

BEFORE
ROBERT W. McALLISTER
ARBITRATOR

In the Matter of the Arbitration) S-MA-11-144
)
 between)
)
 VILLAGE OF BELLWOOD)
)
 and)
)
 ILLINOIS FRATERNAL ORDER OF)
 POLICE LABOR COUNCIL)

APPEARANCES:

For the Employer:

Karl R. Ottosen, Esq.
Ottosen Britz Kelly Cooper
Gilbert & Dinolfo, Ltd.

For the Union:

Gary Bailey, Esq.
Illinois FOP Labor Council

DATE OF HEARING:

May 20, 2013

PLACE OF HEARING:

Bellwood, Illinois

Corrected

I. FACTS

The parties in this interest arbitration are Local 2429, International Association of Firefighters and the Village of Bellwood, Illinois. The interest arbitration is conducted pursuant to the impasse resolution provisions and procedures of Section 14 of the Illinois Public Labor Relations Act (ILPRA) (5 ILCS 315/14). The parties waived the statutory timeliness for hearing commencement and the three-member panel. Unable to reach any tentative agreements, the Union filed its Demand for Interest Arbitration on September 8, 2012. The Interest Arbitration was held on May 20, 2013. At the hearing, the Village agreed to accept the Union's proposal to change the current residency provision.

The parties submitted two (2) economic issues and two (2) non-economic issues to the Arbitrator for determination.

II. BACKGROUND

The Village of Bellwood is a home rule community located in Cook County, Illinois. The Village has a land area of 2.4 square miles with a population of 19,071. Its equalized assessed valuation is about \$253 million. The Village has forty (40) full time police officers. (Em. Ex. 7) In 2010 Village revenue was not keeping pace with operational expenses. Village Chief of Staff Peter Tsiolis testified that in 2010 the Village had 98 million in long term debt, which represented about one third of the Village's EAV. Tsiolis stressed that in addition to the long term debt the Village had a deficit of 8.5 million in 2010. Tsiolis stated the Village addressed this deficit with across the board spending cuts to the legal budget, lobbyist budget, professional services budget, cuts to the 300 center, a hold on overtime, renegotiated 18 to 20 vendor contracts, etc. Tsiolis said that in 2012 the Village restructured the long-term debt, but at an increased

interest rate. Compounding these economic issues, there was a large problem with a former comptroller who had worked for the Village from 2000 to January 2010. This individual had allegedly been lying to the Village Board and the mayor about the financial soundness of the Village. He allegedly magnified the success of projects, claiming they were funded when they were not. Essentially, this individual was purportedly making \$156,000 a year when he allegedly was “billing the Village for \$472,000.”

The Union objects to what it describes as “hyperbale” [sic] in the Employer’s description of its “stressed” finances. Referring to the Village’s Annual Financial Reports (Em. Exs. 15 and 17), the Union contends the information set forth below shows Village revenues have remained constant over years 2009, 2010, 2011 whereas the Village reduced revenues approximately 20% for the same time period.

BELLWOOD General Fund	FY 2009	FY 2010	FY2011
Revenues	\$20,322,011	\$21,210,555	\$21,028,109
Expenditures	25,127,977	22,162,644	20,179,669
FUND BALANCE	2,436.670	- 651.875	206.572

The Union maintains its final offer included a 0.00% wage proposal for 2011. The Village’s final offer does not include a wage proposal for 2011. The record establishes the Union agreed to no wage increase in 2011, as did the firefighters’ bargaining unit. Apparently, the Village made no proposal for 2011 because there was no issue on the 2011 wages given the agreement entered into by the parties. This settlement was independent of this interest arbitration.

The above noted financial reports (Em. Exs. 15 and 17) serve to explain why the firefighters and police officers agreed to accept a zero wage increase for 2011.

The parties stipulated the following municipalities be considered the complete set of "external comparable communities": Broadview, Brookfield, Elwood Park, Franklin Park, Forest Park, Hillside, Maywood, Melrose Park, Northlake, and Westchester. In addition, the parties entered into sixteen (16) other stipulations. (Un. Ex. 1) consisting of three (3) pages. Stipulations 2 and 3 are especially noted.

