

**BEFORE
JAMES R. COX
INTEREST ARBITRATOR**

VILLAGE OF OAK BROOK, ILLINOIS

**INTEREST ARBITRATION
2015 LABOR AGREEMENT
ILRB S-MA-15-018**

**ILLINOIS FRATERNAL ORDER
OF POLICE LABOR COUNCIL**

DECISION AND AWARD

The Hearing in this matter was conducted at Oak Brook Village Hall in Oak Brook, Illinois October 8, 2015. Attorney Don Anderson represented the Village of Oak Brook (the "Village") while Attorney Gary Bailey presented the case for the Illinois FOP (the "Union"). Following the Hearing and upon their receipt of Transcript, each submitted Post-Hearing Briefs which I received in early December 2015.

This matter has been properly placed before me for final and binding determination.¹ All procedural prerequisites for this Interest Arbitration have been met² and my findings are based upon applicable factors set forth in Section 14(h) of the Illinois Labor Relations Act. In the course of bargaining, a substantial number of Tentative Agreements signed off April 10, 2015 were made a part of the Record and are accordingly incorporated by stipulation of the Parties into this Award and the 2015 Collective Bargaining Agreement. Despite efforts to reach complete agreement, the

¹ Each party made it clear that, by their reference to the Arbitrator's authority to award retroactivity, they did not intend to predetermine whether any Award of increased wages or other forms of compensation should in fact be made. Subsection 14(h) of the Act sets forth factors which Arbitrator may utilize in analyzing issues in Interest Arbitration including: (1) The lawful authority of the employer; (2) Stipulations of the parties; (3) 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: In public employment in comparable communities and 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 benefit; (7), bargaining the continuity and stability of employment and all other benefits received; (8) changes in any of the foregoing circumstances during the pendency of the arbitration proceedings; (9) 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 parties presented final offers on each unresolved issue.

² The Section 14(d) of the Illinois Public Labor Relations Act requirement that the Hearing commence within 15 days of an Arbitrator's appointment has been waived as have the requirements of Section 14(b). By agreement, this dispute has been heard by a single Arbitrator.

Village and FOP remain at impasse on **three economic issues - Wages, Health Insurance and Contract Duration** as well as a **single non-economic concern, a Health Insurance Advisory Committee.**³

Comparatives

The parties have mutually agreed upon thirteen proximate Illinois communities to be used as comparatives: Bensenville, Bloomingdale, Burr Ridge, Downers Grove, Elmhurst, Hinsdale, LaGrange Park, Lombard, Oakbrook Terrace, Westchester, Western Springs, Westmont and Willowbrook. This comparability Group has been referenced and relied upon since 1998, a substantial period of time especially considering very significant differences with respect to wage determination between other municipalities within the comparable group and the salary structure for Oak Brook Law Enforcement Officers.

Because wage increases in the Oak Brook Police Department have historically been based in part upon evaluations and perceived merit, the weight to be given increases in comparative wages is more difficult to assess. During 2002-2004 collective bargaining and thereafter these parties have also negotiated percentage increases in minimum and maximum salaries within the pay range⁴ as well as retaining the merit system for officers below the salary range maximum. Oak Brook stands out as the only Police Department among comparables which follows an individual merit increase system and does not have the traditional "Step" salary Plan.

The Village claims that the Union in this proceeding puts undue emphasis on external comparability while ignoring cost-of-living and internal comparability measures. It asserts that external data should be viewed only as setting a range for comparison and that "*cherry-picking*" one figure or another from the agreed comparable towns is inappropriate. The Village stresses that despite their continuing agreement not only **during these negotiations and before that the thirteen communities are comparable**; there are significant differences among them especially in number of Police Officers and Community Size. These differences, however, were not significant enough for the Village to exclude them from the group. Moreover, from the Union perspective, a major 14 (h) difference that supports their money demands is the ready availability of revenue this Village has to fund wages and benefits.

There is no question that Oak Brook is one of the premier places in northern Illinois to live, work and shop and, significantly, unlike many of the comparable communities identified above, is in a relatively strong financial position. Testimony shows that during the five most recent years, commencing in 2010 and in connection with the recovery from the recession, revenues had three times exceeded budgeted income by greater than \$1,000,000! Most significantly Oak Brooks' increasing ratio of fund balance to revenue ratio is a continuing trend that has brought the Village to a relatively high rank among comparable municipalities. From that perspective, Unit Police Officers have lagged. That 14 (h) factor is uncontested.

