



INTEREST ARBITRATION

CITY OF PEORIA

Employer

and

PEORIA FIREFIGHTERS LOCAL 50

Union

Interest Arbitration
S-MA-94-20

Barbara W. Doering
Impartial Arbitrator

June 4, 1994

Opinion and Award

ADVOCATE MEMBERS OF THE ARBITRATION PANEL

Tom Unruh, Union Panelist

James Murphy, City Panelist

APPEARANCES

For the Union:

J. Dale Berry, Attorney
Kent Tomblin, Vice President
Terry Dunne, Secretary
Tom Unruh, President
Tom Jackson, Treasurer
Mike Lass, Dir. Collective Bg, AFFI
Ron Jones, Steward Local 50
Herman Brooks, Former Fire Chief

For the City:

James Murphy, Attorney
Alan D. Pennington, Management Analyst
Patrick Parsons, Dir. Personnel & Lab.Rels
Lori Fleming, Fin.Dir./Comptroller
Lee Daugherty, Fire Chief
Paul Barclay, Battalion Chief
Justin Hocker, Labor Relations Mgr.
Roy Modglin, Director of Operations

PROCEDURE

This arbitration, called for under Sec. 14 of the IPLRA, occurs under ground rules and stipulations negotiated by the parties. A pre-hearing conference aimed at settling as many as possible of the issues at impasse, was held on January 18, 1994. Thereafter, final offers were exchanged on February 14, 1994 and a hearing was conducted on March 2 and 3, 1994 for the purpose of presenting evidence in connection with the final offers. Briefs were received May 18, 1994 and an executive session was held on June 2, 1994.

THE FINAL OFFERS

It is disputed whether there are 3 issues or 4. The Union argues that the staffing issue involves a single sub-section of the contract and is a single issue, while the City insists there are clearly two separate issues, one involving rank and the other involving variable crew size. Briefly summarized, the final offers are:

General Wage Increase:

	UNION	CITY
1994/ 1995	3.5% / 3.5%	3.5% / 3.0%

Vacations 24 hr Shift Employees:

Currently: per sec. 14.2, selected in week increments and/or 24 hour (duty day) increments so long as the 24 hour option does not result in additional cost over the pre-1992 restriction to selection in weeks.

	UNION	CITY
Selected In:	Duty Days	Weeks

Staffing:

Currently: per sec. 23.2, minimum staffing of 3 on all vehicles except rescues and tankers. On trucks the crew shall be 1 capt. and 2 engr. As to rescue 1 & 2, these are to be staffed by 1 capt. and 1 engr. at all times that they are in service, but in practice rescue 2 has been operated as a "jump crew".

Rank of crew on Trucks:

Crew of 3, who are "normally" captain, & 2 engineers.	On the "normal" crew of 3: 1 capt., 1 engineer, 1 fire fighter.
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elim. acting pay 2nd engineer.

elim. charitable leave (Sec. 15.9) which currently allows 288 hrs annually without hire back.

modify Union time off

(App. A, #7) which currently allows 600 hrs without hire back, to remove # of hrs, and provide that Union duties at work, not interfere with work, and further that negotiations be scheduled either when Un. team is off-duty or in locations where on-duty team members can participate without need of hire back.

Variable crew size:

All dept. vehicles that are in service shall be staffed with a minimum of 3 employees at all times ... except rescue 1 and 2.

All dept vehicles that are in service shall be staffed as follows:

... Trucks shall "normally" be staffed by 3 employees.. ... when there are personnel shortages on a shift, trucks may be staffed with 2 employees which shall include a capt. and engr.

Rescue vehicles shall be staffed with 1 capt. & 1 engr when in serv. and Rescue 2 may be a "jump crew"

Rescue vehicles shall be staffed with 1 capt. & 1 engr when in serv., and may be a "jump crew"

DISCUSSION

The staffing issue, whether it be decided as a single issue or in two separate pieces, is clearly the most difficult of the 3 issues at impasse. The vacation issue is also difficult in that it involves a rather unique system which has long been in place, and a question of whether to continue the move away from that system initiated under the last contract, or whether to drop the move away as a bad choice and go back to the previous system with all its peculiarities. The wage increase issue is the most straight-forward and least divisive and will therefore be taken up last.