2. The hearing in said case will be convened on May 20, 2013, at 10:00 a.m. The requirement set forth in Section 14(d) of the Illinois Public Labor Relations Act, requiring the commencement of the arbitration hearing within fifteen (15) days following the Arbitrator's appointment, has been waived by the parties. The hearing will be held in the Village of Bellwood Village Hall.
3. The parties have agreed to waive Section 14(b) of the Illinois Public Labor Relations Act requiring the appointment of panel delegates by the employer and exclusive representative and agree that Arbitrator McAllister shall serve as the sole arbitrator in this dispute.

III. STATUTORY CRITERIA

The statutory provisions governing the issues in this case are found in Section 14 of the IPLRA.

- (g) 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 facts prescribed in subsection (h).

Pursuant to Section 14(h), the Arbitrator is required to base his findings, opinions, and order upon the following factors as applicable:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.

- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally.
 - (A) In public employment in comparable communities
 - (B) In private employment in comparable communities
- (5) The average consumer prices for good and services, commonly known as the cost of living.
- (6) The overall compensation presently received by 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 hearing.
- (8) Such other facts, not confined to the foregoing, which are normally traditionally taken into consideration in determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration or otherwise between the parties, in the public service or in private employment.

IV. UNION'S FINAL OFFER

Employees shall be paid in accordance with the below schedule. Hourly rate shall be based on this schedule divided by 2080 hours.

<u>Article XXV</u>	<u>Current Salary</u> 1/1/10	<u>Wages</u>			
		<u>1/1/12</u> 1/50%	<u>7/1/12</u> 2.00%	<u>1/1/13</u> 2.00%	<u>5/1/13</u> 3.00%
Service Time					
Probation	\$41,151	\$41,768	\$42,604	\$43,456	\$44,759
Complete 1 Year	58,662	59,542	60,733	61,947	63,806
Complete 2 Year	61,594	62,518	63,768	65,044	66,995

Complete 3 Year	64,550	65,518	66,829	68,165	70,210
Complete 4 Year	73,327	74,417	75,915	77,434	79,757

Article VII

Insurance

Section 8.1

Medical Coverage

The Village shall make available to bargaining unit members substantially similar group and hospitalization insurance to that which it currently offers bargaining unit members. Further, the Village shall to the extent required by law, make available to retired employees the ability to participate in its group insurance program for individual and dependent coverage, with premiums to be paid by the retired employee. Arrangements for reimbursement of premiums to the Village should be made with the person designated by the Village. The Village reserves the right to change insurance carriers or benefit levels, to self-insure, or to participate in a health maintenance organization as it deems appropriate, so long as the new coverage and economic benefits are substantially similar to those which it currently offers bargaining unit members (as of June 1, 2012), except that the Village agrees to maintain prescription coverage at the cost to employees of \$2.50 for generic brands and \$5.00 for non-generic brands \$15.00 for generic drugs, \$30.00 for formulary brand name drugs and \$50 for non-formulary brand name drugs. The Village agrees to discuss with the Union the impact of any changes with insurance coverage or benefits before they become final.

However, if any other union or non-union Village employees are given the opportunity to pay a lesser amount of monthly insurance premiums for such insurance than those stated below, then such lesser dollar amounts shall likewise be changed to the bargaining unit members under this Article and Agreement for such period of time. This paragraph shall not apply to the Teamsters 705 insurance plan.

Section 8.2

Costs

The monthly cost of single or dependent health insurance premiums shall be apportioned between the Village and the bargaining unit member as follows:

Insurance	Effective Upon Execution
Single	5% of Premium
Family	5% of Premium

Employee premium contribution shall be capped at four percent (4%) of gross pay for top police officer. The Village shall provide notice to the

Union of any premium increase as soon as practicable but no later than fourteen (14) days prior to any increase in payroll deductions.

Article VII Police and Fire Commission

Delete Section 7.1, Subsections 1, 2 and 3.

New Section 7.1 Disciplinary Appeals

The parties agreed that the Chief of Police (or the Chief's designee) shall have the right to suspend a non-probationary officer for up to thirty (30) days or dismiss a non-probationary officer for just cause, without filing charges with the Village Board of Fire and Police Commissioners. Neither the Police Chief nor the Village or their agents will file charges asking the Board of Fire and Police Commissioners to impose discipline on any non-probationary bargaining unit employee; instead, all such discipline shall be imposed by the Police Chief or his designee.

