

INTEREST ARBITRATION
OPINION AND AWARD

IN THE MATTER OF INTEREST ARBITRATION

BETWEEN

CITY OF ROCKFORD
("Employer", "City" or "Management")

AND

POLICEMEN'S BENEVOLENT AND PROTECTIVE
ASSOCIATION, UNIT NO. 6
("Union" or "PBPA")

Arb. No. 99/084

(ISLRB Case No. S-MA-99-78)

Hearings Held

December 15, 1999
January 18-20, 2000
February 22-23, 2000

Rockford City Hall
425 East State Street
Rockford, IL 61104

Arbitration Panel

Elliott H. Goldstein
(Neutral Chair)

Sean Smoot
(Union Appointee)

Einar Forsman
(City Appointee)

Appearances

On Behalf of the Union:

Joel A. D'Alba, Esq.
Asher, Gittler, Greenfield
& D'Alba, Ltd.
125 S. Wacker Drive, Suite 1100
Chicago, IL 60606

On Behalf of the City:

Ronald N. Schultz, Esq.
Legal Director
City of Rockford
Department of Law
425 East State Street
Rockford, IL 61104

Table of Contents

	<u>Page</u>
I. BACKGROUND.....	2
II. THE STATUTORY BACKDROP.....	5
III. THE PARTIES' FINAL OFFERS.....	7
A. The Union.....	7
B. The City.....	7
IV. THE ISSUES.....	7
V. DISCUSSION AND FINDINGS ON THE OUTSTANDING ISSUES.....	19
A. Wages.....	19
1. The Final Offers.....	19
2. The Position of the Parties.....	21
3. Findings.....	21
B. Residency.....	23
1. The Proposals.....	23
2. Positions of the Parties.....	25
a. The City.....	25
b. The Union.....	36
3. Findings and Conclusions.....	46
a. General Considerations.....	46
b. The Statutory Criteria.....	51
1. The Public Interest and Welfare.....	51

Table of Contents

	<u>Page</u>
c. Comparability.....	65
1. External Comparability - Comparisons with Other Cities.....	65
2. Private Employment.....	65
3. Police Officers in Other Cities.....	65
d. Internal Comparability.....	72
e. Other Factors.....	76
f. Conclusions on the Residency Offer.....	81
C. Shift Differentials.....	81
1. The Final Offers.....	81
Union's Final Offer.....	81
City's Final Offer.....	81
2. Position of the Parties.....	82
a. The City.....	82
b. The Union.....	86
3. Discussion and Findings.....	90
D. Contract Duration.....	93
1. The Parties' Proposals.....	93
2. The Position of the Parties.....	94
a. The Union.....	94
b. The Employer.....	95
3. Findings and Conclusions.....	95

Table of Contents

	<u>Page</u>
VI. SUMMARY OF AWARDS.....	96
1. Wages.....	96
2. Residency.....	96
3. Shift Differential.....	96
4. Contract's Duration.....	96
5. All tentative agreements contained in Jt. Ex. 3 admitted into the record in these proceedings are incorporated herein and made a part of this Interest Arbitration Award.....	96

I. BACKGROUND

The City of Rockford ("the City", "the Employer", or "Management"), located in Winnebago County, Illinois, has a population of approximately 143,000. The City has approximately 1,151 full-time employees, with those unionized being spread across 5 bargaining units. The Police bargaining unit consists of approximately 270 sworn officers represented by the Policemen's Benevolent and Protective Association, Unit No. 6 ("Union" or "PBPA"). In the Fire Department, approximately 242 employees are represented by the City Firefighters Union, Local 413, International Association of Firefighters. In the Public Works/Clerical unit, there are approximately 251 employees represented by the American Federation of State, County and Municipal Employees ("AFSCME"). The 20-member Community Development bargaining unit is represented by AFSCME, as well, as is the 86-member Library unit.

The last collective bargaining agreement between these parties expired on its face on December 31, 1998. The parties exchanged initial proposals for a new agreement on November 18, 1998. A multitude of tentative agreements for changes in the collective bargaining contract were reached, the record shows, and these are included in Jt. Ex. 3. Additionally, the parties have agreed that all these tentative agreements should be incorporated into and made a part of the Award in this proceeding.

Several additional stipulations of the parties were presented into the record at the start of the evidentiary proceedings in this

matter. One is that the Union requested mediation on or before December 31, 1998 but, as the parties also stipulated, mediation did not result in a settlement of all issues, so the Union brought the matter to interest arbitration. The parties mutually selected Elliott H. Goldstein to serve as Neutral Chair of a Tripartite Arbitration Panel. As noted on the front page of this Opinion and Award, the City appointed Einar Forsman, City Administrator, to serve as its panel representative. The Union appointed Union General Counsel, Sean Smoot, as its panelist.

Furthermore, the parties have stipulated that the Neutral Chair has authority pursuant to Section 14(j) of the Illinois Public Labor Relations Act ("IPLRA"), 5 ILCS 315/14(j) to award wage increases retroactive to January 1, 1999. The parties have specifically stipulated that wage increases ordered by the Panel shall be retroactive to January 1, 1999, as indicated in their respective Final Offers.

The parties further stipulated that the residency issue is non-economic and that the issues of wages, duration and shift differential are economic. After the close of the hearing and prior to the submissions of the Final Offers, the parties made the additional stipulation that each would be able to submit Final Offers for two and three year contracts on the issues in this case.

Finally, the parties have stipulated that the communities determined to be comparable by Arbitrator Steven Briggs in his Opinion and Award of May 15, 1998, involving the City and its Firefighters Union, Local 413, IAFF, should apply to this case.

See PBPA Ex. 47. Arbitrator Briggs accepted nine communities as adequate representatives for external comparisons: Aurora, Bloomington, Champaign, Decatur, DeKalb, Elgin, Joliet, Peoria and Springfield. Table 1 on page 8 of his arbitration award summarizes key demographic and economic information involving each of those communities. This information, as well as the stipulation of the parties, warrants the Panel pursuant to Section 14(h)(2) IPLRA, 5 ILCS 315/14(j) to determine these communities to be comparable for this interest arbitration proceeding, the Neutral Chair rules.

During the hearings both parties were afforded full opportunity to present such evidence and argument as desired, including an examination and cross-examination of all witnesses. A 920-page stenographic transcript of the hearings was made. The transcript reveals that as of the beginning of the final day of hearing on February 23, 2000, the parties agreed that 5 issues remained for arbitration. One issue, involving Article 15.2 Major Incident Employee Rights Procedures, was remanded by the Neutral Chair to the parties for further negotiations. The parties reached a tentative agreement on this issue on May 3, 2000, the record reflects, and further requested that this tentative agreement be included in Jt. Ex. 3 and as part of the Award, and the Neutral Chair instructs that this be done.

Following conclusion over the evidentiary proceedings, four issues were therefore still in dispute, this Neutral notes. These issues were duration of agreement, wages, shift differential, and residency, all of which will be discussed in detail below.

Pursuant to the directives of the Neutral, the parties were instructed to submit Final Offers on these issues within 5 working days of a tentative agreement on Article 15.12. The parties exchanged Final Offers in the offices of the City Legal Department on March 10, 2000. The City submitted Final Offers on the four issues mentioned above. The PBPA submitted Final Offers on what on its face appears to be five issues (excluding Article 15.12). The propriety of the Final Offers of the PBPA and the authority of this Panel to consider the Union's final position on the Union's offer on wages will be dealt with extensively in the section of this Opinion and Award which comes two sections after this discussion of Background, and is entitled "Issues."

Also following conclusion of the proceedings, the parties were afforded the opportunity to submit post-hearing briefs, as well as reply briefs. By consent of the other members of the Panel, the Neutral Chair was authorized to draft a preliminary written decision, subject to its review by the other Panel members and then, if desired, full consultation in executive session. The issues in this case are accordingly ripe for resolution.

II. THE STATUTORY BACKDROP

In rendering this Award, the Arbitration Panel has given full consideration to all reliable information relevant to the issues and to criteria specified in Section 14(h) of the IPLRA, which provides:

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 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 interest 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.

As the Panel understands it, the IPLRA does not require that all factors be addressed, but only those which are "applicable". Moreover, this statute makes no effort to rank these factors in terms of their significance, and so it is for the Panel to make the determination as to which factors bear most heavily in this particular dispute. Accord, City of Boston, 70 LA 154, 160 (O'Brien, Ch., 1977) (addressing Massachusetts Statute). See also Laner & Manning Interest Arbitration: "A new terminal impasse resolution procedure for Illinois Public Sector employees," 60 Chicago Kent L.Rev. 839, 856 (1984).

III. THE PARTIES' FINAL OFFERS

A. The Union.

See Attachment A, incorporated into and made a part hereof as if fully rewritten.

B. The City.

See Attachment B, incorporated into and made a part hereof as if fully rewritten.

IV. THE ISSUES

The City strenuously argues that there are only four issues that are the subject of this Interest hearing. According to Management, these issues are:

1. Duration of Agreement.
2. Wages.
3. Shift Differential.
4. Residency.

The Union, on the other hand, urges that the issues for which Final Offers have been submitted are the ones to be resolved by this Interest Panel. These are:

1. Whether Article 15.7 - Residency should be amended to allow police officers to live outside the municipal boundaries of the City of Rockford.
2. Whether Article 14 - Wages should be amended by adding a residency stipend for officers who are required to maintain their residence in Rockford.
3. The amount of increase in the basic wage plan for all employees as stated in Appendix A Article 14.
4. Whether Appendix A Section 5 should be amended by changing the shift differential.
5. Whether the collective bargaining agreement should have a duration of two years or three years.

The difference between the respective parties have caused a heated dispute between them which is reflected both in the post-hearing briefs and reply briefs but also in correspondence between the parties and correspondence and discussion among the parties and the members of this Interest Arbitration Panel. It is the position of the City that an agreement was entered into between it and the Union in extensive discussions both on and off the record as to the precise nature and number of the issues that were outstanding at the conclusion of the evidentiary portion of these proceedings. Because of the importance of the resolution of the procedural dispute to the ultimate determinations of the Panel on the merits,

it is necessary to go into detail about what occurred as regards the formulation and exchange of the parties' Final Offers, the majority of this Panel determines.

Initially, a review of the record demonstrates the following.

On January 18, 2000, the first day evidence was introduced, this Panel's Chair made the following opening remarks:

"At any rate, it's my understanding from off-the-record discussions with the parties that several issues have, in fact, been resolved and that, in fact, there are five remaining issues: One of which is residency; another is wages; a third is the duration of the contract with the Union proposing a two-year contract and management countering with a three-year proposal; there is a question of shift differential; and the last issue involves a non-economic issue dealing with the -- what the parties have called, quote, "critical incidents," unquote."

A few minutes later, Union Attorney D'Alba stated:

"You have four issues before you, Mr. Arbitrator, ..."

Attorney D'Alba referred to "four issues" again in his summary, found at page 26 of the transcript. At the start of his presentation of evidence on residency, Mr. D'Alba also referred only to "the" residency issue, the record also shows.

Similarly, this Neutral Chair, in instructing the parties as to Final Offer procedures on January 18, 2000, again determined there were four issues. At the close of the hearing, this Neutral Chair also confirmed my earlier understanding of the number of issues when I stated:

"Essentially what we've done is said that there are five outstanding issues. One of those it is strongly hoped will be resolved

through bargaining. But if it's not, the final offers will not be presented until all five have had evidence and argument presented on the record. Is that correct?"

As Management has emphasized, no one from the Union corrected the Neutral Chair.

Additionally, as the Employer has argued, prior interest arbitrations have conducted separate determinations on the number of issues before the arbitrators when the parties cannot agree on the number of issues prior to Final Offers being made. If the Union wished to present two separate offers on residency, the majority of this Panel therefore finds, it could have asked for such a determination. To add new issues in contravention to the understandings of the parties at the hearing at this point is unjust and contrary to the intent of interest arbitration, the majority also concludes. As Arbitrator Kohn stated in Village of Elk Grove Village and IAFF, Local 3398 (ISLRB Case No. S-MA-96-86, 1997), Ruling on Statement of Issues:

"Under the Act, interest arbitration is designed to be a safety valve for impasse resolution, not a substitute for the parties' strong efforts at self-determination. The goal of the Act is to encourage the parties to frame contractual solutions themselves. The underlying assumption of the Act is that it is the parties who can best weigh the issues and the content in which they arise, and formulate a settlement that will strike the optimum balance among competing considerations."

To add new and separate issues within the Final Offer does not encourage resolution of issues, but rather promotes "gamesmanship," the City has argued.

Although no objection was raised by the City at the time the respective Final Offers were exchanged, the right of this Employer to contest the placement of what the Union calls its residency incentive stipend as a separate economic issue was not waived by the failure to raise the issue prior to the submission of the post-hearing briefs, the majority of this Panel determines. It is generally held that the parties are obligated to raise questions concerning perceived procedural violations or deficiencies as soon as it is reasonably possible, but it must be noted that the City raised its objections at the next point in the process which had been designated as the time for communication to the Arbitration Panel, by the expressed agreement of these parties.

There was no fatal defect in its failure to raise objections to the form of the PBPA's Final Offers sooner, the Neutral Chair finds. Given the state of the record, and particularly considering the stipulations of the parties set forth above, it does not appear to the majority of this Panel that Management is being hyper technical or raising an argument to delay the processing of this case or as a mere after-thought or an attempt to bolster its case, the Neutral finds. Indeed, the Neutral agrees with the City that it was only in the Union's corrected brief that the City and this Panel heard the rationale of the PBPA for including a fifth issue of the residency incentive stipend. This was after the parties and the Arbitrator repeatedly stated on the record that there were four issues before this Panel. And, as Management also urged, the form in which this Union submitted the five Final Offers and the failure

of the Union to delineate how it could combine an economic and non-economic proposal as part of the over-arching residency question essentially left this Panel to guess how to evaluate the actual impact or effect of the Union's Final Offer on the residency stipend.

The heart of the matter is that, as several arbitrators have already found, it is simply not proper to mix an economic issue and a non-economic issue or combine them in an attempt to have an interest arbitration panel then craft a middle-ground alternative ("conventional arbitration rather than last-best offer as mandated for economic items under IPLRA"). See Elk Grove Village and IAFF, Local 3398 (ISLRB Case No. S-MA-93-164) (Nathan, Ch., 1993). See also Arbitrator Briggs' discussion of the impropriety of bifurcating a wage issue in such a way as to improperly give the Interest Arbitration Panel the job of essentially negotiating with a party as to what its Final Offer is in actuality. See City of Rockford and Local 413, IAFF (ISLRB Case No. S-MS-97-199, PBPA Ex. 47, at p. 18) (Briggs, Ch., 1998).

The matter of whether compensation in the form of a residency stipend is an economic issue required to be considered as such or whether it properly was required to be considered as part of the offer for a change in the residency requirement itself therefore became an issue of some significance. The issue was whether this Arbitration Panel had the authority to reformulate or recombine an offer or offers of a party when one is economic and the other was stipulated not to be so, which would be the result if the residency

stipend and expansion of the City's residency rules were to be considered together, or whether, if the residency stipend was economic, there resulted a dual pronged, single Final Offer on wages that was expressly forbidden as a proper offer by the reasoning of Arbitrator Briggs and others, as the parties determinably disputed.

In the Union's view, there is simply no support for the City's contention that its two Final Offers on residency were ever meant to be combined. The Union urges this Panel not to be diverted by the City's attempts to obfuscate its clear and distinctly separate Final Offers relating to residency. Whatever problems the City has run into regarding presenting two pronged Final Offers on economic issues, those problems have no bearing on the current situation, the PBPA insists. Waving the banner of alternative offers on wages as an impediment to the residency stipend is simply ludicrous, since wages and this stipend are so obviously clearly distinct and separate offers for distinct economic benefits. There is no reasonable argument that can be made that the PBPA meant to present its wage demand and the much smaller request for a residency stipend as an option or choice to this Arbitration Panel. The modest amount of a residency stipend clearly was meant as part of a compensation package, but as a separate and distinct economic benefit requested wholly apart from its wage demands, the Union insists.

