rates of pay, wages, hours of employment, and other conditions of employment; to increase the efficiency and productivity of Maywood Firefighters; and to provide for prompt and fair settlement of grievances without any interruption of or other interference with the operation of the Fire Department; and

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties do mutually covenant and agrees as follows:

Both parties mutually agree that their objectives are for the good and welfare of the Village and Union members alike. Both parties further agree that in the interest of collective negotiations and harmonious relations they will at all times abide by the terms and conditions as hereinafter set forth and agreed upon. The Village and Union regard all personnel as public employees who are to be governed by high ideals of honor and integrity in all public and personal conduct so as to merit the trust and confidence of the general public and fellow employees.

ARTICLE II
RECOGNITION

The Village recognizes the Union as the sole and exclusive bargaining agent, for the purpose of establishing salaries, wages, hours, and conditions of employment for all non-probationary firefighters below the rank of lieutenant.

Article III
DISCRIMINATION

Neither the Village nor the Union shall discriminate against any employee because of race, sex, religion, creed, color, national origin or Union activity.

Article IV
MANAGEMENT RIGHTS

The Village shall retain the sole right and authority to operate and direct the affairs of the Village and the Fire Department in all its various aspects, including, but not limited to all rights and authority exercised by the Village prior to the execution of this Agreement, except as modified in this Agreement. Among the rights retained is the Village's right to determine its mission and set standards and hours of service offered to the public; to direct the working forces; to assign overtime; to plan, direct, control, and determine the operations or services to be conducted in or at the Fire Department or by employees of the Village; to increase or reduce the number of employees making up a shift and to assign and transfer employees; to hire, promote, demote, suspend, discipline, or discharge for just cause, or reduce the complement of personnel or relieve employees due to lack of work or for other legitimate reasons, subject to the statutory jurisdiction of the Fire and Police Commission; to make and enforce reasonable rules and regulations, including rules regarding upkeep and wearing of uniforms. To

change methods, equipment, or facilities, including automobiles and equipment therefore; provided, however, that the exercise of any of the above rights shall not conflict with any of the specific provisions of this Agreement. Nothing herein shall derogate from the authority of the Fire and Police Commissioners. Management shall not exercise any of the rights enumerated herein in an arbitrary or unreasonable manner.

Article V
GRIEVANCE PROCEDURE

Definition of Grievance A grievance is defined as "A difference of opinion between an employee or the Union and the Village with respect to the meaning or application of the express terms of this Agreement.

Grievance Procedure Recognizing that grievances should be raised and settled properly, a grievance must be raised within three (3) of the firefighter's regularly scheduled working days from the time of the occurrence of the event giving rise to the grievance.

Any employee with a grievance shall act as follows:

1. All bargaining unit firefighters shall have three working days from the date of the event giving rise to the grievance to submit his grievance orally to his shift commander, acting shift commander or Lieutenant (if stationed at the 17th Street Station) for the purpose of attempting to resolve the grievance.

* 2. If a satisfactory solution to the [oral] grievance is not achieved within two working days after its submission to the shift Commander, acting shift Commander or Lieutenant, the grievant may, within three of his working days, reduce his grievance to writing and submit it to the Fire chief or his designee for possible resolution. All written grievances shall specify the issue(s) and propose a suggested remedy.

3. The Fire Chief or his designee shall respond to the grievance in writing within three of the grievant's working days after the submission of the grievance at step two. If a satisfactory solution to the grievance is not reached at this step, the grievant shall have three of his working days to submit his grievance and the written response of the Chief or his designee to the Village Manager for possible resolution.

4. If the grievance is not settled with the Village Manager within 21 calendar days after the submission of the grievance to him or his

agent, the Union may refer the grievance to binding arbitration by giving written notice to the Manager within fourteen (14) calendar days after receipt of the Manager's decision. Both parties shall attempt to agree upon an arbitrator, they shall jointly request the Federal Mediation and Conciliation Service to submit a panel of five (5) arbitrators.

The Union shall strike one name; then the Village shall strike one name; then the Union shall strike another name and the Village shall strike another name; and the person whose name remains shall be the "arbitrator"; provided that either party prior to striking any names shall have the right to reject one panel of arbitrators.

The arbitrator shall be notified of his selection by a joint letter from the Village and the Union requesting that he set a time and place for a hearing subject to the availability of the Village and Union representatives.

The arbitrator shall have no right to amend, modify, nullify, ignore, add to or subtract from the provisions of this Agreement. He shall consider and decide only the specific issue submitted to him, and his determinations shall be based solely upon his interpretation of the meaning or application of the terms of this Agreement to the facts of the grievance presented. The determinations of the arbitrator shall be binding. The costs of the arbitration, including the fee and the expense of the arbitrator, shall be divided equally between the Village and the Union.

The Village and the Union may continue to negotiate their differences before the arbitration hearing begins, during the arbitration hearing and up to the time that the arbitrator delivers the decision to the Village and the Union.

