INTEREST ARBITRATION

ILLINOIS STATE LABOR RELATIONS BOARD

ASSOCIATED FIREFIGHTERS OF MATTESON
IAFF, LOCAL 3086

and

VILLAGE OF MATTESON

ILRB No. S-MA-14-015

OPINION AND AWARD
of
John C. Fletcher, Arbitrator
March 22, 2014

I. Procedural Background:

This matter comes as an interest arbitration between the Village of Matteson ("the Employer" or "the Village") and Associated Firefighters of Matteson, IAFF, Local 3086 ("the Union") pursuant to Section 14 of the Illinois Public Labor Relations Act, 5 ILCS 315/314 ("the Act"). A hearing was held before the undersigned, as the sole arbitrator, on November 12, 2013. The Union was represented at the hearing by:

Lisa B. Moss, Esq.
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Counsel for the Village was:

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Post-hearing briefs were filed with the Arbitrator on January 21, 2014. The record was closed on that date.

II. Factual Background

The Village is located in Cook County, about an hour south of downtown Chicago. Its fiscal year runs from the first of each May through the following thirtieth of April.[1] Its population was listed at 19,023 on the Village's FY2012 Annual Financial Report. It has two fire houses that together provide services to an area of approximately 18 square miles, which includes at least one unincorporated area and a private country club, each of which contract with the Village for services. The Department is managed by the Chief, who is assisted by the Deputy Chief, both of whom are excluded from the bargaining unit. The bargaining unit includes 33 sworn firefighters, 25 of who are in the rank of Firefighter/Paramedic, and four each in the ranks/titles of Lieutenant and Lieutenant/Shift Commander.[2]

The last pay raise for this unit was implemented on May 1, 2011, and provided the following base salaries:

May 1, 2010	Firefighter	Lieutenant	Lt./Shift Cdr.
Probationary	$49,949	* * *	* * *
Certification	$55,949	* * *	* * *
Step 1	$61,757	$79,161	$88,180

[1] Throughout this award, references to the Village's fiscal year will be designated by FY. In general, the discussion will reference calendar years. For example, a reference to wages for the year 2011 will refer to wages that became effective within the calendar year.

[2] References herein to the generic 'firefighter" will include all bargaining unit ranks/titles.

Step 2	$64,849	$81,534			$90,826			
Step 3	$68,087	$83,981			$93,551			
Step 4	$71,491	*	*	*	*	*	*	
Step 5	$75,064	*	*	*	*	*	*	

The firefighters are assigned to one of three shifts of 24 hours on-duty followed by 48 hours off, except for two firefighters currently assigned to eight-hour shift in the fire prevention bureau. The parties provide contractually for 12-hour shift but no firefighters are currently assigned to one.

There are nine observed holidays under the expiring labor agreement, including the following:

New Year's Day
Martin Luther King's Day
Presidents Day
Memorial Day
Fourth of July
Labor Day
Thanksgiving Day
Day After Thanksgiving Day
Christmas Day

Under current contract language, firefighters are eligible to receive holiday pay if the holiday falls on their regularly scheduled shift, regardless of whether they work on that day.

III. The Parties' Bargaining History.

The Union was certified as the exclusive representative for this bargaining unit in 1988. The initial certification covered only the Firefighter/Paramedic rank. Lieutenants were added to the unit in or around 1997. This is the parties' third interest arbitration.

The parties' last labor agreement had an effective term of May 1, 2007 though April 30, 2011. In this round of negotiations, the Union made the relevant demand to bargain on December 29, 2010, and invoked mediation on April 7, 2011. The Village does not suggest that the Union failed to timely act so as to protect its rights to compel arbitration or to pursue retroactivity back to May 1, 2011.

The parties met on several occasions beginning in 2011 through 2013, including at least one session with a Federal Mediator. Tentative agreements were reached on a number of issues, which were submitted into the record at hearing as Union Exhibit 1, Tab 20, and are incorporated herein. Of particular note, the parties agreed to the following Village proposed changes to the wage structure:

> Section 12.2. Administration of the Wage Schedule
>
> ~~After completion of the probationary period and meeting the requirements for step 1, employees shall advance to Firefighter Step 1 on the Wage Schedule (Appendix A).~~ Upon hire Probationary Firefighter/Paramedics will be placed into the appropriate step on the Wage Schedule (Appendix A) based on certification. Thereafter, at the start of each fiscal year (May 1), ~~employees~~ Firefighter/Paramedics shall be advanced through the steps on the Wage Schedule based on ~~merit and achievement~~ certification as of

> that date, as set forth in the ~~Matteson Fire Department Point System~~ attached hereto as Appendix A ~~B~~, provided, however, that a firefighter may not advance more than two (2) steps per fiscal year. ~~In the event that, after the start of the Fiscal Year, an employee receives notice that he obtained a certification based on having completed the requirements and taking the test in the previous fiscal year, and that certification would have permitted the employee to advance additional steps, the Village will so advance the employee (subject to annual caps on movement) as of the date the certification is received by the Village.~~
>
> Lieutenants and Shift Commanders advance through the Wage Schedule (Appendix A) once time and certification are achieved. The Village will so advance the employee as of the date the certification is received.

The parties agree that the proposal eliminates two probationary steps for new hires and allows employees to advance through the steps more quickly by reducing minimum requirements for advancement. The change is to be effective upon execution of this Agreement. The Union contends that 16 of the 33 current members of the bargaining unit will likely advance through the steps more quickly as a result, but only eight will see a benefit from the changes in the first year following implementation.

The parties were unable to reach agreement on the issues submitted herein. The Union invoked interested arbitration on August 7, 2013.

IV. Statutory Authority and the Nature of Interest Arbitration

The relevant statutory provisions governing the issues in this case are found in Section 14 of the Labor Act. In relevant part, they state:

> 5 ILCS 315/14(g)
> On or before the conclusion of the hearing held pursuant to

subsection (d), the arbitration panel shall identify the economic issues in dispute… the determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive… As to each economic issue, the arbitration panel shall adopt the last offer of settlement, which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h).

5 ILCS 315/14(h) – [Applicable Factors upon which the Arbitrator is required to base his findings, opinions and orders.]

(1) The lawful authority of the employer.

(2) Stipulations of the parties.

(3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.

(4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally.

  (A) In public employment in comparable communities.

  (B) In private employment in comparable communities.

(5) The average consumer prices for goods and services, commonly known as the cost of living.

(6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

The Arbitrator finds that the issues submitted for resolution here are

economic in nature and that his job, therefore, is to select that parties' offer on each issue that most nearly "complies" with the above factors. As has been so often explained in the several decades since the Act's adoption, the Act itself provides almost no guidance to the arbitrator in deciding which factors apply in any given circumstance or in giving them an appropriate weight. Arbitrators have over the years established external comparability, how the terms and conditions of employment of these employees stack up against the terms and conditions of employment of employees who perform similar duties in comparable communities, as the single most important factor in choosing between competing proposals on wages and other economic issues. Other important factors include changes in the Consumer Price Index ("CPI") and the employer's ability to pay. The Arbitrator raises these points at this time for the specific purpose of establishing the primary context for his subsequent findings in this case. In addition, this Arbitrator's approach to the issues at impasse in this record, and the application of the statutory criteria will, as always, comport with his firm opinion that this process is not, nor will it ever be, a substitute for grievance arbitration or meaningful bilateral collective bargaining.

