

BEFORE
JAMES R. COX
INTEREST ARBITRATOR

CITY OF DES PLAINES, ILLINOIS

AND

METROPOLITAN ALLIANCE
OF POLICE, CHAPTER 241

INTEREST ARBITRATION
ILLINOIS LABOR BOARD
S-MA-07-013

DECISION AND AWARD

The Hearing in this matter was conducted at the Des Plaines City Hall August 30, 2007. Attorney Terrence Creamer represented the City while the MAP Command Chapter 241 case was presented by their Attorney, Joseph Mazzone. The parties filed Post-Hearing Statements which I received in early January 2008.

All procedural prerequisites for this Interest Arbitration have been met. The parties have waived the Tripartite Arbitration Panel and appointed this Arbitrator as Chair Person to hear and decide the issues presented. This matter has been properly placed before me for final and binding determination. My findings are based upon applicable factors set forth in Section 14(h) of the Illinois Public Relations Act.

A number of Tentative Agreements have been reached over the course of extended negotiations which commenced in September 2006. All Tentative Agreements are incorporated by reference into this Award and are to be made part of the 2007 four year Labor Agreement. Despite efforts to reach final agreement over seven bargaining sessions, including four mediation meetings, the Parties remain at impasse on four economic issues¹. Each of the unresolved issues is mandatory subjects of bargaining. In accordance with mandates of the Act, I must select between the final offers of settlement, without modification. I have selected the last offer which, in my judgment, most closely complies with the 14(h) factors.

¹ Agreements on important issues were reached on the date of the Hearing. There were further meetings following the Hearing. No resolutions on the four issues currently outstanding were achieved.

IMPASSE ISSUES

There are four unresolved economic issues presented to this Arbitrator:

1. Wages
2. Longevity Pay
3. Employee Contributions to Health Insurance Premiums
4. Prescription Drug Co-Pay

COMPARATIVES

The City and MAP have agreed that seven municipalities are comparable for purposes of Section 14(h) (4) of the Illinois Public Relations Act - Arlington Heights, Glenview, Hoffman Estates*, Mt. Prospect*, Niles, Palatine and Skokie.² My review of relevant data confirms their comparability. Only Hoffman Estates and Mt. Prospect have Labor Contracts covering their Public Safety Command Unit.

While the Union disagrees, Des Plaines asserts that Buffalo Grove and Elk Grove are also comparable communities. According to the evidence, the parties had previously identified them as comparable during their first and only previous Interest Arbitration. During the course of that proceeding settlement was reached and an Award was not issued. Because of limited available wage and insurance data from those municipalities, the comparables, factor 4 of 14(h) are of limited value here. Essentially they provide information only about 2007.

ISSUE ANALYSIS

Term of Agreement

Although the Union sought three years, the Parties have agreed upon a four year Contract term. Their first Contract ran from January 1, 2004 through December 31, 2006. As of August 2007, there were 11 Command Officers in this Bargaining Unit. The Patrol Officer Unit represented by MAP, exceeds 80 Officers.

² Within this comparability group Des Plaines ranked fourth in population (2006), seventh, only above Niles, in 2005 Household Income, seventh just above Hoffman Estates in 2005 Median Housing Value, but fifth in Illinois Sales Tax Revenue as of the First Quarter of 2007 and, in 2004, second in Police Department Budget expenditures.. They were fourth in Crime statistics reported in 2005 and employed the fifth largest number of Sworn Officers of any municipality in the grouping.

FINAL WAGE OFFERS

Des Plaines

The City Final Offer is for a 3.50% increase retroactive to January 1, 2007 and 3.50% increases in January 1, 2008, January 1, 2009 and January 1, 2010. While the Metropolitan Alliance of Police is in agreement with the City proposed retroactive first year increase of 3.50%, the Union seeks annual wage adjustments of 3.75% effective January 1st in each of the succeeding three years. I list the following determinative factors.