³ Joint Exhibit #6, Paragraph 8(d).

⁴ There was no wage increase one year of the 2009-2011 Contract.

Village Income has also been steadily increasing year to year. Oak Brook Revenues have, just during the past five years, risen between 2010 and 2015 from \$19,560,784 to \$21,430,286. It is noteworthy that, while the Village ended 2015 with their historically Highest Year Ever Ending Fund Balance, \$16,113,268, their law enforcement Bargaining Unit continues to rank toward the bottom of agreed upon comparable Units in hourly pay – 12th with a \$40.65 Hourly rate in 2014. Hinsdale and Downers Grove had 2014 hourly rates of \$44.70 and \$44.17 respectively. At the 20 year level in 2014 – Oak Brook Officers ranked sixth behind Hinsdale, Downers Grove, Bloomingdale, Westmont and Elmhurst. Three of those Units had, like Oak Brook, 12 hour shifts.

With significant differences in pay rank among the comparable Villages depending on methodology applied, it is important to understand and give appropriate weight to Officer Work Load. With the adoption of 12 hour patrol shifts during the 2012 Contract, Oak Brook Officers have been working longer hours each year without any adjustment in earnings. They work 84 hours every two weeks or 2,184 yearly, 104 hours more per year than most Officers in the comparable communities, a not insignificant greater amount of work. There was no pay recognition coupled with that additional work load when it was instituted. In these negotiations, as shown below, the Union seeks a small equity adjustment. There is no contention that it is disproportionate.

Most Officers in comparable communities put in the standard 2,080 straight time hours per year. While the communities have been mutually agreed as comparable, Officer Work load is not. Oak Brook Officers are now working more hours but fewer days per year than those on an 8 hour schedule. The Village says that this a better deal for Officers, reasoning that an Officer who works a 12 hour shift may have more time at home since he works 7 days per pay period, or a maximum of 182 days per year, (minus vacation days and other paid time off) while an Officer who works an 8 hour schedule works 10 days per pay period, or 260 days per year (minus paid time off). The Union, as the Officer's spokesperson, seeks to move toward equalization of hours of annual pay with their proposed equity adjustment.

The Village objects to the FOP's *equity adjustment* proposal saying it is as much of a "breakthrough" proposal as was the Union's initial proposal to replace the merit system with a Step Plan. The Union *concedes that introduction of a Step Plan at Interest Arbitration would have constituted a "breakthrough"* and likely be rejected by an Interest Arbitrator but points, in these circumstances, to that limited wage adjustment being tied to the fact that a new schedule required hours to be worked without a corresponding wage increase, thereby creating an obvious inequity. The Village counters that the mechanism of the \$0.40/hour increase is itself inequitable because it provides a higher percentage increase for lower paid officers than those higher paid. The Village asserts that, up until now, all increases negotiated by the parties have been across the board percentage increases; all officers receiving the same percentage increase. In those cases, however, work load had not changed.

The Village contends that at interest arbitration the party making a breakthrough proposal bears an added burden to show that the status quo should be disturbed. Arbitrators have been known to require evidence that *"the system is broken"* and often the moving party has offered a quid pro quo for the proposed change. The Village submits that the Union has failed to meet its burden of showing that a breakthrough

proposal should be awarded even in this limited case, supporting their argument with evidence of low turnover rates and the fact that eighteen of the current twenty-nine officers have been with the Department long enough to be at the top of the pay scale. There certainly is, however, a quid pro quo for such a change in the relationship of the increase to the greater work load.

The FOP believes that their proposed Final Offer percentage on wage increases is not only reasonable but consistent with percentage increases among comparable Employers and that the additional equity adjustment is necessary to ameliorate the recent increase in Unit Officer's workload without pay. The Village responds that, the percentage of increase negotiated among the ten of the 13 localities which have settled, a 2.5% annual increase (without any equity adjustment) exceeds the average 2015 percentage increase of 2.375%. However, only six comparable municipalities have agreed upon 2016 pay increases with an average increase 2.5%, the same as the Village has offered for the second year. There is insufficient data to determine 2017 increases.

