

BEFORE THE ARBITRATOR

In the Matter of the Arbitration	:	
of an Impasse Between	:	
	:	
Racine County, Unit #1 (Courthouse)	:	Case 226
	:	No. 67956
and	:	INT/ARB-11172
	:	Dec. No. 32423-A, 6/19/08
IAMAW, District No. 10, Local Lodge 66	:	
	:	
and an Impasse Between	:	
	:	
Racine County, Unit #2 (Human Services)	:	Case 225
	:	No. 67890
and	:	INT/ARB-11154
	:	Decision No. 32422-A, 6/19/08
IAMAW, District No. 10, Local Lodge 66	:	

Appearances:

Long & Halsey Associates Inc., by Victor J. Long and William R. Halsey, for the County.
Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, Attorneys-at-Law, by Jill M. Hartley,
for the Union.

ARBITRATION AWARDS

The above-captioned parties selected, and the Wisconsin Employment Relations Commission appointed, the undersigned Arbitrator to issue final and binding Awards, pursuant to Section 111.70(4)(cm)6 and 7, of the Municipal Employment Relations Act, resolving impasses between those parties by selecting either the total final offer of the Municipal Employer or the total final offer of the Labor Organization.

By agreement of the parties, a consolidated hearing was held in Racine, Wisconsin on September 23, 2008. No transcript was made. Briefing was completed on November 24, 2008.

The Courthouse collective bargaining unit includes approximately 166 employees. The Human Services unit includes approximately 159 employees. Other labor organizations represent bargaining units of attorneys, Sheriff's Department command staff, deputy sheriffs, Ridgewood facility personnel, nurses, and Public Works Division employees.

The Final Offers:

The final offers of both parties are the same as to both bargaining units.

The Union proposes a 3% wage increase effective on January 1, 2007 and 2008, whereas the County proposes a 2% wage increase on January 1, 2007, April 1, 2008 and October 1, 2008.

To both agreements the County, contrary to the Union, proposes to add:

“For employees hired on, or after, January 1, 2008, the following retiree premium payment schedule will apply:

20 years & over of service.....15%
15, 16, 17, 18, 19 years of service.....20%”

The Union proposes maintaining the terms of the 2005-2006 contracts providing for retiree health insurance.

The pertinent provisions of the 2005-2006 Courthouse unit agreement read as follows.

21.03 Effective January 1, 1989, any employee retiring under the Wisconsin Retirement Plan shall be entitled to be continued under the County’s group health insurance plan by paying a percentage of the premium based on years of service. Any employee who exercises his/her right to continue under said group policy as stated in this provision, shall be required to pay his/her share of the cost of such insurance coverage to the County Treasurer at least thirty (30) days prior to the date of the insurance premium. Such retired employees are also required to purchase the Medicare Part B plan for themselves and their spouse, when the employee and/or spouse is age sixty-five (65). The following premium requirements apply to all current and future retirees.

Over 25 years of service	5%
20, 21, 22, 23, 24 years of service	10%
15, 16, 17, 18, 19 years of service	20%
10, 11, 12, 13, 14 years of service	25%
5, 6, 7, 8, 9 years of service	40%
1, 2, 3, 4 years of service	50%

The above contribution rates do not apply to employees on long term disability, who will be required to contribute 10% until normal retirement age, regardless of length of service. Employees who begin receiving a long term disability benefit on, or after, January 1, 2006, will be required to contribute 15% until normal retirement age,

regardless of length of service.

Effective with the ratification of the 2005-2006 contract any employee retiring under the Wisconsin Retirement Plan shall be entitled to be continued under the County's group health insurance plan by paying a percentage of the premium based on years of service. The following premium requirements apply to all employees retiring on or after the ratification of the 2005-06 contract. The other provisions specified above continue to apply.

25 years & over of service	5%
20, 21, 22, 23, 24 years of service	10%
15, 16, 17, 18, 19 years of service	20%
10, 11, 12, 13, 14 years of service	25%

After the ratification of the 2005-06 contract, employees retiring with less than 10 years of service will not be eligible for County retirement insurance.

Effective January 1, 2015 any employee retiring under the Wisconsin Retirement Plan shall be entitled to be continued under the County's group health insurance plan by paying a percentage of the premium based on years of service. The following premium requirements apply to all employees retiring on or after January 1, 2015. The other provisions specified above continue to apply.

25 years & over of service	5%
20, 21, 22, 23, 24 years of service	10%
15, 16, 17, 18, 19 years of service	20%

After January 1, 2015 employees retiring with less than 15 years of service will not be eligible for County retirement insurance.

The pertinent provisions of the 2005-2006 Human Services unit agreement read as follows.

