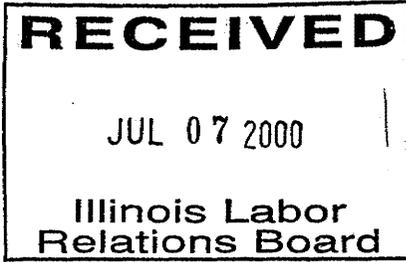


**ILRB**  
**#213**



**IN THE MATTER OF ARBITRATION** )

**Between** )

**CITY OF BELLEVILLE, ILLINOIS,** )

**and** )

**BELLEVILLE FIREFIGHTERS ASSOCIATION,** )  
**IAFF LOCAL No. 53.** )

**Marvin F. Hill, Jr.**  
**Arbitrator**

**S-MA-99-193 (2000)**

**APPEARANCES**

*For the Administration:*

Karl R. Ottosen, Ottosen Trevarthen Britz & Kelly, Ltd.,  
300 South County Farm Road, Third Floor, Wheaton, IL  
60187.

*For the Firefighters:*

Ronald McDonald, Southern District Vice President,  
Associated Firefighters of Illinois, 509 Garesche,  
Collinsville, Illinois, 62234.

**I. BACKGROUND, FACTS, AND STATEMENT OF JURISDICTION**

In a prior proceeding the City proposed that the Firefighters work a traditional 24 on / 48 off shift and work 2,555 hours per year. The bargaining unit rejected the City's offer in favor of the *status quo* schedule. In an award dated March 19, 2000, the undersigned Arbitrator selected the Union's position for inclusion in the successor collective bargaining agreement. At the same time, the Employer's bench-marks were selected as more appropriate relative to the Union's cities. A subsequent hearing was held on April 3, 2000, in Belleville, Illinois to take evidence on the remaining issues for resolution. Post-hearing briefs were filed with the undersigned Arbitrator on April 24, 2000. The record was closed on that date.

## **II. ISSUES FOR RESOLUTION**

The following issues remain unresolved:

Wages, Longevity, Mutual Aid, and Vacation Holiday.

## **III. POSITION OF THE ADMINISTRATION**

The City submits the following in its post hearing brief regarding the issues of wages, longevity bump, mutual aid, and vacation scheduling.

### **A. Wages**

The City proposes across-the-board wage increases of 2.0, 2.0, and 2.5 percent effective each May 1 of the three-year contract. These rates are equal to those negotiated with the Fraternal Order of Police (FOP) (telecommunicator's unit), which has the same term as the firefighters' contract. Also, the FOP unit has been offered the same increases as the City's last offer prior to arbitration. Indeed, the City's non-Union employees had their wages frozen last fiscal year (1998-99) and received only a 1.5% increase for 1999-00 which is the first year of the proposed contract. While the Union seeks to use other City bargaining units' 1999-2000 wage increases to justify a larger increase, all but the library workers (2.0%) and telecommunicators (2.0%) contracts are terminating this month or have already terminated and are in negotiations. The City's bargaining position for all these negotiations is a consistent 2.0, 2.0, 2.5% wage package. Thus, the internal comparables strongly favor the City's position.

An examination of the comparable communities conclusively demonstrates that the City's Firefighters work the fewest hours, respond to the least number of emergency calls, perform no emergency medical services (EMS), yet are paid at least \$4.00 per hour more than the average. Engineers similarly receive from \$2.68 (5<sup>th</sup> year) to \$5.18 (21<sup>st</sup> year) per hour more than their counterparts in comparable communities in the first year of the contract. Captains will receive from \$2.76 (5<sup>th</sup> year) to \$4.33 (21<sup>st</sup> year) per hour more than the average of the comparables.

The Union's proposal simply is out of line and excessive given the above. When factoring in the disparity in the CPI from 1994 to present in comparison to the wage increases received over that same time period, the Union's proposal is clearly unwarranted. The City's proposal will ensure the employees easily retain their number one rankings when comparing both hourly rate and hours worked.

### **B. Longevity Bump**

The singular purpose of the Union's proposal is to add \$8,736 to the retiring employees' salaries for pension purposes in light of the recent court decision finding the previous contract provisions illegal. There is nothing in the Pension Code or the regulations which permit a one-time 45 day longevity bump or spike to count as salary attached to rank. The Union's proposal in fact recognizes that this is not the regular pay rate for the employee's rank.

According to the Administration, what the Union proposes is unlawful and is not subject to the IPLRA's Section 14 arbitration provisions.