The Village calculates the Union Offers - including the equity adjustment - to be 3.46% for 2016 and 3.18% for 2016 - concluding that there is no basis for additional equity adjustments. Evaluating the Village's rank among comparable towns based on current pay is challenging because different approaches have been offered and merit increases in Oak Brook are contingent and, to a high degree, within the control of the Village. Moreover, I agree with the FOP contention that the appropriate comparative measure is the hourly rate of pay and that, using that criterion, despite their Employer's relative affluence; Oak Brook Officers' pay per hour ranks them eleventh out of fourteen communities for contract year 2015. Without an equity adjustment in year 2016, Oak Brook would rank even lower, tenth out of fourteen. Even with the equity adjustment, Officer's pay still would rank only ninth that year. Moreover, this calculation significantly ignores major differences in funding strength and ability to pay between Oak Brook and the agreed upon comparable governmental units.

The Village responds that the proper comparative measure is annual salary, not funding or hourly rates. Using that concept, results are markedly different. According to that perspective, from 2012 through 2014, Village Officers ranked fifth, sixth and, then fifth again, among comparables. Based on 2.5% increases in each year of a new two year contract (2015-2016), Oak Brook's annual pay would rank them fourth and then third and that, for 2017, its offer would rank Oak Brook Officers as the highest paid of the fourteen. However, sample size of settled 2017 contracts is too limited to make any meaningfully projection and, in any event, comparative revenues were not factored in.

Prior Agreements and Term

Following a continuing pattern of having three year Agreements without exception, the Parties last negotiated a three year Contract for the January 1, 2012 through December 31, 2014 term. Their previous January 1, 2009 Agreement which concluded December 31, 2011 had been preceded by an earlier series of three year Contracts, 2005-2008, 2002-2004 and 1999-2001. Prior thereto, this Law Enforcement

Unit had been covered by three year Teamster Agreements in 1996-1998⁵ and 1993-1995.

The parties have been operating without a work stoppage, a very important factor here considering the 80,000 + daily visitors to the premier Shopping Malls and Corporate Headquarters in this relatively small Village with a residential population approximating 8,000 residents. Despite the diverse policing activity involving these numbers, the Bargaining Unit consists of twenty nine Village of Oak Brook Police Officers represented by the Illinois FOP. As noted above, the Village had recently increased the annual work hours of these Officers but not their number, leading to Union requests for an equity adjustment.

FINAL OFFER ANALYSIS

ISSUE # 1: WAGES

Both the Union and the Village have proposed Agreements with two or three year term alternatives and, consequently, resolution of term length also resolves wage issues. Increases in the Minimum and Maximum levels of pay ranges and in individual salaries of employees covered by this Agreement shall be in the amounts and at times described below. Both Union and Employer offers are to be made retroactive across the board.

Union's Final Offer on Wages The FOP seeks a Two Year Term with a 2.50% increase the first year (1/1/2015 - 12/31/2015) and a 2.50% increase the second. (1/1/2016 - 12/31/2016). In that second year, the Union also asks that there be (1) a \$.40 per hour equity adjustment coupled with the freeze in starting pay sought by the Village.

As a wage increase alternative, the Union proposes a three- year term with the same increases sought the first and second year, 2.50% for 1/1/2015 - 12/31/2015 as well as a 2.50% increase for 1/1/2016 – 12/31/2016 plus the \$.40 per hour equity adjustment that second year. They propose a 2.25% increase for the third year - 1/1/2017 – 12/31/2017 and, in addition, the \$.40 per hour equity adjustment. Starting pay is to be frozen both the second and third Contract Years.

Village Final Offer

Oak Brooks' final Offer on Wages is for a two year Agreement with a fully retroactive 2.5% across-the-board increase for 2015 and a 2.5% increase for 2016. Should a third year be awarded, they propose a reopener on wages and insurance (Jt. Ex. 4). Significantly and unlike the Union Offer, Starting Pay is to be frozen both the 1st and 2nd Year. Oak Brook would maintain the Status Quo on Section 11.4 Merit Increases each year of the Agreement but, in the event the Arbitrator selects the Union's proposal for a Contract with a Three Year Term, the Village proposes a January 1, 2017 reopener on both wages and insurance that final year. Under this alternative, there

⁵ The FOP was certified in December 1998.

would be a re-opener only on those two issues that third year of the Contract while all other provisions of the Labor Agreement would remain in full force and effect.

The most significant wage difference between the parties is the Union's proposed equity adjustment and the Step Increase that the 13 comparable municipalities have that Oak Brook lacks - all 13 enjoying at least 7 Steps and 3 with additional longevity Step movement.

