

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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BEFORE THE MEDIATOR-ARBITRATOR

JUN 1 1981

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Arbitration Between	*	Case XXII
MUSKEGO-NORWAY SCHOOL DISTRICT	*	No. 26964
	*	Decision No. 18334-A
and	*	MED/ARB-915
MUSKEGO-NORWAY CAUCUS	*	
UNITED LAKEWOOD EDUCATORS-WEST	*	OPINION AND AWARD

APPEARANCES:

For the Employer: Laurence E. Gooding, Esq.,
Quarles and Brady, Milwaukee

For the ULE: Larry L. Kelley, UniServ Director,
Lakewood UniServ Council
West, Milwaukee

BACKGROUND

On October 27, 1980, the Muskego-Norway School District (referred to as the Employer or School District) filed a petition with the Wisconsin Employment Relations Commission (WERC) pursuant to Section 111.70(4)(cm)(6) of Wisconsin's Municipal Employment Relations Act (MERA) to initiate mediation-arbitration. The School District and the Muskego-Norway Caucus, United Lakewood Educators-West, (referred to as ULE), had begun negotiations for a successor to their collective bargaining agreement which was to expire in 1980 but they failed to reach agreement on all issues in dispute. On December 19, 1980, following an investigation by a WERC staff member, the WERC determined that an impasse existed within the meaning of Section 111.70(4)(cm)(6)(a) and that mediation-arbitration should be initiated. On January 7, 1981, the undersigned, after having been selected by the parties, was appointed by the WERC as mediator-arbitrator to resolve the impasse. She met with the parties on February 12, 1981 in Muskego, Wisconsin to mediate the dispute. When mediation proved unsuccessful, she scheduled an arbitration meeting (hearing) for March 3, 1981 in Muskego, Wisconsin. Immediately prior to commencement of the scheduled arbitration meeting (hearing), the arbitrator was advised in writing by the ULE that it had been authorized to withdraw its final offer. Shortly thereafter the School District notified the arbitrator in writing that it had not withdrawn its final offer and that it intended to proceed to arbitration. Accordingly, the arbitration meeting (hearing) was held as scheduled on March 3, 1981 at which time both parties were given a full opportunity to present evidence and arguments. Briefs were subsequently filed with the arbitrator and exchanged.

ISSUE AT IMPASSE

The sole issue which remained unresolved is the 1980-1981 salary schedule. The Employer's final offer is annexed hereto as Appendix A and the ULE final offer is annexed hereto as Appendix B.

STATUTORY CRITERIA

In resolving this dispute, the mediator-arbitrator is directed by Section 111.70(4)(cm)(7) to consider and give weight to the following factors:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public employment in the same community and in comparable communities and in private employment in the same community and in comparable communities.
- e. The average consumer prices for goods and services, commonly known as the cost-of-living.
- f. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- g. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- h. Such other factors not confined to the foregoing which are normally and traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

POSITIONS OF THE PARTIES

The Employer

The School District supports its final salary offer primarily by pointing to comparability data from other districts. It also argues that its final offer is sufficient to keep pace with the increase in the "actual" cost of living, is consistent with past patterns of teacher salary increases and salary increases given recently to other District employees, and is in keeping with the present financial outlook and tax effort of the District.

In general there is agreement between the parties as to what constitutes comparable school districts. These include: Franklin, Greendale, Greenfield, Mukwonago, Oak Creek, Pewaukee, New Berlin, St. Francis, Whitnall, Hamilton, Watertown, and Kettle Moraine (Delafield).

Using this comparability data, the Employer concludes that implementation of its final offer would leave the District in the same relative position based upon comparisons of salaries on the Bachelor's track, Master's track, and Top track in each district. This maintenance of the status quo is in contrast to the ULE's offer which substantially improves the District's relative standing by "leapfrogging". In addition, the Employer asserts that its salary increases when translated into percentage increases are competitive with the comparables while again the ULE's are disproportionately large.

Further, the Employer explains that it deliberately developed its salary proposal (final offer) to assist those hardest hit by cost of living increases. Thus those at the lowest steps receive increases over 12% while those at the highest steps receive increases of approximately 9.3%. However, in dollar terms, the most experienced still received greater dollar increases than the next less experienced within the same track. This follows the practices incorporated into past collective bargaining agreements. Thus, the Employer's approach is in direct contrast to the ULE's approach which is an abrupt departure from past patterns.

In addition to comparability data from other districts, the Employer argues that its average increases of 10.35% (in contrast to the ULE's 13.23%) is in line with increases given, effective February 1981, to non teaching employees which ranged between 8.75% and 9.25%. According to Employer calculations, the difference in cost between the two final offers is \$133,000. However, implementing its own offer would result in an anticipated deficit of almost \$17,000. Even if the situation projected by the Employer is unduly pessimistic, implementation of the ULE offer would result in an anticipated deficit, according to Employer calculations.