The decision of the Police Chief or the Chief's designee with respect to the suspension or dismissal action shall be deemed final, subject only to the review of said decision through the grievance and arbitration procedure. The sole recourse for appealing any such decision by the Chief of Police shall be for the employee to file a grievance as described herein.

If the employee elects to file a grievance as to his or her suspension or dismissal, the grievance shall be processed in accordance with Article XVI of this Agreement, except that it shall be filed at Step 4 of the procedure. If the grievance proceeds to arbitration and the arbitrator determines that the disciplinary action was not supported by just cause the arbitrator shall have the authority to rescind or to modify the disciplinary action and order back pay, or a portion thereof. No relief shall be available from the Board of Fire and Police Commissioners with respect to any matter which is subject to the grievance and arbitration procedure set forth in Article XVI of this Agreement. Any appeal of an arbitrator's award shall be in accordance with the provisions of the Uniform Arbitration Act as provided by Section of the Uniform Arbitration Act as provided by Section 8 of the IPLRA.

Pursuant to Section 15 of the IPLRA and 65 ILCS Sec. 10.2.1.17, the parties have negotiated an alternative procedure for resolving discipline based on the grievance and arbitration provision of this Agreement, and the foregoing provisions with respect to the appeal and review of any suspension or discharge decisions shall be in lieu of, and shall expressly supersede and preempt, any provisions that might otherwise be available under the Rules and Regulation so the Village Board of Fire and Police Commissioners.

Section 7.2 Standards of Discipline

All disciplinary actions against officers covered by this Agreement shall be carried out in accordance with departmental rules, regulations, orders, policies, and procedures. ~~City Ordinance, Board of Police Commissioner's Rules and Regulations, and State laws governing the discipline of law enforcement officers.~~

Section 7.3 Departmental Discipline

Disciplinary action rendered by the Department may take anyone or more of the following forms:

1. Oral reprimand
2. Written reprimand
3. Suspension without pay
4. Dismissal

~~Suspension without pay and recommendations for dismissal are to be levied by the Police Chief or his/her designee to the Board of Fire and Police Commissioners.~~

~~Reprimands and suspension of up to five (5) days are appealable through the grievance procedure. Suspension greater than five (5) days are [sic] only appealable to the Board of Fire and Police Commissioners. The Board of Fire and Police Commissioners has the sole authority to determine discharge.~~

Article XXXII Duration

Section 32.1 Duration

This Agreement and its provisions shall be effective as of the date of signing and shall remain in full force and effect until the 31st day of December-2010 2013. It shall continue in effect from year to year thereafter unless Notice of Desire to Bargain is sent in accordance with this Article. Notices referred to herein shall be considered to have been as of the date of receipt by the other party. Notices shall be delivered either personally or by certified mail, return receipt requested.

V. VILLAGE'S FINAL OFFER

Article VII Discipline

Section 7.1 Standards of Discipline

All disciplinary actions against officers covered by this Agreement shall be carried out in accordance with departmental rules, regulations, orders, policies and procedures. The Village agrees with the tenets of progressive discipline where appropriate. However, when the severity of an infraction is great, discipline outside the progression shall be considered an appropriate remedy. It should also be recognized that when using the principal of progressive discipline, all aspects of performance are taken into consideration.

Discipline of employees for minor offenses shall be progressive and corrective in nature, designed to improve behavior and not merely to punish. Disciplinary actions shall be for just cause (except in the case of probationary employees, where discipline may be with or without cause). Where the Village believes cause exists to institute disciplinary action, the Police Chief or his designee(s) shall have the option to assess, among others, the following penalties with the ability to impose any level of discipline commensurate with the misconduct.

- Oral reprimand
- Written reprimand
- Suspension without pay (up to 5 consecutive calendar days by the Police Chief as provided by 65 ILCS 5/10-2. 2-13 as amended. Subject to the terms of this Agreement, the Police Chief may also seek suspensions in excess of 5 consecutive calendar days, up to a maximum of 30 days (for any one offense), or discharge.
- Demotion
- Dismissal

The penalties assessed by the Police Chief should be commensurate with the offense. Reprimands assessed by the Police Chief or his designee(s) may be appealed through the grievance procedure.

