

IN THE MATTER OF)	
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)	
CITY OF EVANSTON)	FMCS # 090924-04306-A
)	
)	Interest Arbitration
and)	
)	
)	
TEAMSTERS LOCAL 700)	

Appearances:

City of Evanston:	Ronald J. Kramer, Attorney (Scyfarth and Shaw)
Teamsters Local 700:	Kevin Camden, General Counsel

Arbitrator: Stephen B. Goldberg

I. INTRODUCTION

The subject of this interest arbitration is the terms and conditions of a collective bargaining contract to replace the contract that expired on February 28, 2009.

The City and Local 700 bargained in good faith from January 23, 2009, through May 7, 2010, in an effort to agree on the terms of such a contract. No agreement having been reached in these negotiations, the parties proceeded to mediation with the undersigned serving as mediator. Despite the best efforts of the City, Local 700, and the mediator, no agreement was reached at mediation.

Since no agreement was reached in mediation, the City and Local 700, on May 11, 2010, proceeded to arbitration. In order to obtain a speedy decision on contract terms, the parties agreed to waive the contractual provision for a 3-person arbitration board, and to present their evidence and arguments to the undersigned as a single arbitrator. The parties also agreed to waive post-hearing briefs. With respect to economic issues, as well as non-economic issues, the parties agreed that the arbitrator was not required to select the final offer of either party, but was empowered to issue an award that he deemed fair and equitable.

II. DISCUSSION AND AWARD

Section 14 (h) of the Illinois Public Labor Relations Act provides that the arbitrator is to take the following factors into consideration in shaping the award in an interest arbitration:

- h) Where there is no agreement between the parties, ... the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:
- (1) The lawful authority of the employer.
 - (2) Stipulations of the parties.
 - (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
 - (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (A) In public employment in comparable communities.
 - (B) In private employment in comparable communities.
 - (5) The average consumer prices for goods and services, commonly known as the cost of living.
 - (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
 - (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
 - (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in 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.

The Arbitrator has considered each of these provisions, with particular emphasis on (3), (4), (5) and (6). With respect to the first of these, the evidence clearly

demonstrates that the current economic recession has had a devastating effect on state and local governments. The City of Evanston has not been spared the financial hardships of the recession, and that factor must weigh heavily in the Arbitrator's decision. This is not to downplay the importance to bargaining unit members of a compensation package that is comparable to that of police officers in similarly situated communities, but rather to point out that their legitimate economic interests must be balanced against the financial ability of the City to satisfy those interests.

In light of the foregoing and of the parties' submissions on each of the contested issues, the Arbitrator awards the following:¹

CONTRACT TERM: 3-YEARS – commencing 03-01-09 to 02-29-12

SECTION 7.1: SALARY SCHEDULE:

Effective – 03-01-09 - 2.5% (retroactive for members in the unit at the time of this Award and all persons who retired since the expiration of the last agreement)
Effective – 03-01-10 - 0%
Effective – 03-01-11 - 2%
Effective – 09-01-11 - 1%

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SECTION 7.3 HOLIDAYS: Change the section to read as follows:

Section 7.3 Holidays. Holidays shall be as follows:

New Year's Day	Labor Day
Dr. Martin Luther King, Jr.'s Birthday	Thanksgiving
Christmas Eve	Friday after Thanksgiving
Christmas Day	Memorial Day
Three Floating Holidays	Fourth of July
	Employee's Birthday

10 x 3

If an employee's birthday holiday falls on February 29 (except in leap years) or on another day recognized as a holiday set forth above (excluding floating holidays), the next calendar day shall be recognized as the employee's birthday holiday.

The first three (3) days off in a year (not including sick leave) shall be designated as the floating holidays. For approved days off thereafter, the employee may designate the type of accrued time off to be charged (e.g., vacation, holiday, compensatory time). Compensatory time for holidays will be carried on the Department records as hours rather than days.