Thus, the Union is up front in its acknowledgment that its Final Offer in the form of a residency stipend is a matter of

compensation and an economic issue within the definition formulated by Arbitrator Nathan, based on his interpretation of the relevant provisions of IPLRA:

"This Arbitrator has long taken the position that any issue the outcome of which has a measurable impact on the costs of funding the unit is an economic issue. Village of Elk Grove Village (ISLRB Case No. S-MA-93-164, supra at p. 6 Ruling of Economic Issues) (Nathan, Ch., 1993)."

The Union goes further, arguing that when the parties stipulated that residency was a non-economic issue, it should have been clear that the residency incentive offer was an economic matter that could not be attached to the Union's Final Offer on residency and was meant to be separate and apart from its demand to change the present residency rules of this City. City witness and Panel Member Einar Forsman admitted during his testimony that he understood the residency stipend had never been taken off the table, the PBPA argues. As both Union and City witnesses testified, factors other than wages can effect total compensation. That is why the City's reliance on two Final Offers involving residency is untenable and unconvincing as the basis for its claim that changes in the residency requirements can be blocked under these facts by such a nit picking consideration, the Union further argues. All the foregoing compels the conclusion that all five of its Final Offers should be evaluated on their respective merits, the Union submits.

The City's position on the fact of the overlapping offers involving residency is a bit more complex. Even assuming that the

Panel can properly separate the residency stipend from the Union's other offer changing residency requirements, the City suggests, the clear language of the IPLRA statute, especially as interpreted by numerous arbitrators, supports its position that both Union residency proposals cannot now be considered on the merits. Alternatively, if the residency stipend is categorized as an economic demand on the part of the Union, that Final Offer must be lumped with weight to be considered as an alternative offer to it, the City insists. Its position is that the parties clearly stipulated as to the three economic issues open and subject to this interest arbitration. The duration of the contract and the shift differential issues are economic, but cannot be regarded as slots into which the residency stipend can be placed.

Thus, the Panel is told that the only available economic issue where the residency stipend could fit is wages. And, despite the attempts by the Union to distinguish away the logical consequences of the double offers on the wage issue, the City submits that it is unambiguous under Arbitrator Briggs' ruling in the above-cited case between this City and the IAFF that alternate offers on economic issues are impermissible. The results should be the preclusion of this Panel's consideration of both the Union's offers on wages, i.e., the alternative options of the residency stipend and/or the demanded wage increases.

As a result of the genuine issue involving the status of the five Union Final Offers in this arbitration, a telephone conference call was held between the Arbitration Panel and counsel for the

respective parties on May 26, 2000. During that discussion, it was established by the majority of the Panel that residency was a non-economic offer but that the final proposal by the PBPA regarding the residency stipend, as the Union acknowledges, is obviously an economic offer. A separate preliminary determination by the majority of this Panel was that the residency incentive stipend (Item 3 of the Union Final Offer) was thus not a part of or an alternative to Item 5, the Union's Final Offer on residency. At the conclusion of this telephone discussion, the Panel (over the City representative's objection) decided to allow withdrawal of Item 3, subject to approval by the Union. However, by letter from the Union's attorney dated June 1, 2000, the Union made it clear that it did not wish to withdraw Item 3, the residency stipend request.

During the history of bargaining concerning the stipend, the stipulations of the parties as to the four definite and limited issues which stood as unresolved at the conclusion of the evidentiary portion of these proceedings, and the continuing efforts of the Union to assert that it can bargain its way into having both the economics and the language of residency considered by the Arbitration Panel, the majority finds that the Union is clearly attempting to bargain with the Neutral Chair concerning alternative offers on wages. That finding of fact in turn must be considered in light of the express provision of Section 14(g) of IPLRA, 5 ILCS 315/14(g), which provides:

"At or before the conclusion of the hearing held pursuant to sub-section (d), the

Arbitration Panel shall identify the economic issues in dispute, and direct each of the parties to submit within such time limits 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 majority of this Panel concludes that the PBPA is asking the Neutral Chair to fashion an appropriate wage package to remedy the alleged property tax disadvantage it stressed has seriously harmed the bargaining unit by awarding either the general wage increase or the residency stipend or both. The Union is trying not to put its general wage increase at risk by tying the two into one package. Instead, it is trying to present them as two separate offers on the issue of wages, the majority of this Panel finds. This again runs counter to the purpose of Final Offer interest arbitration, we conclude. As Section 14(g) of the Act continues:

"As to each economic issue, the Arbitration Panel shall adopt the last offer of settlement which, in the opinion of the Panel, more nearly complies with the applicable factors ..."

As Arbitrator Briggs made clear to the City in its only other interest arbitration (PBPA Ex. 47, p. 20-21), alternate proposals on economic issues cannot be considered. Thus, neither Item 2 or Item 3 can be taken by the Arbitration Panel as this Union's Final Offer on the wage issue.

The majority of this Panel agrees with the reasoning of Arbitrator Briggs that "either/or" Final Offers are "repugnant to the interest arbitration process." Id. at p. 20. Arbitrator

Briggs also alluded to the disadvantage which the party making the single Final Offer is placed when multiple Final Offers of the other party are considered. Here, the majority of the Panel finds that the PBPA is effectively asking the Neutral Chair to award the residency incentive stipend by default, because the City did not address it or have an opportunity to present evidence and argument on that discrete issue. The Union then asked the Panel that the general wage offers be considered, analyzed and compared on an equal footing. Such an advantage under these facts is unfair and inappropriate. This Panel has no authority to allow it, the majority concludes. As was stated by the Union in the City of Rockford and IAFF arbitration (PBPA Ex. 47) in its brief at p. 47:

"Which contract offer of the two presented by the Employer should be considered by the Arbitrator in deliberating between the Employer's offers and the Union offer on Kelly Days? Because the Act does not allow an employer to present two contract proposals for one disputed issue, the employer's offer should be rejected in its entirety for this sole reason. There is simply no 'two for one' procedure allowed under the interest arbitration format of the statute."

This Panel is of course reluctant to decide so important an issue as that of the wages of these bargaining unit employees on a procedural technicality. The reluctance so to do is a primary reason for the delay in the issuance of this Award, the Neutral Chair notes. Be that as it may, the majority of this Panel determines that the plain meaning of the applicable sections of the IPLRA statute quoted above precludes the consideration of both Union Final Offers regarding wages, Items 2 and 3 of Attachment 1

to this Opinion and Award. Based on that determination, the City's Final Offer on wages is accepted in its entirety.

V. DISCUSSION AND FINDINGS ON THE OUTSTANDING ISSUES

A. Wages

1. The Final Offers

The PBPA, as noted above, proposed a change in the wages paid to bargaining unit employees, as follows:

A. The basic wage plan for all employees in Appendix A shall be increased effective January 1, 1999 by 4 percent for patrol pay steps A through F and 4.5 percent for all other pay steps.

B. Effective January 1, 2000 the basic wage plan for all employees in Appendix A shall be increased by 4 percent for patrol pay steps A through F and by 4.5 percent for all other pay steps. See attached Appendix A to be added to the contract for years 1999 and 2000.

C. In the event the arbitrator selects a contract of a three year duration and pursuant to authority given to the arbitrator by the parties, the Union submits this separate proposal for the third year of a three year contract. The basic wage plan for all employees as shown on Appendix A shall be increased by 3.5 percent for all pay steps effective January 1, 2001, and by 0.5 percent for all pay steps effective July 1, 2001. See Attachment 1 for Appendix A for the year 2001.

* * * *

Article 14 shall be amended by adding Article 14.8 - Residency Incentive Stipend. See Attachment B for the language of this proposal.

Attachment B

14.8 Residency Incentive Stipend (for residing within the corporate limits of Rockford)

Effective January 1, 2000, employees shall be paid a monthly bonus of one-hundred and fifty dollars (\$150.00) for each "full month" they maintain their principal residence within the corporate limits of Rockford. Such bonus shall be payable the first payday

in March 2001, and on the first payday in March thereafter.

Employees must sign an affidavit indicating the total number of "full months" they resided within the corporate limits of Rockford from January 1, 2000 through December 31, 2000 and present such affidavit to the City Finance Director no later than February 1, 2001 for payment of the stipend.

Said procedure shall be followed for each year after the year 2000.

Such stipend is an incentive for employees to reside within the corporate limits of Rockford.

The Employer's Final Offer is:

Effective January 1, 1999 the wage plan shown in Appendix A of the Collective Bargaining Agreement and referred to in Article 14.1 shall be amended as shown on the attached sheet. The first four notes to Appendix A of the present Collective Bargaining Agreement shall remain unchanged. The fifth note is addressed as Issue No. 3 of this Final Offer.

This offer represents a 3.5% wage increase for all patrol pay grades for 1999, 2000, and 2001; and a 4% wage increase for Investigators and Sergeant pay grades in 1999 and 2000, plus a 3.5% increase in these grades for 2001.

Based on representations at the hearing by the Union that its Final Offer on Duration of Agreement will be for two years (January 1, 1999-December 31, 2000), the City offers a wage plan containing the first two years of its three-year final offer in the event the Union Final Offer on Duration of Agreement (Issue No. 1) is accepted or awarded. The Employer and the Union have, with the consent of the Arbitrator, agreed to submission of Final Offers in this form. See Attachment 2.

The City has no proposal for a residency stipend, since it has urged, and the majority of the Panel agrees, that the PBPA's Final Offers are in actuality alternative wage offers.

2. The Position of the Parties

The Panel does not deem it necessary to set forth the position of each party on the merits for this particular issue, since it has already ruled in an earlier portion of this Opinion that the PBPA's two-pronged wage offer is fatally flawed as to methodology and structure.

3. Findings

As noted earlier, the structural deficiencies of the Union's Final Offers on wages has placed this Panel on the horns of a dilemma. On the one hand, the Neutral Chair is reluctant to project the Union's final wage offers in their entirety, based on a perhaps unintentional procedural glitch. Indeed, the Neutral Chair at one point during the March 26th telephone discussion among the Panel and the respective counsel for the parties offered what seemed perhaps to be a reasonable method to resolve the parties' dispute over the form of their respective wage offers by permitting the PBPA to withdraw its proposal on the residency stipend. In that way, potentially, the wage issue might still have obtained consideration on its merits and not on a procedural technicality that, to be sure, might be considered to have a limited relationship to most of the statutory criteria. However, as certainly was its right, the PBPA chose not to change the structure of its Final Offer and, at any rate, the City strongly objected to the Neutral Chair's attempts to move the parties in that direction.

On the other hand, it is quite clear that these parties are familiar with the dangers of proffering alternative or two-pronged

Final Offer proposals. See City of Rockford and Local 413, IAFF, supra, where Arbitrator Briggs admonished these parties that he:

"does not feel it would be appropriate to excise one of the City's options from its [dual] offer and consider the remaining one for the purposes of deciding the Kelly Day issue. Doing so would give the City an inappropriate advantage over the Union, for it would create a situation where the Neutral Chair first selected what appeared to be the more appropriate option and then compared it to the Union's Final Offer." Id. at p. 20.

Other interest arbitrators have been presented with the issue of improperly structured alternative Final Offer proposals under IPLRA. The majority of this Panel adopts the reasoning of Arbitrator Harvey Nathan that when a Final Offer is structurally inappropriate, it cannot be considered on the merits. In Village of Elk Grove Village, Arbitrator Nathan concluded as to the inappropriateness of such offers:

"Of course, the problem here is that the Village is attempting to negotiate with the panel. The offer the Village makes here should have been made to the union. It is inappropriate, i.e., if you accept our offer on one issue, we will concede the other. While we believe that either party may concede on any issue at any time, even after an award has been delivered, it is inappropriate to make a conditional settlement of an issue after its final offer has been submitted." ISLRB Case No. S-MA-93-231 (Nathan, 1994).

Arbitrator Nathan also made a similar ruling in County of Bureau and Sheriff of Bureau County, when he concluded that:

"In the first instance the Act does not contemplate alternative proposals be they economic or language issues. Second, alternative offers send confusing messages to the Arbitrator and undercut the integrity of the Employer's position. Where there are marked differences in the alternates, the proposing party's position comes out sounding like 'we will accept anything but the other side's proposal.'" ISLRB Case No. S-MA-96-14 (Nathan, 1997).

The majority of this Panel again points out that under these factual circumstances, the only valid Final Offer on wages is that of the City. Aside from that fact, the City's proposal on this issue seems to be a reasonable one given the specific circumstances of this case, or at least it is evident from the record evidence that the City's wage proposal is not so unreasonable that it could be rejected without a valid Final Offer from this Union to weigh or consider alongside it. In the interest of brevity, then, and also in recognition of the ruling of the majority of this Panel as articulated in those earlier portions of this Opinion detailing the resolution of the procedural issue regarding the alternative wage offers of the PBPA, the City's Final Offer on wages is adopted by a majority of the Panel.

B. Residency

1. The Proposals

The City's Final Offer on the residency issue is quoted in its entirety below:

Article 15.7, Residency shall not be modified, and the collective bargaining agreement with respect to this issue shall remain status quo. (Note: This offer is the same regardless of whether the Employers' Offer on Issue No. 1 is accepted or awarded.)

The Union's Final Offer is as follows:

The Union has proposed with permission of the arbitrator and stipulation of the parties a two year and three year proposal to resolve the residency issue. As follows:

Two year proposal - Attachment C

Effective October 1, 1999

Employees hired prior to ~~January 1, 1984~~ October 1, 1992 may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building.

Employees hired after ~~January 1, 1984~~ October 1, 1992 are required to live within the City limits of Rockford within six (6) months after termination of the employee's probationary period.

Effective October 1, 2000

Employees hired ~~prior to January 1, 1984~~ may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building. ~~Employees hired after January 1, 1984 are required to live within the City limits of Rockford with six (6) months after termination of the employee's probationary period.~~

Upon original appointment, an appointee may reside outside said limits but shall be required as a condition of continued employment to comply with said residency requirement within six (6) months after termination of the appointee's probationary period.

Three year proposal - Attachment D

Effective October 1, 1999

Employees hired prior to ~~January 1, 1984~~ October 1, 1990 may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building.

Employees hire [sic] after ~~January 1, 1984~~ October 1, 1990 are required to live within the City limits of Rockford within six (6) months after termination of the employee's probationary period.

Effective October 1, 2000

Employees hired prior to ~~January 1, 1984~~ October 1, 1995 may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building.

Employees hired after ~~January 1, 1984~~ October 1, 1995 are required to live within the City limits of Rockford within six (6) months after termination of the employee's probationary period.

Effective October 1, 2001

Employees hired prior to ~~January 1, 1984~~ may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building.

Upon original appointment, an appointee may reside outside said limits but shall be required as a condition of continued employment to comply with said residency requirement within six (6) months after termination of the appointee's probationary period.

2. Positions of the Parties

a. The City

The City argues that adopting the Union's expanded residency proposal is clearly a change in the status quo since a residency clause was first negotiated into the labor contract by this Union and the City in the 1998-99 labor agreement. Prior to that time, the City notes, the Personnel Rules and Regulations authorized by City Ordinance 1983-155-0 (December 12, 1983) and adopted by council resolution 1983-312R of the same date, required residency as a condition of employment for all City employees hired after January 1, 1984. Since that time, the City maintains, every police officer who has joined the Department hired on with the

understanding that residency was required. The City accordingly asserts that Union claims that a loosening of the residency requirement is mandated by equity flies in the face of the undisputed fact that all new hires since January 1, 1984 had clear notice of the existing (and now negotiated) residency rules. There is a status quo which the Union is seeking to change, this Employer submits, and the PBPA was obligated to show by compelling evidence specific reasons that change should be accepted in interest arbitration, which the PBPA has totally failed to do, according to the City's assessment of the evidence on this record.

In discussing the Union's burden of proof on the residency issue, the Employer also directly argues that since it is the Union that clearly wishes to change the status quo, the PBPA must prove that one of the following conditions exists:

(1) The old system has not worked as anticipated when originally agreed to;

(2) The existing system has created operational hardships for the Employer or equitable or due process problems for the Union; or

(3) The City has resisted bargaining table attempts to address the problem.