As the proponent for such a proposal, the Union has the burden of proving:  
the proposal is a mandatory topic;  
it is a lawful proposal;  
that the employees are entitled to this extraordinary benefit which no comparable community provides;  
that it is an appropriate benefit based upon the total compensation package received by the unit compared to the comparable communities; and  
it is appropriate to award such an increase for pension purposes in light of the General Assembly's recent enactment of Senate Bill 856 which enhanced firefighters' pensions so they reach their maximum 75% pension rate after 30 instead of 35 years of service.

The Pension Code does not permit pay in lieu of leave to be considered part of salary. The Union's proposal specifically includes the relinquishment of the employee's last year's vacation leave in exchange for the short-term salary boost. A short term spike in pay followed by a reduction to the actual pay rate is not the employee's salary attached to their rank. Given the stated purpose of the proposal, to enhance pensions by putting in the contract what the court has struck down (See Exhibit 3 attached hereto) plus the facts that no comparable community has this benefit and the recent state-wide pension enhancement grants a 75% pension after 30 years, the Union's proposal fails in all respects. Only through legislative change will the proposed pension enhancement via a short-term longevity bump be lawful. Therefore, the City has no similar proposal and will not enter into any contract which includes such a clause.

### C. Mutual Aid

The City points out that it is a statutory management right to determine the level of services to be offered and to establish inter-governmental cooperative ventures. Within the City limits are two fire stations owned and operated by fire protection districts. While there are few fire calls requiring off duty personnel to be recalled, when necessary, the City should be able to exercise its rights to determine the type of response needed. Many times only a few additional firefighters are needed. With the Union's proposal, all off duty personnel must be recalled to work if the City calls upon mutual aid. This time consuming recall process jeopardizes public safety for the sake of keeping overtime pay for the unit.

The territorial position of the Union is contrary to the recognized national trend of regional cooperation. Throughout the State of Illinois fire departments regularly engage in joint training exercises to ensure mutual aid will be provided effectively and efficiently.

The City's proposal is not made in order to eliminate overtime. Bargaining unit members will continue to be recalled, but the City must be able to determine the level of response needed and to call in mutual or automatic aid as it deems appropriate.

#### D. Vacation Scheduling

This issue involves two contract provisions, Section 15.2 and Article X. The parties have tentatively agreed to all but subsection 15.2.C, which the City proposes to delete. No comparable community provides a vacation holiday to shift employees. Even if the Arbitrator were to continue this practice, the employees should not be allowed to schedule or use their vacation holidays in any manner which causes overtime to the City. Thus, the City proposes to modify Article X to eliminate the reference to Section 15.2.C, or at least eliminate overtime possibilities for using vacation holidays.

#### E. Conclusion

Throughout this lengthy negotiation process, the City's positions have had common threads. The City has attempted to challenge the status quo in an effort to bring about a more progressive and modern mindset to the Department. A safer, more effective, efficient and productive workforce which is willing to look to the future rather than blindly cling to the past is one goal. While the City could not persuade the employees or the Arbitrator that an alternate work schedule was in everyone's benefit, it cannot be seriously argued that the City's remaining proposals are in any manner inappropriate.

The Department should embrace rather than push away mutual emergency response. Further, the City's wage proposal is more appropriate than the Union's in light of the issues discussed above and the City's recent fiscal belt tightening. Finally, the Union's longevity proposal should not be included just to have the matter be pursued before the pension board or the courts. With due respect to the prior agreement and the previous grievance arbitration, the proposal is not a mandatory topic of bargaining; it is an illegal subject.

Wherefore, the City requests the Arbitrator order the incorporation of its proposals on wages, mutual aid and vacation scheduling and reject the Union's longevity proposal as an unlawful pension enhancement.

### **IV. POSITION OF THE BELLEVILLE FIREFIGHTERS**

The position of the Firefighters, as outlined in its post-hearing brief, is summarized as follows:

#### A. Wages

The Union proposal is for 3.5% increase in wages on 5/1/99, 5/1/00 and 5/1/01. The City's proposal is for wages to be increased by 2% for each of three years for employees hired before 5/1/99 and no increase for those hired after 5/1/99.

The City's proposal, according to the Union, will start a two-tiered pay system, as only employee's hired before 5/1/99 will receive the increase under the City proposal. The Union has shown by its exhibits (Union Exhibits, Volume II, tab 9) that the average of all comparables that have received wage increases for the years 1999, 2000 and 2001 is 3.5%. Further, the Union Exhibit (Volume II, tab 4,5,6) on total compensation shows that the Belleville Firefighters are below average in total compensation. This exhibit is based on 1999 wages with one exception: East St. Louis' wages are for the year 1998.