¹ Those items agreed upon by the parties are set out after the Award. (See pp.9-11, *infra*)

When an employee takes an approved day off which falls on a City-designated holiday, the employee may designate the type of accrued time off to be charged (e.g., vacation, holiday, compensatory time). Holiday time for holidays will be carried on the Department records as hours rather than days, in a combined bank with compensatory time as set forth in Section 8.2(c)~~separate holiday bank, and may be carried over from year to year, to a maximum accrual of 200 hours.~~ At the time of separation from City employment the employee shall receive payment of all accrued but unused holiday time.

Effective March 1, 2010, the maximum number of holiday hours that may be carried over from year-to-year is addressed in Section 8.2(c).

SECTION 7.7 LONGEVITY PAY: -- revise as follows:

Employees with the years of service indicated below shall receive longevity pay in accordance with the following schedule effective retroactive to March 1, 2009:

<u>Years of Service</u>	<u>Total Longevity Pay Computed As a Percentage of Employee's Salary</u>
10 Years	2.75%
15 years	3.5%
20 years	5%

SECTION 8.1 WORK PERIOD: - revise to read as follows:

There shall be a 14-day work period for Police Officers, Telecommunicators and Service Desk Officers for the purposes of computing overtime pay. For Patrol Officers, the normal work day is eight and one-half (8 1/2) hours, including ~~consisting of a 15 minute roll call at the beginning of the shift, a 30-minute unpaid lunch period and a 15 minute paid period after the shift.~~ The City will assume any liability for any Police Officer injured during the unpaid lunch period, in the same manner that the City is liable if the Police Officer is injured during a paid on-duty period. The City will not assume liability for any officer injured during any unpaid period unless the injury results from line-of-duty responsibilities. In the event an officer is injured during an unpaid lunch period and the injury does not result from line-of-duty responsibilities, the City will use its best efforts to provide the officer light duty work, if requested (such requests not to be unreasonably denied), as if he had received a line of duty injury.

SECTION 8.1 WORK PERIOD: - add a new second paragraph as follows:

The City shall post work schedules showing shifts, work days and work hours to which the employees are assigned at least thirty (30) days in advance. Employees will be afforded at least 72 hours notice of any changes in the work schedule, except for emergencies.

SECTION 8.2 OVERTIME (a) - add a new third paragraph as follows:

If the employer, due to operational needs, must cancel previously granted time off requests, the employer must put the cancellation of the time off request in writing on a form provided by the department, and provide that written cancellation to the officer before the scheduled day off. The reason for the cancellation or the cancellation itself is at the discretion of the Chief or his designee and is not subject to the grievance procedure, unless subject to another provision of this agreement.

SECTION 8.2 OVERTIME (c) - Change maximum accrual of holidays/comp time for Police Officer to 500 and for Telecommunicators and Service Desk Officers to 440 as follows:

- (c) Compensatory Time Rules. Compensatory time which accrues shall be granted as time off pursuant to employee requests. The Department will make good faith efforts to schedule time off, consistent with the needs of the Department. ~~As of January 31 of each year, the City will pay out on a straight time basis accrued compensatory time up to 40 hours per employee, the number of hours to be selected by the City and communicated in writing to the Union during January. The maximum compensatory time accumulation shall be 240 hours for Police Officers and 120 hours for Telecommunicators and Service Desk Officers, subject to City reduction of the maximum accumulation if the City determines appropriate.~~

Effective March 1, 2010, the maximum combined compensatory and holiday time accumulated shall be 500 hours for Police Officers and 440 hours for Telecommunicators and Service Desk Officers provided, however, any employee who as of March 1, 2010, has more than the applicable hours limit shall not lose the hours in excess of the limit (500/440), but any such employee shall not be entitled to earn compensatory time or carry over any additional holiday hours until the number of hours in said employee's bank drops below the applicable limit (500/440).