The Arbitrator does not recall seeing such a differentiation in salary schedules among agreed upon comparative municipalities as exist in this case but that formula has been of long standing here. **Oak Brook is the only Police Department within this agreed group of comparable communities which has a merit increase pay raise system instead of the more commonly found "Step" Plan for all salary increases, a factor that, according to the FOP, has resulted in Oak Brook Officers being comparatively underpaid among their peers.** They stress that, since merit increases by their nature are more subjective, it arguably could take an Officer longer to get to the top pay rate than their counterparts in comparable communities who regularly enjoy programed Step Increases. The Union maintains delays in progressing to the top pay level depress relative salaries to the detriment of their membership.

The system as currently administered covers Officers who have not reached the top of the pay range. They receive pay increase percentages periodically negotiated in collective bargaining and, in addition, merit increases tied to performance which range as high as 4%. There appears to be a floor in the system which, in 2014, resulted in Officers receiving no less than a 2% merit increase. Although replacement of this merit increase system with a traditional Step Plan has been the subject of FOP bargaining proposals as far back as 1998, the merit-increase system has been retained. The FOP dropped the Step Increase proposal in these negotiations but continue to seek the equity adjustment discussed above as part of the wage package.

The Village does not support their position with reliance on several 14 (h) factors often advanced by the Employer in Interest Arbitration. For example, they do not dispute that they do have financial ability to meet increased wage costs nor do they compare wages, hours and conditions of employment of this Village's Officers with the wages, hours and conditions of employment of other employees performing similar duties in other jurisdictions. They make no reference to comparative compensation presently received by Officers working for any of the listed 13 agreed upon competitors, such as wage compensation, vacations, holidays and other excused paid time off, insurance and pensions, medical and hospitalization benefit. They do focus on consumer prices for goods and services, commonly known as the Cost-of-Living, and how wages of Officers in this Bargaining Unit have more than kept up with those costs.

The most significant remaining money issues before the Arbitrator involve the proposed equity adjustments and continuing merit increases since the Village and Union percentage increase offers are similar. Looking at comparable Police Departments with 2014 settlements, 11 of the 13 averaged 2.72%. In 2015 8 of that number had settlements averaging 2.34% and, of the 5 who have settled for 2016, the average has been 2.35% thus far. There are expectations the remaining 8 will come in somewhat higher compared with the Unions 3rd year final offer of 2.25% plus the relatively small equity adjustment. I note that there had not been any wage increase in 2010 in this Unit

and that in 2012, 2013 and 2014; the 2.50% raises had been partially moderated with a 50% portion deferred into July.

While the parties have long had a listing of agreed upon comparable government Units, a factor traditionally a major part of wage determination in Interest Arbitration, the Village gives little consideration to the pay rates of Police Officers who work for these agreed upon, close by and comparable communities. Instead they give greater weight to the effect of the Consumer Price Index during the three years covered by the current Collective Bargaining Agreement, January 2012 through December 2014 upon wage increases during those three years. They state that there was a CPI increase of 3.11% during this time and that Officers received at total of 7.5% in wage increases without compounding. The Village focus is upon maintaining and increasing purchasing power, an achievement they stress their Offer achieves.

In an example of Oak Brook wages increasing purchasing power over the term of the current contract, an Officer at top base salary, making \$84,477 in 2012 would have to have made \$87,104 in 2014 in order to maintain the same purchasing power he had in 2012. The Village points out that such a situated Officer made \$88,780 in 2014 which constituted a net gain of \$1676 in annual purchasing power and, under either the Village or Union last offer, had a net gain of \$3314 in annual purchasing power in 2015. To put it in a commonly stated way, Village wage increases have more than kept up with the cost of living.

I give Police Officer Salaries in the same employment area greater weight when making a decision of how much a Police Officer should be paid rather than changes in the cost of living that the Village stresses here. Many of those surveyed by the Bureau of Labor Statistics and reported here have no specific relevance to Police salaries in the Oak Brook Area. I find it a non sequitur that Oak Brook Officer Salaries should be determined by increases in the CPI over the term of the 2012-2014 Labor Agreement to their detriment when wages of Officers in comparable communities are higher.

Of the 13 hourly 2014 wage comparables, 3 have Officers working 12 hour shifts. Despite the merit system, Oak Brook Officers with 20 years have salaries which rank them sixth with an annual wage of \$88,780 but down third from the bottom when considering 2014 Hourly Wage Rates. Their rate that year was just above \$40.65, higher only than Western Springs (\$29.34) and Westchester (\$38.86). In 2014, 11 Oak Brook Officers not at the top of the salary range received merit increases in addition to across-the-board percentage increases negotiated by the parties. Previous Merit increases ranged from 0% for a "needs improvement" evaluation to 4% (in 2012 and 2013) and 3.5% (in 2014). No Village Officer received less than a 2% merit increase during the years covered by the now expired Labor Agreement.