V. THE PARTIES' STIPULATIONS

The pertinent stipulations are as follows:

1. The parties waived the tri-partite panel and agree that Arbitrator Fletcher has sole authority in this matter.
2. All tentative agreement reached between the parties during contract negotiations shall be incorporated into the arbitration award.

3. The term of this Agreement will be May 1, 2011 through April 30, 2015.

VI. OUTSTANDING ISSUES[3]

1. Article VII - Holidays, Section 7.1 – Holidays Recognized
2. Article VII - Holidays, Section 7.2 (New) – Additional Holidays
3. Article VII - Holidays, Section 7.2 – Holidays Pay
4. Article XII - Wages and Rates of Pay, Section 12.2 (Appendix A) – Wage Schedules

VII – EXTERNAL COMPARABLES

As mentioned above, external comparability is of primary importance in the analysis of the parties' respective proposals. Indeed, neither party in this case has argued otherwise. The Union proposed the following list of comparable municipalities:

Alsip
Bridgeview
Chicago Heights
Chicago Ridge
Forest Park
Homewood
La Grange
North Riverside
Oak Forest
Park Forest

[3] The Union also submitted a proposal to modify the parties' language on Insurance in Article XV. However, it now objects to the Village's proposal to maintain the status quo on that issue arguing that the Village's proposal is a non-mandatory subject of bargaining. The Union has requested that the Arbitrator hold the issue in abeyance. Section 1230.90 of the Board's Rules prohibit the Arbitrator from considering an issue whenever a "party has objected in good faith to the presence of an issue before the arbitration panel on the ground that the issue does not involve a subject over which the parties are required to bargain." The Arbitrator has no choice but to grant the Union's request.

River Forest
Villa Park

The Village proposed the following comparables:

Alsip
Bellwood
Brookfield
Homewood
Mokena

The Union stresses that its list of comparables is established in the parties' bargaining history. That is, the parties have used the same list of comparables since at latest 1997, with the only change to the list being the exclusion of Bensenville at the point that Bensenville changed from a fire department to a fire protection district. The Union argues that this historical group of comparables ought to be maintained absent a change in circumstances that would warrant disturbing the status quo. See City of Aurora and Association of Police Professionals, S-MA-07-257 (Cox, 2008); City of Harvey and Harvey Firemens' Association, S-MA-06-288 (Perkovich, 2007).

The Union adds that the communities in the current set of communities all continue to fall within reasonable parameters of comparability. The Union suggests nine "traditionally accepted criteria" for selecting comparables (Union Brief, p. 14), which are: department size, number of "pensionable" department employees, Equalized Assessed Valuation ("EAV") of taxable real property, sales tax revenue, total revenue, total expenses, per capita income, median household income and median home value. The Union also suggests that a plus/minus 50%

range of comparison is appropriate as to each of the criteria. The Union argues that five of the twelve historical comparables fall within range of this Village in all nine criteria and the two communities having the fewest matchups, La Grange and River Forest, fall within range in at least five of the nine criteria.

The Union accuses the Village of cherry picking to obtain its own list of comparables. The criteria suggested by the Village, which include factors such as total number of firefighter hours worked, total number of overtime hours paid to firefighters, and amounts paid to firefighters in overtime, depart significantly from the criteria traditionally used by arbitrators and are offered without any explanation of their relevance. The bottom line is that the Village's list of replacement comparables excludes several closely comparable, and nearby, communities but, on the other hand, includes some communities that do not match up well with this Village in terms of the criteria most often considered by arbitrators. In fact, the Village would include Mokena, which is organized as a fire protection district, despite the fact that the parties earlier agreed to remove Bensenville from their list of comparables specifically because Bensenville went to a fire protection district structure.

The Village downplays the importance of external comparables in these circumstances. The Village suggests that internal comparisons are more important than external "because each employer is in a different financial situation." (Village Brief, p. 13)[citing County of Cook/ Cook County Sheriff and ILFOPLC, L-MA-

09-002 (Bierig, 2012); County of Will/Will County Sheriff and AFSCME, Council 31, S-MA-90-85 (Berman, 1991)].

The Village adds that its list of proposed comparables is the more appropriate of the two offered here. Two proposed comparables, Homewood and Alsip, are common to the parties' respective lists, the Village notes. The remaining communities on the Village's list, Bellwood, Brookfield and Mokena, each lie with a 25-mile radius of the Village and have populations within a range of plus/minus 10% that of the Village. From the universe of communities that meet those two criteria, the Village selected those communities that met at least half of the Village's suggested factors on a plus/minus 50% range.

The Village contends that the Union's list of comparables is offered with little actual justification. For example, the Union's list includes two communities, LaGrange and North Riverside, neither of which employs paramedics. It includes communities that have significantly higher populations than that of the Village, plus 50% in the case of Chicago Heights, and others that lie as far as 40 miles from the Village. The only real justification that the Union offers for its list of comparables is historical precedent. The evidence shows, notably and however, that in the last interest arbitration between these parties, before Arbitrator Elliott Goldstein, in Village of Matteson and IAFF, Local 3086, S-MA-08-007 (Goldstein, 2008), that list was agreed to expressly on a non-precedential basis.

This Arbitrator finds that the Union's list of comparables should be utilized

in this case. The Arbitrator finds most compelling the evidence that the list has been in place, with the one noted change, since at latest 1997. He agrees with the reasoning of other arbitrators, including those cited by the Union in its post-hearing brief, that the need for stability in the bargaining process militates against lightly altering a list of comparables that the parties have relied on in the past. Accordingly, this Arbitrator does not believe it would be appropriate to conduct a de novo review of the respective proposed comparables as he would in a case of first impression. Rather, an existing list should be amended only to the extent warranted by a demonstrated change in the circumstances under which that list was assembled. See City of Rockford and IAFF, Local 413, S-MA-12-108 (Goldstein, 2013), at p. 29 ("The fact that the parties themselves have established such a list of comparables and have relied on them over a long period of time as the context for arriving at their own offers is compelling, I hold. . . .").

The Arbitrator finds nothing notable in the fact that the parties agreed to proceed before Arbitrator Goldstein on a non-precedential basis vis-à-vis external comparables. The term non-precedential means just that, in other words that the result cannot be used by either party to buttress its position in the future. It can be used neither as evidence of the parties' past reliance on the list of comparables nor as evidence to throw that past reliance in doubt. The record nonetheless establishes, without contest, that the list of comparables offered by the Union was assembled by the parties themselves and has been relied on by them since 1997, a

fact which this Arbitrator believes should be given controlling weight as the Village has shown no change in circumstances to show that continued reliance on that list would be unreasonable.

