

IN THE MATTER OF ARBITRATION BETWEEN:

CITY OF SPRINGFIELD, MISSOURI,)
)
Employer,)
)
And)
)
SPRINGFIELD POLICE OFFICERS' ASSOCIATION,)
FRATERNAL ORDER OF POLICE LODGE 22,)
)
Union.)

BEFORE JEROME A. DIEKEMPER, ARBITRATOR

Hearing held in Springfield, Missouri: January 8, 2015
Opinion and Recommendation issued: February 12, 2015

Appearances for Employer:

Andrew J. Martone, Counsel
Tina G. Fowler, Counsel

Appearances for Union:

Sally E. Barker, Counsel
Amanda K. Hansen, Counsel

OPINION AND RECOMMENDATION

I INTRODUCTION

This matter is before the Arbitrator for an advisory recommendation to the City Council of the City of Springfield, Missouri (City), after an impasse was reached in collective bargaining negotiations for a first labor agreement with the Fraternal Organization of Police, Lodge 22 (Union), a labor organization representing a bargaining unit consisting of Police Officers, Corporals, and Sergeants in the City's Police Department.

A hearing was held in Springfield, Missouri on January 28, 2015 from 8:00 am to 9:00 pm. All parties were given the opportunity to call, examine and cross-examine witnesses and to adduce documentary evidence. Pre-hearing briefs were presented to the Arbitrator before the hearing.

In accordance with the Agreement Between City of Springfield and SPOA 22 Concerning Procedures for Advisory Arbitration (Joint Exhibit 10), the Arbitrator is to review the proposals made by the parties and then "independently fashion" a recommendation to the City Council which is not less than the proposal offered by the City nor more than the offer proposed by the Union. The Arbitrator will make his recommendation 15 days following the close of the hearing and then issue a full opinion 30 days after the close of the hearing. With the consent of the parties, the Arbitrator is combining his opinion and his recommendation.

II FACTUAL BACKGROUND

In 2013, the City recognized the Union as the exclusive collective bargaining representative for the employees in the bargaining unit and the parties engaged in full collective bargaining negotiations for the first time. Previously, they had engaged in "meet and confer" proceedings. Negotiations began in April 2013 and lasted until September 2014 when the parties made final proposals to one another. The first negotiation concerning wages took place in May 2014. Then in June 2014, with the beginning of a new fiscal year on July 1 drawing near, the parties agreed on an interim and non-precedent basis to a wage package covering merit step increases and a 1 percent cost of living (COLA) across-the-board increase. This was the same wage package received by all employees in the City.

The City has four bargaining units represented by four separate unions. Prior to the Missouri Supreme Court ruling that public employees were entitled to bargain for enforceable collective bargaining agreements, for many years the City engaged in "meeting and confer" proceedings with the Union to discuss terms and conditions of employment. The City has treated groups of employees within its over 1700 employees on a consistent basis in granting annual wage increases. During the recent "Great Recession" (2008 to 2010) the City had to adopt a hiring freeze and also froze wage increases for a time.

The City has multiple sources of revenue including taxes and fees for City licenses and services. Some of the tax revenues are dedicated for special purposes by law, and some or part of other tax revenues go into the General Fund that can be used for any lawful purpose. A one percent City sales tax

is the largest source of revenue that flows into the General Fund. In or around January of each year, planning begins for the budget for the next fiscal year which starts on July 1. A fiscal year is named for the calendar year which it terminates, e.g. the 2015 fiscal year ends on July 30, 2015. The annual budget is used by the City Council to pass spending ordinances. The City Finance Department gathers data from each department on anticipated spending for the next year and tries to project estimated revenue to cover anticipated spending. The City, which has the second highest bond rating possible, does not normally budget for capital spending. Rather it uses “surplus funds” that derive from lower than budgeted expenditures and /or higher than budgeted revenue, to pay for one-time items. The City Council generally does not expend “surplus funds” on recurring costs, such as salaries, because there is no certainty there will be surpluses available to continue to fund such recurring expenses during future fiscal years.

A. The Financial Condition Of The City

The City has the third largest population in the state of Missouri. It is located in Greene County and derives some of its tax revenue from county-wide taxes. Except for the Great Recession, since 1970 the City’s revenues have showed a steady upward trend. Based on the trend, and on the Union’s expert economist’s “conservative estimate,” the City could afford to pay for the increases proposed by the Union for the term of the collective bargaining agreement. It is not clear whether the City could afford to pay a similar wage package to all City employees over the same term, nor is it clear that the City could not afford to do so.

What is clear, is that no one has a crystal ball to predict when the next natural disaster (ice storm, flood or tornado) or national or local recession may happen. With that being said, the local economy and the national economy appear likely to trend upward in the near future.