AWARD

Considering the 14(h) factors reviewed above, I find the final proposal of the FOP on the Wage Issue to be the most reasonable.

ECONOMIC ISSUE #2 – HEALTH INSURANCE

The Union Final Offer on Insurance is to retain the Status Quo with respect to the current comprehensive Dental, Health, Life and Vision Insurance Coverage Benefit Plan described in Section 12.1 of the Current Labor Agreement.

The Village proposes that, should the Arbitrator select the Union's Offer of a Contract with a three year duration, their contingent offers as to both wages and insurance should be adopted. Under their final offers on these points, the Village of Oak Brook would retain the current Insurance provisions in the FOP Agreement for 2015 but, effective the 2016 Contract Year, seek newly negotiated health insurance provisions to conform with language and benefits already in effect in the Labor Agreement between the Village and Professional Firefighters of Oak Brook, IAFF Local 4646. There is no evidence of any previous connection with the Firefighter's Health Insurance Benefit Package

A review of comparative benefits between IAFF Insurance coverage and that covering the FOP Unit indicates significant variances. There would be major difficulties in having meaningful discussions and reaching agreement on a mutually agreeable consolidated Insurance Plan which could be made effective even by mid-2016. Considering the differences in Insurance coverage as well as substantial cost/benefit differences, the parties need time to reach a meaningful agreement on amalgamation of Insurance provisions. There is no evidence that, either among the comparable municipalities or within the Village, there has ever been an insurance amalgamation such as that sought here.

The Village admittedly has had, for several years, a variegated, diverse health insurance program covering its employees which, during this negotiation with the Police Unit, they seek to simplify and bring about changes with the longer term objective of having a uniform Health Insurance Benefit Program for all Oak Brook employees. The focus during this negotiation, however, is only upon wages and benefits for members of the FOP Bargaining Unit.

Re-opener for Health Insurance the third year.

For the three term of the new Labor Agreement, the FOP has proposed a status quo final offer with very minor language changes designed to eliminate references which it says are no longer necessary. Analyzing costs, they point out that in the first year of the most recent Plan effective costs to their unit members had been substantially the same as in the prior year, and during the second year (2013), there had been only an increase in specialty drug costs. However, the third year (2014) brought increases in costs to unit employees including increased employee premiums, higher PPO deductibles, and greater drug costs for both the HMO and the PPO. The Union argues that the increases the Village seeks in year two and, through the re-opener in the event of a third year, would result in further significant cost increases for Unit members. Having negotiated increased costs for 2014, the Union believes that the expectancy of further cost increases in years two and three of the new Agreement is not unlikely, especially with unwillingness of the Village, in the FOP's opinion, to address salary inequities notwithstanding their solid financial situation and the relatively lower pay rank of Oak Brook Officers among Officer employed by comparable municipal governments.

The Union acknowledges that it is difficult to compare insurance costs from one community to another but cites comparable Departments provided at Union Book #1, Tab #19, for their argument that Oak Brook Police Officers are already paying more for their health insurance than most Officers in the other communities. In particular the Union draws the Arbitrator's attention to Oak Brook Officers paying 15% for HMO Plans and 20% for PPO Plans. For every Plan, Oak Brook costs are either first, second or third highest among the comparable municipalities, a problem that will, in all probability, be on the Advisory Committee's Agenda.

Consistency and Simplification

To reiterate, the Village made it very clear that its comprehensive Health Insurance Offer was designed to 1) bring the Police Insurance Benefit into alignment with the IAAFF health insurance Plan; 2) simplify and make the overall health insurance program offered by the Village more efficient; 3) achieve changes likely to be mandated by the Affordable Care Act and minimize Cadillac Tax exposure. However, the basis for such a change of such magnitude has been effectively wiped out. Almost insuperable difficulties in moving toward such an understandably important objective were compounded by the Federal Government in December 2015 when they not only pushed back the effective date of the Affordable Care Act (and the Cadillac Tax) to 2020, but deprived the Union and Village of any guidelines in the form of Regulations during the term of their new Agreement. Such Regulations would have enabled them to make meaningful proposals to deal with the unknown costs on the horizon.