For all the foregoing reasons, then, the Arbitrator will consider the following municipalities for purposes of external comparison:

Alsip
Bridgeview
Chicago Heights
Chicago Ridge
Forest Park
Homewood
La Grange
North Riverside
Oak Forest
Park Forest
River Forest
Villa Park

VIII – INTERNAL COMPARABLES

The Village's sworn police officers in the rank of Sergeant and below are represented by the Metropolitan Alliance of Police in two units, one including the rank-in-file police officers below the rank of Sergeant (MAP, Chapter #468) and the other including only the Sergeants (MAP, Chapter #462). In addition, the Village recognizes a unit of employees in maintenance and mechanic positions within the Village's Parks and Public Works departments, who are represented by the International Brotherhood of Teamsters, Local 700. Both MAP units are covered by labor agreements with an effective term of May 1, 2006

through April 30, 2011. The last agreement of record covering the public works unit expired on April 30, 2013.

The record shows that while at the time of the hearing here the Village and MAP, Chapter #468 were proceeding in interest arbitration before Arbitrator Curtiss Behrens for a successor labor agreement covering the police rank-in-file unit. The Village made the point at this hearing, and also in its post-hearing brief, that it proposed the same percentage wage increases for the police officers in the proceeding before Arbitrator Behrens that it makes here. However, on February 27, 2014, Arbitrator Behrens issued his award in that proceeding, in which he adopted the union's wage proposal, which calls for across-the-board increases of 2.0%, effective May 1, 2011, 2.0% effective May 1, 2012, 2.0% effective May 1, 2013 and 1.5% effective May 1, 2014. Village of Matteson and MAP, Chapter #468, FMCS No. 13-01948 (Behrens, 2014).

The parties do not suggest that any parity relationships exist between the firefighters at issue here and any internally comparable groups.

IX. OTHER STATUTORY CRITERIA

The Village argues that its present financial circumstance ought to be given overriding consideration in this matter. It argues that its inability to pay is not a defense. It points out that Section 14(h) of the Act does not assign any burden of proof upon an employer to prove an inability to pay a particular offer but instead mandates that an employer's ability to pay be considered in rendering an award.

The Village also suggests that every employer likely has the ability to pay even unreasonable demands from its employees when the question of its ability to do so is limited to determining whether the employer would as a result be required to shut down. The Village notes the recent comment of Arbitrator Barry Simon that, "The fact that the City has the ability to pay the increases does not dictate that it must, City of Rock Falls and ILFOPLC, S-MA-10-238 (Simon, 2012).

The Village characterizes its current fiscal state as being critical. Its General Fund, which is its main source for funding operations, has been in a deficit every year since 2006. This is due largely to business closures and a resulting sharp decrease in its sales tax revenues. In fact, whereas the General Fund had a positive balance of $2.3 million at the end of FY2005, it currently has a negative balance of $7.9 million. The Village concedes that it has other "restricted" funds available for limited purposes, but contends that its ability to borrow from those restricted funds is extremely limited. The Village has in fact been borrowing from its restricted funds for some time, simply to meet its current operating needs. Transfers of money from the Village's restricted funds to its General Fund are not an option that is available to the Village. The borrowed money, which currently stands at $6.8 million, must be paid back. The Village estimates that by 2018, its annual expense for servicing its debt will be $7.5 million. In light of this fiscal deterioration, the Village's credit rating was twice downgraded by Moody's, in 2012 and again in 2013, putting further strain on its

ability to borrow.

The Union asserts that the Village bears a heavy burden to prove its claims of inability to pay. See, City of Effingham and ILFOPLC, S-MA-07-151 (McAlpin, 2009). The evidence in this record shows that the Village is in far better financial condition than other communities that have fallen short of meeting the burden. See for example, City of East St. Louis and ILFOPLC, S-MA-09-085 (Reynolds, 2010). The Union points out that the Village currently has cash on hand in the amount of $21.5 million, between its various funds. The Union disputes that Village's contentions that inter-fund transfers are not legally available to it.

The Union reminds the Arbitrator that the projected debt servicing obligations for 2018 are well beyond the term of this Agreement. Moreover, the Union suggests, that future debt load is due at least in part to the "massive capital improvement projects" that the Village has undertaken recently, which include a new 76,000 square foot, state of the art" community center and newly renovated chambers for the Village Council. (Union Brief, p. 50). Add to that, the $22,000 increase that the Village gave its Village Administrator for FY2014. The Village apparently has money to spend, when it desires to do so.

The Union questions the materiality of Moody's downgrade of the Village's credit rating. First, the Village's credit is not really at issue given its cash on hand. More to the point, Moody's decision to downgrade was not based on any

finding that the Village lacks the ability to pay its debt. Rather, the Union points out, it was due to the Villages "inability and unwillingness to either increase revenues or implement a comprehensive deficit reduction plan . . . overly optimistic budgeting practices . . . [and a] lack of proper internal controls to track and monitor revenues and expenses." (Union Brief, p. 51)(citation omitted). The Union quotes from Arbitrator Peter Feuille's award in Palos Fire Protection Dist. And IAFF, Local 4480, S-MA-11-007 (Feuille, 2011), at. P. 36, wherein he suggested that the employer's "plea of 'financial crisis' in this proceeding comes across as 'we've spent ourselves into the red and now we need to be rescued from our prior spending decisions with an unusually modest wage increase.'"

In any event, the financial outlook appears to be brightening. The Union points out that this Village is more tilted toward sales tax revenues – 81% of the revenue in its General Fund is derived from the State sales tax – than any of the other communities among the comparables. It is, as a result, better positioned that the other communities to recover quickly from the recession. And, in fact, the Village's own news letter contains boasts about the brightening economic picture, stating that many new businesses have opened in the Village of late.

X. THE ISSUES

Article VII - Holidays, Section 7.1

Holidays Recognized

The Union's Final Proposal

The Union proposes amending Section A as follows:[4]

Effective May 1, 2014, the following shall be recognized as paid holidays for bargaining unit employees:

New Year's Day
Martin Luther King's Day
Presidents Day
Memorial Day
Fourth of July
Labor Day
Thanksgiving Day
Day After Thanksgiving Day
Christmas Eve
Christmas Day

Christmas Eve Afternoon applicable to 10/8-hour shift employees only.

The Village's Final Proposal

The Village proposes to maintain the status quo.

The Position of the Union:

The Union points out that the firefighters in this unit who work on 24-hour shifts, 31 of the 33 firefighters at issue, enjoy fewer holidays than do any of the Village's other represented employees, including the two firefighters who work on regular eight-hour shifts. The difference is the Christmas Eve holiday, which the

[4] Throughout this Award, proposed additions to existing language will be underscored and proposed deletions will be stricken through.

Union now proposes to add for this unit. The Union acknowledges on this point that the Village's police officers do not receive the day after Thanksgiving as a holiday. But, the Union adds, the police units receive a personal day in lieu of it.