In setting forth these three factors, the City cited the decision by the Neutral Arbitrator in City of Burbank, S-MA-97-56 (1998). However, this Employer recognizes that the Neutral Chair ruled in Village of South Holland and Illinois Fraternal Order of Police Labor Council, S-MA-98-120 (1999) that negotiations over residency requirements held subsequent to January, 1998 when an amendment to IPLRA permitting negotiation of that topic as a

mandatory subject of bargaining became effective, for a first contract on that particular topic, could be deemed akin to first contract negotiations.

With reference to whether Union demands for relaxation of any residency rule could be held to the standard of a demand for a "breakthrough" in the status quo, the Neutral Chair indicated in Village of South Holland that possibly the normal position that breakthroughs by either party may be granted only for compelling reasons or by an exchange of a equivalent quid pro quo, this Employer recognized the possibility that "normal" status quo analysis might not be precisely applicable to a relaxation in the residency rules in across-the-table bargaining. However, it is the position of the City that the PBPA must still present a compelling need for a change in this bargaining relationship, at least as regards the first two elements of the Neutral Chair's Burbank analysis on the breakthrough rule.

Management also stresses that a residency requirement has existed for all City employees for over 15 years, and that the current Article 15.7 was the result of free collective bargaining by the parties in 1989. The City believes that as the proponent of change this Union did not satisfy either of the first two elements set forth in the Neutral's Burbank ruling.

Another contention by the City is that it believes that the historical rationale for the Employer's desire to maintain the status quo in part dealt with the protection of the real estate and sales tax bases in this City. Conceding, however, that the poor

state of the City's economy in the early 1980s no longer exists, the Employer also urges that a more important part of the rationale for a stringent residency requirement is a philosophy that the City workforce should reflect the community. As City witness and Mayor Box testified, recruiters were hired to find qualified minority applicants in the early 1980s. Another sentiment expressed by Mayor Box concerns his belief that the residency requirement is fundamental to a perception that his constituents feel safer with police living in the community. The Employer argues that when ordinary citizens see the police officers live in the community they serve, the result is a sense of mutual investment in the neighborhood.

Moreover, according to Mayor Box, the symbolism of the City's maintaining its current residency rule is a direct counter to general community fears concerning "white flight", even if such concerns may factually be irrational. Essentially, the City strongly suggests that the residency requirement is fundamental to preserving communal feelings of rebirth and the real economic boom and growth in this community in the 1990s.

The City also notes there are community policing and other operational advantages of the current residency policy. The Panel is reminded that Police Chief William G. (Jeff) Nielsen testified at length concerning his Department's use of community policing and the advantages a residency requirement lends to its operation. And, unlike some cities like Kankakee, this City has firmly and fairly administered its residency requirement, the Employer

suggests. See City of Kankakee and Illinois Fraternal Order of Police Labor Council, S-MA-99-137 (LeRoy, 2000).

Panel Member and City Administrator Einar Forsman explained in his testimony the administration of the residency requirement. Forsman expressed his opinion that if residency were lifted for one bargaining unit, it would greatly raise expectations based on concepts of internal fairness that the requirement would be lifted for all.

Underscoring the failure of the Union to present a compelling reason for such a relaxation of the uniform residency rule by this City, the Employer submits that internal comparability strongly supports the maintenance of the status quo. It notes that non-Union employees, the AFSCME bargaining unit, and the IAFF-represented Firefighters bargaining unit live under the same residency rule as that reflected in the current Section 15.7 of the parties' labor contract. As to external comparables, any fair review of residency requirements in the eight stipulated comparable cities discloses that the data on these cities favors neither party. Four of these cities (Elgin, Joliet, Peoria and Springfield) have city-limit residency requirements much like that of this City, Management emphasizes. The other four cities (Aurora, DeKalb, Bloomington and Champaign) do not have city-limit residency requirements.¹

¹ The parties agreed to the nine external comparables set forth above, but in the Employer's brief the above-mentioned comparisons relate solely to the eight comparables set forth above. Decatur is dropped from the City's analysis, and apparently also from City Exhibits 7-9; City Exhibit 48 and Union Exhibit 60.

In each situation, two of the cities are in the Chicago area and two are downstate. Moreover, Union Ex. 24 highlights the fact that Elgin and Peoria have phased-in residency requirements that require new hires after a certain date to live within the City limits for the duration of their employment precisely as is done in this City. The key point made by Management is that scrutiny of external comparables does not favor an expansion or change in current residency rules, the Employer insists.

The City also claims that the requirement that employees hired after January 1, 1984, live within the City limits has worked as anticipated. This residency requirement has not prevented the City from attracting and retaining qualified personnel, it maintains. It is the position of the Employer that it has demonstrated numerous political, economic and social advantages of the residency requirement which advances the interests and welfare of the public.

The key philosophical point made by both Chief Nielsen and Mayor Box was that eliminating the current residency rules at this time would unnecessarily create a perception that "there is a problem with Rockford", which is precisely the opposite of the perception the City and its Police Department is trying to create through community policing and neighborhood building; minority recruiting; success at stabilizing Rockford's neighborhoods; and by the convincing evidence presented by the Employer's witnesses that the majority of Rockford's citizens believe the City is stronger economically, socially and politically when police live in its neighborhoods.

Although Management concedes that not all of this City's political representatives and citizens -- certainly not its major newspaper (see PBPA Ex. 48) -- feel that way, residency is essentially a political question that should be decided not by negotiations with the Union but through the political process. The real place where the Union bears the burden of persuasion on the need for a change is through an appeal to the ballot box and the general citizenry, Mayor Box indicated. The City strongly believes that what is essentially the political question of a reasonable requirement for residency of City workers should not be resolved by an arbitration panel. Instead, the City argues, the political processes should be allowed to work.

In what the City at least indirectly contends is an unspoken motivation, Management ascribes through the rank and file a sentiment for a relaxation of the residency rule because the public schools in the City at all levels are unrealistically perceived to be inadequate. It is clear that at least Mayor Box's view is that the unduly negative perception of the public schools is actually associated with their recent desegregation, the City points out. But, the City notes, the majority of the sworn officers surveyed by the Union did not have school age children.

Furthermore, a substantial majority of the officers who responded to the Union's survey on the school issue already had them in private schools, the City argues. Despite no empirical evidence on the quality of Rockford schools on the record, the Union and at least some of the sworn officers apparently presumed

Rockford schools are "sub-standard". No achievement statistics or crime statistics were submitted to support the anecdotal impressions to that effect. Consequently, the City urges that residency requirements "should not be gutted in the major cities of Illinois simply because there may be higher quality schools in richer, less diverse suburbs." Indeed, to the City, perhaps the most significant negative impact resulting from any lifting of the residency requirement would be the devastating symbolic effect on the successful attempts to upgrade neighborhoods and buildings and to support and improve Rockford public schools, the Employer urges.

Moreover, the City also contends that the Union's primary focus on its alleged claim that the residency requirement has significantly and unfairly restricted personal freedom or personal choices stands completely unproved on this record. It notes that there is no persuasive evidence presented of general threats to personal safety of sworn officers based on off-duty interactions in or near their neighborhood residences; no proof of high levels of crime or a paucity of adequate shopping for goods and services which exist within the City's borders; and certainly no convincing evidence of a lack of adequate housing choices for officers in the City of Rockford.

The only specific evidence of concern for personal safety was the testimony of one witness who stated she encountered one person that made this officer insecure, the City argues. Such evidence does not support the Union's claim that police officers or their families are subject to physical harm from criminals who may wish

to engage in reprisal against officers who may have arrested them in the past.

At the heart of the Union's case, then, the Employer submits, is its claim that the property tax rates on residential housing in the City essentially constitute an extra tax on officers which unfairly reduces bargaining unit wages. However, Management asserts that the actual evidence presented discloses that, quite contrary to the Union's assertions, its main contention, really, the property tax increases since 1994 have not created a substantial and unanticipated hardship on PBPA members. That basic claim is simply untrue, the Employer stresses. To prove that, the City points out that the Union's key exhibit, which the PBPA says demonstrates this fact, is Union Ex. 29.

This exhibit does show a difference in taxes on a home assessed at \$100,000.00 in this City and the various comparable cities, Management concedes; the property taxes in the City do exceed the average of all other cities by \$1,106.00, the Employer also acknowledges. However, says the City, numbers sometimes do lie. The Employer emphasizes that there always has historically been a differential between the City's overall tax rate and that in the external comparables. Rockford is not a home-rule jurisdiction, after all, and is thus more dependent on property tax than its comparables. Actually, says Management, it is only the last \$500.00 that could fairly be considered the so-called "residency fee" that has been added since 1994. Additionally, the

Employer urges, other taxes imposed in the comparables more than make up the \$500.00.

The real estate tax on the property of police officers is not an issue directly arising out of the employment relationship, the Employer also stresses. It is a collateral effect over which the Employer and employees have very little control. Putting that aside, an exclusive focus on the tax rate differential also overlooks or improperly discounts the lower price level comparable housing between this City and its external comparables. Moreover, there is certainly no adverse impact from real estate taxes on those Union members already living outside the City, so that the "residency fee" is not a uniform cost applicable to all, even if the Union's arguments are accepted on their face.

The simple truth according to Management is that the Union misses is that a \$100,000.00 house in this City is much more house than a \$100,000.00 house in the Chicago-suburban comparable cities or at least one of the downstate comparables. The convincing City evidence shows that a police officer owning an average or typical house in this City is economically equal to or better off than a police officer owning an average or typical house in any of the comparable cities. Therefore, there is in actuality no economic penalty levied against officers owning homes in the City, according to the Employer. The City exhibits showed that lifting its residency requirement and allowing a move to the suburbs will not significantly improve the economic situation of the individual officer.

In sum, the City argues that every police officer in the Department who has joined it since 1984 hired in with the understanding that residency was required. Moreover, the City notes that the Union did not at any time offer a quid pro quo of sufficient value to warrant an exchange, such as a freeze in wages or some other item of that amount of value. External comparability does not strongly favor the Union's current proposal. Internal comparability relied upon by the Neutral in Village of South Holland, strongly supports Management's posture here. More important, just as in Village of South Holland, two bargaining units with the right to strike under IPLRA settled contracts after August, 1997, without changes in the residency requirement. Thus, arm's length bargaining by a unit of employees who could strike brought those groups of employees no more than the PBPA had under pre-amendment rules. The presumption is and should be that the PBPA would not have obtained more, if it had the right to strike, too, the City states. It is antithetical to the interest arbitration process to grant this Union more than it could obtain in bargaining, "for free".

The City thus asserts that there are no compelling reasons to change the status quo so that the general rule that interest arbitrators in Illinois refuse to alter the status quo under these circumstances should control. In taking that position, the City distinguishes the Neutral's analysis in Village of South Holland concerning the lack of a necessity for a clear quid pro quo to change residency requirements from the status quo in light of the

1997 amendments to IPLRA permitting such changes in all cities except the City of Chicago, which retains its residency rule as a management right. The City's proposal should be adopted in its entirety, it urges.²

b. The Union

As a threshold matter, the PBPA acknowledges that the general rule in interest arbitration is that the moving party -- the party seeking to alter the status quo -- bears the burden of persuasion, namely, it must show a compelling reason to alter the way things are currently being done. The Union also acknowledges that it understands the position of the Neutral Chair in the instant case, as reflected recently in Village of South Holland, supra, to the effect that:

"The traditional way of conceptualizing interest arbitrations is that parties should not be able to attain in interest arbitration that which they could not get in a traditional collective bargaining situation. Otherwise, the point of bargaining would be destroyed and parties would rely on interest arbitration rather than pursue it as a last resort. Village of South Holland, Illinois, ISLRB Case No. S-MA-97-150 p. 41 (1999)."

But, as the Union stresses, there are several recent interest arbitration decisions, including the Neutral's Village of South Holland decision where interest arbitrators in Illinois have concluded that the usual requirements in favor of the status quo except when compelling reasons are presented to an interest

² The parties agree that since residency is not an economic issue, the Neutral has the authority to fashion a term of the contract on this "language issue" that is different from the parties last proposals.

arbitration panel for altering that condition do not apply to the current status quo with regard to residency. Included in that group are City of Nashville, S-MA-97-141 (McAlpin, 1999); Town of Cicero, S-MA-98-230 (Berman, 1999); Village of University Park, S-MA-99-123 (Finkin, 1999); and City of Country Club Hills, S-MA-98-225 (Larney, 2000).³

The "normal" rule as regards the status quo explained immediately above, the Union suggests, is founded on the premise that provisions such as Section 15.7 in Jt. Ex. 1, the labor contract between these parties that expired on its face on December 31, 1998, were the result of bilateral good faith bargaining. The Union specifically points out that the 1993 residency rule of this City was unilaterally imposed upon affected sworn police officers. The contentions of the City that Section 15.7 reflects a negotiated bargain, entered into at arm's length, assumes that the parties in 1989 when this provision was initially incorporated in the parties' labor agreement, bargained without legal impediments that undermine

³ In referencing the decision by Arbitrator Larney, the Neutral Chair notes that this decision, as well as another by Arbitrator Briggs (City of North Chicago, S-MA-99-101, issued October 17, 2000) were proffered to the Arbitration Panel after the close of hearing but also after correspondence by the Neutral indicating that further evidentiary submissions would only be admitted with the specific permission of the Panel and for good cause shown. The Neutral has followed this rule and not admitted, reviewed or utilized additional proffered submissions or exhibits of the parties that were evidentiary in nature and received after the cutoff point established by him. However, other interest arbitration decisions, as a matter of public record, have been accepted and fully reviewed and considered, including the two just noted.

the bilateral nature of the negotiations. Such is not the case in Rockford, the PBPA argues.

Prior to this round of negotiations, the City was not legally required to bargain about residency with its police officers. Even when it chose to engage in permissive bargaining with the Union, there was no impasse resolution mechanism available to the parties. The police were powerless to compel good faith bargaining and any "bargaining" that did occur was one-sided. Since Section 14(I) of the IPLRA specifically prohibited interest arbitration awards on the subject of residency for police prior to the 1997 amendment, there cannot have been a negotiated status quo, the Union strongly asserts.

Second, the Union also claims that the stringent residency requirements reflected in Section 15.7 of the contract, and also the 1993 City ordinance, are no longer needed due to the City's financial strengths and low unemployment. The Union presented considerable evidence and testimony to illustrate its argument that the historic rationale for the City's residency rule was its desire to bolster the City's economy during "hard times" in the 1980s by mandating that City employees live within its boundaries as a condition of employment, so as to obtain payments for property taxes and, hopefully, also to increase the likelihood of increased spending by those City employees within the borders of the City.

The Union also proffered what it deems to be strong evidence that the economic situation in this City was, by 1999, totally different from what had existed in 1983 or 1989, when the ordinance

and labor contract provisions on residency were created. Indeed, the Union asserts that there was "almost a night to day transformation in the intervening years." According to the Union, the City government is "in excellent shape" with an increase in fund balance from fiscal year 1998 to 1999 of \$21,971,578.00 to \$22,932,370.00. The Union further notes that the City witnesses acknowledged that the situation in 1999 is wholly improved over that in the 1980s. See PBPA Ex. 3(a); PBPA Ex. 61; and PBPA Ex. 3.

Underscoring what the Union argues is the major motive of its members for desiring a relaxation in the residency rules, the Union insists that these sworn officers are essentially paying an unfair, inequitable and inordinate "residency fee" to live in town. Simple put, the Union believes that the preservation of the status quo for the City's stringent residency rule saddles these sworn officers with what has been a totally unanticipated and huge increase on the average property tax bill since 1991. It was not until the early 1990s that the property taxes paid by Rockford residents, including police officers required to live in town, dramatically increased to the top of the charts among the external comparables and in fact among all municipalities in Illinois. Employees hired between 1987 and 1991, for example, the Union points out, did not experience any real spike in property tax increases until 1991. Since then, property taxes have consistently and dramatically increased, although the Union concedes that that was not true to the same extent in 1999.