Section 7.2

Election of Grievance Arbitration for Discipline

Prior to imposing discipline involving a suspension or termination, the Chief or the Chief's designee will set a meeting with the employee and the Union to advise the employee of the proposed discipline and the factual basis therefore, in writing. Unless expressly refused by the employee, the employee will have Union representation at that meeting. The Union will be notified before any meeting occurs under this Section. After the conclusion of the meeting, the Chief or the Chief's designee will issue a Decision to Discipline, in writing, as to the proposed discipline ("Decision to Discipline"), to the affected employee and the Union. At the Union's option, disciplinary action against the employee may be contested either through the arbitration procedure of this Agreement or through the Board

of Fire and Police Commissioners (“BOFPC”), but not both. In order to exercise the arbitration option, the Union and employee must execute an Election, Waiver and Release form (“Election Form”) attached as Appendix B). This Election Form and disciplinary process is not a waiver of any statutory or common law right or remedy other than as provided herein. The Election Form shall be given to the Union and employee at the time the Union and employee are formally notified of the Decision to Discipline.

The employee shall have three (3) calendar days to submit a copy of the Election Form and Decision to the Union for approval to arbitrate the discipline. The Union shall have an additional seven (7) calendar days to approve or deny the request for arbitration. If the Union authorizes an arbitration concerning the discipline, it shall notify the Chief or the Chief’s designee in writing of the intent to arbitrate without ten (10) calendar days of the issuance of the Decision to Discipline. If approved by the Union for arbitration, the Election Form shall constitute a grievance which shall be deemed filed at the arbitration step of the grievance procedure. When a grievance is elected, the Chief may impose the discipline set forth in the Decision to Discipline, and the arbitrator will determine whether the discipline was imposed with just cause, and what the appropriate remedy should be. If the arbitration is not approved by the Union within ten (10) calendar days of the Decision to Discipline, or is not elected by the employee, the employee retains his/her rights to have charges presented or to appeal the discipline before the BOFPC in accordance with the Illinois statutes.

Appendix B Discipline

Election, Waiver and Release for Disciplinary Process

(Reference: Section 7.2)

1. Notice of Employee

I, _____, a member of the Village of Bellwood Police Department (“Village” or “Department”), and a member of a bargaining unit represented by the Illinois Fraternal Order of Police Labor Council, (“Union”), being proposed for discipline by the Department, have been informed of my options to dispute discipline in accordance with the Collective Bargaining Agreement between the Village and the Union. I understand that I may elect to pursue a grievance over such discipline (option A), or I may choose to dispute the discipline before the Village’s Board of Fire and Police Commissioners (option B), but not both. I understand that an election of one of these procedures is a waiver of my rights and remedies to the other. I further understand I must present this Notice to the Union within three days, (the Union must advise within

an additional seven days whether it will pursue this matter to arbitration on my behalf) and that the Union has the final authority on whether to approve this matter for arbitration. If I elect arbitration and the Union declines to authorize arbitration of this matter for any reason, this does not waive my statutory rights to have the matter heard by the Board of Fire and Police Commissioners.

I have been given a written notice of the proposed discipline and the factual basis thereof. This notice has been presented to me on _____, 20_____. I have ten (10) calendar days, exclusive of today, to return this notice to the Police Chief, or designee, indicating my choice of disciplinary forum. If I do not return this form electing arbitration then the proposed discipline will be subject to the Board of Fire and Police Commissioners.

Fire Chief or Designee: _____

Employee: _____

Union Representative: _____

II. Election

I have had an opportunity to discuss these options with a union representative and choose to dispute the proposed discipline before the following forum:

A. Grievance Arbitration

By selecting the grievance process alternative, I acknowledge my understanding that the Department's Police Chief has the right to unilaterally impose the proposed discipline immediately, subject to possible later modification or reversal by an arbitrator. Unless a settlement is reached, an arbitrator will determine whether the discipline was imposed with just cause, and whether the discipline was excessive. By electing to file a grievance over my discipline I hereby release the Village, Board of Fire and Police Commissioners and the Union, as well as their officers, directors, agents, employees, attorneys, and other representatives from any and all liability which flows as a consequence of my election.

