

In the Matter of the Interest Arbitration Between

City of Highland	:	
	:	OPINION AND
-- and --	:	AWARD
	:	
Illinois Fraternal Order of Police, Labor Council	:	
	:	
ILRB Case No. S-MA-19-194	:	

Before Matthew W. Finkin, Arbitrator.

This matter was heard in the City of Highland, Illinois, on February 21, 2020. The City was represented by Christi Coleman, Esq. The Union was represented by William Jarvis, Esq. Both parties were ably represented. A full opportunity to present all relevant evidence was afforded. The parties entered a stipulation on the record, appended at the close of this Award, that sharpens the issue to be decided. Post-hearing written argument was exchanged on May 4, 2020. The matter is ready for disposition.

The Issue

There is only one substantive issue given the Arbitrator to decide is: what the wage increase for the members of the bargaining unit of Patrol Officers will be in each of the years May 1-April 30, 2019 to 2021. The last offers of the parties are:

The City: 2.0% increase to base pay in each of those years.

The Union: 2.25% increase to base pay in each of those years.

Comparable Communities

Illinois law, 5 ILCS 315/14(h), requires the Arbitrator to consider several factors, where relevant.¹ Inasmuch as the City has agreed that it is able to meet the cost of the Union's final offer that factor, subsection (3), need not be considered.

The parties do dispute about the communities whose patrol officers' wages should be considered under subsection (4)(a). The parties agree that Troy and Waterloo are comparable. The Union would add Collinsville, Columbia, Edwardsville, Fairview Heights, O'Fallon, and Wood River. The City objects to their inclusion. The City would add Glenn Carbon, Swansea, and Maryville, to which addition the Union objected but which its post-hearing brief states it was now accepting. Brief of the Union at 9. Consequently, the facts regarding these should be laid on the page first.

The City of Highland was a founding member of the Southwestern Illinois Law Enforcement Consortium. Christopher Conrade, Chief of Police, testified to its creation and current status: in the mid-1990s and for about the next fifteen years, five police departments – Collinsville, Fairview Heights, O'Fallon, Edwardsville, and Highland – founded a consortium to facilitate the recruitment of officers by, as the Arbitrator would put it, creating a “one stop shop”

¹ Assuming the legal authority of the public employer, the following:

- (2) Stipulations of the parties;
- (3) The interest 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 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, 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 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 private employment.

for testing and screening applicants. The consortium grew to eleven departments – from Alton to Waterloo – by 2015 or 2016. Thereafter, however, membership declined due to increased competition flowing from a decline in the applicant pool. Also, the disparity in income available to the larger vis-à-vis smaller communities played an important role. Membership declined back to four in 2019, whereupon the Consortium dissolved. The communities that had been in the Consortium are noted below with an asterisk.

Table I: Basic Data on Communities Argued To (Now Agreed Comparables Marked in Bold)

City	Population (rounded in thousand)	Miles from Highland	Income (FY19) (in millions)
Collinsville*	25	27	14.1
Columbia*	10	45	3.4
Edwardsville*	24	25	11.2
Fairview Heights*	17	39	15.6
Glenn Carbon*	13	20	6.3
Highland*	9,100	—	5.5
Maryville	7,900	18	1.24*
O’Fallon	29	59	11.4
Swansea*	13.5	30	3.5
Troy*	10	18	2.9
Waterloo*	10	58	3.7
Wood River*	11	32	4.5

SOURCE: Data for 2019 for all but Maryville supplied by the City compiled from: <https://www2.illinois.gov/rev/localgovernments/disbursements/Pages/default.aspx>. Data for Maryville taken from that source. The website gives a 2019 sales tax income about \$467,000 and an income tax of \$774,000 for Maryville. This seems to produce an inordinately low figure. According to statistics supplied by the Union, Maryville’s ending fund balance, 2017-18, was about \$1.7 million, slightly above Troy at \$1.4 million but below all the others. Brief of the Union at 12. Nevertheless, this figure will be taken at face value as nothing else has been supplied.