5. At any stage of the grievance procedure, the grievant may be accompanied and represented by the Union.

6. All grievance discussions and investigations shall take place in a manner which does not interfere with Village operations.

* 7. It is understood that matters subject to the Fire and Police Commission, such as promotion, discharge or disciplinary suspension are not subject to the grievance procedure. <u>However, in the event an employee is discharged or suspended, the Union has the right to request a meeting to discuss the said discharge or suspension prior to finality of a Fire and Police Commission Proceeding</u>.

Article VI
No Strike - No Lockout

* The Union, its officers, agents and the employees covered by this Agreement agree not to instigate, promote, sponsor, engage in or condone any strike, slow-down, concerted stoppage of work or any other intentional interruption of operations. Any or all employees who violate any of the provisions of this Article may be discharged or otherwise disciplined by the Village [by the Board of Police and Fire Commissioners]. The Village, its officers and agents agree not to lockout any employees during the term of this Agreement as a result of a labor dispute with the Union.

SECTION II

Article I
Wages

* Section I: Salary Schedule: Unless otherwise set forth in this Agreement, each firefighter in the bargaining unit shall be entitled to a pay increase per the following schedule.

	Old Contr.	5/1/89 -10/31/90 (1st yr. Column 1)	11/1/90-4/30/91 (2nd yr. Column 2)	5/1/91-4/30/92 (3rd yr. Column 3)
Start	$22,691.51	$1,800.00	22,691.51	$22,691.51
1 Yr.	28,159.67	signing bonus	30,750.35	31,980.37
2 Yrs.	29,456.62	per firefigher	32,166.62	33,453.29
3 Yrs.	30,989.44		33,840.46	35,194.08
4 Yrs.	33,050.91		37,132.69	39,360.65

* [Salary Schedule: For the first year of the contract, the wage for starting firefighters shall be $19,000.00 and all other wages for all other firefighters remain the same as this year's salary (0% increase). The wages for all firefighters for the second and third year are open for negotiation for salary only at that time.

Years of Service:	Salary first year of contract (1992):
Start	$19,000.00
1 Yr.	31,980.37
2 Yrs.	33,453.29
3 Yrs.	35,194.08
4 Yrs.	39,360.65]

* The $1,800.00 signing bonus due the firefighters pursuant to the above schedule for the period from 5/1/89 - 10/31/90 shall be payable to each firefighter in one lump sum in a separate check, no later than the first pay period after the execution of this Agreement.

* The retroactive pay increase due the firefighters pursuant to the above schedule for the period from 11/01/90 through the execution of this Agreement shall be payable to each firefighter in two installments on the first pay period following the $1,800.00 pay out, also in a separate check.

Article II\
Ambulance Duty Qualifications

* Qualified ambulance personnel shall be assigned to "E Squad" Duty, Qualified shall be construed to mean an employee who, at the time he is serving is currently certified an "EMT". Only qualified personnel shall be assigned to "E Squad" Duty. A third non-qualified firefighter can **[probationary firefighter may]** be assigned to "E Squad" Duty for training purposes.

* Each EMT assigned to ambulance duty shall receive $10.00 per shift day, for each day assigned to ambulance duty effective 11/01/90. Retroactive EMT pay shall be paid within 30 days following the execution of this Agreement.

Article III
Wage Increase Qualification

Certification Requirements: In order to qualify for salary increases at step four (4) of the salary scale, the following requirements must be met:

* (1) Effective May 1, 1987 any firefighter that has been employed by the Village as a firefighter for more than four years but less than ten years as of May 1, 1987 **[Any firefighter employed after May 1, 1983]** and who has not received FAE (Fire Apparatus Engineer) certification and SCF III (State Certification Firefighter III Level) shall not be eligible to receive a fourth step pay increase until such time as he receives the FAE and SCF III certifications, the firefighter shall be entitled to his step four pay increase. Any such pay increase, however, shall be retroactive only to the date of FAE or SCF III certification, whichever occurs last.

* (2) Any firefighter who has been employed by the Village as a firefighter for ten years or more **[before 1977]** and has not received the FAE and SCF III Certifications shall be exempt from those requirements and shall receive his step four salary increase as set forth herein.

* (3) All new firefighters employed by the Village after May 1, 1987 and all firefighters presently on the Department who have less than three (3) years and three hundred and sixty four (364) days of service with the Department shall not be eligible to advance to step four of the salary scale until such time as they have received their FAE and SCF III certifications.

Article IV
Vacation [& Holiday Pay]

*Section I: Employees with more than one (1) year of service shall be given eight (8) days paid vacation. For purposes of definition a vacation day shall consist of one consecutive twenty four hour period. Beginning on the Eighth (8th) Anniversary date of employment, firefighters shall be entitled to take 10 (10) days paid vacation per year. The vacation period of each year shall be from the first day of January to the thirty-first (31st) day of December. **[Vacation days allotted. After:**

1-2 yrs of service: 2 days;
3-7 yrs of service: 4 days;
8-12 yrs of service: 6 days;
13-19 yrs of service: 7 days;
20+ yrs of service: 8 days.