The Union directs the Arbitrator's attention to the parties' first labor agreement, 1990-1993, in which seven holidays were recognized. The parties added Martin Luther King's Day in the 1993-1995 agreement, bringing the number of recognized holidays to eight. Two contracts later, in 2001, the parties added the day after Thanksgiving as the ninth recognized holiday. Bargaining history suggests a pattern of adding holidays over time, which supports the addition of Christmas Eve at this point.

The Union suggests that this pattern is due to an acknowledgement that this unit fares poorly among the comparables in terms of the value of the respective holiday benefits. In 2010, the total value of this unit's holidays was nearly 260% below the average value of holidays enjoyed by firefighters in the external comparables. If the Union's proposal is adopted that deficit will reduce to -211% by the end of the Agreement. On the other hand, the deficit will increase to -262% if the status quo is maintained.

The Union notes that the low value of the holiday benefit for the firefighters in this unit is the fact that they only receive holiday pay if they are scheduled to work on the holiday, which differs from the holiday pay afforded to the majority among the comparables, both internal and external. The Union

believes that it is significant that they do not seek to close the holiday pay gap - nor is the Union seeking to increase the current half-day received by the two eight-hour employees in the unit. Rather, the Union is seeking only a modest change in the number of recognized holidays, which is entirely consistent with the approach that the parties have taken in past negotiations.

The Position of the Village:

The current allotment of nine holidays to the firefighters in this unit is the same as that enjoyed by the majority of the units in the external comparables. The Union's arguments regarding the "value" of the benefits really address an issue of wages and therefore tend to confuse the issue. If the Union wishes to increase the "value" of the holidays, it should propose the matter as one of pay.

The Village also notes that the two police units each receive nine holidays. The Village concedes that they receive Christmas Eve, but points out that neither police unit receives the day after Thanksgiving. Awarding the firefighters an additional holiday at this point would create a disparity with these important internal comparables.

Discussion:

This Arbitrator has written on many occasions that the overall scheme of interest arbitration is, first of all, to avoid supplanting the traditional collective bargaining process Village of Western Springs and MAP, FMCS Case No. 10-02482-A (Fletcher, 2011) at pp. 10-11 ("[This] Arbitrator has stated on numerous prior occasions, it is worth mentioning that interest arbitration in general is intended to achieve resolution to immediate and *bona fide* impasse, but no to usurp, or be exercised in place of, traditional bargaining. . . [The] function of interest arbitration, as opposed to . . . grievance arbitration, [is] actual avoidance of any gain on the part of either party that could not have been achieved through the normal course of collective bargaining."). In City of Alton and Associates Firefighters of Alton, Local 1255, S-MA-06-006 (Fletcher, 2007), at p.7, he wrote:

> "A number of well-established principles should (and will) serve as underpinning for this interest arbitration award. First, it is now essentially settled that interest arbitration in general is intended to achieve resolution to an immediate impasse, and not to usurp, or be exercised in place of, traditional bargaining. Some Arbitrators have characterized the unique function of interest arbitration as opposed to that of grievance arbitration, as avoidance of any gain on the part of either party which could not have been achieved through 'normal' negotiations. Otherwise, as some have reasoned, the entire collective bargaining process could be undermined to the extent that at the first sign of impasse, parties might immediately resort to interest arbitration."

Recently, this Arbitrator followed this reasoning in rejecting a union proposal for an additional holiday where, as here, the proposal was supported only

by reference to a claimed desire to bring the benefits for the employees at issue more in line with the average enjoyed among the comparables. City of Wheaton and IAFF, Local 3706, S-MA-12-278 (Fletcher, 2014). The Arbitrator made the point in that case that the arbitrator's focus, except in cases of a demonstrated need for "catch up" with the comparables, is most appropriately centered not on altering the employees' relationship to the comparables but on maintaining it. "Put another way, the focus is not so much on the current value of the benefits that others in the comparable communities receive as it is on whether that value has changed." City of Wheaton, S-MA-12-278, at p. 23. The Arbitrator accordingly found against the union's proposal in that case, because the evidence did not show that the holiday benefits had changed among the comparables.

The same reasoning applies here. The Arbitrator finds no evidence that the holiday benefits are increasing among any of the comparables at this time. The Arbitrator appreciates the Union's arguments that the actual value of the benefit for these firefighters is substantially below par compared to their counterparts in the other communities. However, as the Village points out and the Union concedes, the source of that disparity is not the number of holidays allowed. In any case, the fact that the value of the benefit is below the average among the comparables, however substantial the gap, does not alone show a need for catch up.

The parties' bargaining history regarding the issue seems nearly irrelevant.

The parties are of course free to negotiate any changes they like to their holiday benefits. That they have done so in the past does not provide license to this Arbitrator to step in when they fail to do so. The Union has shown no agreement by the Village at any point to add holidays beyond the nine already agreed to. If the record suggests anything to the Arbitrator it is that the Village at one time agreed to add the day after Thanksgiving in 2011 in order to bring the number of holidays enjoyed by these firefighters in line with the majority of the comparables. That still seems to be the case.

Thus, for all the foregoing reasons and in light of the evidence as it has been examined in the strict context of established statutory criteria, the Arbitrator finds the Village's final proposal to be more reasonable than the Union's with respect to the issue of Holidays Recognized. Accordingly, the Village's final offer is hereby adopted. The following Order so states.

Order

For all the foregoing reasons, which are incorporated herein as if fully rewritten, the Arbitrator concludes that the Village's proposal with respect to Article VII - Holidays, Section 7.1 - Holidays Recognized is adopted. It is so ordered.

Article VII - Holidays, Section 7.2 (New)
Additional Holidays
The Union's Final Proposal

The Union proposes adding the follow new section:[5]

Section 7.2. Additional Holidays

If additional holidays are granted by the Board of Trustees to employees not covered by collective bargaining agreements, the Village agrees to additionally grant those holidays to employees covered under this Agreement.

The Village's Final Proposal

The Village proposes to maintain the status quo.

The Position of the Union:

The Union asserts that its goal is to achieve parity with other Village employees. The Union's proposal in fact mirrors language already included in the agreements covering the Village's two police units. It also mirrors in effect the language in Section 7.4 of the current agreement covering this unit, which grants to the two firefighters on eight-hour shifts "any additional day that the Village Hall would be closed,. . ." The Union's proposal will create equity within the bargaining unit itself.

The Union also reminds the Arbitrator that the value of the current holiday benefit afforded its members is at "rock bottom" among the external comparables. (Union Brief, p. 26). The Union's proposal could, should the Village act with respect to its other employees, serve to close the gap, however slightly. "Further, the language formally ensconces the parties' bargaining history of increasing the total number of recognized holidays over time" (Id).

[5] The Union incidentally proposes renumbering current Section 7.2 through 7.4, to 7.3 through 7.5, respectively.