The critical factors for comparability are population, municipal income, and, importantly, participation in the geographic labor market, *i.e.* the extent to which a community competes with Highland for the recruitment and retention of officers. As the Chief of Police testified, the Consortium dissolved as larger and financially more robust communities have moved increasingly into a different orbit. Taking this into account, of those now in issue, Collinsville, Edwardsville, Fairview Heights, and O’Fallon cannot be considered comparable as they are significantly larger and richer than Highland. Accordingly, those to be compared to Highland are, in addition to the five agreed to – Glen Carbon, Maryville, Swansea, Troy, and Waterloo – and one other proposed to be added by the Union, Wood River. In sum, the comparable communities are:

Columbia
Glenn Carbon
Maryville
Swansea
Troy
Waterloo
Wood River

Facts Relevant to the Statutory Criteria

Discussion turns accordingly to the facts under the salient heads of analysis applicable here.

Subsection 4: comparison with other comparable city employees

The Union represents three bargaining units of workers in the protective services in the City of Highland: the patrol officers at issue here, the department’s sergeants, and the department’s telecommunicators. The Union has reached collective bargaining agreements with respect to the latter two. The parties have agreed to a 2% increase for them in each year of the three-year period at issue here.

Subsection 4(a): comparison with patrol officers in comparable communities

How these currently compare with Highland is set out below.

Officer Wage Structure of Comparables

	Start	Year 1	Year 10	Year 20
Columbia	26.22	29.21	30.38	31.60
Glenn Carbon	28.34	31.47	32.93	33.16
Maryville	27.08	29.09	32.43	34.61
Swansea	25.50	28.90	35.37	37.41
Troy	27.79	30.88	31.82	32.78
Waterloo	31.24	32.59		Max 32.59
Wood River	30.31	30.31	31.37	31.83
Highland	26.04	30.93	34.82	36.05

Because the hours assigned to which these hourly rates relate varies from jurisdiction to jurisdiction the actual “base pay” may stand differently as one jurisdiction stacks up against another. Nevertheless, it is the rate to which the increase applies and it will be taken as the critical benchmark for analysis.

A feature of the statutorily-compelled analysis under subsection 14(h)(4)(a) is the impact the respective offers would have on the City’s standing vis-à-vis its comparative – and, arguably, competitive – jurisdictions. This can be analyzed in two ways. First, by the immediate impact of the differential; and, second, by the cumulative impact going forward. The first could be determined by comparing the standings of Highland in its competition to secure an entry level officer. A problem for the latter, however, is that we do not know how the entire cohort of

comparable communities will be treating their officers over the period of time. The record confirms only the following, as amended by the Union’s submission in its post-hearing brief.

Wage Increases in Comparables

City	2019	2020	2021
Columbia	2.75%	2.75%	2.75%
Glen Carbon	3.23%		
Maryville	3.00%		
Swansea	2.00%		
Troy	2.75%	3.00%	
Waterloo	2.75%		
Wood River	3.00%		

The Union does not argue that the average of all comparables wage increases will be 2.75% a year over the three-year period, however; nor would there be any foundation for such an assumption. Indeed, the Union’s demand is for an increase of .25%, not .75%, in each of these years. However, neither that rate of increase, taken as the average, nor the City’s offer of 2% would alter Highland’s current competitive standing vis-à-vis its comparables: by both Highland would be 7th of the 8 at the entry level, 3rd at a year of service, and 2nd thereafter.

Subsection 5: average consumer prices for goods

According to the Bureau of Labor Statistics data submitted by the Union, the Consumer Price Index stood at a 1.9% inflation rate as of December 2018, but rose to 2.4% by November 2019. However, when it comes to working household expenditures, the BLS formula, as an

accurate means of measuring inflation, has long been an arena of professional contestation.² BLS' data may be all that is available, ready-to-hand, but it cannot not be relied on with absolute confidence. Current reports of inflation – February 2019 to March 2020 – run at about 1.5%.³ As the Union notes, the economic impact of the current pandemic has made the projection of consumer price increases speculative. Brief of the Union at 10. The City argues that these figures are “too unreliable” to be a factor. Brief of the City at 9. Accordingly, these statistics cannot be given probative weight.