1. The Consumer Price Index is projected to increase at a historically mild pace during the next three years. Data provided by the Bureau of National Affairs, although it does not focus on the relatively higher paid Classifications in Law Enforcement, shows an average first-year increase in Public Sector Agreements of 3.3%. The first year increase proposed here falls within that parameter.
2. The City of Des Plaines states that the 3.75% increases sought by the Union for the subsequent three years are inconsistent with wage increases granted by external comparables. Unfortunately there is a complete lack of supporting data beyond 2007. Only two of the external comparables are organized units, units where wages are agreed upon prospectively. Hoffman Estates is the only external comparable in either group of comparables where the parties are aware of an agreement on 2008 wages. While the City asserts that their proposed first and second year increases of 3.5% are commensurate with 2007 raises given Sergeant Bargaining Units in 6 of the 9 communities in the Union's comparable grouping, there is no evidence what levels wage increases for Command Officers will reach during 2008, 2009 or 2010 in any Unit other than Hoffman Estates.
3. While both parties are in agreement on a 3.50% increase for 2007, Arlington Heights Sergeants received raises of 3.75% for 2007³ as did the Sergeants in lower salaried Skokie and there were substantially even larger percentage adjustments in Niles and Glenview. Palatine Sergeants received a 5.30% raise. Moreover, for the only year after 2007 where there is any data – 2008 - the first year where the wage proposals differ, Hoffman Estates has agreed to provide a 3.75% increase. It was the last year of their Contract.
4. As the City stresses, prior to 2007, among Internal Comparables, there has been an established pattern of 3.50% wage adjustments after 1998 - not only for Sergeants but in all Des Plaines Units. during this period there was only one notable deviation. Following a review of wages and benefits by the well known PAR Group, Consultants who have analyzed and advised several Suburban Communities on salary structure, there were wage increases in this Unit of 5.75% for 2000 – 2001. Economic package adjustments were not shown. However, the most recent internal comparable adjustment reported came in what had previously been two Units – consolidated in

³ After a 4% raise in 2006!

2007 – a 3.75% settlement in the consolidated Firefighter Unit which includes those in the former Fire Fighter Command Unit, the Lieutenants. According to the testimony of a City witness, Fire Lieutenants and Police Sergeants are comparable classifications⁴. They have been treated as such for wage increase purposes for several years.

5. In addition to the Patrol Officer's Contract, there are three City Labor Agreements with December 31, 2007 Expiration dates which have not been negotiated – The MECCA, AFSCME and the Police Civilian Chapter contracts. We do not know what the increases in those four units will be over the final three years of the four year MAP Sergeant's Contract. We cannot ignore the Des Plaines Firefighter increase.
6. The City explains that there was justification for the pattern breaking 3.75% increase for the recently consolidated Unit of Firefighters, Fire Lieutenants and Fire Captains⁵ - that it had been a consequence of a quid pro quo. They assert that Firefighter Unit agreed to what the City sees as a *trade off* – a higher percentage wage increase than the previous Internal Comparability pattern in return for a reduction in the overtime rate from 1.9875 %to 1.5%.
7. The City reminds me of my Award in Village of Carpentersville and Metropolitan Alliance of Police Chapter 378 (Cox, May 2, 2005) in which I noted that comparability determinations should assess the complete compensation package. They also point out that in these negotiations MAP did not propose any trade off for the 3.75% annual increases they seek. However, I do not recall any Interest Arbitration Awards where an annual quarter per cent wage increase differential was considered, by itself, to be a *breakthrough* issue that would warrant a quid pro quo being bargained in order to justify the change. Such a change, is a normal product of give and take bargaining and was not a breakthrough issue as that concept is usually understood. I do recognize there was a *breakthrough* in that the Fire Command Group was provided Longevity benefits without an existing cutoff date which had been in effect since 1994 for most City Employees restricting that very costly benefit to those hired before that date. The City asserts that that exchange came in connection with the Union agreeing to modify longevity benefits.
8. The Firefighter 3.75% Fall 2007 settlement has significance here beyond the percentage increase.⁶. While the parties here have resolved their 2007 wages at 3.50%, that 3.75% settlement was made effective retroactive to January 1, 2007. The increase effective in January covered the first year of this Agreement. Then the term of the Firefighter Agreement expires December 31, 2009. Not only will the Firefighter 3.75% increases have applications in 2008 and 2009, it is likely that there will be some increase January 1, 2010, a raise which will be in effect during the final year of the MAP Sergeant's Contract and would further distort the relationship of wage increases in this Unit and in that of the Firefighters. Let's look at that relationship.

