

STATE OF WISCONSIN
BEFORE THE MEDIATOR/ARBITRATOR

FEB 12 1982

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In The Matter of the :
Mediation/Arbitration Between :
: BARRON COUNTY HIGHWAY DEPARTMENT : Case XXXIV
: and : No. 27451, MED/ARB 1022
: : Decision No. 18597-A
: BARRON COUNTY HIGHWAY EMPLOYEES, :
LOCAL 518, WCCME #40, AFSCME :

APPEARANCES:

Mulcahy & Wherry, S.C., by Mark L. Olson, appearing on behalf of the Barron County Highway Department.

Daniel J. Barrington and David Ahrens, District Representative Wisconsin Council #40, AFSCME, appearing on behalf of Barron County Highway Employees, Local 518, WCCME #40, AFSCME.

ARBITRATION HEARING BACKGROUND:

On May 7, 1981, the undersigned was notified by the Wisconsin Employment Relations Commission of appointment as mediator/arbitrator, pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act in the matter of impasse between the Barron County Highway Department, hereinafter referred to as the Employer, and the Barron County Highway Employees, Local 518, hereinafter referred to as the Union. Pursuant to the statutory requirements, mediation proceedings were conducted between the parties on July 30, 1981. Mediation failed to resolve the impasse. On that same day, an arbitration hearing before the mediator/arbitrator was held. At that time the parties were given full opportunity to present relevant evidence and make oral argument. The proceedings were not transcribed, but post hearing briefs and reply briefs were filed with and exchanged through the mediator/arbitrator, the last of which was exchanged on November 23, 1981.

THE ISSUES:

The parties remain at impasse on the issues of wages, health insurance, life insurance and longevity. The final offers of the parties appear attached as Appendix "A" and "B".

STATUTORY CRITERIA:

Since no voluntary impasse procedure was agreed to between the parties regarding the above impasse, the undersigned, under the Municipal Employment Relations Act, is required to choose the entire final offer of one of the parties on all unresolved issues.

Section 111.70(4)(cm)7 requires the mediator/arbitrator to

consider the following criteria in the decision process:

- A. The lawful authority of the municipal employer.
- B. The stipulations of the parties.
- C. The interests and welfare of the public and the financial ability of the unit of government to meet the cost of any proposed settlement.
- D. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings, with the wages, hours and conditions of employment of other employes performing similar services with other employes generally in public employment in the same community and in comparable communities and in private employment in the same community and 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 employes, 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 proceeding.
- H. Such other factors, not confined to the foregoing, which are normally or 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.

POSITION OF THE PARTIES:

Position of the Employer: Arguing its wage offer is the more reasonable, the Employer asserts its offer retains its leadership position and is supported by the comparables and by the settlement pattern within the area. The Employer contends its offer amounts to a 9.38% increase in wages while the Union's offer would result in an 8.79% increase in wages. It estimates the total cost for the Employer's offer is 10.28% and the total cost for the Union's offer would be 10.49%. The Employer states there are differences in the cost of the final offers and the reason for this is based on the inaccuracies which exist in the Union's method of costing. It states the Union has costed its proposal on the basis of 51 employees while the County has arrived at a figure on the basis of 73 employees. The Employer asserts the Union has excluded student employees which are part of the certified bargaining unit and must be included when the overall cost is estimated. The Employer also argues the Union has excluded the employees who have been laid off in the bargaining unit and the cost of these employees must also be calculated into the total cost. It contends when this is done, the appropriate

cost is the figure reflected by the Employer.

The Employer continues an analysis of the rates paid at certain benchmark areas within the bargaining unit demonstrates its employees consistently rank high within the comparable counties. It adds its offer retains the leadership position it has experienced in the past and improves the rank for some positions. In contrast, the Employer argues, the Union's offer causes certain employees to lose ground.

Finally, the Employer contends the settlement pattern within the area supports the reasonableness of the County's offer. It states the area average increase is 63¢ per hour and its offer at 60¢ per hour, except for the clerks, is more reasonable than the Union's proposal at 56¢ per hour.