The Village's only stated argument against the proposal is that similar language is not found in the agreements covering the Village's five proposed external comparables. Internal comparability is the more substantial factor on this issue and the Village does not contest the fact that its other employees will receive whatever additional holidays the Village Board elects to grant.

The Position of the Village:

The Village effectively rests its opposition to the Union's proposal on the proposition that the Union is seeking a breakthrough and a change in long-standing status quo. The Village cites a number of interest arbitration decision rendered under this Act, which support the notion that interest arbitration "should not become an attractive substitute for collective bargaining. . ." Northlake Fire Protection District and IAFF, Local 3863, S-MA-03-074 (Kohn, 2003), at p. 13, and apply, accordingly, the rule that subjects proposals seeking to change the status quo to a heightened burden of proof. The Village suggests that the three-part test set out by Arbitrator Harvey Nathan in Will County Board and AFSCME, Local 2961, S-MA-88-09 (Nathan, 1988) should apply. Accordingly, the Union's proposal should fail unless the evidence shows: "(1) the status quo is dysfunctional or the old system has not worked; (2) the status quo has created inequities or hardships; and (3) the party seeking to maintain the status quo has resisted attempts to bargain over the change. (Village Brief, p. 22).

The Village says little about the application of the test to these facts.

Rather, the Village simply points out that the Union has failed to show a single example of its proposed language being included among the agreements covering the external units. Internally, the employees in this unit already enjoy the same number of holidays as their closest comparables, the police units. There is no need for the language which the Union proposes.

Discussion:

This Arbitrator recently noted that he typically "refrains from embracing any 'me too' language, as doing so weakens the bargaining process, and also effectively removes substantial discretion from important personnel who are left with little or no input concerning important matters" County of Cook and Cook County Sheriff and MAP, Chapter #507, L-MA-13-001 (Fletcher, 2013), at p. 59. Of note, the Arbitrator in that case awarded the union's wage proposal, which included "me too" language giving unit employees the benefit of any wage increases negotiated between the employer and any other MAP units. He did so, first and foremost, because he found the union's proposal overall to be the less objectionable of the two proposals before him, both of which he found to contain "substantial deficiencies." (Id). In addition, he found an established history of pattern bargaining between the employer and the union, which represented several units of the employer's employees, and he found that the terms of the "me too" language limited its duration to the effective term of the labor contract at issue

and, so, would not remain as a "monkey" on the back of the employer in future negotiations. (Id). This case presents a substantially different set of circumstances.

The Arbitrator finds no hint in this record of any history of pattern bargaining between these parties, i.e. agreements that tie the wages, hours or other terms and conditions of employment of the firefighters in this unit to the wages, hours or other terms and conditions of employment either negotiated with other union employees or implemented for non-unionized employees. The Village is correct in characterizing the proposal as embodying a breakthrough, although the Arbitrator finds no need to apply Arbitrator Nathan's three-part test in these circumstances. The Union's proposal is designed to be durable, carrying over from agreement to agreement until negotiated out. It will be a monkey on the Village's back for potentially years to come.

Internal consistency is not an issue here. To be sure, the record nowhere suggests a history of parity between the firefighters and any other group(s) of Village employees. More important, internal comparability simply does not make sense in the context of this particular issue, given that a holiday for the firefighters working on 24-hour shifts is the equivalent of three holidays for employees working eight hours a day.

. Thus, for all the foregoing reasons and in light of the evidence as it has been examined in the strict context of established statutory criteria, the Arbitrator finds the Village's final proposal to be more reasonable than the Union's with

respect to the issue of Additional Holidays. Accordingly, the Village's final offer is hereby adopted. The following Order so states.

Order

For all the foregoing reasons, which are incorporated herein as if fully rewritten, the Arbitrator concludes that the Village's proposal with respect to Article VII - Holidays, Section 7.2 (New) - Additional Holidays is adopted. It is so ordered.

Article VII, Section 7.3 – Holiday Pay for Employees Assigned To 24-Hour or 12-Hour Shifts

The Village's Final Proposal

The Village proposes the following changes to Section 7.3:

> Section 7.3 – Holiday Pay for Employees Assigned To 24-Hour or 12-Hour Shifts
>
> Employees who work ~~assigned to 24-hour or 12-hour shifts~~ on a holiday as their regular shift or on a duty trade shall be compensated at one and one/half times their straight time hourly rate for each hour worked. Employees who work on a holiday as overtime shall be compensated at twice their straight time hourly rate for each hour worked. ~~for 12 hours (6 hours for 12 hour shift employees) for regular scheduled shift when that shift falls on the holiday, whether worked or not.~~

The Union's Final Proposal

The Union proposes maintaining the status quo

The Position of the Village:

The Village contends that its proposal is intended only to correct an inequity in the application of Section 7.3 currently that results from the provision basing eligibility for holiday pay on the employee's regular schedule, i.e. whether it includes the immediate holiday, without regard to whether the employee actually works it. The employee regularly scheduled to work on the holiday gets holiday pay even if he calls off. On the other hand, the employee who fills in the shift on the holiday receives no holiday pay.

Notably, the Village asserts, the holiday provisions covering the majority of the external comparables include some form of work requirement that conditions eligibility for holiday pay. The Village's proposal is therefore reasonable.

The Position of the Union:

The Union suggests that the Village bears a considerable burden here, as it seeks to change the status quo in the calculation of holiday pay. See County of Clinton and Clinton County Sheriff and PBLC, S-MA-12-092 (Fletcher, 2013), at p. 7("In order to be persuasive the [employer] 'must fully justify its position, providing strong reasons, and a proven need.'")(citations omitted). The Village also bears the burden to show that it has offered a quid pro quo for the changes and has taken steps to assess and minimize and adverse impact on the employees. Village of Barrington Hills, S-MA-10-378 (McAlpin, 2013). The Village submitted no arguments or evidence that demonstrate a need to change the status quo, or even address the issues of a quid pro quo and/or the impact of the Village's

proposed change on unit firefighters.

The Union also notes that the Village's arguments based on external comparability are flawed in that they are based on the Village's own set of external comparables, which are not appropriate. Moreover, the provisions regarding holiday pay and work requirements, whether discussing external or internal comparables, vary greatly and really have little bearing on this case, because the work requirements in the vast majority of cases affect holiday pay eligibility rules that vary markedly from the eligibility rules here, specifically by granting holiday pay to everyone in the unit.

The Union notes as a final point on this issue that current contractual language governing duty trades seems to be in conflict with what that Village proposes here on holiday pay. Specifically, current Section 4.9, Duty Trades, expressly provides that each employee involved in a duty trade will be treated as if he or she worked his or her regularly scheduled shift for purposes of calculating pay. It would be inappropriate for the Arbitrator to now imprint a new provision into the parties' Agreement that will so obviously create a conflict between provisions.

