BEFORE THE ARBITRATOR

In the Matter of the Arbitration of an Impasse Between	:	
THE CITY OF MONROE	:	Case 43
and	:	No. 66977
WISCONSIN PROFESSIONAL POLICE ASSOCIATION, CIVILIAN EMPLOYEE RELATIONS DIVISION	:	INT/ARB-10945
on behalf of	:	Decision No. 32267-A
THE MONROE POLICE DISPATCHERS' ASSOCIATION	:	

Appearances:

Robert E. West, Consultant, for the Labor Organization.

Murphy Desmond, Attorneys-at-Law, by Daniel D. Barker and Christopher G. Rendall, for the Municipal Employer.

ARBITRATION AWARD

The above-captioned parties selected, and the Wisconsin Employment Relations Commission appointed (Dec. No. 32277-A,1/10/08), the undersigned Arbitrator to issue a final and binding Award, pursuant to Section 111.70(4)(cm)6 and 7 of the Municipal Employment Relations Act, resolving an impasse between those parties by selecting either the total final offer of the Municipal Employer or the total final offer of the Labor Organization.

A hearing was held in Monroe, Wisconsin on March 28, 2008. A transcript was made. Briefing was completed on May 16, 2008.

The collective bargaining unit covered in this proceeding consists of non-sworn police dispatchers. There are approximately five employees in this unit. The parties are seeking an agreement for 2007 and 2008.

THE FINAL OFFERS

The parties' final offers include the following four disputed items.

1. The City proposes to increase the employees' annual clothing allowance by $25.00 to $225.00. The Association proposes no increase in this benefit.

2. The parties have agreed to a 2% wage increase on January 1, 2007 and a 1% increase on July 1, 2007. However, the City proposes a 3% wage increase on January 1, 2008 while the Association proposes a 2% wage increase on January 1, 2008 and a 1% wage increase on July 1, 2008.

3. The City proposes to initiate a 5% health insurance premium share for the employees as of January 1, 2008. The Association proposes maintaining a 100% premium payment by the City.

4. The City, contrary to the Association, would modify collective bargaining agreement terms that provide that employees may carry-over from year to year up to 75 hours of accumulated compensatory time and cash it out at the wage rate in effect at the time of the cash out. Specifically, the City proposes that accumulated compensatory time must be cashed-out annually at the wage rate in effect when the compensatory time is earned.

DISCUSSION

According to the City's analysis, the difference between the parties' wage rate proposals is that under the City's offer the employees in this bargaining unit will each receive approximately $160.00 gross wages more during the first half of the second year than they would under the Association's offer. The Association describes the same amount as an "annualized .5%. This and the additional clothing allowance offered by the City are apparently viewed as minor factors by both parties, although the City suggests that they may be viewed as a *quid pro quo* in relation to other elements of the City's entire offer, if that concept is deemed to be apt.

The major issues from the perspective of the parties appear to be the matters of compensatory time cash-out and health insurance premium sharing. With regard to the former, the Association emphasizes that this is a benefit that has been in place for many years and that the employees value it as a sort of "savings account" that increases over time as contributions accumulate and wage rates rise. It also may offer certain income tax benefits to the employees who are taxed at the time of pay-out. The City emphasizes that it is not proposing to eliminate compensatory time, but to require that it be cashed-out during the year that it is earned at the rates in effect at the time it is earned. It notes that other employers to which it would be compared require annual pay-outs, and urges that, "the City is not in the banking business."

It seems clear to the Arbitrator that the compensatory time cash-out provisions have been a simple economic benefit to the employees of an undeterminable magnitude, and that the City's

main reason for proposing its revision is similarly simply financial and not subject to calculation. The City argues, "The need for the change is economic because the City is able to save money in the long term by not acting as a bank for its employees and in saving on overtime." The saving referred to is that derived from paying at the rate in effect when the work is performed.

The issues presented by the parties' positions regarding whether the employees will share in the cost of health insurance are more complex and more profound. The City emphasizes the well known increases in health insurance premiums of recent years and the statutory levy limits which inhibit its capacity to respond to such increasing costs. It explains that it has attempted to mitigate this predicament by becoming self-insured, but that even in that arrangement it has faced substantial increases in its insurance premiums. The City states that it "is not abandoning its battle against increasing premiums," but, "seeking to partner with the employees to fight the problem together."