The Employer argues the Union's offer on longevity is not justified. It states the Union has the burden of proof for establishing need and it has failed to do so.

The Employer argues it is important for the arbitrator to note that no other unit in the County has voluntarily negotiated a longevity provision into its agreement. It states the deputy sheriffs' bargaining unit has longevity, but it was the result of an arbitration award which was based on the need for "catch up" and not on the need for longevity. It continues the internal comparisons should carry more weight than the external comparables in this area.

As to insurance benefits, the Employer contends it has offered the employees benefits which are at the same level as all the other bargaining units. It states it has consistently attempted to maintain the same level of benefits for all its employees, thus its offer in this area should be the more reasonable one. Further, the employer argues allowing a percentage figure in the clause would necessitate a review of the overall benefits in order to maintain a reasonable benefit level, if rates were to increase. Thus, it is more reasonable to express the Employer contribution in dollar terms rather than a percentage.

Finally, the Employer argues its offer is closer to the national experience than that proposed by the Union. It states that when the Consumer Price Index is considered it must be viewed in light of the faults which have been recently recognized regarding this index. The Employer argues the Personal Consumption Expenditure Index is a more accurate measurement of the cost of living increase and thus, should be the cost of living index offers are measured against. It contends when this index is used, the Employer's total package offer is the more reasonable one.

In its reply brief, the Employer asserts the permanent classification question raised by the Union is not at issue between the parties. It takes exception to the inclusion of data pertinent to this issue as exhibits and argues the Union's position lacks relevancy to the matter at hand.

The Position of the Union: The Union states it seeks reasonable comparability and real wage protection in its final offer. It contends the insurance benefit which it seeks is clerical in nature and is merely whether the language should be expressed as a percentage figure versus full payment for the single individual expressed in dollars. In regard to this, the Union argues the percentage figure is

needed in order to provide reasonable protection to employees against a change in the cost of insurance. Further, it would provide greater incentive to the County to seek alternative carriers through competitive bidding should the cost of insurance continue to rise.

The Union declares it seeks the longevity benefit not only because it is a benefit enjoyed by the majority of surrounding counties at a lesser cost than the benefit enjoyed in surrounding counties, but because employees in the bargaining unit are not permanently classified nor have wage protection on a year round basis. It asserts its wage offer is lower and its total package offer is purposely kept low in order to provide a legitimate "buy out" for the longevity clause. Finally, it argues the longevity benefit is an industry standard in the area and thus should be granted to the employees.

In regard to the wage issue, the Union asserts the County's proposal, while not intentionally discriminating against women in the bargaining unit, has an adverse impact on the women employees within the unit since the Employer's offer is 60¢ per hour on those positions which are held by males and 50¢ per hour on those positions which are held by females. It continues the costing method employed by the County is a "flagrant" attempt to inflate the number of employees within the bargaining unit and thus, the cost of the proposals. It indicates the County has costed in student employees with no indication of when they were hired or their length of service and it has also added in the cost of employees which have been on long term layoff. It contends when these employees are added in, the cost is unnecessarily inflated.

Finally, the Union argues the package costs should not be weighed against the Personal Consumption Expenditure Index since that index is not an acceptable governmental standard nor has it been proven to be a sound index. The Union states it recognizes the Consumer Price Index has faults but it is still the prevailing standard and thus should be used. The Union continues the cost of living criteria provided within the statute does not require the arbitrator to choose either of the indices, but allows the arbitrator to evaluate offers by any standard which takes into account cost of living. It continues perhaps the standard should be an average between the indices. On this basis its offer is the more reasonable one.

DISCUSSION:

The parties agree the appropriate external comparables are Burnett, Chippewa, Dunn, Polk, Rusk, Sawyer, St. Croix and Washburn Counties. It is noted they are contiguous counties and share many of the same experiences. Additionally, the Employer contends internal comparables are also important. Since the parties do not differ on the external comparables, the undersigned will use those counties. The undersigned will also consider the internal relationships within the County.

