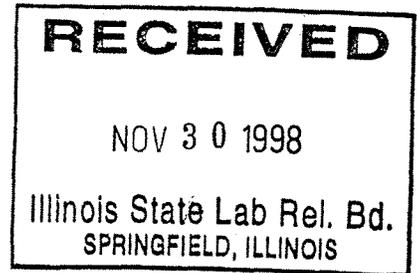


ILRB
#176

Before
PETER R. MEYERS
Arbitrator



ILLINOIS STATE LABOR RELATIONS BOARD
INTEREST ARBITRATION

<p>CITY OF RUSHVILLE, ILLINOIS</p> <p>Employer,</p> <p>and</p> <p>ILLINOIS FRATERNAL ORDER OF POLICE LABOR COUNCIL,</p> <p>Union.</p>

Case No. S-MA-97-147

DECISION AND AWARD

Appearances for the Employer

David Hibben -- Attorney
Rendi Mann-Stadt -- Attorney (Observer)
Dennis R. York -- Mayor
Scott Butler - City Attorney

Appearances for the Union

Becky J. Dragoo -- Legal Assistant
Gerry Lieb -- Field Representative
Jeff Albers -- Police Officer
Rocky Root -- Police Officer

This matter came to be heard before Arbitrator Peter R. Meyers on the 11th day of May, 1998, in Rushville, Schuyler County, Illinois. Mr. Hibben presented for the Employer; Ms. Dragoo presented for the Union.

07-11
07-14

Introduction

The parties in this matter are the City of Rushville, Illinois (hereinafter "the Employer"), and the Illinois Fraternal Order of Police Labor Council (hereinafter "the Union"). Their most recent collective bargaining agreement expired on April 30, 1997. The parties have engaged in extensive collective bargaining negotiations in an effort to develop a new agreement, but they were unable to successfully resolve certain of the issues raised during negotiations.

Pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315/1 *et seq.*, this interest arbitration matter came to be heard before Neutral Arbitrator Peter R. Meyers on May 11, 1998, in Rushville, Illinois. The parties subsequently submitted written, post-hearing briefs in support of their respective positions on the issues that remain in dispute between them.

Relevant Statutory Provisions

ILLINOIS PUBLIC LABOR RELATIONS ACT 5 ILCS 315/1 *et seq.*

Section 14(h) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and 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) Comparisons 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.

Impasse Issues in Dispute

Prior to the hearing in this matter, the parties stipulated that the following issues remain in dispute, that each is an economic issue, and that these issues may be submitted for resolution by the Arbitrator:

a.) The maximum amount the Employer will reimburse employees for the repair and/or replacement of damaged personal property;

b.) Whether sick leave days may be credited for purposes of retirement benefits;

- c.) The number of personal leave days employees will receive;
- d.) The amount of holiday pay employees will receive;
- e.) Whether employees will receive longevity pay, and if so, the amount to be received;
- f.) The wage increases to be received by employees each year of the successor agreement; i.e. May 1, 1997, May 1, 1998, and May 1, 1999;
- g.) The language of the agreement governing vacation accrual; and
- h.) The language of the agreement governing return to the bargaining unit.

Discussion and Decision

Before turning to a substantive discussion of the remaining unresolved issues, it must be noted that the parties have reached tentative agreements as to certain of the above-described issues. These tentative agreements will be treated in the issue-by-issue discussion that follows.

As for those of the above-described issues that remain unresolved, this Arbitrator has carefully reviewed the parties' final proposals as to these issues, as well as their submissions in support of their respective positions. The statutory provision quoted above, Section 14(h) of the Illinois Public Labor Relations Act, 5 ILCS 315/14(h), sets forth the various criteria for evaluating final proposals in proceedings such as this one. As recognized on the face of this statutory provision itself, not all of the listed factors will apply to a particular proceeding. In this particular case, for example, both parties have emphasized that the financial ability of the Employer to pay is not an issue.

Several of the listed factors, however, are applicable to this matter. In a case involving public safety officers, such as the police officers here, the interests and welfare of the public will certainly be relevant. Moreover, as both parties have recognized, relevant comparisons of wages, hours, and conditions of employment of the Rushville police officers with those of employees who provide similar services, as well as other employees, in comparable communities is extremely important in this case.