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Effective on or before February 28 of each year, any holiday hours accrued during the preceding twelve months (i.e., from January 1 through December 31) but not used above the applicable maximum limit (500/440 hours, or the grandfather limit if applicable) shall be paid. The gross amount of the payment shall be based on the employee's then current normal hourly rate of pay. Each employee shall have the following options concerning such payment:

(1) paid into the employee's Section 457 account up to the maximum extent allowed by IRS. If the amount exceeds the maximum contribution allowed by IRS, the amount in excess of the maximum shall be paid to the employee, less applicable deductions; or

(2) if the employee has a Section 457 account but elects to not have any amount paid into his/her Section 457 account or to have less than the full amount paid into his/her Section 457 account, paid the full amount or the amount that is not paid into the employee's Section 457 account, whichever is applicable, less applicable deductions; or

(3) if the employee does not have a Section 457 account, paid the full amount, less applicable deductions.

Effective March 1, 2011, an employee may request a payout of up to 120 hours per year from accumulated compensatory/holiday time, which may be in addition to the annual payout for holiday hours over the applicable limit. Requested payouts will be based on a first come, first served basis and simultaneous requests will be based on seniority. Payouts are subject to annual available funding set by the Chief of Police. Any payouts of banked hours will reduce the overall grandfathered accrual limit, in the event the employee was above the applicable maximum limit (500/440), as of March 1, 2010.

SHIFT ASSIGNMENT SIDE LETTER OF AGREEMENT – revise as follows:

During the term of this collective bargaining agreement, the following shall be applicable for the staffing of patrol shifts:

- (1) The Department will utilize non-rotating patrol shifts.
- (2) The Department will accommodate fifty percent (50%) of employees' first choice of assignment to each patrol shift by seniority. If the City believes that a deviation is necessary in order to balance shifts in terms of gender, specialty, experience, and/or race, it shall present the issue to the Union for discussion and the Union will not unreasonably withhold agreement on a proposed deviation. If the parties are unable to resolve the issue and the

City advises the Union that it intends to implement a deviation, the matter will be resolved through expedited arbitration prior to implementation of the deviation.

- (3) With regard to performance, the Chief may deviate from seniority based on performance, but only provided:
- (i) the employee receives an evaluation below a "5" on his overall evaluation; and the employee has received at least six (6) months advance written notice that his performance level is (or is on track to be) below a "5", whether that notice comes before (in the form of a mid year review using the same annual performance rating instrument) or six (6) months notice is given upon/after his annual review. If the notice is given upon/after the annual review, the employee will receive a subsequent six (6) month review (using the same annual performance rating instrument) to determine whether his performance level remains below a "5";
 - (ii) the performance rating instrument for purposes of this section is as is currently being used;
 - (iii) For purposes of this section, the first evaluations the City may utilize are for the 2010 evaluation year;
 - (iv) If the shift deviation is disputed, prior to any employee moving shifts the dispute will be resolved by expedited arbitration prior to its implementation;
 - (v) Nothing herein shall restrict the City's right to transfer for disciplinary reasons pursuant to Section 5.7.

During the term of the parties' 2009-2012 collective bargaining agreement, a joint committee composed of an equal number of City and Union representatives shall be established to consider scheduling issues. The parties shall meet and negotiate over the terms of this side letter for the limited purpose of addressing the City's desire that the shift assignment process incorporate specific protections to insure that patrol officers have and retain an adequate level of experience working on all shifts. ~~The parties hope to satisfactorily resolve this issue prior to the selection process for 2007 shifts.~~ In the event that the parties are unable to reach an agreement, however, either party may invoke the impasse resolution procedures set forth in the Illinois Public Labor Relations Act, 5 ILCS 315/14.