The Interest Panel is told by this Union that "[t]he exceedingly unfair nature of the residency rule" is well demonstrated in the ten year survey of property tax bills for a \$100,000.00 house in this City and the external comparables. Between 1988 and 1998, this City's property tax bill for such a home increased by almost \$1,000.00 from \$2,458.00 to \$3,428.00. In that same period, the increase on the average property tax bill for the comparable cities was only \$142.00. See PBPA Exs. 29, 30(a), 30(b), 30(c), and 30(d). According to the Union, by 1998, the average City police officer was paying \$1,106.00 more a year in property tax payments than the average police officer in the comparable cities.

Although the Union recognizes that the Employer is arguing that its residency rule is fair and equitable because employees hired after 1983 were aware of the rule as a condition of employment, the Union does not believe that any officer can be charged with somehow being able to predict that his or her property tax bills would "literally explode after 1991." In the Union's opinion, it is also clearly shown the relatively low property tax increases in the comparable city. In reality, the Union argues, the property tax differential which its exhibits and the testimony of its witnesses so clearly proved unfairly had raised the cost-of-living for the sworn officers of this City compared to those of the comparable towns. The result is that Section 15.7, clearly a unilaterally imposed contract term, has created an unfair condition

of employment that only can be changed through the interest arbitration process.

As the Union sees it, two key statutory criteria, Section 14(h)(4) and (5) of IPLRA, support its claim to change the residency rule. Section 14(h)(4) of course requires an assessment of external and internal comparability. As regards the external comparables, the above summary of the Union's evidence surely proves its claim that the current residency rule is required under this standard to be relaxed, the Union insists. Section 14(h)(5) refers to the cost-of-living, the Panel is reminded, and the Union argues that the average sworn officer in this City pays \$1,000.00 a year more to live within its boundaries as a condition of employment than those police officers in Aurora, Bloomington, Champaign, DeKalb, Elgin, Joliet, Peoria and Springfield. The Union characterizes as unconvincing the City's attempt to avoid these clear facts by saying this City relies more on property taxes than the other comparables do or that an officer "gets more house" for the same money (or can spend less for the same house) so that there is no "residency fee" bargaining unit employees are unfairly required to pay as a condition of employment.

It is also the position of this Union that the internal comparability claims of Management are simply off-point. On the internal comparability criteria, the Union believes that it is important to remember that those police officers who were incumbents in the Department prior to 1984 are permitted to live outside the City boundaries. The fact of the two-tiered residency

system among bargaining unit members is the most significant comparable, the Union claims. See City of Country Club Hills (Larney, 2000, supra) at p. 42.

Moreover, interest arbitrators have traditionally disregarded a comparison of unionized and non-unionized employees. With regard to the AFSCME and Firefighter units, the Union stresses that the earlier decision by Arbitrator Briggs cited above where residency changes were demanded by the IAFF Local 443 resulted not in a finding for the maintenance of any status quo, but only that the residency issue would be reserved for later potential negotiations directly between the parties, at another time.

The two AFSCME units' conditions of employment are not the best point of comparison, given the substantial differences in pay rate and in the status of clerical employees and sworn police officers, according to the PBPA. Without knowing the assessment of relative power between the AFSCME units and the City if residency was called a strike issue by those units, the Union believes it is impossible to know for sure what caused the parties to agree to the status quo.

In addition, the Union argues, the two-tiered residency rule goes very far in, on its face, refuting the claim of operational necessity presented by Management at the evidentiary hearings in this case. It is clear from the testimony of the Union witnesses, as well as what Chief Nielsen had to say during his cross-examination, that the Department's operational needs are fully met both by employees who reside in the City's neighborhoods and also

outside its boundaries. Along the same vein, the Union also makes the argument that there is convincing evidence that community service goals have not been impeded by the use of any sworn personnel, including supervisors, who live outside the City's official boundaries for police work in its neighborhoods. There in fact are no Police Department operational needs or community service goals that would be impeded by the relaxation of the residency rule, says this Union.

To the contrary, the claim that a change in the residency rules would be symbolic of a lack of commitment to community policing or rehabilitation of the City's stock of buildings was contradicted by several witnesses who live outside the City but are still deemed to be strong role models or positive symbols to the entire community -- including the minority part -- as the top level administrators who testified admitted in their testimony, according to the Union. And, the anecdotal claims of Chief Nielsen and Mayor Box that police in the neighborhoods make residents feel safer were refuted by an empirical study presented into the record by the PBPA which was never countered or contradicted by a similarly scientific study, the Union stressed.

Noting that there was no hard evidence to support the City's claims of political damage and absolutely no proof on this record that a relaxation of the residency requirement would cause "white flight", the Union presented considerable evidence as to why it believes its proposal is in the public interest. It suggested that since several sworn police officer have left for employment with

other local police departments (and in one case, had moved to Oregon), based, as the Union sees it, on the restrictive residency requirements, the Union asserts that both community policing goals and the morale of the department would be better served by the adoption of the PBPA proposal on residency.

The Union also claims that broadening residency options in the manner proposed might increase opportunities for minority recruiting or, at least, does not automatically reduce them as several Management witnesses simply assumed. The Union also argues that there is no concrete evidence to support Management's notion that citizens of a particular jurisdiction are safer when their police are forced to live within its boundaries. The fact of incumbents who are outstanding police officers, doing precisely the community work desired of them, who are not residents of this City, completely rebuts any such claims, the Union also says.

It is also the position of the Union that it has established that at least one police officer had an encounter with a citizen near her home after she and that individual had been involved in a shooting incident, despite the City's attempts to say otherwise. Several officers testified to not disclosing their status or work to their neighbors and at least the individual recently involved with a negative encounter does not wear her police uniform when she leaves or returns home from her job, the Union argues. In the PBPA's opinion, then, on the question of public interest and welfare, the negative impact of the strict residency requirement currently in force on police officers and their families is a major

factor tilting the balance toward a relaxation of the two-tiered rule now in place.

The extensive and detailed evidence of record about the course of collective bargaining negotiations also demonstrates the failure of collective bargaining to permit the Union to achieve a modification in the unfair two-tiered system. This is so even this Union has made significant modifications to its proposed rule during bargaining; offered substantial guid pro quos to induce Management to change its position; and even offered to agree to all of Management's remaining proposals in the last bargaining session prior to interest arbitration in exchange for the City's acceptance of the Union's residency proposal. Management has maintained that residency rules shall not be modified based on political or philosophical grounds, as illustrated by the frank testimony of Mayor Box, the Union suggests. The PBPA emphatically insists that it is clear that the City is committed to not accepting any guid pro quo in exchange for a change in its residency provision.

In sum, in line with both the Burbank and South Holland decisions of the Neutral Chair, the Union's proposal therefore should be found most reasonable and appropriate under these circumstances. It is also important to remember that the major newspaper in this City supports the Union on this point, so that there is no evidence whatsoever that the message sent to the community through the media reporting or editorializing on such a change would be negative or a symbol that "something is wrong with Rockford." In reality, the Union argues, the City is simply trying

to hold onto the status quo because of political calculations which are irrelevant to or considered to be "imponderables" in the interest arbitration process. See Village of University Park and IAFF Local 3661, supra; ultimately, the basic right to have freedom of choice as to residence should override the City's unilaterally imposed status quo, the Union concludes.

3. Findings and Discussion

a. General Considerations

At the outset, the Neutral Chair believes that there are four fundamental considerations that the Panel must bear in mind in dealing with the issues in dispute as regards residency. Before getting to that point, however, the Neutral also concludes that it is necessary to discuss whether what has been proposed is in fact a demand by the Union for a change in the status quo that brings into play the three factors the Neutral sets forth in City of Burbank, S-MA-97-56 (1998).⁴ After careful consideration, the Neutral concludes that under the guise of that argument, the City is in fact casting the factual circumstances of the case so as to

⁴ These factors which the Neutral indicated the moving party in an interest arbitration must prove are:

- (1) The old system has not worked as anticipated when originally agreed to;
- (2) The existing system has created operational hardships for the Employer or equitable or due process problems for the Union; or
- (3) The City has resisted bargaining table attempts to address the problem.

put an unnecessarily heavy burden on the Union as the party seeking the change here. Of course, the Panel is aware that there is a need for the party proposing a change to show it could not bargain it, through a "give and take" negotiation process. There is an overriding interest not to let interest arbitration become a device that inhibits the parties' own good faith collective bargaining. Neither party should get something "for free" or, without good cause shown, get a deal beyond what it could reasonably be expected to obtain if it could strike, the Neutral firmly believes. See Village of South Holland supra.

In the present case, the City argues, the Union cannot satisfy even one of the three requirements set forth by this Neutral in City of Burbank. First, it asserts that awarding the Union's expanded residency proposal would constitute a breakthrough in the parties' collective negotiation process. Second, the parties' history shows that they have bargained over residency in 1989 and that Section 15.7 was actually negotiated and that its provisions are the status quo, the City strenuously asserts. It is that characterization with which the Chair of this Panel simply disagrees.

The Neutral Chair instead strongly believes that the logic expressed in his discussions on this topic in Village of South Holland applies with equal force to the factual circumstances of this current dispute. As was noted in South Holland, it is simply unclear whether a contract clause like Section 15.7 could be negotiated at arm's length and as part of the bargaining process

between equals before the 1997 amendment to the Act. Of necessity, Section 15.7 merely reflected the imposition by Management of the earlier status quo unilaterally created by it through the City's 1983 ordinance requiring all employees employed by the City after 1983 to, as a condition of employment, live within its legal boundaries or move there within a defined time. As merely a permissive topic of bargaining in 1989, the Union could not legally demand tradeoffs or concessions for its "agreement" to include Section 15.7 in the parties' contract, it is important to point out. That is the basic reason for this determination, the Neutral reasons.

In any event, this Neutral is also convinced that given the amendments about residency made to IPLRA in 1997, effective in 1998, the current Union proposal should be treated as if the parties "were making a new contract," just as was found by him in South Holland.

This is not a case where the "breakthrough" analysis discussed at several points above controls or even applies the result, the Chair emphasizes. It is important to clearly state that the status quo on the residency issue in Rockford was not negotiated in the normal context of negotiations, where either party can make proposals or demands for change, and, absent agreement, can strike or lockout, or for police and firefighters, go to interest arbitration to resolve an impasse.

However, it is also important to stress that the Neutral agrees with Arbitrator Matthew Finkin's conclusion Village of

University Park and IAFF, Local No. 3661, S-MA-99-123, supra, that the moving party still has the burden of persuasion for change, even if the parties' residency proposals are considered to be essentially akin to being proposals presented at the table when a first contract is being negotiated. There must be some significant reasons for the demanded change, the Neutral holds.

As Management emphasized, the facts established in University Park, as Arbitrator Finkin ruled, were that the City was proposing its adopting a residency requirement for the first time in that particular case. That is obviously different from the current case. Still, as to who had the burden of proof under those circumstances, Arbitrator Finkin wrote:

"[t]he weight of arbitral authority recognized by both parties is that the proponent of change bears the burden of persuasion on the need for the change. The Village contests the application of the principle here, but neither of its arguments is persuasive. First, it argues that the principle is inapplicable because both parties are proposing to change the status quo; but the Union's proposal -- actually a counter-proposal -- is in response to the Village's demand. By the Village's lights, if the Union stood on the status quo, the Village would bear the burden of persuasion; but, because the Union has made a partial concession, the Village bears no such burden. That does not make sense. Second, the burden is assumed because of the long-standing nature of the prior policy and the expectations concomitantly founded upon it.
***"

The difference between that case and the case at bar is one of degree, the Neutral finds. If either party wishes to change a

prior provision of a collective bargaining agreement or a non-negotiated status quo, there still is a need for a moving party to show why the particular provision should be changed.

The need for compelling proof, the standard of City of Burbank, is not the appropriate standard, but consideration is required as to the basic question of whether the choice between the parties' final proposals is for a reason or merely for fashion's sake. There is in all cases a duty to analyze where a demand for change is shown to come as close as possible to what would have been obtained in the swapping of inducements and tradeoffs that is the essential aspect of real collective bargaining, if it is to be granted.⁵

There also must be a balancing of the reasons for and against change and a determination as to which offer is more or less appropriate under the proven facts. See the Neutral's discussion on that point in City of Cleveland, Ohio and Cleveland Police Patrolmen's Association, Ohio SERB Case No. 98-MED-01-0039 (1999). Many other interest arbitrators in a wide range of jurisdictions have similarly ruled. Finally, the difference between the status quo analysis and breakthrough doctrine and what standard is found to be applicable in the instant case is that the requirements that the proponent of change present a genuinely compelling reason for

⁵ In this case, the parties have agreed that residency is a non-economic issue. In point of fact, then, the Panel could formulate its own contract term, since the "last and best offer" requirements of IPLRA apply only to economic proposals. However, the Neutral concludes that under these particular facts there is no real reason to reformulate or modify either party's final proposals.

change is not applicable if any of the three factors set forth in City of Burbank is proved to exist. The three tests of Burbank are not cumulative, but separate standards, the Neutral holds. Otherwise, no change in a first contract setting could ever happen, realistically, and the Act would be gutted, as the Neutral reasons in South Holland.

It is also perhaps worth noting that members of an interest arbitration panel are not selected for the purpose of making broad political, psychological or sociological determinations. This current Panel consists of the Union's general counsel for its state-wide organization; the City administrator who is the chief negotiator for Management in its labor negotiations; and an interest arbitrator with no specific ties or direct personal knowledge of the political realities of the City of Rockford. Consequently, although many of the issues and arguments in this case involve political and philosophical dimensions, all of these may only properly be considered in the structured context of the eight criteria set forth in Section 14(h) of the Act. It is only in that context that the analysis and evaluation of the matters identified by the parties themselves has been undertaken. The personal philosophies of the Panel members are simply irrelevant, the Panel members agree.

b. The Statutory Criteria

1. The Public Interest and Welfare

Several witnesses testified on behalf of the Union as to the disadvantages to the membership of the current residency

requirements. It is the cumulative effect of these witnesses' testimony that the City's residency policy restricts police officers' personal freedom. The local Union President stated that the policy affects police officers' private lives by restricting where they and their families can live, the churches they conveniently attend, the schools their children can attend, and their opportunity to engage in social activities. These restrictions affect employees most fundamentally, according to the PBPA, and thus the residency policy should be supported by compelling evidence absent on this record.

The Union also expressed concern with off-duty incidents involving police officers and their cliental. One witness testified that she had a confrontation in the neighborhood where she lived with someone who knew her from her role in investigating a shooting. As a result, this witness testified she no longer wears her uniform when she leaves and returns home from work.

There were affidavits and statements, as well as testimony, that other police officers suffered harassment, primarily verbal, during off-duty time spent at or near their City residences. However, very few officers have filed official reports disclosing incidents of off-duty harassment from citizens in reprisal for earlier incidents when the officers were on duty, the record discloses.

Additionally, several witnesses testified, as mentioned above, their concerns about having their children attend school in the same community where they serve as police officers. Moreover, at

least three Union witnesses testified that they believed the City's public schools are either substandard, dangerous, or do not have the resources both as regards academics and sports and other extra-curricular activities or as to other school systems in Winnebago County that would become available to sworn officers under the relaxed residency rule and, in point of fact, which are available now to those officers who were incumbents prior to 1984. The Union witnesses stated, however, that this is not a racial issue nor a matter of "white flight." The concerns over the City's schools involve performance issues, according to the Union. At any rate, the Union urges that the desire to be free to choose and range of school opportunities support the expansion of residency requirements.

On the other hand, Chief Nielsen testified to the operational advantages of the City's current residency policy. First, he stated, response time is improved. Second, the Chief testified that the current residency policy enhances the community policing program by fostering an environment where police officers form working partnerships on and off-duty with residents and businessmen. This reduces crime, increases public safety, and improves the quality of life in the community, he stated. Bike patrols and satellite facilities are important components of community policing and help to reduce crime.

Further, the Chief opined that almost every City police officer living in the City has neighbors who provide information about crimes and acts of disorderly conduct, and they summon the

police officers they know for assistance when there are crimes in progress.

Additionally, both Mayor Box and Chief Nielsen strongly suggested that there is increased neighborhood stability when police live in the community. Mayor Box especially directly said that residents feel safer when police officers live in their community.