The Union Exhibit (tab 7) shows wages and the effect of the City's and Union's proposals over the life of the contract compared to other cities without total compensation. The City's proposal will move the Union from 1.95% above the average to 2% below the average. The Union's proposal will maintain the current average. The Union asserts that the key point to consider is that the salary comparison in Exhibit (tab 7) is Belleville wages compared to the other cities, some of which also receive extra pay for holidays, clothing allowance, etc.

#### B. Longevity

The Union proposes to move language that was agreed to in the Letter of Understanding dated April 29, 1996, into the successor contract. According to the Union, the City has refused to bargain over the issue or any replacement of the language even though the contract has a savings clause (City tab 51, section 22.2). The City claims the language is illegal, but introduces longevity language from several contracts into evidence. The first Exhibit (City tab 62) shows longevity from Alton's contract which has a similar provision that allows firefighters to receive on their anniversary an additional 15% in longevity, in addition to the 14% longevity listed in the exhibit. The City also claims this will spark another grievance, while the Union maintains it cannot file a grievance against rulings of the pension board because it is a stand-alone entity. This clause in the contract was proposed by the City and the City has refused to abide by its agreement with the Firefighters, all the while allowing the Fire Chief of the Department to receive the pay on his check (Union Exhibit, Volume II, tab 10) and even collect pension on it. There is nothing in the language which provides that the pension be based on that amount. The argument the City makes concerning whether a clause is pensionable or not should be made to the pension board, not to an arbitrator.

#### C. Mutual Aid Article 4.4

Addressing management's proposal, the Union argues this clause is a safety concern to the Firefighters as to who is knowledgeable on the interior of buildings and rescue capabilities. There is nothing in the Article to prevent the City from entering into mutual aid agreements with other cities. And, in fact, the City already has mutual aid agreements in place, according to Chief's testimony (1st Trans. pg. 46, l. 20-24):

Question: "What type of mutual aid does the Department participate in?"

Answer: "We have mutual aid with the surrounding districts that -- We annexed their property into it. We do a coverage with them."

Under this article the City does not need to call in off-duty firefighters if specialized equipment is needed.

According to the Union, this Article was agreed to (TAed) by the City on April 9, 1999, (Union tab 2, pg. 7, item 9) with only the title changed. Reference to the change is documented (Union tab 7, item 9). This refers to the City offer on March 31, 1999 and can be found in Union Exhibit (tab 6, pg. 2, Section 4.4). In this hearing the City is trying to back out of a TA and change the wording of the provision.

#### D. Vacation Holiday

Currently the Firefighters' contract contains a clause on vacation holidays as:

#### Section 15.2

C. If an employee is on vacation when a holiday occurs, said employee shall receive an additional day's vacation to be taken when the employee desires. Each employee may carry over one (1) vacation holiday to the next fiscal year subject to the approval of the Chief, with said approval not being unreasonably withheld.

The Firefighters must work all holidays and do not receive any pay for holidays or time off other than those that work on Christmas and Christmas Eve (who receive one day off) and those on vacation over a holiday as per this section 15.2 - C.

The Union points out that Belleville Police contract calls for 80 hours of time off each year for holidays (Union tab G, Section 15.02). Additionally, the Belleville Police receive eight (8) hours of overtime for each holiday worked (Union tab G, Section 15.04). The Firefighters' current language on holidays is more cost-efficient to the City than the Police contract, as Firefighters receive no pay for holidays, and only under these two conditions do the Firefighters receive any time off as compensation for working holidays.

The City is proposing to delete the extra day's vacation and is not offering any quid pro quo. The City simply wants to eliminate this provision.

\* \* \*

For the above reasons the Union requests that its proposals be accepted.

## V. DISCUSSION

### A. Statutory Criteria

The parties agree that the arbitration panel is directed by Section 14 of the IPLRA (5 ILCS 315/14(h)) to decide each of the disputed issues in accordance with the following criteria:

(g) . . . 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).

(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) 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.

Because Section 14 of the IPLRA provides that the decision be based on the factors only "as applicable," some of the factors enumerated in the statute may not be relevant or controlling. Further, under the IPLRA, other factors not enumerated may be relevant to the disposition of the case.