SECTION 9.2. CITY GROUP HEALTH INSURANCE PLANS: Revise Section (b) as follows:

(b) Effective 09-01-10, employees covered by these plans will contribute amounts as specified below, which shall be deducted on a monthly basis from their employee paychecks:

<u>TIER</u>	<u>HMO-BA</u>	<u>HMO-IL</u>	<u>PPO Option 1</u>	<u>PPO Option 2</u>
<u>Employee</u>	<u>\$88.00</u>	<u>\$88.00</u>	<u>\$115.50</u>	<u>\$88.00</u>
<u>Employee + 1 or 2 children</u>	<u>\$126.50</u>	<u>\$126.50</u>	<u>\$165.00</u>	<u>\$132.00</u>
<u>Employee + Spouse/DP</u>	<u>\$132.00</u>	<u>\$132.00</u>	<u>\$176.00</u>	<u>\$137.50</u>
<u>Family</u>	<u>\$143.00</u>	<u>\$143.00</u>	<u>\$203.50</u>	<u>\$159.50</u>

Note: Parent + Child(ren) is defined as a single adult + a child or two children. Single + Spouse is defined as two married adults.

ADD THE FOLLOWING AS A SIDE LETTER REGARDING HOLIDAY PAY AND FLOATING HOLIDAYS

In recognition of the City's financial situation, in the 2010-11 Fiscal Year employees will forego pay for one holiday (the day after Thanksgiving). In addition, employees will forego pay for two additional holidays in the 2010-11 Fiscal Year if, based upon the City's six month annual financial report for the 2010-11 Fiscal Year:

- A. The City is not on target to have its General Fund revenue percentage difference from budget combined with its Police Department expense percentage difference from budget be at least 1.1% to the positive. For example, if the City's revenues at six months are averaging 1.1% over budget and the Police Department's expenses are averaging at or below budget, no additional holiday pay will be forgone. Likewise, if the City's revenues are averaging .5% below budget but the Police Department's expenditures are 1.6% below budget (total change 1.1% to the positive), no additional holiday pay will be foregone. However, if the City's revenues at six months are averaging 1% below budget and the Police Department's expenses are averaging .5% below budget (total change .5% to the negative), holiday pay will be foregone.

During the 2011-12 Fiscal Year only, employees will forego their three floating holidays.

In the event of a dispute regarding this side letter, Arbitrator Stephen B. Goldberg shall arbitrate this matter on an expedited basis without briefs or court reporters. With agreement of the parties, the arbitration may be over the telephone. The arbitrator's decision shall be due within 24 hours of the hearing, and shall not be more than five pages in length.

This provision and the effects of its application shall be non-precedential, shall not be considered to be the "status quo" in any future negotiation, and shall not be used by either party for any purpose whatsoever in any future interest arbitration involving the parties.

ADD THE FOLLOWING AS A SIDE LETTER REGARDING LAYOFFS

Notwithstanding any other provisions in this Agreement, the City may not lay off any bargaining unit employees from May 10, 2010 through 11:59 p.m. February 28, 2011. This provision shall expire (sunset) at 11:59 p.m. on the 28th day of February, 2011. This provision and the effects of its application shall be non-precedential, shall not be considered to be the "status quo" in any future negotiation, and shall not be used by either party for any purpose whatsoever in any future interest arbitration involving the parties.

ADD THE FOLLOWING AS A SIDE LETTER REGARDING MISCELLANEOUS ITEMS

- o The Union shall withdraw with prejudice its HMO grievance.
- o The withdrawal of proposals made by the parties in the course of their negotiations for a 2009-2012 Agreement shall be without prejudice to either party's positions on those issues.
- o The parties shall split the costs of the arbitrator and court reporter.

.....
THE FOLLOWING AGREEMENTS REACHED BY THE PARTIES PRIOR TO ARBITRATION SHALL BE INCLUDED IN THE AGREEMENT:

SECTION 7.2 EDUCATIONAL PAY STEP INCENTIVE POLICY -- Removal of the following language: Effective March 1, 2000, an employee may only be eligible to reach the G step contained in Appendix B based on educational eligibility, as described in Section 7.2

SECTION 12.3 WEAPONS / MARKSMANSHIP: Language proposal to change title of subsection to firearms and change the word automatic to semi-automatic.