The Employer has defined the public interest and welfare in rather narrow terms, focusing on its interest in being as frugal as possible with tax monies. Although frugality is an important public interest, that is by no means the public's only interest in this matter. Among other things, the population of the City of Rushville has a very great interest in attracting and retaining qualified people to serve on its police force, for the sake of its safety and security, and this may mean that the Employer has to spend additional tax monies in order to satisfy this aspect of the public's interest and welfare.

As for the identification of appropriate comparable communities, the Union is correct in its assertion that those communities in which police officers are not covered by a collective bargaining agreement do not provide a valid basis of comparison. For purposes of resolving the collective bargaining disputes at issue between the parties, it is absolutely essential that any comparisons be made to communities whose police forces also are covered by collective bargaining agreements. As an example, the parties have been unable to resolve the issue of a chief's returning to the bargaining unit; a comparison on this issue with communities that do not have collective bargaining agreements, and thus no

recognized bargaining units, would be pointless. The absence of a collective bargaining agreement is such an obvious and fundamental difference that any attempt to compare the City of Rushville to such communities would be meaningless; these communities therefore must be removed from consideration as possible comparisons.

The police officers in many of the communities listed among the Employer's proposed comparable communities are not covered by collective bargaining agreements. These communities in the Employer's list -- Bushnell, Carthage, Hamilton, Lewistown, Mason City, Mt. Sterling, and Virginia -- simply cannot be considered comparable communities in this proceeding. The remaining communities on the Employer's list, Havana and Pittsfield, also appear on the Union's list; the Union further offers Beardstown, Carlinville, Carrolton, Girard, and Staunton.

The Employer's criticizes the Union's list of comparable communities by asserting that all but one exceed Rushville's population and all but two are more than fifty miles from Rushville. As for the geographic proximity to Rushville, the Union has pointed out that in the down-state region of Illinois, it will not necessarily be possible to find comparable communities within a small geographic radius. This certainly is true. Moreover, none of the communities listed by the Union is so distant from Rushville that a comparison would be invalid.

As for population differences between the proposed comparable communities and the City of Rushville, the communities cited by the Union do have populations that fall within a small range, but this range of populations approximates Rushville's population.

On a practical level, it would be difficult, and perhaps impossible, to find a list of comparable communities with populations that are nearly identical to that of Rushville. Population, of course, is not the only factor that makes two communities comparable. The overall demographic data of the Union's list of comparable communities establishes that these communities are, in fact, comparable to Rushville. The seven communities listed by the Union, including two also named by the Employer, therefore provides the list of comparable communities that shall be used in analyzing the issues remaining in dispute between the parties.

The following is an analysis of each of these disputed issues in turn, in light of the applicable statutory factors.

A. Reimbursement for Repair/Replacement of Damaged Personal Property

Prior to the hearing in this matter, the parties reached a tentative agreement on this issue. That tentative agreement, set forth in the Appendix hereto, hereby is incorporated by reference into this Decision and Award.

B. Sick Leave Credits for Retirement Benefits

Prior to the hearing in this matter, the parties also reached a tentative agreement on this issue. That tentative agreement, set forth in the Appendix hereto, hereby is incorporated by reference into this Decision and Award.

C. Personal Leave Days

The Union's final offer with respect to personal leave days is to increase their number from 2 to 3.

The Employer's final offer is to maintain the status quo with no increase from 2 personal leave days.

The data from the comparable communities is virtually split on the issue of personal leave days. Three of the seven communities allow three personal leave days, three allow for two personal leave days, while the seventh offers one day. The Union argues, however, that Rushville offers fewer holidays than most of these comparable communities, and asserts that by increasing the number of personal days, rather than the number of holidays, each member of the bargaining unit will gain the benefit. Broadening the area of comparison in this fashion is necessary in connection with this particular issue because analysis of the comparable communities does not yield a clear indication as to the proper resolution of this disputed issue. Broadening the area of comparison, however, reveals that increasing the number of personal days from two to three will bring Rushville more into line with the comparable communities because Rushville currently offers its police officers fewer holidays than the comparable communities offer their own police officers.

This Arbitrator finds that the Union has presented sufficient evidence to support its proposal of increasing the number of personal days from two to three; the Union's final proposal on this issue therefore is adopted, and it is set forth in the Appendix hereto.