23.02 Effective January 1, 1989, any employee retiring under the Wisconsin Retirement Plan shall be entitled to be continued under the County's group health insurance plan by paying a percentage of the premium based on years of service. Any employee who exercises his/her right to continue under

said group policy as stated in this provision, shall be required to pay his/her share of the cost of such insurance coverage to the County Treasurer at least thirty (30) days prior to the date of the insurance premium. Such retired employees are also required to purchase the Medicare Part B plan for themselves and their spouse, when the employee and/or spouse is age sixty-five (65). The following premium requirements apply to all current and future retirees.

Over 25 years of service	5%
20, 21, 22, 23, 24 years of service	10%
15, 16, 17, 18, 19 years of service	20%
10, 11, 12, 13, 14 years of service	25%
5, 6, 7, 8, 9 years of service	40%
1, 2, 3, 4 years of service	50%

The above contribution rates do not apply to employees on long term disability, who will be required to contribute ten (10%) percent until normal retirement age, regardless of length of service. Employees who begin receiving a long term disability benefit on, or after, January 1, 2006, will be required to contribute 15% until normal retirement age, regardless of length of service.

Effective with the ratification of the 2005-2006 contract any employee retiring under the Wisconsin Retirement Plan shall be entitled to be continued under the County's group health insurance plan by paying a percentage of the premium based on years of service. The following premium requirements apply to all employees retiring on or after the ratification of the 2005-06 contract. The other provisions specified above continue to apply.

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20, 21, 22, 23, 24 years of service	10%
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10, 11, 12, 13, 14 years of service	25%

After the ratification of the 2005-06 contract, employees retiring with less than 10 years of service will not be eligible for County retirement insurance.

Effective January 1, 2015 any employee retiring under the Wisconsin Retirement Plan shall be entitled to be continued under the County's group health insurance plan by paying a percentage of the premium based on years of service. The following premium requirements apply to all employees retiring on or after January 1, 2015. The other provisions specified above continue to apply.

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20, 21, 22, 23, 24 years of service	10%
15, 16, 17, 18, 19 years of service	20%

After January 1, 2015, employees retiring with less than 15 years of service will not be eligible for County retirement insurance.

DISCUSSION

The Public Works Unit Award. In an Award issued subsequent to the hearing in the present cases, covering the bargaining unit in the County's Department of Public Works represented by Teamsters Local No. 43 (INT/ARB-10963, Case 226, No. 67094), Arbitrator Andrew M. Roberts selected the final offer of the labor organization. The Final Offers in that matter were substantially identical to the Final Offers in the present cases.

Arbitrator Roberts concluded as follows.

Given that: (1) the wage rate does not favor either party, (2) an internal settlement pattern has not been established, and most importantly, an adequate justification for the county's proposed change in the retiree health insurance premium payment has not been demonstrated (particularly given the recent changes the parties have entered into to address health insurance premiums), I find the union's Final Offer is more reasonable.

The Parties' Positions on Retiree Healthcare Benefits Item. The County emphasizes that its proposal respecting retiree health insurance benefits would not affect current retirees and urges that its prospective impacts, while not presently calculable as to savings, are warranted on the basis of "fairness and future savings." The fairness attributed to this proposal by the County derives from the likelihood that, unless this proposal is adopted, future retirees will pay lower shares of the premiums than active employees. The County also urges that certain recently

imposed accounting standards treating deferred benefits as liabilities require the savings effected by its proposal.

The Union makes the following arguments regarding this proposal. The financial saving effectuated by this proposal cannot be calculated. This undermines the County's professed concerns respecting new accounting standards for deferred benefits. It is also important to note that addressing rising health care costs, including insurance costs, has been an objective of both the County and the Union in recent years; and that significant revisions effectuating savings for the County have been agreed upon. Moreover, given the aforesaid Award in the Department of Public Works arbitration, it would not be sound practice to provide differently as to this benefit in the present bargaining units.

The Union also argues that it would be inconsistent with general arbitral doctrine to reduce a benefit unless it is necessary to resolve a compelling need, and is accompanied by a proportional quid-pro-quo; and that such a need is not demonstrated in this instance as to either savings or fairness.

Analysis and Conclusions. While the undersigned Arbitrator is not compelled by law or doctrine to follow the Award of Arbitrator Roberts, and one award does not constitute a pattern, the Roberts Award does present a strong internal comparable and the provisions in issue are such as should be consistent employer-wide. It is also concluded, as in the Roberts Award, that the parties' history of addressing healthcare benefits in negotiations is a significant basis for not resolving this item by arbitration. Clearly, the costs of such benefits must be disciplined in the current environment; but to do so by arbitration, without due respect for the quid-pro-quo doctrine; and to effect an undetermined savings and its accounting; are not grounds upon which the undersigned would adopt the County's Final Offer.

This conclusion is grounded on the criterion for rendering awards at Sec. 111.70(4)(cm)7.r.j. of the Municipal Employment Relations Act which provides for, "Such other factors...which are normally or traditionally taken into consideration in the determination of wages, hours and working conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or private employment."