B. The City’s Last Wage Offer

The City offered three options to the Union. Option A provides for a wage package of 3 percent for the first year and 3.5 percent in the second and third years, intended to cover merit step increases each year plus a 1.0 percent COLA in the first year and a 1.5 percent COLA in the second and third years. See Joint Exhibit 2 (JX-2) and City Exhibit 7 A (CX-7A). Under Option A, the Union can allocate the offered amounts “among its membership” at its discretion. This formula anticipates the annual salary base will increase each year. Depending on retirements, resignations and replacements, the Arbitrator is not sure the base will necessarily increase in the third year. It appears that the base in the second year will be \$15,119, 083.20.

Option A calls for adjustments to the compensation pool based on increases or decreases in City revenue. The factors proposed to be used in estimating and adjusting base revenue and for estimating expenses are entirely outside the control of the Union, and it would have no input in the City Council making necessary “trust us” estimates and adjustments.

Option A also provides a unilateral reopener for the City in the event the City has an unstated (open blank in the proposal) amount of unanticipated expenses, or in the event “increases and expenses

are out of proportion to increases in revenues.” There is no definition of the term “out of proportion.” Negotiations would then take place for modifications in the event of a reopener. Impasse would be resolved by negotiations or advisory arbitration. A floor for compensation is proposed based on funding merit step increases and receiving the same COLA given to non-represented City employees.

Option B (CX-7B) proposes a first year increase identical to the interim agreement of the parties. For the second and third years, the amount of funding would be equal to the overall percentage increase in the consumer price index for the previous calendar year. As of December 2014, the previous year increase was 0.8 percent. This amount is to be made available to the Union to allocate “among its membership” for across-the-board wage increases and funding of merit steps, or position-specific funding “at its discretion.”

Option B gives the City the unilateral option to reopen the contract on thirty days written notice. The parties would then negotiate until they reach a tentative agreement or until they reach impasse. Impasse would be resolved through advisory arbitration. Again, a floor is established based on merit step funding and across-the-board wage increases given to “other defined City Employee Groups.”

Option C (CX7-C) provides the same first year increase as in Options A and B. For the second and third years either party may reopen wage negotiations by providing a written notice no later than January 15 of the calendar year. Any tentative agreement will be presented to the City Council for ratification. If the tentative agreement is not ratified or if the parties reach an impasse, advisory arbitration will follow.

C. The Union’s Last Wage Offer

The Union’s proposal on wages is contained in JX-1. For the first year, the Union proposed that effective January 1, 2015, the wage rates in effect for moving from steps 10 to 11 and steps 11 to 12 be increased to 4 percent. The Union also proposed advancing the 60th academy class to its “proper step” commensurate with years of service. The evidence showed that an inequity occurs during the second half of each fiscal year whereby employees in the 61st academy class actually are earning more than their more senior counterparts in the 60th academy class.

In the second year, the Union proposes a “smoothing” of step increases whereby any steps currently below four percent would be raised to four percent with all other step increases remaining the same. This proposal is estimated to cost more than paying all merit step increases at the then-existing rate and a 1.5 percent COLA.

In the third year the Union proposes funding all merit steps in the salary matrix at the increased rates established the previous year and providing a 1.5 percent across-the-board increase.

D. History of Pay Ordinances

Joint Exhibit 7 contains a summary of the contents of the annual salary ordinances passed by the City Council for the period between 1991 and 2014. Between 1991 and 2007, some years there were consistent across-the-board increases among various Employee Groups and some years there was no

consistency at all. Compare 2003 where fire and police received 1 percent and other Employee Groups received 2 percent effective October 9, 2003, with 2004 where all Employee Groups received 2 percent effective December 11, 2004. The summary for 2008 does not show any pay increases. The summary for 2009 shows that merit step increases were granted but no across-the-board increase was granted. The summary for 2010 shows a \$300.00 dollar across-the-board increase. The summary for 2011 shows a \$1,000.00 dollar across-the-board increase for employees in the last step of each pay grade. The summaries for 2012 and 2013 (according to the parties) show funding of step increases plus 1.5 percent across-the-board increases. In 2012 there was also a 2.5 percent increase for FTS grades 9 through 13 and employees on the Narcotics Enforcement Team received hazardous pay of \$300.00 each.

With regard to partial steps in the Police Department salary scale, the first mention that the Arbitrator could find was in the 2001 summary, section 5, which mentions “creation of performance-based partial steps added to each grade level with 5th step of 5 percent which has to be re-earned each year.” No witness at the hearing was able to give any added explanation for the partial steps in the Police Department wage progression that are less than 4 percent. Similarly, there was no explanation of why the City Council determined to pay a 1 percent across-the-board COLA increase in the 2014 salary ordinance, when it had granted 1.5 percent COLA increases in the 2012 and 2013 ordinances.