Mayor Box also presented testimony concerning the social, economic and political advantages of the current residency policy to the residents of the City of Rockford. He noted that when police officers live in the community, there is an increased likelihood that they will participate in the community through service and family organizations. Through this participation, the residents become familiar with the officers representing them and, in turn, the officers can better understand and serve the community.

The Mayor expressly stated that there is a strong feeling among residents that police officers, as public employees, have a responsibility to contribute back to the community by paying real estate taxes and buying goods and services in the neighborhoods. Equally important, maintaining the current residency requirements for the police officers provides consistent application of residency requirements among all Village employees, he and Employer witness Forsman also testified.

In sum, the Management witnesses, and especially Mayor Box, emphasize that, for better or worse, the emotional impact of

residency cannot be discounted. Mayor Box testified that a relaxation or expansion of the residency requirements had to have the appearance that public employees desire to leave the City because it was not an acceptable place to live. This, Mayor Box believed, sent a negative signal to all his constituents when City employees move.

The Panel recognizes that the City administration anticipates significant social, philosophical and political consequences if its current residency requirements are liberalized to permit any police officer the ability to live within all parts of Winnebago County or up to 15 miles from the public safety building. In substance, the City administration is saying that, in their view, at least a substantial number of citizens in this racially diverse community would be extremely unsettled or upset if the Union's demands for an extension of the scope of the residency rule were accepted by this Panel.

On the other hand, as the Union stressed, there has been no "hard" evidence that an expansion of the residency rule for sworn officers would either be considered as "white flight". Moreover, the evidence of record is quite clear that the economic doldrums that characterized this City in the 1980s have been completely reversed and that the City now prides itself in having made a virtual 180 degree turn so that Rockford is and should be considered presently an outstanding place to live. The original reason for the ordinance creating strict residency requirements, and the labor contract provision, Section 15.7, was enacted has

disappeared, the record evidence shows. For that reason, the major newspaper has supported a relaxation of the residency rule and characterizes it essentially as an unneeded anarchism. See PBPA Ex. 49.

Furthermore, the Employer's basic stance as regards the need to compel a maintenance of the status quo for political, social and psychological reasons seems to be based on an assumption that citizens feel safer when police officers live in their neighborhoods. However, the PBPA introduced an empirical study on that topic (PBPA Ex. 76) which found that actually the opposite seems to be true. According to the thesis of this study, public perceptions of police in large municipalities -- the reported confidence in the abilities of the police to prevent crime, solve crime and protect citizens -- seems to be less in jurisdictions where residency requirements at the municipal level exist. This constitutes evidence to rebut a claim that citizens feel safer if police officers are forced to live in the neighborhood which would be an element of the public welfare. Indeed, the Union emphasizes that a better way to achieve public confidence would be to offer a financial incentive to sworn officers who choose residency within certain areas of the City.

At any rate, the Neutral underscores here the fact that Management's assessment of the political realities and negative symbolism which it wishes to avoid is the core of its opposition to any expansion or liberalization of the current residency requirements. The "public interest" criterion does give the

appointed and elected officials the right and indeed the responsibility to make just such an assessment, this Neutral concludes.

However, the Neutral also notes that, as Arbitrator Briggs emphasized in City of North Chicago, supra, at p. 13, "Off-duty police officers and their families are also members of the public." The "public interest" criterion therefore applies to them, just as much as it does to others, the Interest Arbitration Panel finds. The majority adopts Arbitrator Briggs' reasoning on that point.

In the current proceeding, there is some proof, but not much, that the residency requirement has created hardships for at least a few police officer and their families. However, it is clear from the record that the actual evidence is nowhere near as strong as that found to exist in Town of Cicero, supra, at pp. 41-42 (Berman, 1999) or in City of Kankakee, S-MA-99-137 (LeRoy, 2000). The record in the two cases just mentioned apparently contained numerous official police reports indicating off-duty officers and their families had been threatened and harassed by citizens who had had contact with the officers while they were performing their duties or, in fact, there actually had been threats or assaults by violent criminals the officers had previously arrested. Here, the actual proofs presented by the PBPA comes nowhere near the evidence of record in Town of Cicero or City of Kankakee, the Neutral Chair rules.

The record is therefore somewhat inconclusive as to whether adoption of the Union's Final Offer on the residency issue would

significantly improve the safety off-duty police officers and their families. It is clear, however, that the perceptions of the bargaining unit members and their beliefs regarding the ample justification of a relaxation of the City's current residency rule, no matter how sincerely held, are rooted not in hard facts but in the same sort of fear that motivates the City's top management to cite the public perception of "white flight" as the probable result of the expansion of residency options for the sworn officers. Both beliefs seem to the Neutral to stem from stereotypes or situations in other locales. Whatever its genesis, the claimed safety issue as a real hardship to the sworn officers is not fully supported by the evidence of record, the Neutral holds.

The various reasons advanced by the PBPA with regard to the perceptions and beliefs of some portion of the City's sworn officers with reference to the City's public schools as presenting a hardship for its members is similarly unpersuasive. Stripped to its essentials, the Union's contention is that the City schools are sub-standard, perhaps unsafe and certainly not as good as several suburban school systems in Winnebago County or within the geographical limitations of the 15 mile radius from the City's public safety building. As the City strongly points out, there is no empirical data presented to supported these assessments by the officer-witnesses. The claim that officers have made observations of the "real" circumstances existing in the schools by virtue of personal observation of those individuals assigned as security

officers to specific school locations has inherent problems, by the very nature of those police officer security assignments.

The school locations and contacts with the officers on a daily basis certainly are likely to be skewed and distorted by the very nature of a school security officer's work. The fact that even the survey submitted by the PBPA on the topic of schools shows that the majority of those sworn officers living in the City and having children of school age currently send their children to private or religious schools. More officers, the evidence of record shows, are actually not directly affected by current residency restrictions simply because they have no school age children.

There were, however, very real and certainly poignant examples of negative results to specific police officers being required to live within Rockford's city limits involving delays in marriage because a potential spouse felt her children's desire to stay in another school district was paramount to the couple's marriage plans. The cost of paying private school tuition as an option can be high and that is certainly a very real negative factor that in some senses is connected with the requirement to live within this Employer's city limits.

However, when one considers the extraordinary restrictions being placed on the employees' private lives, there was probative evidence of the satisfaction of the first two Burbank tests quoted above that favors the PBPA, the majority of the Panel determines. The schools their children attend, the social activities in which they engage, the little league and the soccer leagues they join,

the neighborhood with whom they play, are all limited by the City's rule. Surely, the officers who hired on since 1983 had notice that would be the case.

The Employer's basic stance as regards its opposition to any change in the status quo has much to do with its assessment (or assumption) that in having a requirement that a police officer "live in the neighborhood," a psychologically reassuring boost has been given to the City's citizens. The City also argues the current residency rule supports its vigorous efforts to foster rebirth and growth in the less healthy parts of the community. It further argues that when ordinary citizens see that police officers live in the community they serve, the result is better-police community relations. People simply feel safer is the bottom line.

The City also notes that the Union's claim of restrictions on personal freedoms to live where each officer desires and a right of privacy are completely rebutted by the fact that all officers hired since 1983 knew of these rules and were clearly told about the limitations on those very matters the rules represented. Equally important, there is not a hint of evidence the rules have not been fairly enforced, the Employer has stressed. Indeed, the residency requirements have been consistently applied to all City employees, it submits, without real contradiction, the Neutral holds.

The Union, in response, has asserted that the various social reasons contended for by the City have not been proven to exist. The original basis for the City's passing the 1983 ordinance was that, essentially, "you earn your money here, you live here," it

has emphasized. However, the historical reason and rationale for that ordinance does not exist now for this City. It may have been applicable to times gone by, the Union concedes. The majority of the Panel agrees, since the overwhelming evidence discloses this City is now going through boom times, and does not need forced economic support of 250 or so public employees, as the major newspaper in the area has editorially commented. See PBPA Exs. 48-49.

The Union also discounts Management claim that the citizens feel more secure having their police live in the community. It relies heavily on the one empirical study already mentioned above, PBPA Ex. 76, which research residency requirements and the public perceptions of the police in large municipalities. The Union contends that the research reflected in this study counteracts the claim of the advocates for police residency requirements who simply assume that citizens feel safer when police officers live in their neighborhoods because this showed a mutual investment in making the City work. Not only does the empirical research reflected in PBPA Ex. 76 casts doubt on this widely-held belief, the Union argues, but the witnesses it presented at hearing also show that a strict residency policy in fact does not influence public perceptions in either the majority or minority community about the police. What the testimony and evidence of record actually shows, the Union emphasizes, is that all citizens assess how well the police do their job by their ability to fulfill three responsibilities: prevent crime, solve crime and protect citizens. None of those has

anything to do with the residency of individual police officers, the Union strongly suggests.

To emphasize this point, the Union highlights that the community representatives it called as witnesses rated sworn officers who worked in community policing or otherwise had direct contacts with the neighborhoods were assessed solely by their ability to do their jobs and not where they lived. The Union points out that several of the officers most highly rated were incumbents prior to 1984 and, in fact, lived beyond the City's legal boundaries.

The Union also presented persuasive evidence that virtually none of the officers who work in community policing actually lives in the more marginal neighborhoods of the City of Rockford. The other municipalities who are comparable celebrate their diverse communities without holding their employees hostage. The majority of the Panel reasons that if it is the City's desire to have its officers live in the neighborhoods where police protection is most needed, the approach should be by a system of inducements and incentives, not "fences and chains." The very fact that many sworn officers who were grandfathered under the 1983 City ordinance and who live outside the legal boundaries of Rockford and still are considered outstanding officers by both the majority and minority communities rebut the "symbolism" argument, just by plain common sense. Perhaps more important, the current residency rule does not require any City employee to live in a neighborhood that is where a police presence might be most needed.

This City is not North Chicago; Cicero; or Kankakee. It is big enough so that there is a dilution or reduction of the impact of having an officer, or all the sworn officers, reside within the City limits, if the desired goal is to make people feel safe in all the neighborhoods. The very fact that the City claims that there are so many options for the officers to select, so many places available and ranges in style, age of housing stock and price, undercuts the argument that a feeling of security really permeates through town because of the current residency rule, the Neutral decides.

The majority of the Panel does agree with the reasoning of the two editorials from the area newspaper submitted into evidence by the Union mentioned earlier (PBPA Exs. 48-49) that other public welfare factors favor change. As the editorials indicate, and as the evidence presented by the Union also reinforces, the City has in many ways "ceased to be a city and become instead the hub of an ever-expanding region." (PBPA Exs. 49). There is really very little evidence that in actuality bargaining unit members will leave "in droves and new hires will never move here." (Id.). The evidence presented by both parties is that this community has many attributes that, "combined with convenience, will keep most workers here." (Id.)

Finally, the Neutral Chair does believe that the Union's evidence set forth in obviously great detail goes far to rebut the Employer's concerns for the political, social and psychological negative symbolism of permitting bargaining unit employees to move

anywhere in Winnebago County or within a radius of 15 miles from the public safety building. It seems the basis for Management's contentions on that point are not to the same degree "imponderables" as described by Arbitrator Finkin (see Village of University Park and IAFF, Local 3661 supra). None of the peculiar circumstances which existed in Village of University Park, supra; Village of South Holland, supra; or even in City of North Chicago, supra, all cited above, exist under these factual circumstances, or at least exist to the same degree as in those cases, the Neutral rules.

The City seems to be getting along "just fine" with the "grandfathered" officers who were incumbents in 1983 having the ability to live beyond the City borders and, the simple fact is that many of those officers live closer to the public safety building than officers who are required to live in town, but choose to live on the far ends of the City, where new development and growth have pushed the City limits. It is obvious from the facts of record -- and the peculiarities of geography -- that several suburbs are either surrounded by the City, wholly or in part, and others are closer to the central core of town than the developments within the City but on its far borders. Therefore, the social and psychological claims really seem to relate most to a gut feeling some citizens believe a rule change is somehow connected to "white flight" or simply is bad form. The proofs in this case, unlike South Holland, simply do not support such an analysis, the Neutral rules.

Consequently, based on the totality of the evidence, the Neutral finds that the public welfare criterion favors the Union's final proposal as the more appropriate offer.

c. Comparability

1. External Comparability - Comparisons with Other Cities

The applicable Illinois statute quoted in pertinent part above instructs this Panel to take into account the wages, hours and conditions of employment of other police officers, as well as other employees generally, in (A) public employment in comparable communities and in (B) private employment in comparable communities. Even with a statute silent on this matter, reliance upon "comparables" is of course extremely common -- and appropriate -- in interest arbitrations. See the Neutral's decisions in Village of Skokie, IL and Local 3033, IAFF, S-MA-89-123 (1990); City of DeKalb, IL and Local 1236, IAFF, S-MA-87-26 (1988), especially at pp. 15-24; and County of Cook and Sheriff of Cook County and Teamster Local Union No. 714, S-MA-94-001 (1995).

2. Private Employment

No evidence was offered regarding the salaries of employees in private employment in other communities. Accordingly, there is nothing for the Panel to address regarding this issue.

3. Police Officers in Other Cities

The question of comparables regarding police officers in other cities received considerable attention from both the Union and the City. As noted earlier, the parties stipulated on the nine (really, eight) jurisdictions to be considered the external

comparables. And, even the great role external comparability plays in interest arbitration, proof on the residency rules for the external comparables has been carefully analyzed by the Panel. City of Southfield, MI, 78 LA 153, 155 (Roumell, 1982).

However, with regard to the evidence adduced on the existence and non-existence (or strictness or relative laxity) of residency requirements in the eight external comparables, the actual proof of record do not, frankly, do much for either party or, more accurately, the evidence relating to the statutory criterion, more accurately characterized, is "mixed". For example, as of the date of the conclusion of the evidentiary proceedings, four of the eight external jurisdictions (Elgin, Joliet, Peoria, and Springfield) have city limit residency requirements much like that of this City. Also, however, these residency requirements were imposed unilaterally by Management, in the same sense as the majority of this Panel finds to be the case for Rockford. The other four cities (Aurora, DeKalb, Bloomington and Champaign), the evidence of record discloses, do not have city limit residency requirements.

Additionally, of the four external jurisdictions which do have residency requirements similar to this City's, Elgin and Joliet are Chicago-area cities. The remaining two jurisdictions that have strict residency rules, Peoria and Springfield, are downstate. Of the four jurisdictions that have no residency requirements, Aurora and DeKalb also can be considered in the Chicago area. Bloomington and Champaign obviously are downstate. On the point of comparing the nature of the contractual residency requirement of the external

comparables, the evidence on this record is no more helpful than that which existed in South Holland, the Neutral notes.

However, the primary issue with regard to the external comparables, from the Union's point of view, is the question of property tax rates or what the Union characterizes as "residency tax". What the Union means by that term is the differential costs between the property tax rate for properties within the political boundaries of the eight comparable jurisdictions and this City. Simply put, what the Union is saying is that if a comparison is made between the amount of taxes paid by a police officer owning a home evaluated at \$100,000.00 in any or all of the external comparables and a similarly evaluated home in Rockford, the Rockford police officer pays more taxes.

Since sworn officers are required to live within the city boundaries here, the difference in rate becomes an unfair and unanticipated tax paid as a working condition because of the strict residency rules. And, according to the PBPA, the differential rate could not have been reasonable anticipated by any police officer who joined the force prior to 1991, it maintains. Higher taxes and the resulting economic disadvantage to the sworn officers are the nub of this case, and not some hidden agenda involving issues other than that basic fact, as the Union sees it. It is essentially irrelevant that the higher tax rates came primarily from the judicially ordered desegregation of Rockford's public schools, the PBPA also maintains.

As the Neutral understands the record evidence, the Union is claiming that there is no way to avoid the obvious conclusion that all Rockford citizens pay a higher property tax rate than citizens living in Aurora, Elgin, Joliet, DeKalb, Peoria, Bloomington, Champaign and Springfield. Higher taxes must necessarily result from that basic fact if comparable housing (that is, housing assessed at the same dollar value) is compared. Since citizens work for private employers or, actually, any employer other than this municipality, live in Rockford by choice, their higher taxes are a matter of choice. However, the Rockford residency rule for the sworn officers, which requires all of those employees hired after 1984 to live within the city limits, results in these officers in that situation either paying a residency tax or, effectively, having their comparative salaries reduced by the extra amount in taxes they are forced to pay by the higher property tax rate.