1. Staffing issue(s):

The Union argues that there is no basis to allow the City to take-away a major benefit in the absence of a showing of current financial crisis and/or in the absence of a significant quid pro quo for the concession the City seeks. The Union argues that the City's speculation that finances are headed towards deficit 3 or 4 years down the road does not prove inability to pay during the term of this contract and should not be taken to justify either of the concessions the City seeks. The Union also argues that nothing in the agreements reached prior to arbitration nor any of the remaining issues at arbitration would be adequate to serve as a quid pro quo.

The City points out that it has been using fund balances in its operating budget and that this is tantamount to dipping into savings. Fund balances which totaled \$11.4 million in 1990 stood at \$8.3 million at the end of 1993, and the 1994 budget calls for use of an additional \$3.6 million. City Comptroller Lori Fleming pointed out that using fund balances to supplement operations works for a while but at some point you have to change your life style or find a new source of income or you won't have anything left in your savings account with which to pay even the on-going costs you have been funding from that source, much less any new increases. The City argues that even though it is not currently facing a deficit, it is not unreasonable for the City to be taking steps to reduce whatever operating expenditure that it can so that it will have its budget at a sustainable level from regular on-going sources of revenue at the point its fund balances are depleted. The City recognizes that its two staffing issues represent a loss of benefit to the employees. The City takes the position that it has tried to make cost savings incrementally with minimal negative impact on current employees, but that it should not be required to "buy" operational economies to which, in the private sector, employees would simply be required to adapt. The City contends that occasional lower staffing under the flexibility of "normal" rather than strictly required staffing levels is something which should be within its managerial authority. The City contends that the third position on a truck, just like the third position on an engine company, can and should be filled by a fire fighter. The City argues that early retirement incentives in 1993 have

produced 8 of the 12 engineer vacancies that would be needed in eliminating one of the engineer positions on trucks by attrition. The City also notes that, while it recognizes that such a move would reduce promotional opportunity, even after that occurred Peoria would still have the 2nd highest percentage of engineers in its workforce by comparison to other departments, and would have the 2nd lowest percentage of firefighters in its workforce.

Both parties submitted lengthy arguments and a number of exhibits on the two parts of the staffing issue. After careful consideration of all the testimony and submissions, the arbitrator is of the opinion that in the matter of rank, the City should prevail and be allowed to reduce the 3rd position on truck companies, by attrition, to the rank of fire fighter. The City made a case for this change. In the matter of variable crew size, however, the City's case for greater flexibility was flawed by language that appeared to go beyond what the City claimed it wanted, and at a more general level the arbitrator was not persuaded that a sufficiently strong case was made to overcome the case for safety and other concerns presented by the Union. Thus, with respect to the City proposal on variable crew size (2 person trucks, rescue 1 as a "jump crew") the Union should prevail and current staffing language shall be maintained. However, the existing language should be clarified to reflect the current status of Rescue 2 as a "jump crew". In awarding the issue on rank to the City, the arbitrator understands "attrition" to mean that as vacancies throughout the department open up to allow elimination of an engineer position, the elimination will occur on a truck crew and the position there will become a fire fighter position, but that in the meanwhile those serving as the 2nd engineer on the trucks will remain in that job classification -- in a form of "red-circling" -- and although their absences, Kelly Days, and vacations, etc., may be covered by firefighters (without "acting" pay), the engineers will continue to serve in the same capacity that the 2nd engineer has served for the last 30 years until enough permanent vacancies have occurred to allow elimination of all 12 positions. Whatever temporary moves are being done now can continue to be made, but the understanding of "attrition" here is that reducing the rank of these positions shall not render the incumbents "floaters".

2. Vacations:

The vacation selection issue is made unique by the long weeks and short weeks and the overlay with Kelly Days, which were agreed to in the last contract. As a part of the Kelly Day change, the option to select vacations by days in addition to selection in week-long blocks was added with the proviso that no additional cost be incurred by the City. The City was not satisfied with what happened, finding that there were ways of "gaming" the new system which had not been anticipated. The Union in its offer, has tried to more precisely coordinate the number of days with the prior total so as to stay within the cost factor, but the City objects that the Union's proposal institutionalizes for everyone, an anomaly which previously only benefited those with sufficient seniority willing to schedule their vacations around that anomaly. Moreover, says the City, the Union's proposal invites problems with internal comparisons among other city employees because it sets maximum accrual at a higher figure to reflect the duty days that can be claimed through the "long week" anomaly.