Subsection 7: change in circumstances bearing upon compensation

The Patrol Officers' collective bargaining agreement provides that the City pay the premium for the Officers' medical insurance and one-half the premium for family coverage. It subjects any change in cost during the term of the agreement to further collective bargaining and, potentially, to interest arbitration. The Sergeants' collective agreement sets out the same terms. (The Telecommunicators' collective agreement sets out the same premium provision, but it makes no provision for bargaining over any change.) Chief Conrad testified that in November, the Department's medical insurance premiums went up by 12%, which cost the City Council decided to absorb for all three bargaining units even though the rate of increase exceeded the rate of increase in the City's sales tax revenues. The Council took that action, he said, to relieve the employees of the burden the contractual 50% allocation would have imposed on employees who had included family coverage.

Arguments of the Parties⁴

² See generally, Lawrence Mishel et. al., THE STATE OF WORKING AMERICA 3 (12th ed. 2012) (“Adjusting for Inflation”). Arbitral notice is taken for example of only one recent technical study which argues that the current figure significantly overstates the rate: David M. Byrne and Carol A. Corrado, “The Increasing Deflationary Influence of Consumer Digital Access Services,” Finance and Economics Discussion Series 2020-021. Washington: Board of Governors of the Federal Reserve System, <https://doi.org/10.17016/FEDS.2020.021>.

³ BLS Fact Set (last viewed May 1, 2020).

⁴ The Union anticipates and so treats what it expected the City to argue regarding the impact of the current

The Union. As noted above, the Union discounts the weight to be given cost of living. It argues that the matter “be decided *solely* on the basis of external comparability.” Brief of the Union at 10 (emphasis added). Accordingly, it argues to the comparability of the communities considered and resolved above; that is, the Union’s analysis rests on those the undersigned has held to be within Highland’s orbit of comparison. The average increase of the comparables in 2019 is 2.78%; more than three quarters of one percent more than the City’s offer; half a percent more than the Union’s. the Union makes the same argument to the data available for 2020 and 2021. It argues that its 2.25% demand is also “more consistent with the local, recognized cost-of-living increases for Central Illinois,” *id.* at 14, and “nudges” the officer’s pay in the right direction. *Id.*

Turning to internal comparability, the Union argues to the absence of a history of parity with the other internal units and to the dissimilarity in the work they do. *Id.* at 15. The argument is made at greater length regarding “non-law enforcement” personnel, *id.* at 15-16; importantly, “longstanding arbitration precedent suggests that non-law enforcement units are not a valid comparator for the purpose of internal arbitration”. *Id.* at 15-16 citing authority distinguishing non-public safety employee comparability. As to the specific FOP-represented units, the Union argues that collective agreements not made with the possibility of interest arbitration to resolve an impasse should have “no bearing” here. *Id.* at 16.

The City. The City, while not asserting an inability to meet the Union’s demand, argues nevertheless that the award of it will have a negative impact on the Police Department’s budget, *i.e.* will necessitate the making of off-setting reductions within it. Brief of the City at 4.

coronavirus pandemic and argues that it should not be considered. Brief of the Union at 18-19. However, the City has deemed the impact too speculative at this point to play any role in the decision. Brief of the City at 9-10. Accordingly, the current pandemic plays no role in the analysis of this matter.

The City then turns to external comparability. It attends to the two jurisdictions the parties initially had agreed on, Troy and Waterloo, and argues to its offer as retaining extant comparability with them. *Id.* at 5-6. It extends this analysis regarding the maintenance of Highland’s ranking with the ostensibly competitive – this is comparable – jurisdictions. *Id.* at 6.⁵

The City then attends to the treatment accorded other of its employees which, it stresses, is a statutorily-commanded criterion. *Id.* at 6. It argues that the 2% increase the FOP negotiated for police sergeants and telecommunicators as the “most reliable” of comparisons. *Id.* at 6. It argues that the award of more to the officers “will cause animosity and tension” with these other FOP-represented units. *Id.*

Turning to the cost of living, the City argues that the Consumer Price Index figures relied on by the Union are skewed. *Id.* at 8-9. That when properly accounted for, at 1.68% for the Midwest (2017-2019), the CPI militates in favor of the City. *Id.* at 7. The City argues further to the competitive nature of the officers’ current compensation overall. *Id.* at 7.