The Parties had been negotiating based upon with the assumption of a January 1, 2018 effective date for the new Federal Insurance Programs. Now the effective date is to be in 2020!

The Cadillac Tax

In the process of consolidating their Health Insurance Program into what it foresaw as a single Plan, the Village necessarily sought to prepare for the Affordable Care Act's "Cadillac Tax" which, during the period of their negotiations, they and most in the Healthcare Field believed was to become effective January 1, 2018. The Village accordingly had sought a freeze until 2018 of opportunities to deal with the problems associated with the Village's Health Insurance Plans. Even under those now foregone circumstances, since the Village's Insurance Year runs from July to June, their likely next opportunity to make changes to the Plan would have been during the July 1, 2016 to June 31, 2017 period. But the Union's proposal for a Three Year Contract through December 31, 2017, the Village argues, already left little time to bargain collectively over changes required by the advent of the Affordable Care Act. Now, however, after the Briefs had been filed, that opportunity was further circumscribed December 18, 2015 when Congress passed and the President reportedly stated he would sign a two-year delay of the 40 percent excise tax on high-cost employer-sponsored health plans. A component of the Affordable Care Act, the Cadillac tax is levied on only the most expensive employer-sponsored health insurance plans—the so-called Cadillacs of Health. This delay and the President's sign off was part of a year-end government funding package and changed the effective date of the Affordable Case Act from 2018 to 2020. While the tax was originally to be non-tax deductible, the December 2015

changes make it tax deductible for employers who pay it. **Most critical here for purposes of the negotiations, Regulations have not yet been issued.** Early on, in February and July 2015, the Internal Revenue Service (IRS) issued notices covering a number of issues concerning the Cadillac Tax, requesting comments on approaches that could ultimately be incorporated into proposed regulations. However, now, **no Regulations have issued and it is extremely unlikely that there would be anything substantive to bargain about on this critical issue until, at the earliest, 2019.**

There is no question that the Cadillac Tax has extreme significance to the Parties especially with the Village's objective to reconstitute their Health Insurance Package. This 40% nondeductible excise tax on fully-insured health Plans is imposed on the Employer in the case of self-insured Plans. A tax is levied on the amount of health insurance coverage which exceeds \$850 per month (\$10,200 per year) for individual coverage or \$2,266.66 (\$27,500 per year) for family coverage. While "high-risk professions" are entitled to higher thresholds, whether all Police Officers are eligible for this exception, is still unknown since Regulations defining the term have not yet issued. Employer paid premiums, pre-tax contributions to premiums by the employee and pre-tax allocation to flexible spending accounts (FSAs), health savings accounts (HSAs), health reimbursement accounts (HRAs) and retirement health savings (RHSs) Plans are each involved in calculating the monthly cost of a given Plan.

Whether the Village is exposed to Cadillac Tax Liability depends on the health care elections of each Village employee. However, the first step is to await and study the Regulations. Because of the December 2015 Federal Developments in Washington to defer the effective date and the lack of necessary Regulations Publications, it would be premature to have a reopener to bargain about that tax and its ramifications upon the Unit's Health Insurance Program until, at least, Regulations are developed.

There are clearly difficulties in obtaining the Village's objective of uniform insurance coverage for its employees in these negotiations. The Village described their current overall Employee Health Insurance Program Village wide as comprised of **five Plan designs, seventeen contribution structures and two funding mechanisms.** There is a PPO which is self-insured and administered by third party Mesirow Financial and an HMO fully insured with a Blue Cross/Blue Shield contract. The five Plans designs cover: the Police Department; Fire Department; the Park District; Unrepresented Employees; and Retirees -- the "Tier 2" design. Moreover some Public Works Employees represented by Local 150 are covered by a separate Operating Engineers Plan, and not included among health insurance Plans administered by the Village. Each of the five Plans has multiple contribution structures which feature various Plan choices including HMO, PPO and high deductible PPO. Including dependents, there are 399 persons covered by these Plans according to the Village. **All employees contribute but amounts they pay differ from Plan to Plan.** The comparative expenses of the Plan covering this Bargaining Unit are unclear.

