STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Illinois Fraternal Order of Police,	)	
	)	
Petitioner	)	
	)	
and	)	Case No S-RC-14-013
	)	
City of Savanna,	)	
	)	
Employer	)	

ORDER

On November 7, 2013 Administrative Law Judge Martin Kehoe, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge's Recommendation during the time allotted, and at its January 16, 2014 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Chicago, Illinois, this 17th day of January 2014.

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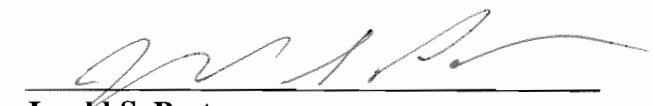

Jerald S. Post
General Counsel

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Illinois Fraternal Order of Police Labor Council,	)	
	)	
Petitioner	)	
	)	Case No. S-RC-14-013
and	)	
	)	
City of Savanna,	)	
	)	
Employer	)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On August 26, 2013, the Illinois Fraternal Order of Police (Petitioner) filed a majority interest petition in Case No. S-RC-14-013 with the State Panel of the Illinois Labor Relations Board (Board) pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2010) as amended (Act), and the Rules and Regulations of the Board, 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules). The City of Savanna (Employer) responded to the petition on September 11, 2013. This Recommended Decision and Order addresses the legal issues raised by that response. After full consideration of all aspects of the controversy, I recommend the following.

I. DISCUSSION AND ANALYSIS

The instant petition specifically seeks a bargaining unit that includes all full-time sworn officers in the ranks of lieutenant and below and excludes all other employees employed by the Employer. The Employer raises no issues regarding the showing of interest or the appropriateness of the bargaining unit. However, according to its September 11, 2013 response,

the Employer does object to the inclusion of probationary or part-time officers.[1] The Petitioner contends that the probationary officers are properly included in the bargaining unit, "as they are customarily included in every non-historical bargaining unit [the Petitioner] represent[s]." It also contends "that the Board has always included probationary police officers in units with non-probationary police officers."

On September 27, 2013, I sent an e-mail message to the parties. In that message, I asked the Employer to clarify its position and indicate the reason it wishes to exclude the probationary officers. I then noted that the Act does not overtly exclude probationary or part-time employees from its coverage. I also commented that the precise wording of the petition limited the petitioned-for unit to "full-time sworn officers."

In an October 8, 2013 response to my e-mail message, the Employer repeated its objection to the inclusion of part-time police officers. It suggested that the plain meaning of the unit description excludes part-time employees. The Employer also indicated that it would agree to the inclusion of probationary officers, provided that the Petitioner agreed that the Employer can discharge and discipline probationary employees without such action being subject to review by the Petitioner or subject to the grievance proceeding negotiated under the parties' collective bargaining agreement.

As the Employer suggests, the petition plainly seeks to include only full-time officers. Accordingly, the Employer's part-time officers should not be included in the petitioned-for unit. However, the Employer's objection to the inclusion of probationary officers is without merit. As indicated, the Act does not overtly exclude probationary employees from its coverage. The Board's precedent reflects that fact. City of Ottowa, 25 PERI ¶43 (IL LRB-SP 2009); City of

[1] According to the Employer, two Savanna police officers are currently on probationary status: Mitchell R. Ottenhausen (probation expiration May 2, 2014) and Michael T. Herrig (probation expiration March 29, 2014).

Bloomington, 22 PERI ¶22 (IL LRB-SP 2006). Therefore, the Employer's probationary officers should not be excluded. In response to the agreement floated by the Employer, I simply note that, after certifications, parties regularly bargain special contract terms in order to address employers' circumstances, needs, and desires. Village of Franklin Park (Department of Public Works and Utilities), 30 PERI ¶52 (IL LRB-SP 2013).

II. CONCLUSIONS OF LAW

I find that the petitioned-for bargaining unit is appropriate for purposes of collective bargaining within the meaning of the Act. That unit appropriately includes the Employer's probationary officers but does not include its part-time officers.

III. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the petitioned-for bargaining unit be certified.

IV. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 14 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 5 days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed with the

General Counsel of the Illinois Labor Relations Board at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without that statement. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

Issued in Chicago, Illinois this 7th day of November 2013.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Martin Kehoe
Administrative Law Judge