III POSITION OF THE PARTIES

A. Position of the Union

The Union, citing the 6th Edition of *Elkouri & Elkouri: How Arbitration Works*, believes the Arbitrator should apply the criteria used by other arbitrators in a survey of 995 police salary decisions. These criteria are salary comparability, the ability to pay, and inflation/cost of living, in that order. With regard to salary comparability, arbitrators are referred far more frequently to salaries in other police departments than to salaries in other occupational groups. The Union also cited a study regarding the ability to pay standard where arbitrators gave “little weight” to budgets themselves because “the majority of arbitrators recognize the self-serving nature of such arguments.” As one arbitrator noted “any good City budget manager can manipulate the budget to make it look like the City cannot afford anything - relying on this type of information is not bargaining.”

Additionally, the Union points out that this is an advisory arbitration involving a first contract. Accordingly, there is no meaningful bargaining history that precedes the initial negotiation. The Union also points out that the IAFF bargaining unit in the Fire Department has a “me too” provision in its agreement that gives the bargaining unit employees a wage increase if any Employee Group in the City receives higher wages. Next, the Union suggests that comparisons to other internal groups within the City are less meaningful than comparisons to external groups, and that interest arbitrators generally give greater weight to external comparables in wage disputes. The Union then points out that the economic and revenue forecasts for the City are quite positive. Sales tax revenue for the last six months has substantially increased and the Union’s expert witness, Dr. David Mitchell, has estimated an annual increase of at least 4.1 percent in the next three years. Finally, the Union suggests that a “catch-up” is recognized by interest arbitrators to be appropriate in first contracts.

With regard to “comparable cities,” the Union urges that the Arbitrator compare the City with the twelve largest cities in Missouri and with non-Missouri cities within 200 miles of Springfield with populations over 50,000. According to the Union, Springfield is last in minimum pay for police officers and maximum pay for police officers in the twelve largest Missouri cities. The City is also last in minimum pay for Sergeants and third from last in maximum pay for Sergeants compared to the same twelve cities.

With regard to the City’s ability to pay and the cost of living factors, the Union urges that the City has consistently run budget surpluses and that at the end of fiscal year 2014, there was a \$4.6 million dollar surplus in the General Fund and a balance of \$15,400,000.00 in the “rainy day fund.” The Union argues that as bargaining unit members retire, they will be replaced with lower paid officers who will receive lower pension benefits. According to the Union, “the City is in good financial shape that is getting better and it can afford to pay its officers significantly more than its minimal proposals that are less than what it provided in the two preceding fiscal years.”

B. Position of the City

The City points out that its budget depends substantially on revenue from sales tax which is very volatile. It is impossible to accurately predict sales tax revenue, and the City’s predictions are based upon sound, conservative financial practices. Over 80 percent of the General Fund expenditures are for employee salaries and benefits. Where the revenue exceeds the budget, the “surplus funds” are expended for the purchase of capital goods, to supplement the City’s “rainy day fund,” or to use for other one-time expenses.

The City argues that the Arbitrator should adopt one of the three City proposals, either Option A or Option B or Option C. The City suggests that the Arbitrator not advise the City Council to give preferential treatment to the Police Department bargaining unit. Since the IAFF chose Option B, the Arbitrator may want to adopt that option as his recommendation because the IAFF bargaining unit is an “internal comparable” that should be given substantial weight. Using the “benchmark” cities as comparables, the members of the Police Department bargaining unit are already in the middle third of police compensation in the other cities, while most other city Employee Groups are in the bottom third.

The City suggests that it would be inappropriate to recommend that “surplus funds” be used to fund salary increases, because there is no assurance of future surpluses and because the City uses these funds to purchase needed capital goods. In conclusion, the City urges the Arbitrator to recommend one of its three options.

IV ANALYSIS

At the hearing, it was suggested that this arbitration may be the first interest arbitration for a public employee bargaining unit since the Missouri Supreme Court held public employees are entitled to engage in full-blown collective bargaining. Neither Missouri law nor City ordinance provide the Arbitrator with any guidelines or constraints as to what he can recommend. The parties have limited

the range of options available to the Arbitrator to one of the City's proposals or the Union's proposal or something within the boundaries established by the proposals of the parties.