⁴ The wage percentage increase for the Lieutenants is 3.75% under their 2007 Contract.

⁵ The consolidation was formalized in July 2007.

9. A comparison of Wage Increases of Sergeants and Fire Lieutenants shows a lock step relationship over the nine years commencing with 1998-1999 and concluding in 2006 of identical percentage increases with the exception of 2000-2001. Such treatment maintained parity between the wages of a Sergeant at Step B and a Lieutenant at Step C from 1998 through 2006.
10. There are significant gains for the City in stabilizing labor benefit and wage costs over a longer term Agreement. Such advantages are usually reflected in higher wages for one or more years of the longer term agreement.. Here the City has obtained Chapter 241's agreement to a four year term. The Firefighter Contract term was but three years.
11. Both Parties draw the Arbitrator's attention to the relative position of the Sergeants Unit within the Comparables. These rankings for 2007, after the wage increase has been built in, show Des Plaines Sergeants rank favorably among all nine comparables – especially during the earlier years of service. After 4 years they rank fourth and, after 10 years, fifth – in the middle of the group⁷. There is no way of forecasting whether they would retain that relative position over the term of the Agreement since we have no data from the other communities after 2007⁸. The 2007 increases proposed by both Parties here would keep Des Plaines Sergeants generally in the same relative position in 2007. Because we lack data after 2007 except from one comparable, comparability is of little assistance here. However, it may be safely assumed that wages for Sergeants in the other municipalities will rise as a consequence of negotiations or unilaterally determined increases. The Hoffman Estates Labor Agreement, also a four year Agreement, provided a 3.5% increases effective January 1st of 2005, 2006 and 2007 but a 3.75% increase January 1, 2008.

Resolution

Considering all circumstances and available comparative data, I adopt the Union's final proposal on this issue. In accordance therewith there shall be a 3.50% increase the first year of this Agreement retroactive to January 1, 2007 and 3.75% increases each year of the four year Agreement thereafter.

LONGEVITY

The present Labor Agreement provides for Longevity except, "Longevity provisions shall not apply to any Employee under this Schedule who was employed on and after November 1, 1996." Presently only one of the 11 Sergeants in the Bargaining Unit has a hire date after November 1, 1996. All other Officers in the Unit are eligible for Longevity Pay upon attaining the required years of service.

⁷ When wages with longevity are considered, their relative ranking is slightly better, especially after 15 years.

⁸ With the one exception of Hoffman Estates.

Currently all represented City Units having a longevity benefit, with the exception of the MAP Patrol Officers and the Firefighters, have an eligibility cutoff date⁹. None of the external comparables who provide longevity benefits were shown to have benefit cut off dates. Prior to MAP's intervention and their first Contract, the eligibility limitation date for Sergeant's had been more restrictive - July 5, 1994. The Police Civilians Unit is currently the only other Unit in Des Plaines to have any cutoff date other than July 5, 1994. There had been an eligibility date limitation for Fire Lieutenants until it was removed during 2007 negotiations in connection with the consolidation of their Firefighter Command Unit with the Firefighter Unit. As noted, Des Plaines maintains that the removal of the cutoff date for the Fire Lieutenants came in exchange for the union acceptance of "*reduced longevity provisions*".

MAP

The Union points out that, as is often the case, no one had been adversely affected at the time the eligibility limitation was negotiated. I recognize that it was a *first contract*. Presently referencing the Sergeant Eligibility List, MAP foresees as many as three Sergeants could be entering the Unit during the term of this Agreement and will, unless the restriction is abolished, be without entitlement to Longevity. Of course, the benefit does not kick in for any Officer until they have a "*continuous unbroken service record of 10 years*".

MAP did not introduce facts which would indicate that, at least, there was a substantial probability of such hires or transfers. There was no indication of Officer reluctance to seek a position in the Command Unit because of the present lack of opportunity to receive longevity pay.