The Village itself characterizes its health insurance Plans as a "hodgepodge", understandably making their administration a "nightmare".⁶ The complexity of

⁶ The Village's maintains that their health insurance offer to the Police will put the FOP onto the same contribution structure platform as the IAFF, a first step toward bringing all of their collectively bargained Plans under a single Plan as they maintain is the case in most other municipalities. The Village recognizes that they cannot unilaterally move Firefighters onto the Police Health Insurance platform and that that such

administering these various Plans gives the Village difficulty even at the first step - obtaining bids for coverage⁷. As a prudent move, Oak Brook recently issued a request for a proposal to secure recommendations as to how this multiple Plan structure might be simplified to offer a single, comprehensive Plan with both better benefits at lower cost to the employees and better cost management for the Village. Before the mid December 2015 delay of the effective date of the new Health Care Act had been pushed back to 2020, Oak Brook had hoped to be ready to move on those recommendations by the start of their next Health Insurance Plan year, July 1, 2016.

There is no question that a Uniform Health Care Insurance Plan is a desirable objective. The question here is how to achieve such a Plan and, at the same time, prepare for Affordable Care Act compliance when the standards are unknown and subject to change during the term of this new Contract through 2020.

The Kaiser Family Foundation 2015 Employer Health Survey cited by the Village calculates that there had been a 61% cost increase in insurance premiums since 2005 as well as an 83% increase in employee contributions over the same period. The increase in average annual premiums for single and family coverage was 4% for 2014 and 2015 during a time when wages increased only 1.9% and inflation declined to .2%; there were average premium increases of 27% in family coverage between 2010 and 2015 while overall inflation increased 9% and workers earnings outside this Unit *reportedly* rose 10% over the same period. Average contribution by employees to the premium cost of single coverage is 18% and 29% for family coverage. While PPO Plans continue to cover 52% of insured workers, 24% are now enrolled in high deductible Plans, up from 13% in 2010. I fully recognize the credibility of Village Exhibits 29 through 34 which support Oak Brook's contention that premium prices are likely to increase dramatically in the next few years. The uncertain effect of the deferral of the effective date of the new Insurance Law to 2020 is a major blow to Oak Brook Health Insurance Planning and there would be no basis for negotiation of a new program.

AWARD

As a consequence of the change in the effective date of the Affordable Care Act and failure to formulate Regulations, I find that the most reasonable last position on this issue is that of the Union.

a move may increase out-of-pocket cost for the Police (Village Ex. 26) but such added costs may be offset by gains in purchasing power from prospective 2015 and 2016 wage increases. Furthermore, Oak Brook contends that a reduction in the deductible from \$4,500 to \$3,000 for family coverage under the relatively high deductible PPO Plan will mitigate any cost increase.

The Union responds that it had been Oak Brooks' choice to operate multiple Health Insurance Plans, not theirs, a decision inconsistent with the present goal of providing a choice of the same health insurance options to all employees. The Union argues that internal cost consistency, while important where employees are offered the same coverage, is not a significant concern here because the Village treats different groups of employees differently and has never previously sought to achieve internal consistency. In addition, the Union contends that external consistency has more importance where employees are required to contribute to the cost of health insurance as is the case in Oak Brook. The Union strongly disagrees with the concept that, in order to achieve greater uniformity, the Police Bargaining Unit should have to adopt the terms of the IAAFF Plan since they say that Plan is more restrictive than the current Police Plan (Union Book #1, Tab 18).

⁷ Village Exhibit 24 summarizes contributions and premiums for the Village's various health insurance Plans, illustrating the overall complexity of the Plans and difficulty in obtaining bids from insurers.

ISSUE #3: CONTRACT DURATION

The Union seeks an Agreement with a three year term with status quo on insurance despite projected insurance cost increases. The Village seeks a two year contract *“so it can reassess its insurance plan at the end of 2016 and bring information that it has gathered from national developments, the request for proposal process, the proposed health insurance committee and other sources to the bargaining table in late 2016 and early 2017...”*. Both seek to cut costs of insurance.

Collective Bargaining History clearly favors the Union’s last offer. Not only have these Parties historically agreed to three year Contract terms⁸, there is no contract among the thirteen comparable municipalities for any shorter period. Interest Arbitrators have historically found longer contract terms to be less costly for the municipality. In these circumstances, the reason the Village seeks the shorter two-year term is that its insurance Plans need simplification and adjustment because of the impending affordable Care Act and the Cadillac Tax, discussed in detail above. For reasons discussed, a three year term would be best for them with the expectancy that they will use the time in conjunction with the new Health Insurance

The Village argues that it needs to maintain flexibility so that during 2017 it can make the changes necessary to minimize tax liability in time for the Cadillac Tax effective date of January 1, 2018. The three-year term sought by the Union would lock the insurance provisions right up to that effective date. The Village acknowledges that currently it does not know what changes will be mandated by law or what changes its insurance administrator and consultant will recommend. Nor does it know what proposals the new Health Insurance Advisory Committee will suggest. The parties do not yet know what trade-offs, if any, may need to be made to the wage structure or other contract provisions in light of potential insurance changes in the Affordable Care Act which will remain undesignated until no earlier than 2019.