SECTION 12.4 FITNESS INCENTIVE: Police Officers, Telecommunicators, and Service Desk Officers, may voluntarily participate in a physical fitness examination as determined by the Chief (with input from the union), and administered by the Police Department. If the employee (Department Representative) passes the exam, he will be paid a lump sum of \$250 as an incentive to maintain physical fitness. Telecommunicators, Service Desk Officers and Towing Coordinator may also participate in this incentive with the same level of benefits as the Police Officers.

MEMORANDUM OF UNDERSTANDING

The following constitutes an agreement between Teamsters Local 714 (Teamsters) and the Evanston Police Department (EPD). The previously signed memorandum of understanding governing schedule changes for the Service Desk Officers effective August 3, 2009 has been found to be satisfactory to both Teamsters and the EPD for continued use during a meeting having taken place 12/18/09. This meeting satisfied the meet and evaluation requirement from the memorandum previously signed on 7/22/09 and as a result, the schedule will continue indefinitely via this agreement until a collective bargaining agreement is signed with an effective date of March 1, 2009; at which time that contract will incorporate the terms. The only change from the original MOU relates to the hours for 2nd Detail. That shift will be 0615 thru 1445 hrs. A copy of the previously signed agreement is attached for reference.

City of Evanston, Representative
Chief Richard Eddington

Teamsters Representative
Chief Steward Ted Schienbein

MEMORANDUM OF UNDERSTANDING

The following constitutes an agreement between Teamsters Local 714 and the Evanston Police Department. The current eight (8) hour workday for the Service Desk Officers will change to an eight and one half (8.5) hour workday which includes a one half (.5) hour paid lunch period. The schedule change is to take effect August 3, 2009 and the shift hours will be as follows:

1 st Detail	2215 thru 0645
2 nd Detail	0600 thru 1430
3 rd Detail	1415 thru 2245

The ratio of days worked to days off will follow the 5-2, 5-3 schedule.

This is a pilot program that will be in effect until December 31, 2009. On November 18, 2009, the union and the police

department will meet to evaluate this schedule. Subject to both parties' approvals, it will become part of the collective bargaining agreement or in the event parties are out of contract it will remain in effect until one is reached, at which time it will become part of the subsequent CBA. If one or both parties do not approve the schedule, it will remain in effect until February 28, 2010 or a mutually agreeable alternative schedule is developed, whichever occurs first. If no alternative schedule is agreed upon, the schedule will revert back to the current practice as of the time of this agreement.

This schedule is payroll neutral; meaning that if a paid lunch period is not taken the desk officer will not receive compensation. Lunches will be available for Service Desk Officers (SDO's) working shifts staffed with more than two SDO's.

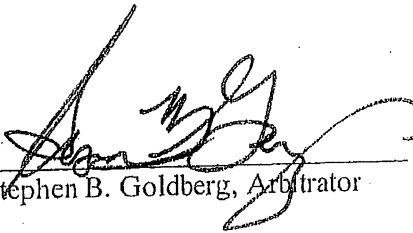
SDO's are to work 2080 hours per year. If the calculation for the number of hours worked for an individual SDO is in excess of 2080 for the year, the SDO will receive time off to offset the surplus. If the SDO does not receive the surplus time off prior to January 1 of the following year, he/she is to receive the additional hours worked as either cash or compensatory time at the overtime rate of one and one half (1.5). If the calculation for the number of hours worked for an individual SDO is below 2080 for the year, the individual will owe the city the number of hours he/she is short. That number will be deducted from one or any combination of the SDO's compensation, vacation, or holiday accounts and will be decided upon by the individual. This decision will occur at the end of the calendar year.

City of Evanston, Representative
Chief Richard Eddington

Teamsters Representative
Chief Steward Ted Schienbein

III. CONCLUSION

The Arbitrator's Award and the agreements of the parties, as set out above, shall be incorporated into the 2009 – 2012 collective bargaining agreement.



Stephen B. Goldberg, Arbitrator

May 19, 2010