#### **B. Comparable Bench-Mark Cities**

In a prior proceeding that Administration's position was selected. Specifically, the most appropriate comparable communities were determined to be: Alton, Carbondale, Danville, Galesburg, Granite City, Pekin, Quincy, and Urbana.

#### **C. Analysis: Unresolved Issues**

##### **1. Wages**

The Union's wage proposal is awarded.

A study of the annual percent salary increases for 1999, 2000, and 2001 (Union Exhibits, V.II, tab 9), indicates an average percent increase of 3.82% (median of 3.5%) for 1999, 3.50% (3.5%) for 2000, and 3.5% (3.50%) for 2001. The City's proposal places the unit at -47.66%, -42.86%, and -28.57% from the average. The Union's proposal places the bargaining unit at -8.41% from the average for 1999, and 0.0% from the average for 2000 and 2001. Clearly, percentage increases for comparable bench mark jurisdictions favor the Firefighters, even when the Employer's

bench-marks (Alton, Carbondale, Danville, Galesburg, Granite City, Pekin, Quincy, and Urbana) are used.

While it is true that a close examination of the comparable communities demonstrates the City's Firefighters work the fewest hours, respond to the least number of emergency calls, perform no emergency medical services (EMS), and are paid at least \$4.00 per hour more than the average, the City's proposal of just 2.0% and 2.5% for the relevant time period is well below the going rate. Indeed, the internal analysis (V.II, tab 8) supports the Union's proposal. The average 1999-2000 settlement is 3.13%, with a median increase of 3.5%. Clerical Employees, Drivers & Helpers, Laborers, Operating Engineers, Parking Officers, and Service Employees all have 1999-2000 increases at 3.5%. The Police Unit has not yet settled. The Union advances the better case on the wage issue.

## **2. Longevity Bump**

The Union proposes to move language that was agreed to in the Letter of Understanding, dated April 29, 1996, into the successor collective bargaining agreement.

The Employer's proposal is adopted.

The longevity provision, as proposed by the Union, is the result of a tortured past. See, *City of Belleville, Illinois & IAFF Local 53* (Hill, 1998)(holding the Letter of Understanding valid), *rev'd*, *City of Belleville & IAFF No. 53*, Case No. 98-MR-287 (April 18, 2000)(Young). While I am not prepared to conclude that the Union's proposal is unlawful, I agree with management regarding the effect of the proposal. As outlined by management, "the Union's proposal specifically includes the relinquishment of the employee's last year's vacation leave in exchange for the short-term salary boost." (*Brief for the Employer* at 3). I also find it significant that no comparable community has this particular benefit. The Administration clearly makes the better case regarding the Union's longevity proposal.

## **3. Mutual Aid**

Management requests that Section 4.4, Mutual Aid, be revised to read:

The City reserves its management rights to enter into any mutual or automatic aid agreement it deems appropriate. In the event of an emergency which requires resources beyond those of the on-duty personnel, off-duty personnel or mutual or automatic aid or any combination thereof, may be called. All Mutual Aid Incidents within the corporate city limits of Belleville will follow the Incident Command System. (City Ex. 53, V.III).

I agree with management that its proposal is consistent with safety and coverage concerns. The proposal is not made with the intention of eliminating overtime. The Union's proposal may in fact jeopardize public safety if the Administration is required to recall all off-duty Firefighters before it may call upon mutual aid. Management advances the better case.

The City's position is awarded.

#### **4. Vacation Scheduling**

The City's position with respect to Section 15.2.C. is awarded.

Section 15.2.C. reads as follows:

If an employee is on vacation when a holiday occurs, said employee shall receive an additional day's vacation to be taken when the employee desires. Each employee may carry over (1) vacation holiday to the next fiscal year subject to the approval of the Chief, with said approval not being unreasonably withheld.

As noted, the City proposes to modify Article X to eliminate the reference to Section 15.2.C, or at least eliminate overtime possibilities for using vacation holidays. I hold for the Administration on this issue. Article X is to be amended to eliminate the reference to Section 15.2.C.

## **VI. AWARD**

### **1. Wages**

The Union's wage proposal is awarded.

### **2. Longevity Bump**

The Employer's proposal is adopted.

### **3. Mutual Aid**

The City's position is awarded.

### **4. Vacation Scheduling**

The City's position with respect to Article X and Section 15.2.C. is awarded.

Dated this 27th of April, 2000,  
DeKalb, Illinois.

  
\_\_\_\_\_  
Marvin Hill, Jr.,  
Arbitrator