D. Holiday Pay

The parties reached a tentative agreement as to this issue prior to the hearing in this matter. That tentative agreement, set forth in the Appendix hereto, hereby is incorporated by reference into this Decision and Award.

E. Longevity Pay

The Union's final offer on the issue of longevity pay is to amend the contractual wage scale, effective May 1, 1997, to reflect \$100.00 longevity increases for each year of completed service starting with an "after 2 year step" through an "after 20 year" step. The Union further seeks to have this longevity pay be retroactive to May 1st of each year on all hours paid.

The Employer's final offer is that there be no longevity pay, maintaining the status quo.

The longevity pay issue and the question of the wage increase, discussed in the following section, represent the true heart of the parties' dispute. As discussed above, the Employer's ability to pay is not the issue; the Employer expressly has stated that its arguments are based on an unwillingness to pay, not an inability to pay. Four of the seven comparable communities have some form of formal longevity pay plan that compensates employees based upon their seniority; one of the three remaining communities pays its employees based upon their seniority, although it does not have a formal longevity pay system in place.

The question of whether longevity pay is appropriate is most helpfully assessed, however, in light of a comparison of the average pay level at various points in a police officer's career in Rushville and in the comparable communities. This comparison leaves no doubt that the longer a police officer is employed in Rushville, the farther behind that officer's wages fall when compared to police officers with similar seniority in the

comparable communities.

The proposed longevity pay, essentially a "step" pay plan, is an appropriate means of addressing this startling inequity. Across-the-board wage increases typically are only one part of an overall compensation package. In light of the comparison data and the realities of the pay system currently in place for Rushville's police officers, these officers will not be able to close the seniority-based pay gap separating them from their colleagues in the comparable communities under Rushville's current pay system. That system should be changed to incorporate a step plan that recognizes the increased value to Rushville and its citizens of more senior, experienced police officers. In order for Rushville's police officers to be compensated on a par with police officers in comparable communities, some form of pay plan that includes steps tied to seniority is necessary. The status quo favored by the Employer does nothing to address this problem, while the Union's longevity pay proposal offers a fair and equitable means of structuring Rushville's pay plan while bringing the pay of its more senior police officers into line with their colleagues elsewhere.

This Arbitrator accordingly finds that the Union has presented sufficient evidence to support its final proposal to amend the contractual wage scale, effective May 1, 1997, to reflect \$100.00 longevity increases for each year of completed service starting with an "after 2 year step" through an "after 20 year" step, and that this longevity pay be retroactive to May 1st of each year on all hours paid. The Union's final proposal on this issue therefore is adopted, and it is set forth in the Appendix hereto.

F. Wage Increase

The Union's final offer on this issue is a 3% increase to the one year or "base" step effective May 1, 1997; a 3% increase to the one year or "base" step effective May 1, 1998; and a 3% increase to the one year or "base" step effective May 1, 1999. The Union further seeks to have these wage increases be retroactive to May 1st of each year on all hours paid.

The Employer's final offer on this issue is an increase of \$.30 per hour effective May 1, 1997; an increase of \$.30 per hour effective May 1, 1998; and an increase of \$.30 per hour effective May 1, 1999.

As discussed above, a comparison of Rushville's pay scale with the pay scales of the comparable communities demonstrates that the pay of Rushville's police officers has fallen behind the pay level in these other communities. The longevity pay plan proposed by the Union, and adopted herein, does serve to address this inequity, but does not erase it. If the Employer's proposed wage increase is adopted, Rushville's police officers will remain underpaid when compared with the police officers in the comparable communities. Even worse, the financial data demonstrates that under the Employer's proposal, the wages paid to Rushville's police force actually will fall further behind the wages paid to police in the comparable communities. Because the Employer proposes a flat thirty-cent annual wage increase during the life of the new collective bargaining agreement, the actual percentage increase will decline each year.

It must be noted that analysis of the wage data shows that even under the Union's final wage proposal, the pay of Rushville's police officers will remain below that of the

average police officer pay in the comparable communities. The Union's proposal, however, will bring Rushville's police officers a little closer to their colleagues; at least they no longer will be losing ground in connection with the pay earned by police officers in the comparable communities.