Discussion:

A party seeking to depart from the status quo must show more that that change is a "good idea." The moving party must show that the current conditions are "broken" some how. See, Village of Romeoville and MAP, S-MA-10-064

(Fletcher, 2010); Illinois Secretary of State and ILFOPLC, S-MA-12-234 (Fletcher, 2014), at p. 25. The Union's suggestion that Arbitrator Nathan's three-part test applies here, is well taken. The Village's makes no attempt to address its burden of proof in its argument in favor of its proposal. Rather, the Village makes just one substantive point, that paying holiday pay to the employee who actually works the holiday rather than to the employee who is scheduled to but does not work the holiday, is equitable. On this record, the Arbitrator really has no choice but to rule in the Union's favor on this issue.

Thus, for all the foregoing reasons and in light of the evidence as it has been examined in the strict context of established statutory criteria, the Arbitrator finds the Union's final proposal to be more reasonable than the Village's with respect to the issue of Holiday Pay. Accordingly, the Union's final offer is hereby adopted. The following Order so states.

Order

For all the foregoing reasons, which are incorporated herein as if fully rewritten, the Arbitrator concludes that the Union's proposal with respect to Article VII, Section 7.3 – Holiday Pay for Employees Assigned To 24-Hour or 12-Hour Shifts is adopted. It is so ordered.

Article 24, Section A – Wages – Annual Salary Schedule

The Union's Final Proposal

The Union proposes general wage increases as follows:

1. Effective May 1, 2011 – 2.00% across the board.

2. Effective May 1, 2012 – 2.25% across the board.

2. Effective May 1, 2013 – 2.50% across the board.

3. Effective May 1, 2014 – 2.75% across the board.

Retroactivity:

Section 12.1. Wage Schedule

Base annual wages effective May 1, ~~2007~~ 2011, May 1, ~~2008~~, 2012, May 1, ~~2009~~, 2013, and May 1, ~~2010~~, 2014 are set forth on the Wage Schedule Attached hereto as Appendix A.

The salary increases effective May 1, 2011, May 1, 2012, May 1, 2013 and May 1, 2014 shall be retroactive to each of the applicable dates for employees still on the active payroll on each of those dates, provided that any employee who retired (including on duty disability) after May 1, 2011 shall also be eligible to receive retroactive pay based on the hours worked between May 1, 2011 and the date of retirement.

The Village's Final Proposal

The Village proposes general wage increases as follows:

1. Effective May 1, 2011 – 0.00% across the board.

2. Effective May 1, 2012 – 1.00% across the board.

2. Effective May 1, 2013 – 2.00% across the board.

3. Effective May 1, 2014 – 2.00% across the board.

Retroactivity: The Village proposed that the Arbitrator's award of wages could be made retroactive if the Arbitrator finds it appropriate to so award.

Position of the Union:

The Union points out that in 2010 the firefighters in the bargaining unit ranked third among the twelve external comparables in total career wages, about 3.5% above the average; and with a top base salary 3.2% above the average. In terms of hourly rate at top pay, these firefighters ranked sixth among the comparables, about 2.75% above the average. The lower ranking in terms of hourly rate is due to the fact that the firefighters here work substantially more hours per year than the average among the comparables. Considering all forms of compensation, including wages, leave benefits, premiums paid and the like, the firefighters in 2010 actually ranked seventh among the comparables in hourly compensation, just 0.6% above the average.

The Union contends that the 2.0% increase that it seeks in 2011, is nearly 24% below the average received among the comparables for that year, which was 2.47%. The firefighters' ranking will, as a result, drop in all of the above-mention categories, notably from third to fifth in total career earnings. However, the fall in ranking will not be as precipitous under the Union's proposal as it will be under the Village's proposed wage freeze, which will result in these firefighters dropping from sixth place to ninth in terms of top base pay. Moreover, the Village's proposed wage freeze in 2011 would reduce the total compensation hourly rate of

the firefighters in this unit, in relative terms, from 0.6% above average to 2.25% below average.

The Union submits that its proposed increase of 2.25% in 2012 is essentially equal to the average increase of 2.22% among the comparables that year. To the extent the Union's proposal is higher than the average, it will only marginally address the decline from the previous year. On the other hand, the Village's proposal of a mere 1.0% in 2012, only furthers the decline of these firefighters vis-à-vis the external comparables. For example, the total compensation hourly rate at top base pay for these firefighters will fall again from 2.25% below the average, which follows from the Village's wage freeze in the first year, to 3.14% below the average. Top base hourly rate will for the first time drop below the average among the comparables, going from +2.72% following the first year wage freeze, to -0.66%.

The Union notes that nine of the comparables present wage increase data for 2013, which average 2.19%. The Union's proposal of 2.5% will have the effect of restoring the firefighter in this unit to third among the comparables, albeit third among nine, in terms of career wages. In terms of top base pay, the firefighters will be restored to third among the nine comparables, at a rate 0.57% above the average, which is just slightly below the 0.59% above average top base pay that the firefighters enjoyed in 2010, coming into this Agreement. On the other hand,

the Village's proposal of 2.0% is once again below average and will continue the firefighters' slide vis-à-vis the comparables.

Only half of the comparables had available wage data for 2014. The average increase in that group is 2.28%. The Union concedes that its proposal is substantially higher, at 2.75%, but points out that the Village's proposal of 2.0% is again lower than the average. The Union adds that even assuming the additional holiday that it proposed here, the total compensation hourly rate for these firefighters will remain 1.2% below average among the comparables under the Union's four-year wage package. That same rate will drop to 5.85% below average under the Village's wage package. Summing up its analysis of the effects of the two proposals vis-à-vis the external comparables, the Union suggests that its wage package puts forth what is necessary to keep pace among the comparables, and the Village's package embodies a steady decline in the relative wages of these employees.[6]

The Union suggests that the importance of the Consumer Price Index ("CPI") as a factor has waned in recent years, and for good reason. Arbitrators recognize that the index is volatile, subject to wide swings, and not really indicative of anything useful in the wage context. See Board of Trustees, University of Illinois and ILFOPLC, S-MA-10-375 (Nielsen, 2012), at p.12

[6] It is apparent from the record and the arguments of the parties that any separate analysis of the impact of the proposed wage increases on the Lieutenants and Shift Commanders would not yield a substantively different result. Accordingly, although each party has addressed the effects of the respective proposals on the higher ranks in the union, the Arbitrator will center the discussion here on the analysis at the Firefighter rank.

("[T]he movement in the consumer price index is generally not a true measure of an individual family's cost of living due to the rather rigid nature of the market basket upon which cost of living changes are measured. Therefore, this Arbitrator has joined other arbitrator in finding that cost of living considerations are best measures by the external comparables and wage increases and wage rates among those external comparables."). The Union nevertheless asserts that CPI-U for the Chicago/Gary/Kenosha Region is projected to be 6.02% over the term of this Agreement. While that is substantially below the Union's total wage proposal, more noteworthy is the fact that the projected CPI-U is more that a point higher than the Village's overall proposal. The Union cites awards from a number of arbitrators in this State which stand for the proposition that keeping pace with CPI is a minimum requirement for characterizing any wage proposal as a wage increase. See for example, City of Chicago and PBPA, Unit 156, L-MA-12-005 (Bierig, 2013).