The City concludes, returning to its revenue stream argued to earlier, that even these wage increases are so outpacing the City’s revenue trends as to become unsustainable in future. *Id.* at 11.

Analysis

Two matters can be disposed of at the outset. First, inasmuch as the City has not invoked an inability to meet the rather modest difference in the Union’s demand vis-à-vis the City’s offer, its argument to the impact on the Department’s budget and to the City’s finances in the longer term is not material to the resolution of the dispute. Second, the Union’s argument – that the undersigned disregard internal comparability completely and decide this matter “solely” on the

⁵ The City’s arguments regard the comparability of those jurisdictions that the Union has now agreed to for that purposes need not be further analyzed.

basis of external comparability – is counter-statutory. Section 315/14(4) mandates that the arbitrator consider the comparison of wages of other of the employer’s employees “performing similar services and with other [of the employer’s] employees generally”. The Union is quite correct that the weight to be accorded between these groups can and often does vary; but this factor cannot be disregarded.

The statutory factors that would seem most to be determinative here are comparability – external and internal – overall compensation, and cost of living. The latter, at once disclaimed and argued to by both parties, can play no role here: the City challenges the Union’s figures as cherry picked; the Union has characterized the CPI going forward as “guesswork”. Something on the range of 1.5% to 2.1% has been shown in the BLS’ current statistical display; but no one knows or has a reliable estimate at this point.

On overall compensation, the Union makes no claim that the officers are inadequately compensated. The City’s treatment of the mid-collective agreement increase in medical premiums for those officers whose families are covered argues for the City’s recognition of its responsibility fairly to compensate the officers.

The matter thus turns on issues of comparability. There is no doubt that a 0.25% – a 0.0025 – increase would boost the officers’ wages slightly vis-à-vis the officers in departments elsewhere in the constellation of comparative communities. But, neither offer alters the officers’ existing competitive standing vis-à-vis these other departments; *i.e.* the Union’s would not raise the department’s standing within that cohort, the City would not lower it.

Consequently, analysis turns to the critical role of internal comparability. The Union makes a powerful, indeed irrefutable argument that non-protective service employees are simply not in the officers’ orbit of comparison absent historical treatment to that effect. *ACCORD County*

of Monroe & Illinois FOP, No. S-MA-12-024 (M. Finkin Arb.) (April 4, 2013) at p. 17.

However, in this case, the two most comparable employee groups are within the Department and are represented by the FOP. The Union would discount that fact by pointing to two countervailing circumstances: neither bargained under the shadow of interest arbitration; and the sergeants are paid more than the officers. The former discounts the stark fact that the Union did agree to the increases of 2%; from what it appears it found that increase acceptable and it is commonplace that the role of an interest arbitration is to put the parties in the position they would have been in had an agreement been made. The latter discounts the fact that what is at issue is the rate of increase: an officer of twenty years' service is paid considerably more than a rookie, but the lower-paid do not receive a larger percentage wage increase than the higher paid. Moreover, and importantly, the Union has not attended to the City's argument that a differential between the rate of increase for officers vis-à-vis sergeants in particular, would have deleterious intramural consequences in terms of morale. This is a "weighty factor". *County of Monroe, supra*. It cannot be disregarded. Inasmuch as neither position affects the City's competitive standing with respect to the comparable communities and inasmuch as cost of living does not give specific direction, the dispute turns fundamentally on parity with internal police department FOP-represented units. That is decisive to the outcome here.

AWARD

The City's age offer is awarded. The unit will receive an increase in wages of 2.0% for the years 2019, 2020, and 2021.



Matthew W. Finkin
Arbitrator

Date