This Arbitrator therefore finds that the Union has presented sufficient evidence to support its proposal that there be a 3% increase to the one year, or "base" step, wage effective May 1, 1997; a 3% increase to the one year, or "base" step, wage effective May 1, 1998; and a 3% increase to the one year, or "base" step, wage effective May 1, 1999. These wage increases, moreover, shall be retroactive to May 1st of each year on all hours paid. The Union's final proposal on this issue therefore is adopted, and it is set forth in the Appendix hereto.

G. Vacation Accrual

At the hearing, the parties informed the Arbitrator that they had reached a "meeting of the minds" as to the concept of vacation accrual, but they needed more time to draft language consistent with their agreement. This Arbitrator therefore retains jurisdiction over the parties and this issue for a period of thirty days in the event that the parties are unable to draft mutually acceptable language.

H. Return to the Bargaining Unit

The Union's final proposal as to this issue is that a bargaining unit member who is appointed to an exempt position shall be able to return to the bargaining unit if he/she is removed from or leaves the exempt position.

The Employer's final proposal is to maintain the status quo with no provision for any such return to the bargaining unit.

The Union has explained the rationale behind its proposal by indicating that it is seeking to protect employees who are appointed to positions outside of the bargaining unit, then subsequently terminated because of, for example, political changes within the City of Rushville's administration. Apparently, it is not unusual for experienced Rushville police officers to be appointed to positions such as Chief of Police when new officials are elected within the City. The Union contends that allowing such employees the opportunity to return to the bargaining unit upon expiration of their appointed term would protect the integrity of the bargaining unit.

The Employer's opposition to this proposal is based on the fact that none of the comparable communities appear to have such a provision in their collective bargaining agreements. The Union, in fact, has not referred to the comparable communities in making its arguments in support of this proposal. The record, however, does not contain any data or other evidence that suggests that these other communities typically appoint bargaining unit members to exempt positions such as police chief, while the record indicates that this is a somewhat common practice in Rushville. The rationale that the Union offers in support of this proposal, a means of protecting those employees who are appointed to and then removed from exempt positions for political reasons, is a sound one.

Based on these considerations, this Arbitrator finds that the Union has presented sufficient support for its proposal that a bargaining unit member who is appointed to an

exempt position shall return to the bargaining unit if he/she is removed from the exempt position. The Union's final proposal on this issue therefore is adopted, and it is set forth in the Appendix hereto.

Conclusion

After a full consideration of the arguments of the parties and the evidence presented by both sides, this Arbitrator has determined that the language set forth in the Appendix hereto shall be incorporated into the parties' collective bargaining agreement, which shall remain in effect for three years from the effective date of the contract.



PETER R. MEYERS
Neutral Arbitrator

Dated this 8th day of September, 1998,
at Chicago, Illinois.

APPENDIX

(To Interest Arbitration Decision and Award)

As set forth in the Decision and Award dated September 8th, 1998, in the matter of the Interest Arbitration between the City of Rushville, Illinois, and the Illinois Fraternal Order of Police Labor Council, this Appendix to said Decision and Award sets forth the provisions that shall be incorporated into the collective bargaining agreement between the City of Rushville, Illinois, and the Illinois Fraternal Order of Police Labor Council, which shall be effective from May 1, 1997, through April 30, 2000.

ARTICLE 20 CLOTHING ALLOWANCE

Section 3. Personal Property/Equipment

The Employer agrees to repair or replace as necessary an employee's eyeglasses (up to a value of \$450.00), contact lenses, prescription sunglasses, and watches (up to a value of \$250.00) or other items of personal equipment, if such are damaged or broken during the course of the employee's duties. The incident shall be documented with the Chief of Police. Any restitution ordered by the court or paid by insurance shall be returned to the City covering the amount of City reimbursement only.

ARTICLE 21 LEAVES OF ABSENCE

Section 1. Sick Leave

Full-time employees, after six (6) months employment, will receive full pay during absence from work due to sickness, at the following rate:

Effective 5/1/94 of Agreement - 1 day/month for the first 8 months

Effective 5/1/95 of Agreement - 1 day/month for the first 9 months

If an employee uses no sick days, accumulated sick leave is limited to forty-five (45) days. Officers who reach the forty-five day cap for accumulation of sick leave, shall continue to accrue sick leave according to IMRF rules governing unused unpaid sick days credited towards retirement. Time credited in this manner shall be for retirement purposes only and may not be utilized upon deleting accumulated sick leave. In the event the employee continues to be absent from work after the expiration of the time to which he is entitled,

his allowance for sick pay will cease. The City Clerk will maintain a record of sick days used during the calendar year. Continued disability pay allowance from Illinois Municipal Retirement Fund would be available following thirty (30) day sick leave payments. IMRF rules would prevail in this case.