Retroactivity is also an issue here, according to the Union. The Union points to the fact that it initiated mediation before the start of the Village's fiscal year in 2011. Retroactivity of all wage increases should therefore be a given. See Village of Westchester and Illinois Firefighters Alliance, Chapter 1, S-MA-89-93 (Berman, 1989), at p. 11 ("In the absence of contrary evidence on comparability or evidence that the Union had either delayed negotiations or negotiated in bad faith, there is little, if any, reason to deny retroactivity"). Notably, only the Union's

proposal in this case expressly provides for retroactivity. Moreover, the Village took the position at the hearing that its wage proposal would not be retroactive, if at all, for three employees who retired during the course of these negotiations. That deviation is unwarranted.

The Union discounts the Village's claims of financial hardship, for the reasons discussed earlier in this award. The Union adds that the Village has a history of granting wage increases even in hard economic times. In fact, the labor agreements for all of the Village's bargaining units contain wage increase in the years immediately following the onset of the recession in 2008 that are well in excess of the Union's current proposal. More notable, the Village negotiated increases in excess of what the Union now proposes in the years leading up to the recession, despite the fact that the Village was already experiencing economic difficulties and deficit spending. In 2007, for example, the Village agreed to a four-year wage package for this unit that included across-the-board increases of 3.75% each year from 2007 through 2010. This Arbitrator should find, as did Arbitrator Brian Reynolds under similar circumstances, that the Village's conduct in paying increases to employees during period of financial deficits "negate[s] the significance" of the Village's budget deficits and its inability to pay arguments. (Union Brief, p. 53)[citing, City of East St. Louis and ILFOPLC, S-MA-09-085 (Reynolds, 2010)].

The Union further suggests that the Village's claims of inability to pay are undermined by its own wage offer. The Union points to the Village's own data showing that the parties' respective offers differed by only $142,821 in total financial impact. The Village failed to explain how it could find money to pay the $402,863 projected impact of its own proposal, but no more. In City of East St. Louis and ILFOPLC, S-MA-06-066 (Briggs, 2008), Arbitrator Steven Briggs reasoned that since it had to be presumed that the employer would find the resources to fund its own wage proposal, it was reasonable to presume that the employer would also find the resources to fund the union's slightly larger proposal.

As a final note, the Union suggests that the Arbitrator consider the Village's proposal to restructure the wage schedule, which is included in the tentative agreements to be incorporated herein, as further undermining the Village's claims of financial stress. Despite the limited impact of the changes during the term of this Agreement, the changes will in any case mean that more money will be paid to some bargaining unit members. The Union submits that the Village nevertheless made the proposal in part because it did not consider that it lacked the resources to pay.

Position of the Village:

As was mentioned previously, the Village asserts that its ability, or inability, to pay any increases in wages is the single most important factor here. It

adds to the arguments set out above that the projected deficit to the General Fund for FY2014 is nearly $1.3 million. This is due in large measure to the costs of operating the fire department. The budget for the fire department is nearly $5.5 million for 2014, equivalent to 31% of the Village's overall budget. Of that figure, 95% will go to expenses for personnel. The Village also asserts that it has contributed just over $3.6 million to the fire pension fund over the five-year period 2009-2013. The Village notes that the impact of its own wage proposal over the four years of this Agreement will be $402,862, while the impact of the Union's proposal over that period will be $545,683, a difference of 25%.

Cost of living, although not dispositive, is yet another important factor for the Village. The Village notes that its own proposal is very close to the projected CPI-U for the term of the Agreement. Additionally, step movement and the changes to step movement resulting from the agreed changes to the pay plan ought to be considered in comparing the respective wage offers to CPI. All told, the Village contends, the Union's proposal amounts to an average yearly increase for its members of 6.03%. On the other hand, considering all these increases the Village's proposal "more than falls in line, and exceeds, the CPI-U." (Village Brief, p. 12).

As regards the internal comparables, which as suggested earlier the Village sees as having heightened value in these tough economic times, the Village notes that it made the same percentage wage offer for the police officer bargaining unit

that it makes here. The Village also asserts that because of the Village's distressed finances management and non-union employees received no increases in wages in either FY2011 or FY2012. The Village stresses that it is not asking more from the employees in this bargaining that has been asked of all other Village employees.

The Village's analysis of the external comparables addresses only a comparison of the parties' respective proposal juxtaposed against the Village's own proposed comparable communities. The Village stresses that it has always been competitive with respect to wages and that its offer will ensure that it remains so. It offers detailed charts showing the results of its own offer, and also the Union's, in a step-to-step comparison with the communities of Alsip, Bellwood, Brookfield, Homewood and Mokena. The Village submits that under its proposal, the starting pay for firefighters in this unit will remain at or near the top, and pay along steps three through five will remain in the middle among the designated communities. The Village did not offer any comparisons along the lines of the historical comparables.

As a final note, the Village points out again that the firefighters are already in line to receive the benefit of the modified wage schedule. The Village tells the Arbitrator that the average difference between steps on the Firefighter/Paramedic schedule is 6.06%, and between steps on the Lieutenant and Lieutenant/Shift Commander schedules is 3%. The modifications will result in employees enjoying these increases more quickly than they had in the past.

Discussion:

The Arbitrator is persuaded that the parties' respective proposals are both reasonable in that they both reflect a sincere effort at settlement and neither is wholly out of line with the evidence in the record. The task then is to arrive at a determination of which proposal is the more reasonable one in light of the Section 14(h) factors. This task naturally starts with a discussion of the external comparables, see County of McHenry and SEIU, Local 73, S-MA-12-001 (Fletcher, 2013), at p. 10 ("external comparability is of primary importance in the analysis of the parties' respective proposals"). Absent special circumstances, i.e. a proven need for employees to catch up vis-à-vis the comparables or circumstances that will not allow for an apples-to-apples comparison with the external communities, percentage-to-percentage comparisons of the respective proposal with the wage settlements shown among the chosen external communities is the most commonly used approach. See, County of Cook and Sheriff of Cook County and Teamsters Local Union No. 714, L-MA-95-01 (Goldstein, 1995); compare, County of Boone and ILFOPLC, S-MA-08-025 (Benn, 2009)(finding that contracts negotiated prior to the economic free-fall in 2008 were of little use in the context post-recession interest arbitration as they would not yield "apples-to-apples" comparisons"). This case presents neither a catch up situation nor circumstances suggesting that reliance on external comparables might be misleading.