Turning to the tax effort demonstrated by the Employer, it acknowledges that while in the past it has been low, yet it notes that in the past two years the rates have been significantly increased somewhere between 17 and 18.5%.

As to cost of living, the Employer rejects the ULE's use of the CPI. It urges use of the PCE (Personal Consumption Expenditures) which for 1979 puts the actual increase in the cost of living at 8% (in contrast to 13% CPI). The Employer believes the 1980 PCE figure would be at or below 8% since the January 1981 CPI was less than 13%.

The Employer concludes that, for all the above reasons combined with consideration of the radical and unjustified departure from past patterns of salary increases proposed by ULE, the arbitrator should select its final offer. No compelling circumstances have been presented by ULE to justify the new and substantial inequities created by the ULE's final offer, in the Employer's view.

ULE

The ULE disputes by testimony and in its brief the grim picture painted by the Employer of its fiscal situation. It believes that resources are available to fund the ULE proposal for 1980-81 and points out that, based upon 1979-80 information, the District (out of 11 districts listed) had the lowest per pupil cost, lowest equalized valuation, lowest required tax levy rates while it tied with Franklin for the highest state aids.

In addition, the ULE makes the following points:

- 1) the pupil/teacher ratio in Muskego-Norway is nearly one pupil above the state average and this should be taken into account in determining appropriate salaries;
- 2) even the selection of ULE's offer is within state controllable cost limits, according to testimony of the Superintendent of Schools;
- 3) the Employer has restored only a portion of the 4.4% cut challenged successfully before the Wisconsin Supreme Court;
- 4) ULE's salary proposal does not have a major impact on rank status with comparables;
- 5) financial projections by the Employer do not adequately take into account higher interest rates being earned currently by the District;
- 6) the ULE's offer establishes a more rational, smoother flowing pattern of increments than does the crazy quilt pattern produced by the Employer's final offer. While it does not overcome the problem of a very elongated salary schedule with numerous steps, ULE's final offer is a move in the right direction;
- 7) the CPI is the only authoritative measure; the PCE is an un-established, unaccepted measure;
- 8) even the ULE's proposal is insufficient when long term cost of living figures are considered, but it is a step in the right direction;
- 9) proper calculations of increased costs should be based upon real budget increases. Using this approach, the "real increase" is 8.2% for the Employer's package and 11% for the ULE's;
- 10) recent settlements in New Berlin, Franklin, and elsewhere support the ULE offer:

For all these reasons, the ULE believes that its offer is more reasonable and should be selected.

DISCUSSION

There is general agreement in this proceeding about one matter which is often in dispute in other arbitration proceedings. The parties basically agree as to what districts should serve as comparables. There are the usual disagreements as to how to calculate percentage increases. Using the returning staff (228 members), the Employer calculates average percentage increases to be 10.38% (median: 10.6%) and the average dollar increases to be \$1708 (median: \$1705) for its salary offer while it calculates the average increase of the ULE's offer to be 13.2% (median: 13%) and the average dollar increase to be \$2183 (median: \$2230). ULE believes in using actual budget figures which result in the lower figures noted above because the 1980-81 staff is less than the 1979-80 staff. There is agreement that implementation of the ULE offer will not result in exceeding cost control limits but there is vigorous disagreement as to the resources currently available to the District to finance the ULE's final offer.

The Employer argues that it has attempted to implement rational improvements to the salary schedule. The largest percentage increases have gone to those at beginning steps while maintaining some orderly progression of dollar raises. The ULE argues that this has resulted in a crazy quilt incremental pattern which is without rational basis while the ULE's incremental pattern is smoother flowing and more rational. It places appropriate value on education and experience, according to ULE. The Employer counters by pointing out problems with distribution of dollar raises for returning teachers mandated by the ULE offer; it produces excessive increases for a few (increases range from \$1400 to \$3490) in contrast to the Employer's offer where the spread is less drastic (from \$1350 to \$2200).

From the above, it is evident to this arbitrator that there are problems with the salary schedules proposed by both parties. In her judgment, while the ULE has offered justification for some restructuring and selected improvements beyond that incorporated into the School District's final offer for 1980-81, it has failed to justify the structural changes which it is proposing in view of the widely diverse and erratic dollar and percentage increases which it produces.