A. Criteria

After reviewing the various cases cited by the parties and reviewing other sources, including *Elkouri & Elkouri*, the Arbitrator has decided to rely on four criteria. The first is the public interest. In this regard, the Arbitrator believes that the citizens of the City would be well served to have a highly trained and highly competent police force. The evidence showed that the City is facing a rising crime rate, particularly with regard to crimes against persons. A police department with competitive pay and benefits is likely to be able to recruit and retain its best police officers and to have good morale within the department.

The second factor that the Arbitrator is considering is that of comparables. In this regard, internal comparables are not particularly helpful. While the IAFF bargaining unit might have been an important factor, its adoption of Option B together with a "me too" provision provides no useful guidance to the Arbitrator in determining what type of wage package might be appropriate for public safety employees. With regard to the other Employee Groups, their wage and benefit packages are established through a legislative process and not through collective bargaining. While there was internal consistency in the salary ordinances passed in 2012, 2013 and 2014 within Employee Groups, in 2014, the across-the-board wage increase was reduced from 1.5 percent to 1 percent. There was no explanation given at the hearing for why this reduction took place, especially in light of the rising sales tax revenues and an increased amount of "surplus funds."

The next factor the Arbitrator is considering is the cost of living. This factor is one that is often considered, but is seldom controlling. (See *Elkouri & Elkouri, How Arbitration Works*, at 22-88 E). Since the "Great Recession," inflation has not been a significant factor. In 2014, the cost of living rose by 0.8 percent. While not himself an economic seer, the Arbitrator believes that an increase in the cost of living is more likely to occur than to not occur.

The final factor is ability to pay. With regard to this factor, it would make no sense for the Arbitrator to recommend a wage increase that is not within the power of the City Council to grant. Furthermore, the Arbitrator is limited by the Union's proposal as to the top of the range for his recommendation. The evidence here shows that the City is on a sound financial footing. The City's bond rating shows that the City has substantial borrowing power should it need to borrow. Also, the trends over the long term, and over the short term since the "Great Recession," strongly suggest that the City's sales tax revenue will continue to increase. While the future is inherently unknowable, the City's financial future looks good.

B. Some Additional Considerations

1. First Contracts

The contract the parties are bargaining is their first collective bargaining agreement. Based on cases reviewed by the Arbitrator, in an arbitration involving a first contract, having some amount of “catch up” is not unusual. Several arbitrators observed, however, “Rome was not built in a day” and a full “catch up,” even if called for, is usually not achieved in one collective bargaining cycle.

2. COPS Grants

Both parties introduced evidence concerning COPS Grants used to subsidize increases in the size of police departments by underwriting 75 percent of the salaries and benefits for new officers. The subsidy ends after the third year of the grant and the funding for the fourth year is the responsibility of the public entity which receives the grant. Based on the evidence, the Arbitrator finds the COPS Grant to be a neutral factor. It will require the City to maintain a minimal level of staffing during the term of this bargaining agreement.

3. Costing of Union Proposal

The Union asserted that its estimated costs for its proposal was “conservative” because it figured the implementation of merit step increases to occur on the first day of each new fiscal year, rather than on the anniversary dates of the bargaining unit employees, which occur throughout the year. This is true as far as it goes. The Union, however, did not include in its cost estimates the costs of benefits attached to its proposed wage increases, to the extent they exceeded the increases proposed by the City.

As was pointed out at the hearing, the City’s cost estimates included a 39 percent mark-up for benefits, which consisted of a 29 percent mark-up for pension costs plus other expenses such as workers’ compensation and payroll taxes. For example, if the City estimated a wage increase of 1 percent to have a cost of \$1 million dollars, it included the cost of benefits in its estimate. If the Union then proposed an additional increase of \$300,000 in wages, it did not include the cost of benefits attached to its proposed increase. In this example, the actual cost of the Union’s proposed increase would be \$417,000 ($\$300,000 \times 1.39$). As a result, the Union was proposing a larger “catch-up” than it realized. In making his recommendation, the Arbitrator is taking this factor into account.

4. The Starting Rate For Police Officers

At the hearing, the City pointed out that the Union made no proposal to increase the starting rate of pay (Step 1) for police officers. This could impact the recruitment for new officers. They might choose a police academy where they would get higher starting pay.

Based on the evidence, candidates in the Police Academy are not sworn officers until they graduate (six months), and they are not in the bargaining unit until they complete a probationary period (another six months). Accordingly, pay at Step 1 may not be what would be considered a “mandatory” subject for bargaining since it involves employees outside the bargaining unit. Additionally, getting paid while obtaining necessary training for entry into the policing profession is a plus for attracting new recruits. The City has one of the four academies in Missouri. The value of the training, estimated by one witness to be a \$75,000 per candidate cost to the City, far outweighs the Step 1 rate of pay. Subsequent raises could be more important for recruitment and especially for retention of the best candidates.