A vacation day is defined, for purposes of this section, as a 24 hour time period. A firefighter is not eligible to take his vacation days, as delineated above, until he has worked at least 1700 hours during the previous year of service.]

*Section 2: All Firefighters, including probationary firefighters, shall receive three (3) work days of compensatory time off with pay in lieu of paid holidays each year.

Article V
Duty Days Off

Firefighters shall work a twenty - four hours on, forty - eight hours off schedule. Each firefighter shall receive one twenty-four hour day off of work during each 27 day work cycle. These days shall be known as "Duty Days Off (DDO). The purpose of DDO Days is to reduce the employee work week to 48.1 hours. Any firefighter who has a DDO Day fall during his vacation shall be allowed to exchange his day for another day. The Fire Chief or his designee shall insure that work schedules and DDO schedules are posted no later than two working days prior to the commencement of each shift work cycle.

*

Article VI
Minimum Manning

Due to the nature of the Fire Service and the consideration which must be given for the safety of the personnel, there is a necessity for a minimum manning requirement of eight (8) bargaining unit firefighters per shift including any probationary firefighters.

(a) Exceptions: In the event that any shift is short one firefighter as a result of funeral leave, attendance at EMT school by a probationary firefighter or when a piece of fire apparatus is transported by an on-duty firefighter for repairs, the minimum manning requirement shall be reduced to seven bargaining unit firefighters.

In the event a probationary firefighter is detailed to the Illinois State Certification school in Arlington Heights, and in the event the probationer's absence reduces the shift to seven firefighters, the Union agrees that the probationer's replacement on the shift shall be paid at the rate of time and one half (1 1/2) for the replacement period.

Probationers detailed to the Illinois State Certification School in Arlington Heights shall not be scheduled for ambulance duty.

Article VII
Overtime Pay

*Section I: Overtime shall be paid at the rate of time and one-half of the [regular] hourly salary subject to the following terms and conditions:

(a) The Work Cycle shall consist of twenty seven consecutive calendar days. (NIne 24 hour work days, per shift per cycle.

(b) Vacation time, funeral leave, compensatory time and holiday time shall be considered "time worked" for purposes of determining overtime payment.

[a] All time worked in excess of 192 hours per cycle shall be compensated at the rate of time and one half the employee's regular rate of pay **[and the employee shall be paid only for actual time worked.]**

(d) Holdover Policy. Any firefighter held over from his shift to the following 24 hour shift as a result of manpower shortage because of the absence of his designated relief shall be paid increased compensation at the rate of time and one half for the twenty four hour period that he is held over.

(e) Emergency Holdover Time. Emergency holdover time shall be defined as that time in which a firefighter is held over from one shift to another as a result of his inability to complete shift duties in a timely fashion.

(1) In the case of Emergency Holdover time, all firefightes held over to perform their duties fifteen (15) minutes past their scheduled shift change shall receive a minimum of two hours additional pay at the rate of time and one half (1 1/2). Any hours worked in excess of two hours shall be paid at the rate of time and one half (1 1/2). In the case of Emergency Holdover time, overtime shall be credited to the employee regardless of the hours he may have worked during the work cycle and shall be paid to the firefighter no later than the next regularly scheduled pay period following the date of the emergency holdover.

(f) Emergency Call Back Time. Emergency Call Back Time shall be defined as that time in which a non duty firefighter is called to duty be the Fire Department. In the case of an Emergency Call Back, all firefighters called back shall receive a minimum of two hours additional pay at the rate of time and one half (1 1/2) of their regular rate of pay. Any hours worked in excess of two hours shall be paid at the rate of time and one half (1 1/2) of the firefighters regular rate of pay.

In the case of Emergency call back time, overtime shall be credited to the employee regardless of the hours he may have worked during the work cycle and shall be paid to the firefighter no later than the next regularly scheduled pay period following the date of the emergency call back.

(g) Tardiness Compensation. All firefighters held over for one-half (1/2) hour or more past their scheduled shift change due to their relief's tardiness shall receive a minimum of two (2) hours overtime pay. The late employee's salary shall be docked two (2) hours straight time.

*Section 2: All overtime pay shall be paid on the scheduled pay day for the pay period in which it is earned. Overtime shall be paid to the nearest 1/2 hour.

Article VIII
Life Insurance

* A Life Insurance policy in the amount of Thirty Five Thousand Dollars ($35,000.00) [$40,000.00] to each employee of the Fire Department. The Village shall pay the full cost of the insurance policy. In addition, the Village shall allow members of the Department to purchase additional life insurance at the group rate made available to the Village.

Article IX
Medical Insurance

A medical hospitalization and dental insurance policy shall be issued to each employee of the Department.

* An advisory committee shall be created consisting of three (3) Union members and three (3) Village employees to study any recommended changes in the "Health Insurance" program for the Village.