Since the health insurance offer is essentially the same, the undersigned finds the crucial issues which will determine the outcome of this dispute are longevity and wages. The major difference between the parties on health insurance is the manner in which the Employer contribution towards the insurance is expressed. The Employer maintains the contribution should be expressed in a dollar figure while the Union seeks a percentage figure. In analyzing the manner in which such

contributions are expressed, it is noted the external comparisons slightly favor the Union's position. An examination of the contracts, together with the exhibits, indicates for single employees, the Employers are willing to pay either a percentage figure or "full payment" for the premium. Under family coverage, however, it is noted that only half of the comparable counties express their contributions towards the family premium as a percentage. Thus, on the basis of examining the external comparisons, the undersigned finds the Union's position is not unreasonable.

At the same time, however, it is important to consider the Employer's position relevant to the other bargaining units within the County. The Employer has made a consistent effort to maintain the same level of benefits for all bargaining units within the County and has done so generally through negotiated settlements. As stated before by this arbitrator in Barron County, and by other arbitrators in other disputes, considerable weight is given to the fact that an Employer is able to persuade its employees to adopt a uniform standard of benefits. Thus, while the external comparisons offset the internal comparisons, the undersigned holds internal comparisons are more appropriate as to maintenance of level of benefits and concludes the Employer's offer is more reasonable in this area.

The Employer's offer on wages is a slightly higher percentage than that sought by the Union. The Employer proposes to increase all rates specified in Article XXII by 60¢ per hour. In addition, the Employer offers 50¢ per hour for the Clerk I and Clerk II positions. The Union, on the other hand, seeks an increase of 56¢ per hour across the board. It is noted both parties entered into considerable discussion regarding the costing of the wage increases and the costing of the total package, but the undersigned finds little weight need be accorded to the cost argument. There is no question of inability to pay raised, the wage increase is not significantly different, and the total package cost differs less than a percent no matter which index is used to measure cost of living against. Thus, the undersigned finds the real wage increase is more important in this matter than the number of employees used to calculate the cost. The analysis of both proposals shows both offers are essentially the same. The only noticeable difference occurs under the Union's offer when among the comparables the patrolman's rank would drop one step. The drop amounts to a 2¢ per hour difference. In all other aspects, both proposals maintain rank among the comparable districts.

The Union's argument regarding the Employer's discrimination toward women by offering less money to the Clerk I and Clerk II positions is noted, but there is no showing by the Union that in fact the offer is a discriminatory one or that the offer results in any significant difference in compensation for clerks in Barron County relative to the comparable counties. Thus, the question remains which of the offers is more reasonable. The undersigned finds this is controlled by the determination of whether or not longevity should be included in the collective bargaining agreement.

As stated before, by this arbitrator in Barron County, when longevity is not a standard within the County, the undersigned is hesitant to award longevity to a Union without a demonstrated need for longevity or without other arguments

prevailing. The Union has presented no argument of "catch up" and the undersigned finds the classification argument not persuasive. If permanent classification is an issue, it should be an issue at the bargaining table. The Union should not attempt to circumvent the issue by attempting to achieve permanent compensation for employees through other means. The Union presented no proof that it has even attempted to address this issue.

In addition to no argument for "catch up", the Union has demonstrated no need, other than that comparable counties have the longevity benefit to persuade the undersigned that a longevity benefit should be included in the arbitration award. The Union argues it has purposely sought less compensation on the hourly wage rate in order to buy out the longevity provision which it feels is needed, yet the total differences between the offers is minimal. The Union states, and the evidence supports, all but one of the comparable counties has a longevity benefit. It is noted, however, through Union Exhibit 2, that at least three of the counties' units received the benefit in their last round of bargaining. Thus, it appears the comparables have only recently shifted in favor of the Union's position, and, the Union, in the future, may be more successful at the bargaining table.