5. Future Bargaining

Collective bargaining for public employees in Missouri is in its infancy. As their relationship continues, and as other cities enter into labor agreements, the parties will find it easier to develop more meaningful comparators. They will likely to be able to make not only apples-to-apples comparisons, but also Jonathon apples-to-Jonathon apples comparisons, regarding populations, tax bases, revenues and expenditures, and compensation and benefits. The City will always have some factors unique to it, but the bargaining process in the future will become more comprehensible, if not easier.

C. Consideration Of The Criteria

1. The Public Interest

Having adequate public safety services is essential to every local community. The fact that the City of Springfield has its own police academy is a plus in term of recruiting new police officers. The City has one of the four police academies in the state. These academies provide the candidates with cost-free training while also earning a salary. According to the Chief of Police, the Springfield Police Academy draws candidates from substantial distances in the neighboring states and even from a broader candidate pool. Once a police officer is commissioned, the officer has no further obligation to the City to remain employed. This is where the City’s investment in training (approximately \$75,000.00 dollars per candidate) is important. In order to make the Police Academy “pay off” for the City, it must retain a substantial proportion of the officers that trains.

The evidence at the hearing showed that there have been a number of retirements and resignations in the recent past. The Chief of Police testified that he conducts exit interviews with those who resign. The Union president testified that he also talked with people who resigned and retired about their reasons for doing so. Both the Chief and the Union president agreed that some officers leave the Springfield Police Department for positions in other police agencies. It is clear that the City has a difficult job in trying to retain officers who are recruited by federal law enforcement agencies. These agencies pay substantially more than the City and look for previously trained and experienced officers. The public interest would be served by having more competitive police pay.

2. Comparables

Many states have statutes mandating interest arbitration to resolve impasses in public employee bargaining and most provide for consideration of “comparables.” Usually the comparables that can be considered are both “internal” and “external” to the governmental employer involved. The reference to comparables is supposed to help guide the Arbitrator in determining which proposal is more appropriate in resolving the impasse. The closer the comparable is to having employees in the same or similar jobs and the closer it is to being similar to the governmental employer at issue, the more likely it is that the comparison to the comparable will be persuasive to the Arbitrator. For internal comparables, the bargaining units might be of similar sizes, have employees performing the same type of work, e.g. public safety work, have employees with the same work schedules, benefits, terms and conditions of employment, etc.

For external comparables, having the same or similar population, revenue, services, labor market, geographic proximity and other factors may make them more persuasive.

As pointed out above, the use of internal comparables in this case is not particularly persuasive. The IAFF Bargaining Unit has essentially passed the laboring oar to the FOP Bargaining Unit in the hopes that the Union will be able to get a better deal, which will benefit the IAFF through its “me too” provision. With regard to the other Employee Groups, they will receive whatever the City Council deems to be appropriate, without the benefit of collective bargaining.

With regard to comparables, the Arbitrator met with counsel for both parties prior to the hearing to discuss finding comparables and gathering reliable information regarding comparables. The Arbitrator was advised that the City for many years had gathered information concerning “benchmark” cities. These cities were chosen based on input from a committee, which included union representatives, which looked for geographically dispersed cities of similar size. The Arbitrator suggested drawing information from cities with populations over 50,000 that were located within 200 miles of the City of Springfield. As it turned out, the Chief of Police testified that the Springfield Police Academy drew candidates from an even wider geographic range. At the hearing, the Union suggested the appropriateness of using the twelve largest cities in Missouri based on population as external comparables.

After reviewing the evidence regarding “benchmark” cities, the Arbitrator does not find comparisons to these cities to be very useful. There was no information concerning whether the employees of these cities were represented by Unions and whether the economies of these cities were really comparable. With regard to the cities over 50,000 in population within 200 miles of Springfield and with regard to the twelve largest Missouri cities by population, there is, of necessity, some of the same problems that exist with the “benchmark” cities. These comparisons, however, seem to be more germane than comparisons with the “benchmark” cities. The evidence suggests that Springfield is in the lowest part of the range for comparable positions with regard to police pay. See Union Exhibits 2 and 19 Even with regard to the “benchmark” cities, the City is most likely in the lower range. See Union Exhibit 3 and the testimony regarding the four cities that did not respond to the Union’s survey. Springfield was

above three of the four in terms of police pay. The Arbitrator finds that a review of the external comparables suggests that a proposal closer to the Union's proposal than to the City's proposal would be appropriate.