There is obviously no dispute that the property tax rate in Rockford is the third highest in the State. Property tax rates are, after all, subject to easy verification. There is similarly no dispute that the property tax rates for the City have steeply increased since 1990. The Employer strongly objects to the Union's basic position that these tax rate increases have placed a greater financial burden on police officers living in this City than similarly situated officers in the external comparables. These are as follows.

First, the City notes that since Rockford is no longer a home rule municipality, other options for taxes in the eight external comparables are not available to it. Hence, Rockford citizens pay more of a total tax load in property taxes than do citizens living in the other eight municipalities, the Employer suggests.

Second, the City also urges that the Union consistently compares apples to oranges in its analysis of the so-called "residency tax". Overall, housing is cheaper in Rockford than in the majority of the external comparables. Consequently, the presumption should be that if comparisons are made among the City and its comparables based on the set value of a house for property tax purposes (here \$100,000.00), there may be other tax payments expected for the officers living in Rockford. However, Rockford citizens either get more house for the same assessed evaluation for a specific residence; get more conveniences from their City; or may, in fact, pay less because the real employees live in homes of the same size and amenities which have lower assessed evaluations of a higher property tax rate. In this case, asserts the City, "numbers truly do lie."

The Employer also disputes the Union's testimony and exhibits which purport to show a differential of approximately \$1,000.00 in property taxes per year, for 1999, on a \$100,000.00 home between the residents or citizens of this City and those who live in the eight comparables. According to Management, the evidence of record illustrates that the tax rates actually did not begin an unexpected

steep climb until 1994, and not 1991, the base year for its calculations used by the Union.

Accordingly, there is not the \$1,000.00 per year difference in the taxes paid on the "comparable" \$100,000.00 home used by the Union for its analysis, but, the City insists, there is more like a \$500.00 differential for a comparison between a home evaluated for tax purposes at \$100,000.00 in Rockford and a similarly evaluated home in the eight external comparables.

More important, the City heatedly disputes the Union's claims that the desegregation orders caused property tax increases beyond normal expectations before 1994, as mentioned earlier. The significance of that fact is that the majority of employees in the Department came on board at a time when they had notice that the City boundaries residency requirement was a condition of employment but they also had notice of any differential in the rates among all the comparables before the 1994 "spike". It is simply unfair for the bargaining unit employees to attempt to include any property tax differentials prior to 1994, even if the rates were slightly higher than specific other jurisdictions, under those factual circumstances, the City insists. Consequently, it argues that claims for higher taxes as a "residency tax" are exaggerated out of all proportion to reality, even if an assessment of the differential in property tax rates is somehow found to be a proper basis for looking at the external comparables, which it strongly disputes to be the case in the first instance.

Despite these Employer arguments, it should be obvious that residents who own property in this City pay a higher tax rate than similarly situated citizens in the eight jurisdictions which constitute the external comparables. Certainly, the major City newspaper accepts that fact (see PBPA Ex. 49). The majority of this Panel also concludes that despite the City's attempts to show otherwise, the property tax rates did "spike" or "zoom" in a way that could not be reasonably anticipated from 1991 forward, and not from 1994. Accordingly, the majority of the Panel finds that the approximate \$1,000.00 difference in real estate taxes claimed by the Union to exist between an owner of a \$100,000.00 home who resides in Rockford and an owner of a similar home in the eight comparables to fairly represent the amount "extra" taken out of the pocket of a Rockford citizen, as the Union has claimed.

Moreover, it is obvious that this has a particular impact on the public employees in this City, since they are forced to live within its borders and do not have a free choice under the current rule. Additionally, the unanticipated nature of the steep rise, although a collateral effect, as the City urges, does put the current circumstances outside of a situation where the acceptance of employment by employees with notice of the City boundary residency requirement might fairly be considered a real impediment to later complaints about the implications of the rule. Here, the "spike" in the property tax rates eliminates the notice defense of the Employer, the majority of the Panel rules. It is also the conclusion of the Neutral that any claims that property tax rates

have stabilized are speculative at best and could as likely prove to be wrong or correct. The rates are dependent in significant part on the costs of the school litigation, and that process has not been shown to be over, the record makes clear.

Under these circumstances, the majority of the Panel find that the Union has succeeded in proving that the higher taxes required to be paid by bargaining unit employees as compared to similarly situated police officers working in the other eight cities, while not a real tax, certainly is an appropriate and logical reason for these police officers to demand a change in the status quo and a relaxation of the residency rules. External comparability, despite the best efforts of Management not to have this considered, strongly favors the Union's final proposal, a majority of the Panel concludes.⁶

d. Internal Comparability

The City has emphasized that, as regards internal comparability, the same factual circumstances exist in the current case as that in South Holland, as that found by the Neutral to favor the Employer in Village of South Holland, supra. The Neutral agrees. For non-economic, contractual terms or conditions of employment like residency, the Neutral firmly believes that

⁶ To the extent that the Union has, in several of its exhibits, attempted to expand the comparables to the other municipalities in Winnebago County and/or to the "labor market area", the Neutral finds against this specific approach under these particular factual circumstances. None of the reasons for engaging in such an expanded analysis of comparables found to exist by Arbitrator Berman in Town of Cicero have the same applicability here, the Neutral finds.

Management claims of a logical need for uniformity have real and convincing substance. See the discussion of Arbitrator George Fleischli, Village of Schaumburg and FOP (1994) at p. 36 quoted in pertinent part in the Neutral's decision in South Holland; Arbitrator Feuille's analysis in City of Peoria and IAFF (1992); and this Neutral's conclusions in Kendall County and Sheriff's Department of Kendall County, IL and the FOP, S-MA-92-216 and S-MA-92-161 (1994).

There is a legitimate and logical concern on the part of the Management of the City that a residency rule should be uniform among all its employees, unless a compelling reason for a difference in that particular condition of employment for this bargaining unit has been proved. As noted earlier, and reiterated here, the Neutral Chair concludes that the testimony of record undisputedly shows all other City employees work under the same rules for residency as does this bargaining unit.

As was the case in the Neutral's South Holland decision, it is quite clear that if the PBPA's final proposal for a more liberal residency rule is granted, it is predictable that the City's other employees will instantly be jockeying back and forth for a similar more liberalized residency requirement. Certainly, the other unionized employee groups, the IAFF and AFSCME, representing two bargaining units, will demand "me too" or, later, will try to outdo the PBPA at the bargaining table to obtain an even wider area in which those employees could live and still be City employees. Under these factual circumstances, it is not irresponsible or

unreasonable for Management to resist being put in a position where it could be whip sawed on the residency question, the Neutral rules.

It is also the conclusion of the Neutral Chair that there is substantial and probative evidence that the City has enforced its residency policy since 1984 in a manner consistent with its clear and unambiguous terms. Further, the provisions of the then-current residency rules were incorporated into the parties' labor contract in 1989, in what is now Section 15.7. However, a majority of this Panel specifically concludes that, despite the City's strong contentions on that point, essentially what the status quo represents is still a unilaterally imposed Management rule, because of the law governing bargaining on residency prior to the 1997 amendments to IPLRA.

As the Employer has also suggested, it is quite significant that bargaining between the City and the two AFSCME units occurred in 1998, after residency had become a mandatory subject of bargaining. As Management argued, and the Neutral mentioned earlier, the residency issue is the type of issue where comparisons with other City employees are constantly made, on an individual basis. Moreover, the testimony of the City's chief spokesman in those negotiations, Panel Member Forsman, is to the effect that the residency issue was of significance to both AFSCME and the City.

Also, there is no dispute that the 1998 negotiations between AFSCME and the City took place after the residency amendments to the Act. Additionally, the Neutral agrees with the Employer that

these AFSCME represented employees who bargained then have a right to strike under IPLRA. There is no contest that, as a matter of fact, AFSCME accepted the status quo in these negotiations, namely, contract language identical to the 1983 ordinance and to Section 15.7 of the parties' predecessor labor contract. There is thus logic to the City's argument that if the PBPA and it had engaged in good faith and arm's length bargaining, the result would be no different than Management's final and best offer, absent a strike or its equivalent for police officers under this Act, the interest arbitration proceeding currently at bar. At any rate, in this instance, the bargaining units of AFSCME-represented employees who agreed to the status quo in 1998 constitute an appropriate "comparison group" with the police officer bargaining unit within the meaning of Section 14(h) of the Act.⁷

All the foregoing leads the Neutral to conclude that this aspect of internal comparability provides strong support for the City's final and best offer as what it believes to be a reasonable approximation for a negotiated settlement.

One further comment on the issue of internal comparability needs to be made. The Union has presented the arbitration award of Arbitrator Larney in City of Country Club Hills, IL and Teamsters

⁷ To the extent that the parties did discuss the fact that the residency issue was presented to Arbitrator Briggs for resolution in his interest arbitration between the City and its Local IAFF unit, City of Rockford, supra, it is worth noting that Arbitrator Briggs did not decide this question and essentially instructed the parties, as was the case in City of North Chicago, the most recent decision by him on this point, that, essentially, further negotiations on the point were appropriate.

Local 726 (2000), supra, to support its claim that a "two-tiered" residency requirement permitting officers who were incumbents prior to 1984 to live beyond the boundaries of the City should be a significant factor in the internal comparability equation. The Neutral Chair certainly believes that the evidence that there still is in existence a rule which permits some police officers to live beyond the City's borders while others cannot has great relevance to an analysis of the public welfare statutory criterion, as already touched upon, but also to Management's claims for the need for the more restrictive rules "for the operational efficiency of the Department," as will be developed below. On the issue of internal comparability, the Neutral simply disagrees with the Arbitrator in the City of Country Club Hills that a "two-tiered" residency rule creates "two groupings" that may be compared for purposes of the internal comparability criterion under the Act, and in fact must be considered the most relevant points of comparison. Consequently, the fact of two groups in the Department living under two rules does not change the conclusion that internal comparability favors the status quo.

e. Other Factors

Whether considered under the earlier statutory criterion or the public interest and welfare or, as the Neutral structures the recitation here, under other factors, there can be no doubt that the public has a vested interest in the operational efficiency of its police department. In this case, the Employer has presented direct testimony as to the perceived operational advantages of the

current residency policy. Chief Nielsen, for example, testified that response time is improved if the police need to be called out under emergency circumstances. He also suggested that the current residency policy enhances the community policing program by fostering an environment where police officers form working partnerships on and off-duty with residents and businessmen. He further said that residents feel safer when police officers live in the community, as discussed above.

There was also testimony to the effect that there is an increased opportunity for off-duty officers to handle situations that may arise in their own neighborhood and to make arrests, since officers are on duty 24 hours a day. Contacts with informants and the receipt of tips on crimes or impending crimes are improved, too, for resident police officers, the City witnesses' testimony suggest.

However, the operational advantages cited by the Police Chief and others for maintaining the current residency requirements were not supported by probative evidence. First, as mentioned earlier, including some of the most-high ranking, were incumbents before 1984 and live at present outside the City boundaries. Their work seems totally unaffected, this record discloses. Second, with regard to call-ins and drive-times for coming to a crime scene or two and from work, the Union has convincingly rebutted Management's claims that City boundary residency requirements enhance the Department's ability to serve and protect. The realities of geography are that there are many locations which are outside the

City boundaries which are closer to the public safety building than sections of the City where officers might be required to live. This is especially true in the newly developing east end of town, as well as, to a lesser degree, to the north and west, the record shows.

What makes Management's claims for operational efficiency unconvincing, across-the-board, is the fact that so many officers and senior level members of the Department, as incumbents prior to 1984, are permitted to live outside the City boundaries and still perform their work tasks at a satisfactory level, or, apparently, in many, many instances, in a manner substantially higher than any minimum. There are superior officers, sergeants, and higher level members of the Department who come and go to crime scenes and/or back and forth to work at the beginning and end of their shift from points outside the City's legal boundaries. There are employees of the Department who live outside the City limits who engage in community policing activities and work in the neighborhoods to improve housing or combat drugs. There is simply no correlation between the place where they live and the place where they work as regards operational efficiency that has been established on this record, the majority of the Panel rules.

Under these factual circumstances, the record is convincing that the adoption of the Union's Final Offer to relax the residency requirements to the extent provided for under the last proposal of the PBPA would not have a negative impact upon departmental

operations in the sense of what is currently being discussed, the Neutral Chair determines.

One other factor is extremely important in the current case and it is what distinguishes this case from the factual situation found to exist by Arbitrator Briggs in the City of North Chicago, supra. Here, unlike North Chicago, the history of the current round of negotiations makes it quite clear that the parties have fully negotiated over the residency issue. The matter of City resistance to liberalization of the residency rule for this contract is obviously politically, socially, and philosophically based. Although there were at least arguments that a give or take swap on residency could have been had by the City if the Union had foregone any pay increases and agreed to a wage freeze for the entire contract, even that offer is not clearly shown to have been a sufficient quid pro quo for a swap for liberalization of the current residency requirements by the City.

The Union, on the other hand, did make offers to trade numerous of its other demands for liberalization of the status quo on the residency front. This is not a case where the Union is demanding a relaxation of a City boundary residency rule "for free". That fact distinguishes the current case from South Holland, the Neutral specifically notes. In other words, in this case, the Interest Arbitrator could not in good conscience delay a ruling in this issue for a future round of negotiations, with the hope that "the heart problem" will be solved face to face. Each side has proved that residency is a "hang up" issue, one that,

where a strike not prohibited under the Act for sworn officers, might indeed have headed that way, despite the non-economic basis of the dispute. The fact that both sides were willing to go to interest arbitration primarily over this issue is certainly clear evidence of that point. There is obviously an impasse over residency.

To be sure, Management has adduced evidence to show the current factual circumstances have at least facially similar characteristics to the situation faced by this Neutral which resulted in the Village of South Holland decision mentioned at numerous occasions already. This Employer has shown, for example, that there has been no proof that the strict residency requirement has impeded recruitment, and very little proof that officers have left the department because of these current rules. On the other hand, the various social reasons advanced by the City do not have the factual underpinnings found in Village of South Holland; Village of University Park; Town of Cicero; or City of Kankakee.

The higher tax issue results in out-of-pocket disadvantage to the bargaining unit employees in comparison to similarly situated police officers in the external comparables, the majority of the Panel holds. External comparability favors the Employer. As to Items 3 and 8 of the statutory criteria, the interest and welfare of the public, including the officers and their families, and the other factors which are normally taken into consideration in the determination of conditions of employment between parties in negotiations, the Union has shown reasons why its offer, on

balance, is more important than Management's firm and fair insistence on the status quo.

Conclusions on the Residency Offers

Overall, the majority of the Panel believes it would serve the collective bargaining process to grant the Union's Final Offer on the non-economic issue of residency. The parties have demonstrated that this issue cannot be hammered out by them at the bargaining table. They have both expressed what appears to be genuine concern for the public interest and welfare.

Given the great priority these police officers have placed on their desire to obtain the basic right to live where they want, within reason, and the inability of Management to show operational reasons for denying that request for change, as opposed to political or social ones that have been rebutted or counterbalanced by the Union's proofs, there seems no good reason for the retention of the status quo on the residency issue. Coupled with that is the bread and butter concern to save taxes. The Union's Final Offer is therefore granted.

C. Shift Differentials

1. The Final Offers

Union's Final Offer

Appendix A Section 5 - Shift Differential. The Union proposes no change in the shift differential of the collective bargaining agreement.