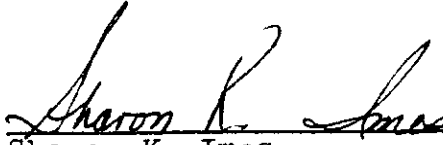
Normally, benefits such as longevity fall into the category of items which arbitrators feel should be achieved through bargaining and not through the arbitration process. In addition to this general belief by arbitrators, the internal comparisons indicate the Employer's position is more reasonable. Longevity, like other fringe benefits, is a benefit which is more appropriately compared internally. In this instance, when such comparisons are made, it is noted no other bargaining unit within the County has a longevity clause, except the deputy sheriffs' unit which achieved the benefit through arbitration. This arbitrator is of the belief that benefits secured through the arbitration process as part of a final offer which are not meritorious on their own do not provide a solid basis for arguing that similar benefits should be awarded in a second arbitration. Thus, the undersigned finds that since the Union has demonstrated no need for longevity, and since the internal comparisons continue to support the Employer's position, the Employer's offer is the more reasonable one.

As to the Union's position on life insurance, the undersigned finds this is a de minimis issue and determines it should be decided by the outcome of the other issues. Thus, having reviewed the evidence and arguments and after applying the statutory criteria and having concluded the Employer's offer is more reasonable on the issues of health insurance, wages, and longevity, the undersigned makes the following

AWARD

The final offer of the Employer, along with the stipulations of the parties which reflect prior agreements in bargaining, as well as those provisions of the predecessor collective bargaining agreement which remained unchanged during the course of bargaining, are to be incorporated into the collective bargaining agreement as required by statute.

Dated this 10th day of February, 1982, at La Crosse,
Wisconsin.



Sharon K. Imes
Mediator/Arbitrator

SKI/mls

APPENDIX "A"

Name of Case: BARRON COUNTY (HIGHWAY DEPARTMENT) XXXIV

The following, or the attachment hereto, constitutes our final offer for the purposes of mediation-arbitration pursuant to Section 111.70(4)(cm)6. of the Municipal Employment Relations Act. A copy of such final offer has been submitted to the other party involved in this proceeding, and the undersigned has received a copy of the final offer of the other party. Each page of the attachment hereto has been initialed by me.

3-31-81
(Date)

Mark L. Olson
(Representative)

On Behalf of: Barron County Highway Committee

BARRON COUNTY HIGHWAY DEPARTMENT

March 31, 1981

POSITION OF COUNTY

COUNTY BOARD OFFICER

5:06

OK-MLU

3/31/81

1. 1981 Salary: Increase all rates specified in Article XXII by Sixty Cents (60¢) per hour.
2. Health Insurance: Increase family contribution to \$80 per month; single contribution to be full premium, expressed as a dollar amount.
- 3 Full Retireability to family, etc.
4. All other items per stipulation, 3/31/81.

APPENDIX "B"

Name of Case: Basson County (Highway Dept) XXIV

The following, or the attachment hereto, constitutes our final offer for the purposes of mediation-arbitration pursuant to Section 111.70(4)(cm)6. of the Municipal Employment Relations Act. A copy of such final offer has been submitted to the other party involved in this proceeding, and the undersigned has received a copy of the final offer of the other party. Each page of the attachment hereto has been initialed by me.

3/31/81
(Date)

Manuel J. Serrano
(Representative)

On Behalf of: Basson County Highway Dept Employees
Local 518 UCCME, AFSCME, AFL-CIO

Union Final Offer

Submitted March 31, 1981

- ① Wages 56¢/hr across the board.
- ② Insurance 100% of single premium paid by employer
75% of family premium paid by employer.
- ③ Seniority
after 5 yrs 1¢/hr.
after 10 yrs 3¢/hr.
after 15 yrs 5¢/hr.
after 20 yrs 7¢/hr.
after 25 yrs 9¢/hr.
- ④ "Me too" clause for State Group Life Ins. if County offers it to any other unit it will be offered to the Highway Department employees
- ⑤ All other items as stated in the amended 3/31/81 stipulation
Retraction to Jan 1, 1981