3. Cost of Living

One interesting factor that came to light during the testimony regarding the cost of living is that the cost of living in Springfield is less than that in most of the comparable cities. Accordingly, if a police officer were to make an apples-to-apples comparison of opportunities outside the City of Springfield, the officer should consider how far his new salary might go in a new community. As observed above, the cost of living factor is usually not controlling, and in this case it is not.

4. Ability To Pay

The Arbitrator's concern in this case is whether the City has the ability to pay for the wage package proposed by the Union. The evidence convinces the Arbitrator that the City would have the ability to pay for that package. While it is obviously a practical, and possibly political, concern for the City Council as to whether the City could afford to give the same type of economic package to its non-represented employees, that is not a factor the Arbitrator considers relevant to his recommendation.

D. Evidence Concerning The Pay Differential Between The 60TH Academy Class And The 61ST Academy Class

The evidence shows that during the Great Recession, the 60th academy class did not receive one or more of the step increases the employees otherwise might have expected. When the 61st academy class graduated, an anomaly developed wherein for half of a fiscal year, the members of the 61st class were earning more than the members of the 60th class who had more time and service. The Chief of Police stated in his testimony that this was inequitable. (TR. 345)

E. Rejected Proposals

The Arbitrator has not selected any of the three City proposals. Option A was not selected because it contains contingencies that are ambiguous and unquantifiable. In Paragraph 3, there was a blank that was never filled in because that option was never seriously discussed in negotiations. This left an undefined trigger for a City reopener. Possible adjustments to the compensation pool are similarly undefined.

With regard to Option B, it is possible that any increases in the cost of living index might not even fund the costs of merit step increases. In that event, the bargaining unit members would be relying on the City to adopt pay increases for another Employee Group so the bargaining unit could get a more substantial increase.

With regard to Option C, it is already after the date for reopening negotiations for the second year wage package. In the event of an impasse, another interim agreement would likely be necessary, given the City's apparent position on not giving retroactive wage increases. Also, the reopener process,

involving negotiations and possible non-binding interest arbitration, is an expensive one. Conducting bargaining every year is inefficient, time-consuming and, as pointed out above, expensive. Accordingly, annual collective bargaining should be avoided to the extent it can be.

RECOMMENDATIONS

1. Effective April 1, 2015, raise all members of the 60th academy class to an appropriate merit step level to correct the inequity with the 61st academy class.
2. Effective April 1, 2015, implement a “smoothing” by raising all employees in steps 11 and 12 of grades 2, 5 and 10 from the merit step increase they last received at the beginning of fiscal year 2015 so that their pay rates are a minimum of 4 percent higher than they were immediately before the last merit step increase. For the future, the increase from step 10 to step 11 and from step 11 to step 12 should be 4 percent.
3. Effective July 1, 2015, further implement the “smoothing” process using a wage package increase of 3.5 percent to “smooth” all merit step increases that are then below 4 percent to be a minimum of 4 percent. If the total cost of “smoothing” for the 2016 fiscal year is less than the total cost of the 3.5 percent package, the remainder of the package should be paid out in an across-the-board increase for all bargaining unit employees. If the total cost of “smoothing” is greater than the total cost of the 3.5 percent package, each merit step above step 3 and below step 11 of grades 2, 5 and 10 that are above 4 percent may be reduced by the lowest uniform percentage (not to exceed 0.5 percent and in no event below 4 percent) needed to fund the cost of “smoothing” (e.g. if a merit step increase is now, 4.67 percent and a reduction of 0.4 percent was needed to fund the difference between the 3.5 percent total cost of the package increase and the actual cost of “smoothing” between merit steps 3 and 11, the merit step reduction would be from 4.67 percent to 4.27 percent. If after all merit steps between 3 and 11 are reduced to either 4 percent or by 0.5 percent from the previous percentage increase, any further is needed that additional funding will be borne by the City.
4. Effective July 1, 2016, implement a wage package increase of 3.5 percent intended to cover the step increases plus a 1.5 percent across-the-board COLA increase.
5. If any Employee Group of City employees receives a wage package in excess of 3.5 percent for either fiscal year 2016, or fiscal year 2017, or both, the LES Bargaining Unit will receive an across-the-board percentage increase equal to such increases.
6. For fiscal year 2017, the City may reopen the collective bargaining agreement upon two weeks advance notice in the event of any one of the following occurrences:
 - a. A national recession;
 - b. A budget shortfall of 10 percent of the total City budget;

- c. An act of God or natural disaster (e.g. ice storm, flood, earthquake or tornado) for which the City, in good faith, projects expenditures of 50 percent or more of the existing Reserve Fund of the City (i.e. the "Rainy Day Fund").

Dated: February 12, 2015

A handwritten signature in black ink that reads "Jerome A. Diekemper". The signature is written in a cursive style with a large, prominent initial "J".