* The group health, hospital and dental insurance policy, including the eligibility requirements established by the Village, shall be maintained for the term of this Agreement; provided, however, that the Village retains the right to change insurance carriers or otherwise provide for coverage as long as the level of benefits remains identical. The Village will continue to pay for the cost of said program; provided, however that all firefighters shall contribute the sum of $10.20 per pay period toward the payment of the medical plan. The Village agrees to pay the entire premium for individual and dependent dental insurance coverage. [The Village shall pay 80% and the firefighters shall pay 20% of the premiums of said health, hospital and dental insurance policy].

Article X
Pension Benefits

* The Village shall pay the medical insurance premiums for firefighters injured in the line of duty. Upon certification of the Maywood Fireman's Pension Board that the firefighter is being pensioned with an on the job medical pension pursuant to Illinois State Statutes, the Village agrees to pay the entire amount of the individual or, where applicable, family medical insurance in amount not to exceed the cost paid by the Village for the employee and his dependents in this category. [50% (see definition of 50% in next sentence) of single coverage for the employee, regardless of whether the employee is married or single, with or without dependent children. The 50% shall be computed as it is computed (in other words, the 50% shall be the same amount as it is) on the day of the certification by the Pension Board that the firefighter is pensioned with an on the job medical pension. Said 50% shall never exceed the cost paid by the Village on the date the

firefighter is pensioned with an on the job medical pension.]

* In the event a firefighter receives a pension other than a duty related medical disability pension from the Village of Maywoof Fireman's Pension Board, the Village agrees to pay 50% **[of single coverage for the employee, regardless of whether the employee is married or single, with or without dependent children]**, of the medical insurance **[premium]** in an amount not to exceed the cost paid by the Village on the date pensioned. Allocations shall be budgeted on a line item basis each fiscal year toward this fund. The minimum budget allocation for the members of the bargaining unit shall amount to $11,400.00 per fiscal year.

* In the event of the death of a pensioned employee as set forth above prior to his/her 65th birthday, the Village agrees to pay 50% of the cost of the Widow's and dependents medical benefits not to exceed the cost paid by the Village on the date of pension; provided, however, that all widow and dependents medical benefits paid for the by the Village of Maywood.

* In the event a widow withdraws from or drops the medical plan provided for by the Village of Maywood, neither she nor the dependents will be eligible for future insurance premium payments by the Village of Maywood.

* All medical benefits paid for by the Village in accordance with this Article shall continue until the pensioned firefighter reaches age 65[.], or in the case of a widow's benefit, until the deceased pensioner would have reached age 65.

DEFERRED COMPENSATION. It is agreed that the pension contributions deducted from the salary of each firefighter by the Village as required by statute shall be treated for purpose of income tax as deferred compensation and shall not be subject to federal or state tax withholding.

Article XI
Clothing Allowance

*Section I: The Village agrees to replace all turnout gear[.], all dress uniforms and all work clothes that are damaged beyond repair or worn because of fair wear and tear. The Village agrees to purchase all dress, turnout, and work uniforms and any other gear in the event of a uniform change directed by the Village or the Chief of the Fire Department.

*Section 2: The Village agrees to allow each member of the Department $400.00 **[$200.00]** per year to be used for the purchase of uniforms, work clothes and turnout gear. This program shall be supervised by the Chief of the Fire Department. The purchase of gloves, flashlights and/or flashlight batteries shall **[be]** not be taken out of the $400.00 **[$200.00]** charge.

Section 3: The Village shall purchase all turnout gear and work uniform for new members of the Fire Department. New employees shall assume the cost of the first complete dress uniform, but shall not be required to purchase dress uniforms until three (3) months after their probation period is completed.

Article XII
Tuition and Schooling

* The Village agrees to pay all costs for firefighters wishing to take voluntary educational courses which are designed to advance a firefighter and/or improve his performance in the line of duty. In order to receive reimbursement for voluntary educational courses approval to take the course(s) must be obtained from the Fire Chief. Approval by the Chief shall not be unreasonably or arbitrarily denied.

* The Village also agrees to pay for required textbooks that are required for graduation in the Fire Science Program. It is understood that books so purchased will be maintained in a library which will be available to other Department Personnel.

* When the Department requires a firefighter to attend school, seminars, or other educational action on his off-duty hours, the Village shall compensate said firefighter for such hours by granting compensatory time off for and hours spent in class on off-duty time. **[The Village agrees to pay all costs for firefighters wishing to take mandatory educational courses in SCF III and/or FAE only.]**

* All firefighters who are on probationary status as of May 1, 1986 and all persons hired after that date shall not be entitled to Tuition and Schooling benefits as provided in paragraph one of this Article.