City's Final Offer

Effective upon acceptance and approval of a new collective bargaining agreement by the Union and the Employer, the fifth note to Appendix A of the current collective bargaining agreement shall be amended to read:

5. For employees covered by Article 5.A (ten-hour shift): Employees who are regularly assigned to the afternoon shift shall have an amount equal to three (3) percent of their hourly wage added to their rate, not to exceed \$.075 per hour. Employees who are regularly assigned to the night shift shall have an amount equal of five (5) percent of their hourly wage added to their rate, not to exceed \$1.25 per hour. The employees assigned to the 1800-0400 shift shall have an amount equal to four (4) percent of their hourly wage added to their rate, not to exceed \$1.00 per hour. However, for sergeants the "not to exceed" rates for shift differential shall be: afternoon - \$.90 per hour, nights - \$1.40 per hour, 1800-0400 - \$1.15 per hour. (Note: This offer is the same regardless of whether the Employers' Offer on Issue No. 1 is accepted or awarded.)

2. Positions of the Parties

a. The City

As the Neutral Chair understands the City's proposal, there is no question that it is attempting to change the status quo in this instance. The basis for its proffered change is the City's assessment that the present system for calculating shift differential for patrol officers is too rich and also, as the current system has worked out in practice, has had the effect of preventing the City's patrol officers from desiring to move up to higher levels in the Department.

While the shift differential may have had a salutary effect in the past, the City maintains that what this Final Offer represents is a modest way to bring a balance between proper compensation for sworn officers who do not work days and the need to have a system that does not pay so much to patrol officers who get the shift differential so if there is no incentive to move up in the

Department for these officers. In light of the legitimate concern assessed to the Union in bargaining to have patrol officers volunteer for and take the time to receive training so as to fill higher level slots, the current proposal for change presented by the City is deserving of the attention of the Panel and, ultimately, in the interests of the Department, Management's Final Offer on this economic item should be accepted, the Employer submits.

The Employer explains that the present system for calculating shift differential for patrol officers is grounded on the fact that the Department has four fixed patrol shifts: days, nights, afternoons and a cover shift from 1800 hours to 0400 hours. When 10-hour shifts were implemented for the Patrol Division, shift differentials were provided for all shifts except the day shift. In what the City asserts is the nub of the problem, these differentials are currently stated in terms of a percentage of hourly wage: afternoon shift differential is 3%; the 1800-0400 shift differential is 4%; and the night shift differential is 5%.

Specifically, the City points out that during the negotiations prior to the interest arbitration proceedings, both the City the PBPA made proposals and reached tentative agreements that make the position of investigator more attractive. Indeed, at least five tentative agreements were reached between these parties concerning this mutually-agreed problem with the current collective bargaining agreement, namely, that not enough patrol officers were applying and testing to be investigated.

The City believes that a significant part of the problem of inducing patrol officers to become investigators is that the current shift differentials, paid as a percentage of salary, made the patrol positions (with generally less responsibility) more attractive than the investigator position. Accordingly, in its opening proposal of November 18, 1998, the City proposed amendment of the shift differentials from percentage of wages to fixed amounts expressed in cents per hour.

During the course of bargaining preceding this interest arbitration, it became clear that the Union strongly objected to what it believed would be a "give back" on shift differential pay by the patrol officers if the City's opening proposal was accepted by the Union. In this round of negotiations, the Union made clear that it did not intend to accept proposals that would take money away from its members. The PBPA constantly dinned into the ears of the Management negotiators from day one of bargaining that no proposal from Management that would take money away from the sworn officers would be agreed to by the bargaining committee or the membership.

The City stresses that it still wants the shift differential pay to be changed from a percentage calculation to cents per hour and made several proposals to obtain this result. It does point out, however, that during the course of mediation, and solely in order to encourage a packaged deal without changing the residency requirement, the City made an off-the-record proposal to pay all patrol officers, regardless of salary level, the top level shift

differential currently paid to any officer on the respective shift. PBPA Exs. 36 and 37 improperly refer to this off-the-record proposal of the City in their on-the-record responses; PBPA Exs. 56 and 57 are also based on this off-the-record City proposal made during mediation. As the Union analysis shows, this proposal by Management during bargaining provided significant extra dollars to patrol officers over a good number of years. However, the City makes clear, the proposal these exhibits are based upon is no longer on the table and is certainly not the City's final offer here.

The record reveals that the City's economic offer is as follows. It proposes paying the current percentage of wage shift differential, but limiting that amount to a fixed amount expressed in cents per hour. For the afternoon shift, that amount would be \$.75 per hour; for the 1800-0400 shift, it would be \$1.00 per hour; and for the night shift, it would be \$1.25 per hour. Patrol Sergeants would be limited at an additional \$.15 per hour above the regular patrol officers on each shift. The City points out that this proposal does not take money away from any employees, but it also limits the obligation of the City to pay percentage shift differential, essentially capping the amount paid. The motive here is not to achieve a "take away" of compensation, the City opines. The reason for the change is the City's desire to take away an unintended incentive for sworn officers to remain patrol officers, and not move up to investigators.

As touched upon earlier, the City emphasizes that this makes sense, given the mutual goals of the Union and the City to make the investigator slot more attractive, as reflected in the five tentative agreements to do just that already agreed to in this round of negotiations. this is a compelling reason to change the status quo, the City therefore argues.

In discussing the factors relative to an assessment of its proposal, it is the position of the City that its current shift differential provisions are richer than shift differential provisions in collective bargaining agreements in the external comparables where such shift differentials exist. Thus, external comparability favors the City's Final Offer. Internal comparability, that is, the shift differential provisions in the collective bargaining agreements for the other city bargaining units also favors the City's offer, argues this Employer.

Additionally, the historic rationale for the current system described above no longer exists, and runs counter to the mutual interests of the parties as expressed in the current negotiations, the City emphasizes. Finally, there will be no adverse economic affect on current bargaining unit employees by adopting the City's Final Offer, it submits.

b. The Union

The PBPA denied that there is any necessity for the panel to adopt what is essentially an economic "take away." This is so because the Employer is seeking to change the status quo and has not met its burden of showing a compelling reason for such a

result, according to this Union. The PBPA also alerts the Interest Arbitration Panel that there was no proposal for a financial cap during negotiations, and the first time such a cap came up was in the Employer's allegedly final and best offer. That fact alone flies in the face of effective resolution of labor disputes and the long-term mutual interest of these parties in bargaining in good faith, the PBPA maintains.

The basis for this claim is that, according to the Union, there was never any discussion during the round of negotiations prior to the interest arbitration proceedings in this matter about the shift differential modifications that the City wanted were to include "caps" on the shift differential rates. According to what the Union considers to be the unrebutted testimony of the local Union President, the actual offer on the table by Management during negotiations was that the City would "give us a flat \$.75 across-the-board for afternoons; \$1.00 for mid-shift and \$1.25 for nights; \$.90 for sergeants on afternoons; \$1.15 ... for mid-shift and ... \$1.25 [\$1.40] for nights." However, the PBPA notes that the Final Offer of Management on the shift differential quoted immediately above reflects that what is now being proposed is that for employees who are regularly assigned to the afternoon shift, there should be a conversion from the current shift differential to an amount equal to 3% of each specific employee's hourly wage rate, but with a "cap" that the differential is not to exceed \$.75 per hour.

Similarly, employees working on a 10-hour night shift would have the shift differential currently paid converted to 5% of each employee's current hourly wage converted to a specific amount and then a cap would be placed, but the shift differential would not exceed \$1.25 per hour. The mid-shift would, under a similar procedure, have added to their hourly wage rates an amount equal to 4% of each employee's hourly wage, with a cap that such a dollar amount could not exceed \$1.00 per hour. Sergeants would similarly be capped with a \$.15 per hour shift differential over the patrol officers' cap.

According to the Union, this objection to Management's proposal is simple and direct: There has been no negotiation for the caps made prior to the final offer being placed on the table during the interest arbitration proceedings. The Union urges that it is unreasonable that Management take this tactic and that what is represented by this course of conduct is essentially unfair bargaining.

Besides that specific objection, the Union also argues that the status quo as reflected in Appendix A, Section 5 of the current contract, was negotiated at arm's-length between these parties. Consequently, unlike the status quo which exists concerning residency, according to the Union, the "breakthrough" analysis it so strongly urges should not be applied by this Panel over the issue of residency, that analysis is fully applicable here, "in order to protect the bargaining process."

Consequently, the PBPA contends that the Panel should not award any "breakthroughs" that would so substantially change the negotiated status quo as to shift differentials. According to the Union, there is a paucity of proof that there is a substantial and compelling justification for Management's proposed shift differential modifications. After all, the Union asserts, if Management wishes to change the status quo, it was required to prove that one of the three factors the parties referenced in City of Burbank, S-MA-97-56 (1998), set forth above, existed. The Union insists that Management cannot satisfy even one of those requirements. First, the Union has not presented any substantial evidence that the current shift differential rates do not work as anticipated when negotiated by the parties. Second, there is no proof that the system has created operational hardships for the Employer. Third, the Union notes, the Union underscores the fact that if Management offered it anything equal in value for the change in the shift differential, the negotiation process as it has been practiced between these parties would not function satisfactorily.

The Union also stresses that five tentative agreements were entered into by the parties to give incentives for patrol officer to train and take written examinations to become investigators/detectives. According to the local Union President, since October 1999 until February 2000, the increase in those patrol officers taking the examination went from 14 to 25 takers. The Union concludes that this reflects the fact that the new incentives for

moving up will, and are in fact already, working to solve the problem that Management claims is at the bottom of its request for change. Since that is true, the Union submits that Management has not really given these modifications a chance to work with regard to the need for more patrol officers to seek to fill investigators' vacancies.

Thus, to claim operational hardships the Employer uses as an excuse for a take-away of the percentage payment which now is the negotiated status quo as regards shift differentials has been disproved as a matter of fact. Consequently, since the Employer is also the moving party seeking to change, there is no support, much less a convincing reason, to alter the current Appendix A, Section 5.

3. Discussion and Findings

First, the majority of this Panel finds that the Union's claim that the Employer acted unfairly in making a Final Offer containing caps on the shift differential contains certain basic mistaken assumptions not supported on this record. It is clear that when its initial proposal for a change in the shift differential rate structure was presented by Management on November 18, 1998, it wanted to change the current percentage calculations to a fixed number of cents per hour for those employees who work a 10-hour shift other than days.

The Union's argument against this was that it would essentially be a "take-away" or reduction in monies paid to its members. However, it is obvious that Management believed that a

restriction on the shift differential payment structure to make it both less costly but also to somewhat decrease the attractiveness of patrol officer work for other operational needs (the filling of investigators' vacancies) was a factor, too. Management then made off-the-record offers to still modify the shift differential structure, but in a way that would result in a much higher differential rate than that in its final and best offer.

It is the unrebutted evidence on this record that those proposals were made quid pro quo for the Union's taking its proposal to modify the current residency requirements off-the-table and those proposals occurred during mediation. Given that fact, the majority of the Panel concludes that the Union's use of those earlier proposals were on-the-record submission and calculation in PBPA Exs. 36 and 37 and the analysis derived therefrom in two other Union exhibits is simply not appropriate.

Furthermore, given those factual determinations, the claim of a "new bargaining offer" which includes caps as well as a conversion from a percentage to cents per hour shift differential was not an unfair tactic nor an action by Management detrimental to the bargaining process, the Neutral Chair rules.

It is also significant that the evidence presented on this record shows that none of the external comparables have a shift differential based on a percentage of the hourly rate of each employee rather than a definite cents per hour figure. Additionally, the operational advantages cited by the Management witnesses for changing the current shift differential structure

were supported by probative evidence. There is no dispute in the record that the parties were making mutual efforts during the current negotiations to develop greater incentives for patrol officers to take the written test and apply for investigator/detective vacant slots.

There is also no dispute that the need to fill these vacancies was not fictitious or a ploy made up by Management to attempt to cap costs or take away dollars from the patrol officers. Although there is some credibility to the Union's arguments that the five tentative agreements made to help fill those needs in other ways might be sufficient, there is little question that Management has satisfied its burden of proof that the original rationale for negotiating the current shift differential provisions no longer is as pressing and that new needs have modified the circumstances underlying the current status quo.

Similarly, the Employer has presented uncontested proof that none of the other unionized employee groupings have a similar shift differential structure. The PBPA unit now has a much better shift differential case structure than anyone else in the employ of this City. This data on internal comparability confirms the fact that a percentage calculation is much richer than that reflected for a shift differential to the other unionized bargaining units, as Management argues.

To recapitulate, the Union has not provided a convincing response to Management's description of the historical reasons for adopting the current provision on shift differentials in the first

instance. The Employer is convincing in its claim that circumstances have changed, as reflected in the five other tentative agreements dealing with the parties' mutual attempt to make the investigator or detective positions more attractive to the patrol officers. Although the Union now claims, these are sufficient to "insensitize" the taking of tests by patrol officers to permit them to move to investigator slot, that is an insufficient basis not to accept Management's contentions that the circumstances underlying the status quo have changed and there is a real need other than an attempt to take money away from the patrol officers to change this shift differential pay from a percentage to a cents per hour calculation. This is true even with the "caps" in this final proposal, the majority of the Panel reasons.

Overall, the Neutral Chair also believes that under the statutory criteria applicable to this discussion, as structured and developed by each party, the City has provided convincing reasons to support its burden of persuasion. On balance, the Union has not presented enough evidence to counter these proofs. The City's final proposal is hereby adopted by a majority of the Panel.

D. Contract Duration

1. The Parties' Proposals

The Union has proffered the following proposal:

Article 16 - duration of the agreement shall be amended by replacing the first sentence of Article 16 with the following language in order to create a contract of two years in length:

The agreement shall be effective as of January 1, 1999, and to remain in effect until Midnight, December 31, 2000, and shall continue thereafter in full force and effect from year to year unless written notice of desire to terminate or amend this agreement is given by either party on or before August 1, 2000 of any succeeding August 1.

The City's Final Offer is:

Effective January 1, 1999, Article 16 of the Collective Bargaining Agreement should be amended to read:

This Agreement shall be effective as of January 1, 1999, and shall remain in effect until midnight, December 31, 2110, and shall continue thereafter in full force and effect from year to year unless written notice of desire to terminate or amend this Agreement is given by either party to the other on or before August 1, 2001, or any succeeding August 1. The Association shall serve the above notice on the Legal Director and the City shall serve the above notice on the President of the Association. In the event the above notification is given, the parties agree to enter into negotiations no later than September 1 of the year in which the notice is served.

If negotiations have not been satisfactorily completed at the anniversary date, neither party may terminate the Agreement unless it gives at least ten (10) days notice to the other party in writing during which time all provisions of this Agreement shall remain in full force and effect.

2. The Position of the Parties

a. The Union

The Union claims that the Employer is attempting to change the pattern of contract bargaining without sufficient justification.

b. The Employer

The Employer, on the other hand, urges that as a practical matter, the contract should be of three years' duration so that the City and Union do not immediately have to undertake negotiations if this collective bargaining agreement had an expiration date of December 31, 2000. On its face, the parties need a three year contract under these specific circumstances, the Employer thus opines. The Panel agrees, since the interest arbitration process has taken so long no other decisions makes sense, the majority rules.

3. Findings and Conclusions

The majority of the Panel indeed recognizes that the practicalities inherent in the current situation require a contract of three years' duration. The majority of the Panel also concludes that this should be well understood by all affected parties and is indeed "more reasonable" than the Union's Final Offer or at least it has been made so simply by the passage of time. The City's offer is therefore adopted. All awards follow.

VI. SUMMARY OF AWARDS

1. Wages

The majority of the Panel adopts the City's position on wages. The Union proposal on that point effectively constituted alternative proposals on an economic item, in contravention of the requirements of the Act. Given this structural deficiency, the Union's offer was not considered on its merits. The Employer's offer essentially was therefore automatically adopted, since it was reasonable and consistent with applicable statutory factors.

2. Residency

The Panel, by a two-one vote, adopts the Union's position on residency. This offer is, on balance, supported by convincing reasons and is more appropriate than the City's final proposal to maintain the status quo. Moreover, under these circumstances, the majority of the Panel concludes it would not be proper to attempt to formulate an award different from the proffered last and best offers of the PBPA and this City.

3. Shift Differential

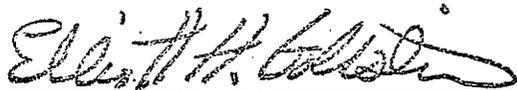
The majority of the Panel adopts the City's final proposal and incorporates it in the form submitted into the final collective bargaining agreement.