Jerome A. Diekemper, Arbitrator

ARBITRATOR’S RECOMMENDATIONS
CITY OF SPRINGFIELD/FRATERNAL ORDER OF POLICE (SPOA)
ADVISORY ARBITRATION – JANUARY 28, 2015
ARBITRATOR’S RECOMMENDATIONS – FEBRUARY 12, 2015
ARBITRATOR’S CLARIFICATION - MARCH 24, 2015

The City of Springfield and the Fraternal Order of Police (SPOA) reached a tentative agreement related to all articles of a collective bargaining agreement with the exception of wages.

Advisory arbitration, as established under the City’s General Ordinance 6090, was conducted regarding wages on January 28, 2015. The Arbitrator, Jerome Diekemper, provided the City with six (6) recommendations on February 12, 2015, a complete copy of which is provided. A dispute arose regarding the intent of certain portions of the Arbitrator’s recommendations. Both parties requested a clarification from the Arbitrator, which was received March 24, 2015. The recommendations below include the clarification received from the Arbitrator.

Under General Ordinance 6090, City Council is to either (1) accept the Arbitrator’s recommendation with regard to wages; or (2) instruct the parties to continue negotiations as to wages in order to arrive at a mutually agreeable collective bargaining agreement.

City staff prepared the following summary and an estimated cost for each recommendation.

Recommendations:

1. **"Effective April 1, 2015, raise all members of the 60th academy class to an appropriate merit step level to correct the inequity with the 61st academy class."**

Employees hired for the 60th Academy began employment on June 21, 2010. Employees hired for the 61st Academy began employment on January 31, 2011.

Merit Steps were frozen city-wide for a two-year period (July 1, 2009-June 30, 2011).

Based on the start date of the 60th Academy and 61st Academy, along with the period of time the Merit Steps were unfunded, the 61st Academy is one step ahead of the 60th Academy.

This recommendation provides for the advancement of the fifteen (15) Police Officers in the 60th Academy.

FY 15 Recommendation #1	Estimated Costs
Total Wage Cost	\$4,547.10
Total Benefit Cost	\$1,797.93
Total Cost	\$6,345.03

The Arbitrator suggested the City implement this recommendation effective April 1, 2015.

- 2. "Effective April 1, 2015, implement a "smoothing" by raising all employees in steps 11 and 12 of grades 2, 5 and 10 from the merit step increase they last received at the beginning of fiscal year 2015 so that their pay rates are a minimum of 4 percent higher than they were immediately before the last merit step increase. For the future, the increase from step 10 to step 11 and from step 11 to step 12 should be 4 percent."**

The Arbitrator instructed the City to use the 2013-2014 LES pay schedule for purposes of calculating the steps to implement this recommendation.

This recommendation would increase step 11 for pay grades 2, 5 and 10 on the Law Enforcement Schedule (LES) to achieve a four-percent (4%) differential from step 10.

This recommendation would increase step 12 for pay grades 2, 5, and 10 on the Law Enforcement Schedule (LES) to achieve a four-percent (4%) differential from step 11.

In addition, this recommendation would increase step 13 for pay grades 2, 5, and 10 on the Law Enforcement Schedule (LES) to maintain the current differential from step 12 to step 13.

FY 15 Recommendation #2	Estimated Costs
Total Wage Cost	\$34,378.35
Total Benefit Cost	\$13,593.20
Total Cost	\$47,971.56

The Arbitrator suggested the City implement this recommendation effective April 1, 2015.

- 3. "Effective July 1, 2015, further implement the "smoothing" process using a wage package increase of 3.5 percent to "smooth" all merit step increases that are then below 4 percent to be a minimum of 4 percent. If the total cost of "smoothing" for the 2016 fiscal year is less than the total cost of the 3.5 percent package, the remainder of the package should be paid out in an across-the-board increase for all bargaining unit employees. If the total cost of "smoothing" is greater than the total cost of the 3.5 percent package, each merit step above step 3 and below step 11 of grades 2, 5 and 10 that are above 4 percent may be reduced by the lowest uniform percentage (not to exceed 0.5 percent and in no event below 4 percent) needed to fund the cost of "smoothing" (e.g. if a merit step increase is now, 4.67 percent and a reduction of 0.4 percent was needed to fund the difference between the 3.5 percent total cost of the package increase and the actual cost of "smoothing" between merit steps 3 and 11, the merit step reduction would be from 4.67 percent to 4.27 percent. If after all merit steps between 3 and 11 are reduced to either 4 percent or by 0.5 percent from the previous percentage increase, any further is needed that additional funding will be borne by the City."**

The Arbitrator's recommendation for FY 16, would be effective July 1, 2015. The Arbitrator's recommendation does not include funding the merit step advancement in FY 16.