I hereby elect the grievance arbitration procedure and waive my rights to a hearing before the Village's Board of Fire and Police Commissioners. I understand that I have three (3) calendar days from my receipt of this notice to request authorization to arbitrate this matter from the Union, and that the Union has seven (7) additional days to submit this document as a request to arbitrate to the Police Chief or his designee. This document will be considered my grievance. In the event that the Union declines to

arbitrate this matter or does not return this document within ten (10) calendar days from the notice of the Decision to Discipline, the discipline will be subject to the jurisdiction of the Village's Board of Fire and Police Commissioners.

Employee _____ Date _____

This disciplinary charge is hereby approved for arbitration by the Illinois Fraternal Order of Police Labor Council. This document serves as written notice advancing this matter for arbitration in accordance with the Collective Bargaining Agreement.

Union _____ Date _____

B. Board of Fire and Police Commissioners

By selecting an appeal of discipline before the Village's BOFPC, I understand that I will have a hearing over such discipline before the Board in accordance with its rules and law of the State of Illinois. I agree that such hearing shall be a waiver of the grievance arbitration procedures of the collective bargaining agreement between the Village and the Union. By electing to have a hearing before the BOFPC over my suspension or discharge, I hereby release the Village, the BOFPC and the Union, as well as their officers, directors, agents, employees, attorneys, and other representatives from any and all liability which flows as a consequence of my election. I understand that this hearing will be subject to the Rules and Regulations of the Village's BOFPC.

I hereby elect the Village's Board of Fire and Police Commissioners and waive my rights to the grievance arbitration procedures of the collective bargaining agreement between the Village and the Union. I hereby acknowledge that charges will be filed with the BOFPC requesting my discipline unless the discipline involves a suspension of my more than five consecutive calendar days for any one offense.

This document will be considered my request for a hearing concerning the proposed discipline or my appeal of a suspension imposed by the Fire Chief or up to five calendar days.

Agreed: _____ Date _____

Witness: _____ Date _____

Received by the Fire Chief's Office: _____

Date: _____

Article VII Insurance

Section 8.1 Medical Coverage

The Village shall make available to non-retired employees group health insurance substantially similar to that which it currently offers bargaining unit members. Further, the Village shall, to the extent required by law, make available to retired employees the ability to participate in its group insurance program for individual and dependent coverage, with premiums to be paid by the retired employee. Arrangements for reimbursement or premiums to the Village shall be made with the person designated by the Village. The Village reserves the right to change insurance carriers or benefits levels, to self-insure, or to participate in a health maintenance organization as it deems appropriate, so long as the new coverage and economic benefits are substantially similar to those in effect January 1, 2012. The Village agrees to continue the health insurance committee and will discuss with the Union and the committee the impact of any changes with insurance coverage or benefits before they become final.

Section 8.2 Costs

The entire portion of the monthly premium cost for HMO insurance coverage shall be paid by the Village. Until January 1, 2013, the monthly cost of single or dependent health insurance premiums for PPO coverage shall be apportioned between the Village and affected employees on the same basis as in effect January 1, 2012. Effective January 1, 2013, the monthly premiums shall be split with the Village paying 90% and the employees contributing through payroll deductions 10%.

Employee premium contribution shall be capped at 4% of gross pay for top police officer. The Village shall provide notice to the Union of any premium increase as soon as practicable but no later than seven (7) days prior to any increase in payroll deductions.

Article XXV Wages

Section 25.1 Wages

January 1, 2012:	1.5% on all steps of the wage matrix
January 1, 2013:	2.0% on all steps of the wage matrix
May 1, 2013:	3.0% on all steps of the wage matrix

Article XXXII Duration

Section 32.1 Duration

This Agreement and its provisions shall be effective as of the date of signing and shall remain in full force and effect until the 30th day of April 2014. It shall continue in effect from year to year thereafter unless Notice of Desire to Bargain is sent in accordance with this Article. Notices referred to herein shall be considered to have been as of the date of receipt by the other party. Notices shall be delivered either personally or by certified mail, return receipt requested.