Having reviewed the record, it appears to the Arbitrator that the external comparability data favor the Union's proposal. A review of the available wage data for all the comparables yields average increases in each of the years covered by this Agreement, 2012 through 2014, of between 2.25% and 2.5%. The Arbitrator in fact finds only one instance of a wage freeze among the comparable communities, that being Chicago Ridge in 2011, which, notably, was followed by increases totaling 6.0% over the ensuing three years. That appears to be at the low end of the range. There are also very few instances among the comparables of employees settling for increases below 2% in any single year, and in each case the employees received greater increases in surrounding years. Overall, the data suggests that firefighters in the comparable communities are reaching wage settlements that are, on average, in line with wage settlement trends among fire units generally in the State, as this Arbitrator has gathered from his own review of published police and fire wage data. In terms of the external data, the Village's proposal is decidedly austere.

The Arbitrator also finds that the data on internal comparables does not, as the Village argues, strongly favor the Village's proposal. The Village's contends in its post-hearing brief that its management and non-union employees received no wage increases in 2011 and 2012, but the Arbitrator finds no evidence in the record that supports the assertion. In fact the Arbitrator finds very little data in the record regarding the wage increases that other Village employees have received or

will receive over the term of this Agreement, except what is contained in Arbitrator Behrens' award. That data shows the MAP, Chapter #468 unit will receive increases for the period of this Agreement that are substantially greater than what the Village proposes here. Viewed another way, the Village's proposal in that case, which matched the Village's proposal here, did not carry the day. This is the most significant of the internal comparable groups.[7] The Arbitrator finds that the total of the increases received by that unit, which amounts to 7.5%, falls somewhere between a wash and slightly favoring the Union's position.

More to the point, this Arbitrator agrees with the apparent view of Arbitrator Elliott Goldstein, as suggested in County of Macoupin and PBLC, S-MA-09-065 (Goldstein, 2012)(finding that the employer's treatment of its other unionized employees ran counter to its arguments stressing austerity), that the real value of internal comparability, at least to the extent of the heightened attention that the factor has been given in the years since the Great Recession began, is the extent to which the employer's treatment of its other bargaining units tends to support or undermine any appeals of the employer for austerity. Arbitrator Goldstein suggested that "the internal comparables and Section 14(h)(3) and its 'general interest and welfare' standard do permit the import of overall economic considerations, at least to the extent that this Employer, as a public entity, is

[7] This Arbitrator's experience in interest arbitration in this State, which spans nearly 25 years, leads him to believe it not unreasonable to speculate that the MAP, Chapter #462 unit, covering the police sergeants, will receive a wage settlement that is similar to that awarded the police officers that they supervise. While the Arbitrator does not draw from this any inference in favor of the Union's position, nor will he hold out hope that the sergeants' settlement will favor the Village's offer.

entitled to consider getting the most 'bang' for its 'taxpayer buck.'" Macoupin County, S-MA-09-065, at p. 33 (citations omitted). To the extent that Arbitrator Goldstein suggests that an employer's claims of economic stress, at least short of a pure claim of inability to pay, must be viewed in tandem with the wage data for the employer's other employees, this Arbitrator agrees.

The Arbitrator does not overlook the evidence in this record showing that the Village is currently facing financial difficulties, and has been for some time. The arguments put forth by the Union regarding the Village's ability to shift money from restricted funds to meet its obligations, as well as its suggestion that the Village's taxing structure may be the source of the problem, do not persuade the Arbitrator that the Village's claims of fiscal distress are substantially overblown. Nor does the Arbitrator view the recent economic trends, i.e. new business opening, sales tax revenues increasing and budget deficits waning, as firm evidence that the Village's troubles are behind it. On the other hand, this Arbitrator has consistently held to the rule that "'fiscal responsibility' alone is not a defense for inferior public service wages." City of Peru and ILFOPLC, S-MA-10-233 (Fletcher, 2011), at p. 28. While the Arbitrator is aware of his statutory obligation to consider an employer's ability to pay in these matters he, at the same time, appreciates both the limitations of his authority and the underlying purpose of the Act to provide the employees, who cannot strike, with "an alternate, expeditious, equitable and effective procedure for the resolution" of their disputes

with their employer (5 ILCS 315/2).

The Arbitrator again stresses that in this process of interest arbitration comparability, both internal and external, with somewhat greater weight given to the latter, cannot be overlooked. In City of Peru, S-MA-10-233, this Arbitrator adopted the employer's proposal for a one-year wage freeze. He noted the employer's "persuasive proof of a general decline in financial stability in recent years," (Id, at p. 28) then being the heart of the recession. He found that the employer's response to its fiscal needs was fair and balanced in that it limited its proposal for a wage freeze to a single year, which was to be immediately followed by an agreed-to increase of 2.0% for the following year. As a whole, the Arbitrator was persuaded that the employer's proposal would not have a substantial impact on the employees' ranking among the external comparables, given that the employees' compensation were paid well above that of any of their peers in the other communities, by more than 10% at the top step. And, he found substantial support for the one-year freeze among the employer's internal comparables, all of whom had by then settled upon the same one-year freeze.

The circumstances here present a radically different picture. To begin, the firefighters in this unit, while faring well, are not at the top of their comparables in terms of wages. The Village's proposal follows a wage freeze with three increases that at best rise to the low end of the range on increases being received by firefighters in the comparable communities. These firefighters will undoubtedly

lose ground to the comparables in each year of the Agreement, as the Union has demonstrated. The record, moreover, contains no evidence to suggest that the Village's rather austere proposal for this group of employees is in line with the Village's treatment of any of its other employees, union or non-union. In fact, the record shows the opposite with respect to the most important internal comparable, that being the police officers represented by MAP, Chapter #468. Summing matters up, there is no evidence in the record that tells the Arbitrator that the Village's effort to impose austerity is not being started here.

CPI is not a significant factor here. The projected CPI-U for the period of this Agreement lies between the two offers, albeit closer to the Village's offer. That the parties have already reached agreement on changes to the wage schedule that will benefit some of the members of this bargaining unit is not a matter of great concern to the Arbitrator. The facts show that the changes to the wage schedule were initiated by the Village. Its reasons for proposing them are not clear from the record. Moreover, the issue here involves across-the-board increases, which are traditionally measured against CPI on a percentage-to-percentage basis without regard to step movement. Accordingly, although the Arbitrator finds that the projected CPI-U favors the Village's position, that finding is not sufficient to tilt the tables in the Village's favor on this issue.

Thus, for all the foregoing reasons and in light of the evidence as it has been examined in the strict context of established statutory criteria, the Arbitrator

finds the Union's final proposal to be more reasonable than the Village's with respect to the issue of general wage increases. Accordingly, the Union's final offer is hereby adopted. The following Order so states.

Order

For all the foregoing reasons, which are incorporated herein as if fully rewritten, the Arbitrator concludes that the Union's proposal with respect to Article 24, Section A – Wages – Annual Salary Schedule is adopted. It is so ordered.

XI. CONCLUSION AND AWARD

The foregoing Orders represent the final and binding determination of the Neutral Arbitrator in this matter, and it is therefore directed that the parties' Collective Bargaining Agreement be amended to incorporate previously agreed upon modifications along with the specific determinations made above.

/s/ John C. Fletcher
John C. Fletcher, Arbitrator

Poplar Grove, Illinois – March 22, 2014