The recommendation suggests the City use the pay schedule amended April 1, 2015, which includes the increase to steps 11 and 12.

It is recommended that the LES 2, 5, and 10 pay grades be increased, where required, to create a minimum of a four-percent (4%) pay differential between all steps, a calculation limited to a three and one-half percent (3.5%) wage package.

Because the cost to implement this smoothing is less than the total three and one-half percent (3.5%) wage package, the Arbitrator recommends that the City apply any leftover funds to LES grades 2, 5 and 10 as an across-the-board pay increase.

Merit steps 4-10 did not need to be reduced because the cost to smooth the merit steps did not exceed the three and one-half percent (3.5%) wage package.

The Arbitrator's recommendation directs the entire wage package to smooth or create the four-percent (4%) differential.

FY 16 Recommendation #3	Estimated Costs
Total Wage Cost to smooth the merit steps and a 0.827% across-the-board increase	\$542,161.26
Total Benefit Cost to smooth the merit steps and a 0.827% across-the- the board increase	\$214,370.56
Total Cost	\$756,531.82

4. "Effective July 1, 2016, implement a wage package increase of 3.5 percent intended to cover the step increases plus a 1.5 percent across-the-board COLA increase."

The Arbitrator's recommendation for FY 17 would be effective July 1, 2016.

The Arbitrator recommends a total wage package of three and one-half percent (3.5%) for the LES 2, 5 and 10 pay grades.

The Arbitrator states that the three and one-half percent (3.5%) wage package is intended to both fund merit steps and provide for a one and one-half percent (1.5%) across-the-board increase.

The cost estimates shown below are based on the cost of a three and one-half percent (3.5%) wage package. It does not take into account the probability that two percent (2%) will not fully fund the merit steps in FY17 if the Arbitrator's recommendation is

implemented.

FY 17 Recommendation #4	Estimated Costs
Total Wage Cost	\$561,218.11
Total Benefit Cost	\$221,905.64
Total Cost	\$783,123.75

5. **"If any Employee Group of City employees receives a wage package in excess of 3.5 percent for either fiscal year 2016, or fiscal year 2017, or both, the LES Bargaining Unit will receive an across-the-board percentage increase equal to the percentage amount given above such increases."**

The Arbitrator is recommending a "me too" clause that guarantees that if any Employee Group receives a wage package in excess of three and one-half percent (3.5%) for FY 16 or FY 17 or both, an across-the-board increase will be implemented for the LES 2, 5 and 10 pay grades equal to the percentage amount above the three and one-half percent (3.5%).

6. **"For fiscal year 2017, the City may reopen the collective bargaining agreement upon two weeks advance notice in the event of any one of the following occurrences:**
- a. **A national recession;**
 - b. **A budget shortfall of 10 percent of the total City budget;**
 - c. **An act of God or natural disaster (e.g. ice storm, flood, earthquake or tornado) for which the City, in good faith, projects expenditures of 50 percent or more of the existing Reserve Fund of the City (i.e. the "Rainy Day Fund")."**

The Arbitrator is recommending three specific events that will allow the City of Springfield to reopen the collective bargaining agreement due to negative economic issues and recommends that two weeks advance notice be given.

Recommendations 1,2,3 and 4 for FY 15, 16 and 17	Estimated Costs
Total Wage Cost	\$1,142,304.82
Total Benefit Cost	\$ 451,667.34
Total Cost	\$1,593,972.16

If the City Council accepts the Arbitrator's recommendations, as described above, upon ratification by SPOA, the CBA will be finalized, and staff will provide a summary document detailing the changes in the CBA as requested, and the CBA will be submitted to City Council for final approval.

ADDITIONAL COST IMPACT RELATED TO ARBITRATOR'S RECOMMENDATIONS:

- In addition to the cost of the Arbitrator's recommendations for the Fraternal Order of Police (SPOA), the increase in total wage costs related to Merit Steps for FY 15 will require that the City provide an additional increase of 1.044% (annualized) or \$26,368.63 to the IAFF for the remainder of FY 15. Total cost, including benefits, will be \$37,298.43.
- The total wage cost of funding the smoothing of the Merit Steps and the across-the-board increase for SPOA in FY 16 will require that the City fund a 3.5% wage package to the IAFF for FY 16. The wage cost to the City of Springfield is estimated to be \$374,914. Total cost, including benefits, is estimated to be \$531,449.
- The City is unable to calculate the increased cost, if any, for IAFF for FY 17 until early 2016 when the Consumer Price Index information is released in late February 2016.