The parties do not agree regarding a list of comparable municipal bargaining units. The City prefers the units selected in a 1997 arbitration covering another unit of its employees minus those that do not employ unsworn dispatchers, and plus some other communities of comparable size that do have such employees. While the resulting list does suggest that some employee contribution to premium costs is typical, close examination indicates that some of the relevant employees of the other municipal employers are unrepresented as well as other factors that makes this universe of comparison problematic. On the other hand, while the City disagrees with the Association's list of comparable municipal employers, it notes that the Association's comparisons also indicate that an employee contribution to premium payments is quite common.

The Arbitrator fully understands that external comparables involving similar employees of similar employers can be a very persuasive factor in cases such as this. Such comparisons are less compelling, however, when they are compromised by relevant discrepancies among employment situations and evident straining to develop a list of similar employment settings. Where, as seems to be the present case, there is no convincing universe of comparables, because of the details of the employment involved or the size or location of the employer, it seems sensible to emphasize other factors in making an award. Thus, it is appropriate to consider all types of employees of nearby municipal employers of a similar size, as well as nearby private employment practices, and other less than perfect comparisons. In this case, applying such a broad field of comparison indicates that requiring a minor employee contribution to health insurance premiums is quite common. In other words, external comparison indicates that the City's approach to health insurance cost containment is clearly conventional and increasing in its usage.

Comparison to the terms of employment of other employees of the same employer can also be persuasive. In the instant case no other employees of the Municipal Employer are required to share health insurance premium costs. The City explains that this is the first of three collective bargaining units to enter negotiations since the City determined to propose such a requirement. It asserts that it intends to make a similar demand when it negotiates with another labor organization that represents a much larger bargaining unit. The Association emphasizes that the City's unrepresented employees, who also comprise a larger group than the instant bargaining unit, have not been required to share such premium costs.

The Arbitrator finds the City's strategy inconsistent with the sound application of "factors that are normal and traditional . . . in the determination of wages, hours and working conditions of employment through voluntary bargaining collective bargaining, (and) arbitration . . . in the public service or in the private sector." Normally, collective bargaining and interest arbitration are heavily influenced by external and internal patterns of settlements, to be sure. Such patterns are viewed as indicators of the labor market, not to mention conventions that simply provide a rationale for otherwise seemingly arbitrary determinations. However, in the instant case the City apparently hopes to set such a pattern by obtaining an award, not voluntary agreement, that will be imposed upon its smallest collective bargaining unit. The City seems to anticipate that the other labor organizations representing most of its other employees, or future arbitrators, will be impressed by such an award; even though it has not made the same demands upon its unrepresented employees.

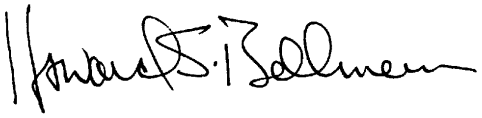
The undersigned Arbitrator would anticipate that a persuasive internal pattern might be found if the other labor organizations and/or the unrepresented employees were covered by such terms, but does not find the inverse to be likely. The real possibility that only the present bargaining unit will be subject to health insurance premium sharing is unacceptable. Such an outcome would be inequitable and not represent a meaningful approach to insurance costs.

Even though the City's offer regarding health insurance premium sharing is reasonable as demonstrated by broad external comparisons, it is the Arbitrator's judgement that the City's apparent attempt to gain a persuasive position with its other represented employees by its final offer to its smallest group of represented employees, and without affecting its unrepresented employees, should not be supported. It is also the Arbitrator's view that none of the other matters in dispute are of sufficient practical consequence to justify an award to the contrary.

AWARD

On the basis of the foregoing, and the record as a whole, it is the decision and Award of the undersigned Arbitrator that the final offer of the association should be, and hereby is, adopted.

Signed at Madison, Wisconsin this 7th day of July, 2008.



Howard S. Bellman
Arbitrator