Article XIII
Unused Vacation/Sick Leave

* Section I: Vacation Pay. If the employee dies, retires or terminates his employment with the Village, he shall receive paid compensation from the Village equal to his earned vacation time. Since vacation time is earned on the prior year of service on a monthly basis, unused vacation pay will be paid on a monthly basis with pay per day to be based on monthly pay divided by 22 working days. **[For any employee who dies, retires, goes on disability (whether temporary or permanent), or terminates his employment with the Village, or he is terminated by the Village, said employee shall receive paid compensation from the Village equal to his earned vacation time. Since vacation time is earned on the prior year of service, pro-rated on a monthly basis, unused vacation pay will be paid on a monthly**

basis with pay per day to be based on monthly pay divided by 22 working days. Such employee shall only be paid vacation days, previously earned and pro-rated as above. The definition of "vacation day" is 8 hours.]

* Section 2: Sick Leave Day. Sick leave policy is set at 72 hours (three duty day) per calendar year without verification. The Village agrees to buy-out all unused sick days that a firefighter has not used, and will pay at the rate of pay with no fractionalized days; only a total duty day which consist of twenty four hours. No rollover, no commission and no accumulation. The buy-out shall be in December on a separate check **[paid before the end of the fiscal year. A "sick leave day" is separate and distinguished from Accumulated Sick Leave which is addressed in Section 3 below and from "Extended sick leave" which is addressed in Section 4 below].**

* Section 3: Sick Leave and Accumulated Sick Leave. Firefighters who accumulated sick time prior to September 1, 1983 are eligible to used the accumulated sick time accrued prior to that date. Subsequent to September 1, 1983, Firefighters may not accumulate sick leave from year to year. **[If sick leave was accumulated prior to September 1, 1983, said accumulated sick leave must be used before the employee dies, retires, or terminates his employment with the Village, or is terminated by the Village, or it is lost, without pay, upon the employee's death, retirement, or termination of employment. The only and last buyout of accumulated sick leave was in 1983, and the Village shall not buyout any remaining accumulated sick leave thereafter].**

* Section 4: Extended Sick Leave. Members of the Union shall be permitted non duty-related extended sick leave if after the exhausting of their accumulated sick days, if any, and after a waiting period of twenty four hours, they provide to the Fire Chief written verification from a physician that they will not be fit to return to work for an extended period of time due to illness, hospitalization, injury or convalescent and/or recuperative time. Members of the Union shall receive up to forty-five (45) calendar days at full pay for extended sick leave, and shall receive a disability pay equaling 75% **[50%]** of their full salary for an additional seventy-five (75) **[sixty (60)]** calendar days. Members of the Union must receive approval by the Fire Chief or the Village Manager in order to use extended sick leave. (Such approval should not be held without just cause). Earned sick leave, accrued compensation time, holiday time, vacation time and Duty Days Off may be used in lieu of the twenty four hour waiting period at the option of the Firefighter.

* Section 5: Disability Pay. Firefightes who are eligible for disability pay shall not be required to use their existing family distress day, holiday leave or vacation leave as a condition precedent to receiving disability compensation. Accrued sick time must be exhausted prior to

eligibility for disability pay.

Article XIV
Funeral Leave

After serving six months with the Village, employees are eligible for funeral leave of one (1) twenty four hour day with pay in case of a death in the immediate family. A second twenty four hour day may be used if the death is out of the Chicagoland Metropolitan Area, the death happens on a duty day, or the funeral is extended because of a holiday or weekend. Under extenuating circumstances for which a request for the second day of funeral leave is needed, verification shall be required and presented to the Fire Chief. Immediate family shall include only parent, child, wife or husband and sister or brother.

The mother-in-law, father-in-law, and grandparents shall be considered part of the immediate family provided that attendance of the funerals of these persons will not reduce the scheduled number of firefightes on duty below seven (7).

* Brothers-in-law and sisters-in-law shall be considered extended family members. In the event of the death of an extended family member, firefighters are permitted to take one (1) day from work[.]; provided, however, that absence from their duties will not reduce the amount of firefighters on duty below seven (7) and further provided that any firefighters utilizing emergency leave under this paragraph shall be required to use vacation or holiday DDO's and/or comp time in lieu of pay.

Article XV
Drug Testing

* The Village may establish a Drug Testing Program for the bargaining unit firefighters; provided, however that the drug testing policy is exactly identical to that drug testing policy currently in effect with the Chicago Fire Department [**,except that there shall be random testing also**]. The Drug testing policy shall be administered in a reasonable manner with a view at all times toward the [**safety of the Village, its citizens, and**] confidentiality and treatment of the employee. The Drug testing policy shall not be administered in an unreasonable, arbitrary or capricious manner. The Drug testing policy, when mandated by the Village shall be reduced to writing by the Village and given to each bargaining unit firefighter. Additionally the drug testing policy as set forth above shall be incorporated by reference into and made a part of this Agreement. The Drug testing policy shall be attached hereto, made a part hereof and incorporated by reference herein as exhibit A at date subsequent to the signing of this agreement.