The Wage Rate Increase Offers. Inasmuch as the Roberts Award addresses a bargaining unit comprised of employees in classifications other than those pertinent herein, its examination of the wage rate issues, particularly as to external comparables, has limited relevance. On the other hand, as indicated above, although a single award does not represent a pattern, it does provide a material internal comparable. Another significant consideration specified in Arbitrator Roberts' conclusions is whether in the present cases "the wage rate does not favor either party."

The parties' offers arrive at the same levels by the last three months of the contract. The Union contends that by its "meager and sporadic" increments the County's offer provides insufficient increases, however.

The Union proposes two 3% wage rate increases and contends that while the County budgeted for two 2% increases, it is actually offering less. It urges that the “employees are coming off of an effective wage freeze while coping with skyrocketing inflation,” and that, “the County’s argument (as to its fiscal limitations) lacks merit because it has not claimed the need to raise taxes and has not claimed an inability to pay.” Rather, the Union asserts, the County simply prefers to limit its labor costs.

On the other hand, the County emphasizes that its proposed increments result in savings of approximately \$186,000.00 in the Courthouse unit and \$209,600.00 in the Human Services unit. It calculates its offer as 2% for each year, with a resultant increase of 4% by the contract’s end. It notes that it has reached a voluntary settlement of 2% per year with the representative of the attorneys’ bargaining unit, and has determined to provide increases of 2% on July 1, 2007 and July 1, 2008 to unrepresented and management employees. The County emphasizes that its offer coincides with its budgeting for the years in question and that, due to legal constraints on revenue increases, if the Union’s Final Offer is adopted “the additional cost will have to be covered through reduced staffing or other cuts in expenses.”

The County rejects the Union’s “wage freeze” characterization. These employees received one 2% and two 1% minimum increases during the term of the preceding agreement. It replies to the matter of the cost of living by attributing the increase mainly to the volatile price of petroleum. It contends that similar employees of the comparable counties have not fared better in terms of wage increases than would the instant employees under the County’s Final Offer. As to its fiscal limitations the County reiterates that if the Union’s Final Offer is adopted, the County “will have a shortfall between what was budgeted and the actual cost of the award.”

The Union emphasizes that the attorneys’ unit is comprised of fewer and higher paid employees who are salaried. It also contends that comparable employees in the agreed-upon comparable counties (Kenosha, Walworth, Rock and Waukesha) received higher wage rate increases than the County is proposing, and that some of those employees are paid at higher rates than the instant employees.

Analysis and Conclusions. Because, as indicated above, the Arbitrator prefers the position of the Union regarding retiree healthcare benefits, the remaining analysis was to determine whether the County’s position on wage increases was so preferable as to overcome this preference. The factors prescribed as criteria in rendering awards at Section 111.70(4)(cm) of the Municipal Employment Relations Act have been duly considered

With particular reference to a number of the aforesaid statutory criteria, the judgement of the Arbitrator is as follows. There is stress on the finances of the County, as there is on most municipal employers, but the evidence does not indicate that these stresses are especially acute in the County; and the record does not reveal that any State law or directive will be violated by selecting the Union’s offer. Likewise, the record does not indicate that general economic conditions in the County require the selection of the County’s offer. The fact that the County has

engaged in layoffs and position reductions does not *per se* disclose such economic conditions, as the County seems to argue.

The lawful authority of the County is not in issue herein, and no stipulations are material to this determination. As to the interests of the public and financial ability of the County to meet the costs of the Union's offer, the record does not specify any risk to the former and the latter has not been argued by the County.

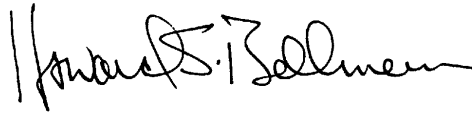
The comparisons that are specified among the statutory criteria, as also found by Arbitrator Roberts, do not strongly favor either offer. The internal comparisons are discussed above. The parties' debate over the calculation of increase percentages adds a confusing factor to the external comparisons. In the judgement of the Arbitrator, regardless of which party's method of calculation is applied, there are external comparisons that support both Final Offers, and neither Final Offer is compellingly preferable as a result of such comparison.

In summary, it is concluded that, applying the statutory criteria, neither party has presented such evidence or arguments as gives its wage rate increase offer materially greater support. Thus, the Arbitrator's preference for the Union's position on retiree healthcare benefits is determinative, and the Union's Final Offers are adopted.

AWARD

It is the decision and Award of the undersigned Arbitrator that the Final Offers of the Labor Organization should be, and hereby are, selected.

Signed at Madison, Wisconsin this 23rd day of January, 2009.

A handwritten signature in black ink, appearing to read "Howard S. Bellman". The signature is written in a cursive, somewhat stylized script.

Howard S. Bellman
Arbitrator