Should either party desire to enter into bargaining and negotiations as permitted by the Illinois Public Labor Relations Act, either may deliver to the other a notice to the effect not earlier than ninety (90) days, nor later than sixty (60) days prior to the expiration date set forth above. In the event that such Notice is delivered, negotiations between the parties shall commence within thirty (30) days of the receipt of the Notice, unless otherwise mutually agreed.

VI. DISCUSSION

The sole difference between the parties' respective final wage offers is the Union's July 1, 2012, offer of a 2.0% increase. Excluding that proposal, each party has offered 6.50% increases on the same effective dates. The Union seeks to justify this 2.0% difference, arguing that the cost of living rose at a total of 4.48% in 2011 and 2012. Moreover, the Union contends police officers suffer a loss of 2.78% during the first twelve months of the collective bargaining agreement at issue. The Union reasons that if its final proposal is adopted the impact on the bargaining unit will be "fairly minimal."

This conclusion is quite evident. The Union submits that in 2011 the CPI went up an average of 2.78%. Thus, if the Union's proposal of the 2.00% increase on July 1, 2012, became effective, it would cut into the CPI increases for 2011 and 2012. Following the Union's logic, the CPI for the first two years is represented as 4.48% whereas its proposed wage increases for 2011 and 2012 total 3.50%, which seems to be the basis for the Union's description of the impact as "fairly minimal."

This is attractive reasoning, but it requires segregating the first two years of the proposed contract length of three years (Union) and three years four months (Village). Additionally, the Union's reasoning ignores the fact it agreed to no wage increase for 2011.

The Union points out the rise in the CPI for the first four months of 2013 is 1.22%. At the end of August 2013, that rise was about 1.5%, bringing the cost-of-living total to 5.98% for two years and eight months. When this increase in the CPI is compared with the Village's total wage offer of 6.50%, it is clear the officers would not suffer a negative impact *vis-à-vis* wages, and the CPI and would, under the worst scenario, only suffer a fairly minimum impact if the length of the collective bargaining agreement was for three years.¹ The Village's final offer to prolong the length of the contract for four months to April 30, 2014, would extend the officers' exposure to the cost-of-living for an additional four months with no increase in wages.

Turning to internal comparability as required by the Act, the Union argues there is no such mutual reliance in the instant interest arbitration. It points out that for the period 2006-2010 analysis of the fire and police labor contracts demonstrate wage increases are similar, but not identical.

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	2010
Fire	3.50%	3.50%	3.25%	3.25%	3.50%
Police	3.50%	3.25%	3.25%	4.00%	4.00%

The concept that wage increases must be identical to demonstrate an historical relationship between the police and fire units in Bellwood is a stretch in logic. First of

¹ Currently, the cost-of-living rose less than forecasted for August. Forecasts generally indicate a 2013 total rise between 1.5% and 2.0%.

all, in Illinois, both the police and fire units are recognized to be key factors in public safety and, as a result, both units are subject to rigorous training. This sets these units apart from clerical and maintenance units.

Going back to 2003, the fire and police wage settlements are identical except for 2007 when the firefighters received 0.25% more than the police officers, 2009 when the police officers received 0.75% more than the firefighters, and 2010 when the police officers received 0.5% more than the firefighters.

This brings us to 2011. Both the police and firefighters agreed to accept no increase in wages for 2011. The firefighters agreed to a three year contract effective January 1, 2011, through December 31, 2013, with a wage increase of 1.5% on January 1, 2012, 2.0% on January 1, 2012, and 3.0% on May 1, 2013, totaling 6.5%, which is the same amount set forth in the Village's final offer to the police unit.

For the eleven years from January 1, 2003, through December 31, 2013, the firefighters' contracts call for a total of 32.75% in wage increases. For the eight years beginning January 1, 2003, the police wage increases totaled 27.5%. Their final wage offer would bring the police wage total for all eleven years to 35.75%, which is a differential between the firefighters of 3.0%. The Village's final offer of a 6.5% wage increase would result in a 1.0% differential between the two units. This latter difference of 1.0% has existed since 2010. Increasing the differential between the firemen and the police is contrary to the ongoing relationship between these units. It is not supported by internal comparables. Moreover, the Union has not persuasively shown why these two highly trained groups of professionals should not be viewed similarly.