MAP points out that the Des Plaines Patrol Officers Contract does not contain a similar restrictive provision and that all Patrol Officers, like all Firefighters do receive longevity pay. The Patrol Contract expired December 31, 2007 and, as far as the Arbitrator is advised, negotiations for a new Agreement have not yet commenced. There was no indication whether the Village is proposing any limitations of the longevity benefit in that Unit or has made such proposals in the past.

Des Plaines

The City takes a "*maintain the status quo*" position on this issue – that only Sergeants hired before November 1, 1996 should be entitled to Longevity Pay. They emphasize that currently, all City Units with the exception of the Patrol Officers and now the consolidated Firefighter Union have a Longevity cut-off date.

Des Plaines points out that the Party seeking to make a change in the terms of a Benefit condition which has been in effect for a substantial period of time must provide a compelling reason. They maintain that MAP does not propose any quit pro quo here.

Resolution

Notwithstanding the recent liberalization of the Longevity benefit for Fire Command

⁹ The City stresses in their Post Hearing Brief that only two of the City's six bargaining units do not have an eligibility cutoff date.

Officers, I find the City's final proposal on this issue to be the most reasonable. With the exception of the Firefighter's Unit and Patrol, the Longevity Benefit is now and has been for a substantial period restricted City-wide by similar cut off language preventing the attainment of that Benefit unless hired before the applicable cutoff date. The recent removal of the restrictions does diminish the city wide scope of that limitation but it came (1) as the result of a quid pro quo not suggested here and (2) in the course of a unit consolidation. Considering all relevant factors, I select the final position of Des Plaines on this issue.

EMPLOYEE HEALTH INSURANCE CONTRIBUTIONS

The City Final Proposal

Ten of the Eleven Bargaining Unit Employees currently participate in and make 10% contributions toward PPO #1 Health Insurance Coverage. Six of the Ten Sergeant's covered have the more expensive Family Coverage. The other Officer has elected Family HMO Coverage. As its final position on this issue, the City proposes that the PPO coverage employee contribution percentage be increased to 12% effective January 2010 - for the last year of the Contract. It is clear that the proposed 2010 increase to 12% is for only for employee contributions toward the Preferred Provider Organization Care Plans - PPO Option 1. The problem in assessing this position is the lack of available supporting evidence to justify what is, for the Sergeants, a substantial change even with the existing 15% cap - "*Employee contribution toward the unit cost for each health insurance plan option shall not increase by more than 15% from one year to the next during the term of this Agreement.*"

While they seek to have employee contributions increased in 2010, according to the testimony, Des Planes does not have data sufficient to accurately predict what the premium cost increases may be in that program during the next three years. We do not know what costs will be necessary to sustain continued coverage There is no evidence of what overall costs for PPO Family coverage may be in 2008, 2009 or 2010. During the Hearing, a Manager who oversees the Health Insurance Program, projected a 10% cost increase in 2007 but agreed it would be speculation to go beyond that year. I completely understand his reluctance to engage in conjecture. Addressing the prospective impact on employee co-pay costs, he pointed to the aforementioned cap on contribution increases of 15% from year to year.

A 10% level for employee insurance contributions is not unusual- most of the comparables have it including unionized Hoffman Estates. While Sergeants in Niles and Mount Prospect have lower contribution rates toward PPO coverage, those in Elk Grove Village and Skokie contribute at higher levels. It is only since their 2004 Contract that Sergeants in Des Plaines have been at the 10% contribution level¹⁰. There was no way to evaluate the comparative coverage of the various PPO Plans. However, because of the cost of the insurance toward which they contribute, dollar-wise in 2007 those in

¹⁰ I note that the Firefighter Command Unit Employee Contribution for PPO Option #1 coverage was 8% in May 2005 and became 10% effective only January 1, 2006.

this Unit make dollar contributions ranked fourth behind only Elk Grove, Hoffman Estates and Buffalo Grove.

The Sergeants moved to the percentage based contribution in 2004 with the advent of their first Contract. At that time the Officers did receive a quid pro quo, in the form of personal and vacation leave improvements, for the transition from the fixed dollar based premium contributions. The actual dollar cost trade off was not shown here. Unlike the quarter point wage increase, this was clearly a *break through* - a major breakthrough achieved City-wide..