...

Section 9. Personal Days

As of May 1 of each calendar year, full-time employees are granted three (3) days off with pay during that year for personal business. Personal leave must be used in increments of not less than one-half (1/2) day. Such personal days shall not be taken as any part of vacation time, and no more than one (1) employee shall be off at the same time on a personal day. Unused personal days cannot be carried over to the following calendar year and are lost upon termination of employment. No monetary compensation is allowed in lieu of accumulated personal leave days. All requests for Personal Leave are subject to prior approval of the Chief, which shall be granted unless it would disrupt previously scheduled work or there exists a bona-fide emergency.

ARTICLE 22 VACATIONS

Section 1. Vacation Accrual

Employees covered by this Agreement shall accrue vacation according to the following schedule:

After 1 year of employment	40 hours
After 2 years	96 hours
After 9 years	136 hours
After 17 years	176 hours

An employee covered by this Agreement may carry over up to 40 hours of his accumulated vacation leave in a given year. Vacation time is to be taken during the year following the year in which it is earned (using a May 1 to May 1 fiscal year). Any vacation that remains unused at the end of the fiscal year in excess of 40 hours is forfeited by the Employee.

Vacation accrual may not be cashed. Upon separation an employee will then be paid for all vacation that was earned during the year of separation by the employee provided the employee has completed one full year of employment.

**ARTICLE 23
HOLIDAYS**

Section 1. Holidays

The following holidays shall be paid holidays for employees covered by the terms of this Agreement:

New Year's Day	Veteran's Day
Martin Luther King Day	Thanksgiving Day
Good Friday	Day after Thanksgiving
Memorial Day	Christmas Eve (1/2 day)
Independence Day	Christmas Day
Labor Day	Officer's Birthday

Section 2. Payment for Holidays

Employees covered by this Agreement shall receive the sum of one thousand, one hundred dollars (\$1,100.00) in two equal payments on May 1 and November 1 of each year of this Agreement commencing on May 1, 1997, for the holidays as enumerated in Section 1 of this Article, said payment to be in lieu of all other holiday pay.

If any employee terminates his employment with the City (with the exception of non-voluntary termination, retirement, medical disability and death) and has received holiday pay in accordance with this section that has not yet been earned (earned will be considered the actual date of the holidays as enumerated in Section 1 of this Article), the Employer may deduct the unearned time from the final pay check of the employee based on the following proration: one thousand, one hundred dollars (\$1,100.00) divided by eleven and one-half (11 1/2) holidays.

**ARTICLE __
RETURN TO BARGAINING UNIT**

Any current member of the Rushville Police Department who:

- (a) has served in a position that would fall within the scope of the bargaining unit;
or
- (b) any member who is appointed to an exempt position outside the scope of the bargaining unit;

shall return to a bargaining unit position if he/she is removed from the exempt position.

APPENDIX A
[to collective bargaining agreement]
WAGE SCHEDULE

Current Salary

<u>YEARS/SERVICE</u>	<u>HOURLY</u>
START	\$8.17
AFTER 6 MOS.	\$8.41
AFTER 1 YEAR	\$9.18

Effective 10/1/94

<u>YEARS/SERVICE</u>	<u>HOURLY</u>
START	\$8.67
AFTER 6 MOS.	\$8.91
AFTER 1 YEAR	\$9.68

Effective 5/1/96

<u>YEARS/SERVICE</u>	<u>HOURLY</u>
START	\$8.97
AFTER 6 MOS.	\$9.21
AFTER 1 YEAR	\$9.98

Effective May 1, 1997: 3% increase to the "base" or "after 1 year" step

Effective May 1, 1998: 3% increase to the "base" or "after 1 year" step

Effective May 1, 1999: 3% increase to the "base" or "after 1 year" step

The above increases shall be paid retroactively effective to May 1st of each respective year on all hours paid.

Effective May 1, 1997, each employee will receive longevity increases in the amount of \$100.00 for each year of completed service starting with the completion of the second year of service and continuing through the completion of the twentieth year of service.