Turning to the agreed upon external comparables, the Union argues the Village's wage offers in 2011 and 2012 are among the worst of the ten comparable communities. That may be so for 2011 and 2012, but the Union's analysis of external comparables appears to saw off 2011 and 2012 from 2013. The Village's final offer, as well as the Union's, calls for a 5% wage increase in 2013. Another factor in the mix is that the Union repeatedly characterizes the agreement it reached in 2011 with the Village to accept a wage freeze as a final offer. At page 20 of its brief, the Union stated:

The willingness of the Union to accept a wage freeze at a time when other comparable jurisdictions are receiving sizable increases demonstrates how the Union took into consideration the Village's financial condition as well as the nation's economic outlook.

Once the Union accepted this rationale for a 2011 wage freeze, the use of agreed upon comparable communities and the increases they received in 2011 is not logical. For all practical purposes, the Village and the Union were dealing with the wages for two years, 2012 and 2013, since 2011 was already agreed to. The Village's final offer attempts to stretch the last year of the contract into sixteen months with no *quid pro quo*. The Village's offered logic for such a stretch is not persuasive. Likewise, persuasiveness of what comparable communities did in 2011 does not serve to vitiate the Union's acceptance of the Village's rationale for a wage freeze in 2011, especially given the firefighter acceptance of that wage freeze.

Since the severe economic contractions began, both nationally and locally in 2008, the issue of the weight given to external comparables has been a subject of debate. There is no doubt and no debate that overall Illinois has serious economic problems. There is, however, no accurate measurement of how Illinois communities have addressed

the impact. One might reasonably find that each community responded to this economic crisis and resultant budgetary challenges in a variety of approaches. Bellwood has not advanced an inability to pay argument, but, in its brief, has stressed that recovery is slow and this impacts the number of foreclosures, tax collection, and business revenue. The Village states it has made strides to remedy its financial issues, including long-term debt despite refinancing at a higher interest rate. These factors cause the Arbitrator to conclude the Village's internal struggles must be given greater weight than external comparability.

The second economic issue is health insurance. Neither party sought substantial changes in Section 8.1. Both parties proposed to continue the Village's right to change insurance carriers and benefit levels, and to self-insure or participate in a health maintenance organization (HMO) "so long as the new coverage and economic benefits are substantially similar to those in effect January 1, 2012, (Village) and June 1, 2012 (Union).

The Village proposed that effective January 1, 2013, the monthly premiums were to be split, with the Village paying 90% and the employees contributing through payroll deductions 10%.

The Union proposed monthly premiums remain the same, 5% for single and 5% for family, effective upon ratification.

The Village's final offer makes no mention of prescription coverage. The Village's final offer would also eliminate all language dealing with the so-called "me too" clause found in the last paragraph of Section 8.1. The Village explained that until 2012, department heads and clerical employees paid 1.7% of the monthly insurance

premiums. According to the Village, this triggered the “me too” language of Section 8.1. The Village argues that police officers are the highest paid employees in the Village yet their premium contributions are tied to the lowest paid, non-union employees. The Village argues this result is unfair and required the Village to raise all union and non-union contributions, including clerical employees to 10%.

Interest arbitrators generally hold this process is not a substitute for negotiating. The Village’s final offer on health insurance contains proposals that are best addressed through the give and take of negotiations. Yes, the Village advances reasons to support its proposal on health insurance, but does not adequately explain why it has chosen interest arbitration to alter the status quo.

The Union explains without contradiction that the parties are presently involved in a grievance arbitration over changes implemented by the Village during the past several years. This interest arbitration will result in a three-year labor agreement ending on December 31, 2013, just two and one-half months from now. The notion that an interest arbitrator can best determine the shape of health insurance over the next several years while arbitration is pending on whether past changes to the plan comply with Section 8.1 of the collective bargaining agreement is not convincing. Not only is the Village seeking to double the premium contributions of officers who already pay substantially higher increases in deductibles and co-payments. Additionally, the Village seeks elimination of the prescription drug coverage and co-pay caps as well as the “me too” protection. All of these proposals are made without any discernable *quid-pro-quo*.