The arbitrator is of the opinion that there is merit to the City's concern about internal comparisons and is further of the opinion that it is reasonable to go back to the old system until such time as the parties can agree upon a new system. Thus, the arbitrator is of the opinion that the City should prevail, but as noted in the executive session, it must be clear what the employee's options are if the week selected for vacation happens to include a Kelly Day. It seems reasonable that if a Kelly Day falls within the vacation week(s) selected, the employee should be allowed to pick another day for the Kelly Day after initial selection of vacations in weeks by seniority has been made. Thus the Kelly Day becomes like a vacation day that can be selected along with other remaining vacation hours, by seniority again, after initial choices have been made by week. Like a vacation day, a Kelly day being used this way is not tradeable. Secondly it was agreed at the executive session that this provision not take effect until the second year of the contract in 1995.

3. General Wage Increase:

The City argues that although the difference between 3% and 3.5% in the second year of the contract is not a great deal of money in the overall budget, the City was faced with a near taxpayer revolt in 1991 and has been trying to bring employee increases more into line with increases in the cost of living. The City notes that multi-year contracts have made this a gradual process, but argues that for the last two years the CPI has hung around 3% and it is offering 3.5% in 1994 and its 3% offer for 1995 is probably sufficient to prevent losses to inflation. The City notes that over the past two contracts the Union has negotiated a cumulative total increase of 18.5% while CPI has risen only 15.6%. The City notes that although it has not yet reached agreement with the police or AFSCME, it has negotiated a 3% increase with its 5 crafts and trades unions. The City argues that these unions are not weak or ineffective in Peoria and they have the right to strike, and for that reason a fair amount of weight should be given to their having agreed to a 3% increase.

The Union points out that the 3.5% increase in the first year of the contract is the same increase as was given to other City employees. The Union argues that at the low end of the salary schedule, Peoria is 8% behind the average of comparables including the small communities which the City included in the average and which tend to depress that average. The Union points out that at the 10 year level Peoria is more than 5% above the average of the City's comparables, but behind Bloomington, Springfield and Rockford. Only two of the comparison communities have 1995 wage settlements. Springfield has settled at 3.5% in '94 and 3.5% in '95 with additional economic gains on other items, and Decatur settled at 3% in '94 and 3% in '95. The Union argues that its wage proposal is reasonable and supported by external comparisons. The Union further argues that the additional .5% is fair in view of the substantial savings that will come to the City through the substitution of fire fighters in place of engineers as the 3rd member of the truck crews.

Although this issue is less divisive and more straight-forward than the other issues in dispute, it is not an easy one to resolve. The arbitrator is of the opinion that inasmuch as the impact of the rank and vacation decisions will fall disproportionately on those in the starting years of service, and inasmuch as the comparisons show that it is at that level that Peoria is behind, this issue should be resolved in favor of the Union as a quid pro quo for concessions required of the Union. The City will save more than the additional cost of the .5% in the two years of this contract. If the second year settlement is high compared to other city employees or the CPI, this is an up-front increase (unlike structural or hidden costs) and the City can seek to adjust for the difference in the next round of negotiations.

NOTE

Because of scheduling difficulties and the length of pendency of these proceedings it was agreed that the vacation scheduling as provided herein and the conversion of one personal day to a Kelly Day which had been previously agreed will both be implemented in the second year of the contract in 1995.

AWARD

1. General Wage Increase: The Union's Final Offer is Adopted.

Thomas Unruh (concurring)
James Murphy (dissenting)

2. Vacations of 24 hour shift employees: The City's Final Offer is Adopted with the clarification as to Kelly Days..

James Murphy (concurring)
Thomas Unruh (dissenting)

3. Staffing: This is found to be two Issues.

As to Rank, the City's Final Offer is adopted with the clarification as to what is meant by attrition.

James Murphy (concurring)
Thomas Unruh (dissenting)

4. Staffing: As to Variable Crew Size, the Union's Final Offer is Adopted with the clarification as to current status of rescue 2 as a "jump crew."

Thomas Unruh (concurring)
James Murphy (dissenting)

Note: Dissent signifies disagreement with the award, not with added clarification, if any.

This Decision and Award is Entered this 2nd day of June, 1994.

Barbara W. Doering
Barbara W. Doering, Chairman

James Murphy
James Murphy, City Arbitrator

Tom Unruh
Tom Unruh, Union Arbitrator