*

Article XVI
Unsafe Vehicle Clause

The Union and the Village agree to create a committee for the purpose of discussing unsafe vehicle policy. The committee shall consist of two Officers of the Fire Department chosen by the Fire Chief, the Fire Chief and two members of the bargaining Committee. The Committee shall meet periodically at the request of the Union upon a minimum of one week notice.

Article XVII
Union Bulletin Board

The Union shall have the right to place at each fire facility within the Village a bulletin board that will be used exclusively for the posting of Union business and general matters of interest to union members. The Union Bulletin Board(s) shall be maintained and used exclusively by the Union, and all materials placed thereon shall be initialed by one of the General Officers.

Article XVIII
Union Business

The Village shall allow the union to hold related meetings on the premises of each fire station; provided, however, that the Union give to the Fire Chief at least 48 hours notice prior to each meeting; and provided that any such meeting shall not unreasonably interfere with the normal duties of a firefighter or interfere with the orderly administration of the Village of Maywood Fire Department. All items placed on the Union bulletin board must be initialed by one of the Union General Officers. For purposes of this agreement, Union Stewards shall not be construed to be Union General Officers.

*

Article XIX
Switching of Days

Switching of Regular Work Days, Vacation Days, Holidays, DDO's, Hourly Reduction Days and request for compensatory days shall be submitted in writing to the shift commander for signature a minimum of 24 hours before the requested change. The request shall state the details and times of the switch. Requests shall be in triplicate, one original and two copies on the form provided for such request. All written requests shall be approved by the Chief or the Deputy Chief of the Fire Department. One copy of the approved request shall be returned to the individual. No schedule changes will be allowed without the prior approval of the Chief or the Deputy Chief. No request under this Article shall be unreasonably denied.

Under no circumstances shall the Village alter the vacation or holiday picks of the firefighters.

Article XX
Vacation Picks and Comp Time Pick

Vacation and Compensation Time Picks shall be determined on the basis of seniority on shifts. In the event that two or more selections are made for the same time by firefightes with the same seniority on the shift, selection shall be made on the basis of seniority on the Department.

Compensatory time shall be selected no more that one work cycle in advance. These selections shall be made by seniority in rotating with each person on each shift. Each firefighter making a comp time pick may choose either one entire work day or any part of one work day; however, after making his selection he shall rotate to the bottom of the comp time selection list. After all firefightes on each shift have had the opportunity to make a selection the process will be repeated until there are no further picks.

Article XXI
Lay Off

Lay offs from the Department shall be accomplished on the basis of seniority on the Department as currently provided by State Statute. Return from lay off shall be determined on the basis of seniority on the Department as currently provided by Illinois Statute.

Article XXII
Union Dues and Fair Share Deductions

Section A: The Village agrees to deduct from the first pay check of each month union dues for all those firefightes that are certified by the Union to be members of the union at the time of the execution of this agreement. This deduction shall remain in effect until termination of this Agreement.

Section B: The Union, as the exclusive representative of all employees, members and non-members, agrees to represent all bargaining unit members fairly and equally in the enforcement of this Agreement. All employees in the unit that are not certified by the Union as union members will be required to pay, as provided in this Article, their fair share of the cost of representation. The amount to be deducted from the pay check of the non members for the cost of representation in the negotiation and the enforcement of this Agreement shall be certified by the Secretary of the Illinois Firefighters Alliance. Changes in the amount of the fair-share fee to be deducted shall be certified by the Union 30 days before the effective

date of change. The Union agrees to provide the Village with a list of employees from whom fair-share deductions are to be made. A check in the amount of monthly union dues and fair share fees shall be mailed to the Illinois Firefighters Alliance, 180 Industrial Drive, Suit 102, Elmhurst, Illinois 60126 and shall be directed to the attention of Mr. Raymond Guilfoyle, President. Dues and fair share deductions shall be mailed to the Union as indicated herein no later than three business days after the end of the first pay period in each month.

Section C: Dues Deductions: Maywood Firefighters Association. All sworn personnel within the Village of Maywood Fire Department, regardless of rank, may belong to the Maywood Firefighters Association (Association). The Association is not a Union and does not have as its purpose or objective representation of the sworn fire personnel for the collective bargaining agreement with the Village and is prohibited from doing so during the term of this Agreement. The purpose of the Association is to create and administer a common pool of money to provide for the payment of expenses as determined by them to be the common interest and concern of all sworn personnel and that are non union related.

The Village shall not create a policy which would prohibit any sworn personnel of the Maywood Fire Department from contributing to the Association on a payroll deduction basis.

It is further agreed that the Union shall not be held responsible or accountable in any way for the possession, use or disbursement of Association Funds, but enters into this agreement for Association Dues Deduction only as an accommodation to Association members.

Article XXIII
Retroactive Residency

Members of the Union who were employed prior to August 15, 1975 shall not be required to establish residency within the Village of Maywood as a condition of continued employment.