As might be anticipated, the parties vigorously disagree about the application of the statutory cost of living factor. The ULE relies upon the CPI to support its final offer while the Employer relies upon the PCE to support its offer. As this arbitrator has stated elsewhere, she believes that the PCE has not yet been sufficiently recognized to replace the CPI. However, while the CPI is still entitled to consideration, it must be used with caution in this particular period of economic change and instability. Accordingly, although the cost of living factor "tilts" toward the ULE's final offer, concerns about the structure and effects of the ULE proposed salary schedule expressed above as well as other factors leads to her selection of the Employer's offer. For example, the Employer's offer is in line with recent settlements and arbitration awards. Also there appears to be less "slack" in the School District's budget and fiscal projections than that envisaged by ULE's expert witness. All these reasons favor the Employer's final offer which will generally maintain the status quo for the 1980-81 school year.

It is fortunate that this arbitration covers the salary schedule for one year only. The arbitrator hopes that the parties will be able to utilize the negotiations process in the immediate future to develop a mutually acceptable salary structure and schedule for 1981-1982 and beyond that will contain some of the structural changes sought by ULE in this proceeding. This arbitration proceeding lacks the flexibility to provide a satisfactory answer to the parties' problems presented herein. The necessary "fine-tuning" must be left to future negotiations.

AWARD

Based upon full consideration of the evidence and arguments presented by the parties and due weight having been given to the statutory factors set forth in Section 111.70(4)(cm)(7) of MERA, the mediator-arbitrator selects the final offer of the Employer and orders that the Employer's final offer be incorporated into a written collective bargaining agreement as required by statute.

Dated: May 28, 1981
Madison, Wisconsin

June Miller Weisberger
Mediator-Arbitrator

PAY SCALE, ARTICLE VII

12/3/80

STEP	BACH.	BACH+15	BACH+35/ MASTERS	MASTERS +15	MASTERS +30
1	11,950	12,350	12,950	13,350	13,950
2	12,250	12,695	13,285	13,825	14,520
3	12,595	13,015	13,815	14,360	15,040
4	12,945	13,465	14,200	14,910	15,645
5	13,585	14,080	14,915	15,480	16,295
6	14,125	14,625	15,530	16,090	16,905
7	14,685	15,180	16,165	16,725	17,530
8	15,360	15,855	16,915	17,490	18,305
9	15,905	16,395	17,525	18,095	18,910
10	16,510	17,005	18,205	18,775	19,590
11	17,300	17,805	18,895	19,640	20,490
12	17,925	18,415	19,770	20,340	21,165
13	18,535	19,025	20,445	21,020	21,835
14	19,210	19,695	21,190	21,755	22,580
15	19,875	20,375	21,935	22,500	23,325
16	20,370	20,860	22,675	23,240	24,050
17	20,885	21,385	23,220	23,785	24,595
18			23,745	24,320	25,405
19					25,940

Appendix A

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10-4-80

2,

BR	BR+15	NR	BR+15	BR+15	
11.850	12.450	13.150	13.758	14.461	1
12.076	12.678	13.477	14.034	14.737	
12.302	12.904	13.704	14.310	15.013	2
12.528	13.130	13.930	14.587	15.290	
12.754	13.356	14.256	14.863	15.566	3
13.005	13.607	14.507	15.164	15.867	4
13.256	13.858	14.867	15.465	16.168	5
13.507	14.110	15.164	15.767	16.469	6
13.758	14.361	15.465	16.068	16.771	7
14.034	14.612	15.792	16.394	17.097	8
14.310	14.863	16.118	16.721	17.424	9
14.567	15.114	16.444	17.047	17.750	10
14.863	15.465	16.771	17.373	18.076	11
15.164	15.867	17.122	17.725	18.428	12
15.465	16.269	17.474	18.076	18.779	13
15.767	16.671	17.825	18.428	19.081	14
16.068	17.073	18.177	18.779	19.482	15
16.394	17.497	18.553	19.156	19.859	16
16.721	17.921	18.930	19.532	20.235	17
17.047	18.345	19.332	19.934	20.637	18
17.424	18.769	19.733	20.336	21.039	19
17.775	19.193	20.160	20.763	21.466	20
18.126	19.617	20.587	21.189	21.892	21
18.507	20.041	21.014	21.616	22.319	22
18.880	20.487	21.440	22.043	22.747	23
19.281	20.934	21.892	22.495	23.198	24
19.683	21.386	22.344	22.947	23.650	25
20.085	21.837	22.796	23.399	24.102	26
20.486	22.289	23.248	23.851	24.554	27
20.913	22.716	23.725	24.328	25.031	28
21.340	23.143	24.202	24.805	25.508	29
21.340	21.943	24.103	24.805	25.508	16
21.340	21.943	24.103	24.805	25.508	17

JK
12/4/80

Appendix B