The City states, but without supportive evidence, that they consider it, *"appropriate, after a 5-year benchmark, to increase the percentage basis of the Employee's contribution toward health Insurance Premiums."* The measure of appropriateness was not shown but it will be 5 years since the very consequential move to percentage based contributions¹¹ for the several Des Plaines Units. Contributions using percentages have the effect of putting a process in place which will automatically raise employees share of the premium as costs increase obviating the need for yearly negotiation automatically picking up a portion of insurance cost increases.

The MAP Final Position

MAP proposes that the present employee contributions percentages be maintained for the duration of the new Agreement. They would maintain the status quo on this issue.

MAP rejects the City proposal on this issue arguing that the 2% increase would have a *"major economic impact on spendable income and that, if any pattern for such increased contribution rates should be established, it should be in connection with the larger Patrol Officer Unit."*

As of August 2007 the Des Plaines Police Department employed 82 Patrol Officers and 11 Sergeants in separate Bargaining Units. This Labor Agreement covering the smaller Unit concludes shortly before the Contract for the larger Patrol Unit is to be bargained. Such was the situation during a Bollingbrook negotiation MAP references in their Post Hearing Brief.¹²

¹¹ As of January 1, 2006 the monthly insurance rate was show as \$1725.00 with the employee contribution, an actual 10%, to be at 172.50. While discussed during the Hearing present contribution rates were not shown.

¹² There the Union asked this Arbitrator to award Me-Too language on employee insurance contributions with the goal that contributions from Employees in a Sergeants Unit be the same as required from Patrol Officers. There as here, MAP reasoned that, should there be an employee contribution increase in the larger Unit, it would be logical that the smaller Unit be similarly treated. However, they sought to avoid a situation where as they put it , *"the tail would wag the dog"*. In that case Bolingbrook sought to implement a different level of insurance benefits for Sergeants than for Patrol Officers. It was an unusual case. It was a first Contract for the Sergeants. The Patrol Officers had a decade's long bargaining relationship with the City. I found the Union to have the most reasonable final position. The reason - adoption of the City offer would have made future Insurance benefits and coverage in the Sergeant's Unit contingent upon changes agreed upon in other Units represented by other Unions and covered by other Collective Bargaining Agreements. The outcome

Resolution

As indicated above, there is insufficient evidence to support the Employer's contention that the current 10% employee contributions toward PPO #1 Health Insurance Coverage should, effective January 1, 2010, be increased to 12%. While there are indications that such a percentage level or higher is in effect in two of nine External Units, no other Des Plaines represented employee makes contributions at such a level. I find MAP'S final proposal to maintain status quo on this issue to be the most consistent with the 14(h) factors.

PRESCRIPTION DRUG CO-PAY INCREASE

The Des Plaines Final Offer

The City proposes an increase in contributions toward PPO Retail and PPO Mail-Order Prescription Drug Costs. There are no proposals to make contribution changes for the HMO. Des Plaines states they have reached agreement on this issue with all other City bargaining Units except this Unit and the MAP Patrol Officer Units. Higher rates appear in previously negotiated Contracts.

The sought increases would be for Retail Prescription Drugs under the PPO Plan making the co-pays \$10 for generics, \$20 for formulary brands and \$40 for non-formulary brands. For Mail-Order Prescription Drugs, the co-pays would be \$15 for generics, \$30 for formulary brands and \$45 for non-formulary brands. The City established that Employees under MEECA, AFSCME, MAP Civilian Bargaining Unit, the consolidated Firefighter Unit Contracts as well as non-Bargaining Unit City Employees all contribute at this level. This is a catch up situation with the Sergeant having co-paid at a lower rate than those under these other Agreements.

The City stresses and the data they submitted does confirm that these represented employees ranked, among the external comparables, with the lowest in the employee cost of retail generic and second to lowest for formulary drug co-payments in PPO Plans. The increases will slightly improve the City's ranking in this respect. The sought increases in Mail Order Prescription Co-payments brings this group into line with what other Des Plaines employees - represented and non represented - are paying. Prescription drugs are stated to represent the single most expensive portion of the City's Health Insurance Plan.