The Village states the expired 2006 collective bargaining agreement allows appeals of any suspension of up to five (5) days to grievance arbitration. The Village

notes the Board of Fire and Police Commissioners has the authority for all other levels of discipline. The Village has proposed suspensions of any length or termination can be contested through either grievance arbitration or the BOFPC.

The Village acknowledges the Union argues Section 8 of the IPLRA requires that all disputes should be resolved by arbitration unless the parties agree otherwise. The Village stresses the Municipal Code requires these matters be heard by the BOFPC unless a collective bargaining agreement provides for an alternative proceeding. To that end, the Village notes the Union submitted arbitration awards supporting its reading of 65 ILCS 5/10-2.1-17:

City of Rock Island and Illinois Fraternal Order of Police Labor Council,
ILRB S-MA-183, p. 21-23 (Benn, 2013)

Village of La Grange and Illinois Fraternal Order of Police Labor Council,
ILRB S-MA-11-248, p. 2-3 (Perkovich, 2013)

Village of Shorewood and Illinois Fraternal Order of Police Labor Council, ILRB S-MA-07-199, p. 22 (Wolff, 2008)

Bellwood argues that all three awards limit such disputes to arbitration, but that all three arbitrators could have limited disciplinary appeals to arbitration only, but did not. The Village contends the Union cannot rest its entire argument on these cited arbitrations where choice of discipline was determined to follow Section 8.

The undersigned Arbitrator was faced with a similar set of circumstances in *City of Mount Vernon, Illinois, and International Association of Firefighters (IAFF) Local 2429, FMCS No. 040923-08315-A*. Therein, I pointed out that in *Will County Board and AFSCME, S-MA-88-9* (Nathan, 1988) the employer argued it had no authority to enter

into a grievance procedure that intrudes upon the jurisdiction of the Commission.

Arbitrator Nathan rejected the employer's arguments, stating:

Indeed, it is unlikely that, but for the legal argument, the Employer's proposal could stand on its own given the requirement of Section 8 of the IPELRA that every agreement 'shall contain a grievance resolution procedure which shall apply to all employees in the bargaining unit and shall provide for final and binding arbitration of disputes concerning the administration or interpretation of the agreement unless mutually agreed otherwise.' As we interpret Section 8 of the IPELRA, unless there is some exclusion mandated by law, or the parties otherwise mutually agree, the Agreement must contain a grievance and arbitration procedure covering all disputes concerning its administration or interpretation. Section 8 provides no exceptions.

In that case, I also cited *City of Springfield and Policemen's Benevolent and Protective Association, Unit No. 5*, S-MA-89-74 (Benn, 1990) wherein the arbitrator held that given:

. . . the statutory mandate in Section 8 for 'arbitration of disputes concerning the administration or interpretation of the agreement', the Union's proposal to extend arbitration for review of disciplinary matters in excess of five (5) days is therefore required.

In the Mount Vernon case, I adopted the Union's final offer to grant employees the right to grieve all disciplinary actions, but also adopted the Union's proposal to offer employees an option of appealing through the BOFPC or grieving under the just cause standard. This was the Union's choice. Notwithstanding, I, too, view Section 8 of the Act as a directive that collective bargaining agreements:

. . . shall contain a grievance resolution procedure which shall apply to all employees in the bargaining unit and shall provide for final and binding arbitration of disputes concerning the administration or interpretation of the Agreement unless mutually agreed otherwise.

VII. AWARD

Considering all of the statutory criteria and the record as a whole and for the reasons set forth above, I award:


1. The Village's final offer on wages and shall be effective:

January 1, 2012	1.5%
January 1, 2013	2.0%
May 1, 2013	3.0%

2. Medical coverage: the Union's final offer because it reasonably represents the status quo.
3. Discipline: The Union's final offer.
4. Duration: The Union's final offer of a three (3) year contract effective January 1, 2011, through December 21, 2013.

The parties reached agreement on the issue of residency, Article XXVII. That settlement is hereby adopted and incorporated in the new three-year collective bargaining agreement effective January 1, 2014, along with all the terms and provisions of the expired 2006-2011 collective bargaining agreement that were not altered and/or deleted by this interest arbitration.

October 18, 2013


Robert W. McAllister
Arbitrator