4. Contract's Duration

The City's offer is adopted.

5. By agreement of the parties all tentative agreements contained in Jt. Ex. 3 admitted into the record in these proceedings are incorporated herein and made a part of this

interest arbitration award as the final dispositions on those agreements between the parties. Included in this Award is the agreed-upon retroactivity to January 1, 1999, as stated above.



ELLIOTT H. GOLDSTEIN
Neutral Chair
Arbitration Panel

EINER FORSMAN
Employer Member
Arbitration Panel

SEAN SMOOT
Union Member
Arbitration Panel

Dated: November 10, 2000

STATE OF ILLINOIS

ROCKFORD INTEREST ARBITRATION

Before Impartial Arbitrator
Elliott H. Goldstein

CITY OF ROCKFORD,

Employer,

v.

POLICEMEN'S BENEVOLENT AND
PROTECTIVE ASSOCIATION, UNIT NO. 6,

Union.

ISLRE No. S-MA-99-78
ARB No. 99/084

UNION'S FINAL OFFER

Policeman's Benevolent And Protective Association, Unit No. 6, by and through its attorneys, submits this final offer pursuant to the Illinois Public Labor Relations Act §14(g) and (h) as follows:

1. Article 16 - Duration of Agreement shall be amended by replacing the first sentence of Article 16 with the following language in order to create a contract of two years in length:

This Agreement shall be effective as of January 1, 1999, and shall remain in effect until Midnight, December 31, 2000, and shall continue thereafter in full force and effect from year to year unless written notice of desire to terminate or amend this Agreement is given by either party on or before August 1, 2000 of any succeeding August 1.

2. Article 14 - Wages shall be amended as follows:

A. The basic wage plan for all employees in Appendix A shall be increased effective January 1, 1999 by 4 percent for patrol pay steps A through F and 4.5 percent for all other pay steps.

Attachment A

B. Effective January 1, 2000 the basic wage plan for all employees in Appendix A shall be increased by 4 percent for patrol pay steps A through F and by 4.5 percent for all other pay steps. See attached Appendix A to be added to the contract for years 1999 and 2000.

C. In the event the arbitrator selects a contract of a three year duration and pursuant to authority given to the arbitrator by the parties, the Union submits this separate proposal for the third year of a three year contract. The basic wage plan for all employees as shown on Appendix A shall be increased by 3.5 percent for all pay steps effective January 1, 2001, and by 0.5 percent for all pay steps effective July 1, 2001. See Attachment A-1 for Appendix A for the year 2001.

3. Article 14 shall be amended by adding Article 14.8 - Residency Incentive Stipend. See Attachment B for the language of this proposal.

4. Appendix A Section 5 - Shift Differential. The Union proposes no change in the shift differential provision of the collective bargaining agreement.

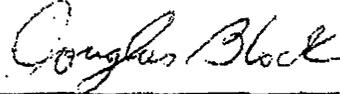
5. Article 15.7 - Residency.

A. The Union proposes the following changes to Article 15.7 for a contract of two years in duration. See Attachment C.

B. In the event the arbitrator proposes a contract of three years in duration pursuant to the authority given to him by

the parties, the Union proposes amendments to Article 15.7 -
Residency for a contract of three years as follows. See
Attachment D.

Respectfully submitted,



Doug Block

Date: 03-10-00

APPENDIX A

The following rates of pay are base rates only and do not include longevity

	<u>4.0%</u>	<u>4.0%</u>
<u>RANK</u>	<u>01/01/99</u>	<u>01/01/00</u>
Patrol A	\$ 31,277	\$ 32,528
Patrol B	32,351	33,645
Patrol C	36,907	38,383
Patrol D	39,780	41,371
Patrol E	41,215	42,864
Patrol F	42,793	44,505
	<u>4.50%</u>	<u>4.50%</u>
Patrol G	45,676	47,731
Patrol H	46,589	48,685
Investigator A	40,054	41,856
Investigator B	41,498	43,365
Investigator C	43,000	44,935
Investigator D	44,579	46,585
Investigator E	46,219	48,299
Investigator F	47,955	50,113
Investigator G	48,914	51,115
Sergeant A	53,806	56,227
Sergeant B	54,882	57,352

1. The ranks listed above shall be based on the following years of active service with the Department:

- Patrol A (1st year)
- Patrol B (start of 2nd year)
- Patrol C (start of 3rd year)
- Patrol D (start of 4th year)
- Patrol E (start of 5th year)
- Patrol F (start of 6th year through completion of 10 years)
- Patrol G (start of 11th year through completion of 20 years)
- Patrol H (start of 21st year)

Investigator G (start of 21st year)

Sergeant B (start of 21st year)

2. Hourly rate based upon 2080 hour year
3. Bi-Weekly rate based upon forty (40) hour week.

page 2 of 2 pages

Appendix A

4. When an officer is promoted from the Patrol pay grade to the Investigator pay grade they move into the first Investigator pay step which is a pay increase over their current base patrol step, and receive annual step increases per scale thereafter.
5. For employees covered by Article 5.A (ten hour shift): Employees who are regularly assigned to the afternoon shift shall have an amount equal to three (3) percent of their hourly wage added to their rate. Employees who are regularly assigned to the night shift shall have an amount equal to five (5) percent of their hourly wage added to their rate. The employees assigned to the 1800-0400 shift shall have an amount equal to four (4) percent of their hourly wage added to their rate.

(* NOTE FOR THE ARBITRATOR: The Union proposal for shift differential is status quo as illustrated above)

Attachment A-1 for APPENDIX A

The following rates of pay are base rates only and do not include longevity

	<u>4.0%</u>	<u>4.0%</u>	<u>3.50%</u>	<u>.50%</u>
<u>RANK</u>	<u>01/01/99</u>	<u>01/01/00</u>	<u>01/1/01</u>	<u>07/01/01</u>
Patrol A	\$ 31,277	\$ 32,528	\$ 33,666	\$ 33,834
Patrol B	32,351	33,645	34,823	34,997
Patrol C	36,907	38,383	39,726	39,925
Patrol D	39,780	41,371	42,819	43,033
Patrol E	41,215	42,864	44,364	44,586
Patrol F	42,793	44,505	46,063	46,293
	<u>4.50%</u>	<u>4.50%</u>		
Patrol G	45,676	47,731	49,402	49,649
Patrol H	46,589	48,685	50,389	50,641
Investigator A	40,054	41,856	43,321	43,538
Investigator B	41,498	43,365	44,883	45,107
Investigator C	43,000	44,935	46,507	46,740
Investigator D	44,579	46,585	48,215	48,456
Investigator E	46,219	48,299	49,989	50,239
Investigator F	47,955	50,113	51,867	52,126
Investigator G	48,914	51,115	52,904	53,168
Sergeant A	53,806	56,227	58,195	58,486
Sergeant B	54,882	57,352	59,359	59,656

1. The ranks listed above shall be based on the following years of active service with the Department:

Patrol A (1st year)
 Patrol B (start of 2nd year)
 Patrol C (start of 3rd year)
 Patrol D (start of 4th year)
 Patrol E (start of 5th year)
 Patrol F (start of 6th year through completion of 10 years)
 Patrol G (start of 11th year through completion of 20 years)
 Patrol H (start of 21st year)

Investigator G (start of 21st year)

Sergeant B (start of 21st year)

2. Hourly rate based upon 2080 hour year
 3. Bi-Weekly rate based upon forty (40) hour week.

page 2 of 2 pages

Attachment A-1 for Appendix A

4. When an officer is promoted from the Patrol pay grade to the Investigator pay grade they move into the first Investigator pay step which is a pay increase over their current base patrol step, and receive annual step increases per scale thereafter.
5. For employees covered by Article 5.A (ten hour shift): Employees who are regularly assigned to the afternoon shift shall have an amount equal to three (3) percent of their hourly wage added to their rate. Employees who are regularly assigned to the night shift shall have an amount equal to five (5) percent of their hourly wage added to their rate. The employees assigned to the 1800-0400 shift shall have an amount equal to four (4) percent of their hourly wage added to their rate.

(* NOTE FOR THE ARBITRATOR: The Union proposal for shift differential is status quo as illustrated above)

Attachment B**14.8 Residency Incentive Stipend (for residing within the corporate limits of Rockford)**

Effective January 1, 2000, employees shall be paid a monthly bonus of one-hundred and fifty dollars (\$150.00) for each "full month" they maintain their principal residence within the corporate limits of Rockford. Such bonus shall be payable the first payday in March 2001, and on the first payday in March thereafter.

Employees must sign an affidavit indicating the total number of "full months" they resided within the corporate limits of Rockford from January 1, 2000 through December 31, 2000 and present such affidavit to the City Finance Director no later than February 1, 2001 for payment of the stipend.

Said procedure shall be followed for each year after the year 2000.

Such stipend is an incentive for employees to reside within the corporate limits of Rockford.

Attachment C**15.7 Residency****Effective October 1, 1999**

Employees hired prior to ~~January 1, 1984~~ **October 1, 1992** may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building.

Employees hired after ~~January 1, 1984~~ **October 1, 1992** are required to live within the City limits of Rockford within six (6) months after termination of the employee's probationary period.

Effective October 1, 2000

Employees hired ~~prior to January 1, 1984~~ may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building.

~~Employees hired after January 1, 1984 are required to live within the City limits of Rockford within six (6) months after termination of the employee's probationary period.~~

Upon original appointment, an appointee may reside outside said limits but shall be required as a condition of continued employment to comply with said residency requirement within six (6) months after termination of the appointee's probationary period.

Attachment D15.7 Residency**Effective October 1, 1999**

Employees hired prior to ~~January 1, 1984~~ October 1, 1990 may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building.

Employees hired after ~~January 1, 1984~~ October 1, 1990 are required to live within the City limits of Rockford within six (6) months after termination of the employee's probationary period.

Effective October 1, 2000

Employees hired prior to ~~January 1, 1984~~ October 1, 1995 may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building.

Employees hired after ~~January 1, 1984~~ October 1, 1995 are required to live within the City limits of Rockford within six (6) months after termination of the employee's probationary period.

Effective October 1, 2001

Employees ~~hired prior to January 1, 1984~~ may live anywhere in Winnebago County or anywhere within an area fifteen (15) miles from the Public Safety Building.

Upon original appointment, an appointee may reside outside said limits but shall be required as a condition of continued employment to comply with said residency requirement within six (6) months after termination of the appointee's probationary period.

STATE OF ILLINOIS

ROCKFORD INTEREST ARBITRATION

CITY OF ROCKFORD,)	
)	
Employer,)	
)	ISLRB NO. S-MA-99-78
-vs-)	ARB. NO. 99/084
)	
POLICEMEN'S BENEVOLENT AND)	
PROTECTIVE ASSOCIATION, UNIT 6,)	
)	
Union.)	

FINAL OFFER OF THE EMPLOYER

ISSUE NO. 1 - DURATION OF AGREEMENT - ECONOMIC OFFER

Effective January 1, 1999, Article 16 of the Collective Bargaining Agreement should be amended to read:

"This Agreement shall be effective as of January 1, 1999, and shall remain in effect until midnight, December 31, 2001, and shall continue thereafter in full force and effect from year to year unless written notice of desire to terminate or amend this Agreement is given by either party to the other on or before August 1, 2001, or any succeeding August 1. The Association shall serve the above notice on the Legal Director and the City shall serve the above notice on the President of the Association. In the event the above notification is given, the parties agree to enter into negotiations no later than September 1 of the year in which the notice is served.

If negotiations have not been satisfactorily completed at the anniversary date, neither party may terminate the Agreement unless it gives at least ten (10) days notice to the other party in writing during which time all provisions of this Agreement shall remain in full force and effect."

Attachment B

ISSUE NO. 2 – WAGES – ECONOMIC ISSUE

Effective January 1, 1999 the wage plan shown in Appendix A of the Collective Bargaining Agreement and referred to in Article 14.1 shall be amended as shown on the attached sheet. The first four notes to Appendix A of the present Collective Bargaining Agreement shall remain unchanged. The fifth note is addressed as Issue No. 3 of this Final Offer.

This offer represents a 3.5% wage increase for all patrol pay grades for 1999, 2000, and 2001; and a 4% wage increase for Investigators and Sergeant pay grades in 1999 and 2000, plus a 3.5% increase in these grades for 2001.

Based on representations at the Hearing by the Union that its Final Offer on Duration of Agreement will be for two years (January 1, 1999 – December 31, 2000), the City offers a wage plan containing the first two years of its three-year final offer in the event the Union Final Offer on Duration of Agreement (Issue No. 1) is accepted or awarded. The Employer and the Union have, with the consent of the Arbitrator, agreed to submission of Final Offers in this form.

ISSUE NO. 3 – SHIFT DIFFERENTIAL – ECONOMIC OFFER

Effective upon acceptance and approval of a new collective bargaining agreement by the Union and the Employer, the fifth note to Appendix A of the current collective bargaining agreement shall be amended to read:

“5. For employees covered by Article 5.A (ten-hour shift): Employees who are regularly assigned to the afternoon shift shall have an amount equal to three (3) percent of their hourly wage added to their rate, not to exceed \$0.75 per hour. Employees who are regularly assigned to the night shift shall have an amount equal of five (5) percent of their hourly wage added to their rate, not to exceed \$1.25 per hour. The employees assigned to the 1800-0400 shift shall have an amount equal to four (4) percent of their hourly wage added to their rate, not to

exceed \$1.00 per hour. However, for sergeants the 'not to exceed' rates for shift differential shall be: afternoon - \$.90 per hour, nights - \$1.40 per hour, 1800-0400 - \$1.15 per hour." (Note: This offer is the same regardless of whether the Employers' Offer on Issue No. 1 is accepted or awarded.)

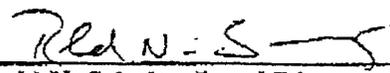
ISSUE NO. 4 - RESIDENCY - NON-ECONOMIC ISSUE

Article 15.7, Residency, shall not be modified, and the collective bargaining agreement with respect to this issue shall remain status quo. (Note: This offer is the same regardless of whether the Employers' Offer on Issue No. 1 is accepted or awarded.)

Respectfully submitted,

CITY OF ROCKFORD, Employer

BY:



Ronald N. Schultz, Legal Director

APPENDIX A

RANK

		<u>1999</u>	<u>2000</u>	<u>2001</u>
<u>PATROL</u>				
A	1st Yr	31,127	32,216	33,344
B	2nd Yr	32,196	33,323	34,489
C	3rd Yr	36,730	38,016	39,347
D	4th Yr	39,589	40,975	42,409
E	5th Yr	41,017	42,453	43,939
F	6 - 10	42,587	44,078	45,621
G	11 - 20	45,239	46,822	48,461
H	21st Yr	46,144	47,758	49,430

INVESTIGATOR

A	1st Yr	39,862	41,456	42,907
B	2nd Yr	41,299	42,951	44,454
C	3rd Yr	42,794	44,506	46,064
D	4th Yr	44,365	46,140	47,755
E	5th Yr	45,998	47,838	49,512
F	6th Yr	47,726	49,635	51,372
G	21st Yr	48,681	50,628	52,399

SERGEANT

A	1st Yr	53,549	55,691	57,639
B	21st Yr	54,620	56,805	58,792

- 1 The ranks listed above shall be base on the following starting years of activè service with the Department.

Patrol A	(1st year)
Patrol B	(start of 2nd year)
Patrol C	(start of 3rd year)
Patrol D	(start of 4th year)
Patrol E	(start of 5th year)
Patrol F	(start of 6th year thru 10th year complete)
Patrol G	(start of 11th year thru 20th year complete)
Patrol H	(start of 21st year)
- 2 Hourly rate based upon 2,080 hour year.
- 3 Bi-Weekly rate based upon forty (40) hour week.
- 4 When an officer is promoted from the Patrol pay grade to the Investigator pay grade they move into the first Investigator pay step which is a pay increase over their current base patrol step, and receive annual step increases per scale thereafter.
- 5 **Shift Differential: See Issue No. 3 of the Final Offer of the Employer**