MAP

The Union opposes any change in the Sergeant's Contract since the Patrol Officers are treated differently.

Resolution

there and the unusual me-too application was the direct result of the comparative unacceptability of the method the Village had proposed in order to achieve city wide insurance uniformity. Such a unusual outcome has no application here to either the Health Insurance Contribution or the Prescription Drug Co-Pay Issues.

Internal comparability is a significant factor in determining contributions to an Insurance Plan provided all City Employees. All of the other Collective Bargaining Units, except for the Patrol Officers whose Contract awaits negotiation, currently pay at the increased levels proposed by the City. There was no showing that such a contribution level is unwarranted. This is a catch up situation. The City final offer on this issue is adopted.

AWARD SUMMARY

Having considered the evidence in accordance with applicable provisions of statutory criteria, I have made the Awards set forth above on each issue. The parties' January 1, 2007 -December 31, 2010 Collective Bargaining Agreement shall incorporate these determinations as well as all Tentative Agreements agreed upon by the parties.

James R. Cox
Arbitrator

Issued this 21st of January 2008.

Agreement.

The City proposes a wage increase of 3% each of the four contract years. Final offer is for a 3.5% increase retroactive to January 1, 2007, 3.75% in January 1, 2008, January 1, 2009, and January 1, 2010. The Union argues that in the Union comparables the increases proposed in 2008 through 2010 does not change the relative position of Des Plaines. In 2007 they rank 5th, thereafter they rank 6th among the Union comparables. The Union points out that Des Plaines recently settled with the Firefighters for an across the board 3.75 increase and that contract expires December 31, 2009. The Union points out that the Sergeants already rank in the bottom third of the Union comparables.

The City argues that the proposed increases sought by the Union are not consistent with the wage increases granted in comparable communities. They state that the first year increase of 3.5% is commensurate with raises given Sergeants in 6 of the 9 comparable communities, as does the City's second-year offer. There is external wage data among the comparables suggested by the City in only Hoffman Estates. The City stresses that, based on available data; the relative position of the Des Plaines Unit would not vary much under either final offer.

The City asserts that the internal comparables do not support the Union's final wage proposal. According to the testimony all of the Collective Bargaining Agreements in effect at the time of the Hearing provided for 3.5 wage increases across the board. They state that there is no evidence that the Sergeants need an equity adjustment. The Union, on the other hand, emphasizes the recent increase for the Firefighters and the fact that following the end of that term, the second and third years of this Contract the Firefighters will likely receive a wage adjustment in those collective bargaining negotiations. The City explains the 3.75% increase to the Firefighters, Fire

Lieutenants, and Fire Captains, as kind of a quid pro quo, since there was a, what they see as, a significant reduction in the overtime rate from 1.9875 to 1.5. *(Check contract to see if there was any explicit recognition of this trade-off)*

The City cites my Award in the Village of Carpentersville and Metropolitan Alliance of Police Chapter 378 (Cox, May 2, 2005) where I recognize that comparability determinations should recognize the complete compensation package. *(Check Award)* They state that the Union has not proposed that its 3.75% sought wage increase is linked to a trade-off of another benefit.

The City also significantly points out that the Consumer Price Index is projected to increase at a historically mild pace during the next three years. That data from the Bureau of National Affairs, which does not focus on the relatively higher Classifications of Law Enforcement, shows an average first-year increase in public sector agreements of 3.3%.

The City asserts that the 2006 wage increases agreed upon by the Parties – 3.5% - is the same percentage *(check)* provided Sergeants in 6 of the 9 comparable communities. There is a similar pattern established in the 2007 increase proposed by the City. However, as mentioned, Hoffman Estates is the only community where there has been an agreement on 2008 wages. There is neither internal nor external data for wage increases in the years 2008, 2009, and 2010.

The City would distinguish the 3.75% wage increase for Firefighters, Lieutenants, and Fire Captains – a consolidated Unit – stating that that level was a trade-off for a reduction in the overtime rate. The overtime rate for Sergeants is _____. The City points out that the Consumer Price index is projected to increase less than 3% in each of the years following 2007. *(you already said what is in this added paragraph)*