AWARD

I find that the most reasonable last position on this issue to be that of the Union for the reasons set forth above.

ISSUE # 4: HEALTH INSURANCE ADVISORY COMMITTEE

FINAL OFFERS

Both the Union and the Village propose language to be made a provision of the Collective Bargaining Agreement which will provide for the formation of a **Health Insurance Advisory Committee** to assist the Village in dealing with Health Insurance Issues.

⁸ Lombard went 3.5 years and Westmont 4 years.

The Village Final Offer

Section 12.7 Health Insurance Advisory Committee.

The Village shall establish a Health Insurance Advisory Committee. Two Members of the Bargaining Unit shall participate in this Committee. The Committee will receive and review proposals from Health Insurance Providers and may make recommendations to the Village. The Village shall consider, but shall not be bound by the Committee's recommendations, if any, prior to entering into any contract to provide health insurance benefits for Bargaining Unit Employees.

The Union Final Offer

Section 12.7 Health Insurance Advisory Committee.

A Health Insurance Advisory Committee shall be created to discuss matters relating to the medical, dental and vision insurance coverage of Village employees. Prior to the Village agreeing to changes in the insurance coverage of Village employees, the Committee shall be informed of potential plan changes and options available to the Village. If a majority of the Committee make recommendations to the Village with regard to maintaining or changing insurance plans and such recommendations are not followed by the Village, the Committee shall be informed, in writing, as to why the Village rejected such recommendations.

The Committee shall be comprised of two (2) representatives of the Village, two (2) members of the Firefighter Bargaining Unit, two (2) members of this Police Officer Bargaining Unit and two (2) non-supervisory, unrepresented Village employees who are covered under a Village Health Insurance Plan. The Committee will meet as needed when pertinent information becomes available to share with Committee members. If any Committee meeting is scheduled during the working hours of an employee who will be attending a Committee meeting, the employee shall be released from duty to attend the meeting without loss of pay.

Arguing in favor of their proposal, the Village stresses a joint understanding that the Committee's function is to be purely advisory: - to receive and review insurance proposals and may make recommendations which the Village will then consider before entering into any new contracts for employee health insurance coverage. Proposing that the Union proposal be rejected, the Village specifically objects to (1) Union efforts to dictate the membership of the Committee by including two members of the Firefighters' Bargaining Unit, (2) requiring an explanatory response from the Village in the event that Committee recommendations are not followed and (3) the requirement that the Committee must be informed of potential changes and options before making any changes to the Plan.

Finally, the Union Proposal contains a released time provision for Committee Members who are in the FOP bargaining unit. The Village explains that they have no objection to such a provision, so long as it is understood that this is released time for employees who are otherwise on duty and does not entail an obligation to pay off-duty officers for time spent in committee meetings or on committee work.

As summarized in their Brief, in the Village's view, "a health insurance committee is primarily a management tool whereby management can obtain valuable input as to employee preferences in designing or changing a health insurance plan, including, but not limited to, any opinions the committee members may have as to such issues as the trade-off between premium costs and deductibles, co pays, and co-insurance. It is not, and should not be, a substitute for the collective bargaining process..".

That proposed language shall be incorporated into the Labor Agreement.

AWARD

I find the most reasonable final position on this issue to be that of the Village. Accordingly, within sixty days from the issuance of this Award, a group designated as the *Joint Labor Management Health Insurance Advisory Committee* shall be constituted to assist the Village and Union in dealing with Health Insurance Issues as provided.

AWARD SUMMARY

Having considered the evidence in accordance with applicable statutory criteria provisions, I have made the Awards set forth above on each issue for reasons set forth. As stated above, **I find Union Offers on Wages, the Three Year Term Duration and Insurance to be the most reasonable. The Villages last offer on the Insurance Committee Issue is adopted as the most reasonable.**

The parties' Collective Bargaining Agreement shall be modified to incorporate these determinations as well as all Tentative Agreements agreed upon by the parties.


James R. Cox
Interest Arbitrator

Issued this 4th day of January 2016.