*

Article XXIV
Acting Officer Pay

In the event that an Officer is temporarily replaced by a member of the bargaining unit, the bargaining unit member performing the services of Acting Officer shall receive six hours compensatory time for each duty shift. Comp time picks shall be pursuant to Article XX of this Agreement.

Article XXV
Savings Clause

If any provision of this Agreement are subsequent declared by a legislative or judicial authority to be unlawful or unenforceable, all other provisions of this Agreement shall remain in full force for the duration of this Agreement.

Article XXVI
Entire Agreement

This Agreement constitutes the entire Agreement between the parties and, unless otherwise agreed to in writing by the Village and the Union, concluded collective bargaining on any subject included in this Agreement or for the term of this Agreement.

* This Agreement shall be in effect from May 1, 1989 and shall remain in effect until 11:59 P.M., April 30, 1992 and from year to year thereafter unless either party gives written notice to the other party of its desire to terminate this Agreement in accordance with the time requirements provided by statute.

* All provisions of this Agreement shall have retroactive effect from May 1, 1989 unless otherwise specified within this Agreement upon execution of this Agreement.

Dated and Signed: _____

Approved:

Village of Maywood

By:

_____
President of the Village Board

Illinois Firefighter Alliance
Maywood Council
By:

_____
Executive Director

_____

_____

_____

_____
Village Clerk

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

INTEREST ARBITRATION PURSUANT TO
SECTION 14 OF THE ILLINOIS PUBLIC LABOR RELATIONS ACT

Before
AARON S. WOLFF
Interest Arbitrator

In Re Interest Arbitration Between VILLAGE OF MAYWOOD, ILLINOIS, Employer, and THE ILLINOIS FIREFIGHTERS' ALLIANCE, MAYWOOD COUNCIL, Union.	Hearing Scheduled October 8 and 9, 1992 November 19 and 20,1992

UNION'S FIRST AMENDED
LAST OFFER OF SETTLEMENT TO VILLAGE OF MAYWOOD

Subject to the right of the Union to modify its final offer as permitted by Section 14(g) of the Illinois Public Labor Relations Act, the Union sets forth below its last offer of settlement to the Village of Maywood. This last offer intends to include: (1) all provisions of the previous recently expired collective bargaining agreement to remain the same where the Union has not proposed change; and (2) all items previously agreed to during the bargaining sessions which are not at issue in the interest arbitration.

Each item listed below is intended to represent a separate proposal for consideration by the arbitrator. Sections which have been amended from the original last offer appear in **bold**. In each case the amendments are a compromise by the Union

APPENDIX II

designed to reduce the economic cost to the employer to facilitate a settlement.

I.
COMPENSATION ISSUES

1. WAGES (Section II, Article I of the Contract)[1]

1(a) 1992 Year (present to 4/31/93)

2% above 5/1/91 to 4/31/92 wages for entire unit[2]

1(b) 1993 Year (5/1/93 to 4/31/94)

2% above 5/1/93 to 4/31/94 wages for entire unit[3]

1(c) 1994 Year (5/1/94 to 4/31/95)

4% above 5/1/94 to 4/31/95 wages for entire unit[4]

2. RETROACTIVE WAGES

The Union seeks retroactive wage increases from the time the last contract expired on May 1, 1992 until resolution of this contract dispute.

3. SHIFT COMMANDER PAY

The Union seeks to add the following language as a separate article:

> **In the event that a shift commander is temporarily replaced by a member of the bargaining unit, the bargaining unit member performing the services of the shift commander shall receive 12 hours compensatory**

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[1]Each year is a separate economic proposal and the Union requests separate consideration for each year.

[2] This is down from 5% demanded in the original last offer.

[3] This is down from 5% demanded in the original last offer.

[4] This is down from 5% demanded in the original last offer.

time for each duty shift. In the event the Village suspends compensation time, the member shall be entitled to an additional payment of four (4) hours of overtime pay for each shift where such supervisory service is rendered on behalf of the department. Service of acting shift commander shall be offered to the members of the unit in order of seniority.[5]

4. ACTING OFFICER PAY - ENGINEER ASSIGNMENTS

The Union seeks to add the following language in place of Article XXIV:

> Section 1. In the event that an officer is temporarily replaced by a member of the bargaining unit, the bargaining unit member performing the services of Acting Officer shall receive six hours compensatory time for each duty shift. Compensation time picks shall be pursuant to Article XX of this Agreement. In the event the Village suspends compensation time, the bargaining unit member shall be entitled to an additional payment of two hours of overtime pay for each shift where such supervisory service is rendered on behalf of the department. Service of Acting Officer shall be offered to the members of the unit in order of seniority.[6]
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> Section 2. Engineering assignments shall be offered according to seniority to bargaining unit members with the further requirement that Fire Apparatus Engineer certification be mandatory for the operation of all vehicles with pumps.

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[5] The amendment changes shift commander pay from overtime pay to compensation pay making it a no cost item to the Village unless it suspends compensation pay.

[6] The amendment changes acting officer pay from overtime to compensation pay making it a no cost item to the Village unless it suspends compensation pay.

5. UNUSED COMPENSATION TIME, VACATION OR HOLIDAY TIME

The Union seeks to add the following language as a new article:

> The value of a bargaining member's unused compensation time, vacations time, or holiday time shall be paid at the time the member is terminated from employment. This provision is cumulative of and is in addition to any rights the member has under Section 5 of the Wage Payment and Collection Act (Ill. Rev. Stat., ch. 48, par. 39m-5) or any other state or federal law.

6. COMPENSATION TIME CEILING

Withdrawn. In the spirit of compromise, the Union withdraws this proposal from consideration.

7. VACATION PAY

The Union seeks to change Article IV, Section 1 to read as follows:

Article IV
Vacation

> **Section 1. Employees with more than one year of service but less than three years of service shall receive four (4) days of paid vacation which shall accrue immediately upon the anniversary date of employment.**
>
> **Employees with three or more years of service but less than six years of service shall receive six (6) days of paid vacation which shall accrue immediately upon the anniversary date of employment.**
>
> **Employees with six or more years of service but less than eight years of service shall receive eight (8) days of paid vacation which shall accrue immediately upon the anniversary date of employment.**
>
> **Employees with nine or more years of service but less than 12 years of service shall receive ten (10) days of paid vacation which**

shall accrue immediately upon the anniversary date of employment.

Employees with twelve or more years of service shall receive twelve (12) days of paid vacation which shall accrue immediately upon the anniversary date of employment.[7]

The value of vacation days upon termination, however, shall be calculated in a pro-rata fashion according to fractions of years of service so that no vacation time shall be considered forfeited or lost due to termination prior to the next anniversary date.

Section 2. [no modifications proposed]

8. HOLIDAY PAY

The Union withdraws this proposal in the interest of compromise and instead requests that the provisions of the previous recently expired contract control on this issue.

9. LIFE INSURANCE

The Union proposes that Article VIII be changed to read as follows:

> A life insurance policy, an amount equal to the highest annual wage of a bargaining unit member or in the amount of $40,000.00 which ever is higher, shall be purchased for each bargaining unit member. The Village shall pay the cost of this life insurance policy, but the Village shall provide and allow members of the Department to purchase additional life insurance at the group rate made available to the Village.

10. CLOTHING ALLOWANCE

The Union proposes that Article XI, Section 2 be changed to read as follows:

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[7] The amendment is an improvement to the Village over the old contract as well as an improvement over the original last offer. The Union makes this substantial concession in the spirit of compromise.

Section 1: [no modifications proposed]

Section 2: The Village agrees to pay each member of the Department **$400.00**[8] per year to be used for the purchase of uniforms, work clothes and turnout gear. This payment shall be made directly to the bargaining unit member in two distributions of **$200.00** (on the first general run in both May and October) on a check issued from general funds of the Village.

Section 3: [no modifications proposed]

11. PERSONAL DAY

The Union proposes the following as a new section to Article XIII:

Section 6. Each bargaining union member shall be entitled to one personal day of a 24 hour period annually. The purpose of the personal day is to attend to personal business and shall be administered in the same manner as Section 2 (Sick Leave Day) above, including the provisions for buy-out at the end of each year.

12. RETIREE MEDICAL INSURANCE

In the interests of compromise, this proposal was previously withdrawn.

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[8] The Union reduces its request to conform to the amount specified in the previous recently expired contract. As a consequence the Unions proposal seeks no new cost for the Village. The current proposal changes only the method of payment making payment directly to the officer and allowing the firefighters to obtain uniforms from suppliers who offer discounts.

II.
WORKING CONDITIONS

1. RESIDENCY[9]

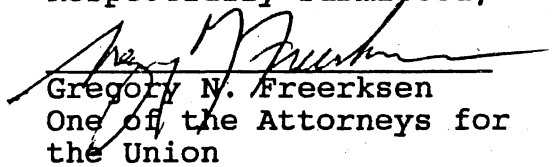
The Union proposes the following modification to Article XXIII, which is the current residency article.

> Bargaining unit member may not be required to establish residency within the Village of Maywood as a condition of employment but may (at the option of the Village) be required to establish residency within the service area of the Fire Department, which includes the contiguous municipalities.

2. MANNING

The Union specifically and vigorously opposes any change in the manning article of the current collective bargaining agreement which is Article VI.

Respectfully submitted,



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[9] The Public Labor Relations Act permits the Arbitrator to decide the residency issue if residency was historically a subject in the collective bargaining agreement. In this instance since the residency issue is addressed in the current contract, it is arbitrable under Ill. Rev. Stat., ch. 48, par. 1614(8)(j) which states: "To preserve historical bargaining rights, this subsection [excluding residency requirements from the arbitrator's decision] shall not apply to any provision of a fire fighter collective bargaining agreement in effect and applicable on the effective date of this act; provided, however, nothing herein shall preclude arbitration with respect to any such provision.