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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN

BEFORE THE BOARD OF ARBITRATION

In the Matter of the Interest
Arbitration between

WISCONSIN COUNCIL OF COUNTY AND
MUNICIPAL EMPLOYEES, COUNCIL 40,
AFSCME, AFL-CIO

and

CITY OF LANCASTER

Appearances:

Mr. Jack Bernfeld, Council 40, Staff Representative, appearing on behalf
of the Union.

Melli, Shiels, Walker & Pease, S. C., Attorneys at Law, by Mr. Jack D.
Walker, appearing on behalf of the Employer.

ARBITRATION AWARD:

On June 17, 1982, the undersigned was appointed by the Wisconsin Employment Relations Commission as Mediator-Arbitrator in Case II, No. 28879, MED/ARB-1451, Decision No. 19649-A, pursuant to Section 111.70 (4)(cm) 6.b. of the Municipal Employment Relations Act, in the matter of a dispute existing between Wisconsin Council of County and Municipal Employees, Council 40, AFSCME, AFL-CIO, referred to herein as the Union, and City of Lancaster, referred to herein as the Employer. Pursuant to the statutory responsibilities the undersigned conducted mediation proceedings between the Employer and the Union on July 7, August 5, August 13 and August 19, 1982, over matters which were in dispute between the parties as they were set forth in their final offers filed with the Wisconsin Employment Relations Commission. During the course of the mediation phase of the proceedings, the parties resolved many issues which had been in dispute between them, however, eight issues remained unresolved at the conclusion of mediation on August 19, 1982. Thereafter, the parties agreed that a Voluntary Impasse Resolution Procedure be adopted as a substitute for the arbitration proceedings which would otherwise have been conducted pursuant to the order of the Commission dated June 17, 1982. On August 25, 1982, the parties' Voluntary Impasse Resolution Procedure was filed with the Wisconsin Employment Relations Commission, accompanied by a request of the parties that the Commission set aside the order appointing Mediator-Arbitrator which had previously been issued on June 17, 1982. The Voluntary Impasse Resolution Procedure of the parties reads:

1. A tripartite Board of Arbitration is established to resolve the remaining disputed issues. The Board of Arbitration consists of Joseph Melli, Employer designee to the Board of Arbitration, Robert Lyons, Union designee to the Board of Arbitration, and Jos. B. Kerkman, Chairman of the Board of Arbitration.

2. The jurisdiction of the Board of Arbitration is established so that the Board has authority to dispose of the disputed issues on an issue by issue basis, selecting either the position of the Union or the position of the Employer without modification on each issue. The issues over which the Board of Arbitration have jurisdiction will be as set forth in writing by Messrs. Bernfeld and Walker.

3. All issues which have been previously settled in the mediation phase of the Mediation-Arbitration proceedings which were conducted by Jos. B. Kerkman,

while he functioned as Mediator-Arbitrator pursuant to the order of the WERC dated June 17, 1982, are to be considered as stipulations of the parties which will be incorporated into their written Collective Bargaining Agreement.

4. The Board of Arbitration is to meet at 9:00 a.m. on Friday, September 3, 1982, at Wisconsin Employment Relations Commission offices in executive session. During said executive session the Board of Arbitration will consider and dispose of the remaining issues, issue by issue. In determining which party's issue is to be adopted, the Board of Arbitration will consider the following:

- a. Facts which became known to the Chairman of this Arbitration Board while functioning as Mediator-Arbitrator during the three and one-half days of mediation, except that prior offers of settlement are not to be considered;
- b. Any evidentiary type materials which either the Employer or Employee designee to the Board of Arbitration may furnish for consideration;
- c. The statutory criteria set forth at Wisconsin Statutes 111.70 (4)(cm) 7, under the heading factors considered.

5. The decision of the Board of Arbitration shall be reduced to writing and shall be final and binding on the parties. Any arbitrator may dissent from the majority position on an issue by issue basis.

6. The jurisdiction established by this Voluntary Impasse Resolution Procedure is for the purpose of resolving the instant dispute only. This Voluntary Impasse Resolution Procedure terminates after resolution of the dispute which arose in Case II, No. 28879, MED/ARB-1451, Decision No. 19649-A.

7. The fees and expenses of the Chairman of this Arbitration Board, both while acting as Mediator-Arbitrator pursuant to the Commission order dated June 17, 1982, as well as while serving as Chairman of the Arbitration Board, pursuant to this Voluntary Impasse Resolution Procedure, are to be split equally between the Employer and the Union.

Thereafter, pursuant to the parties' request, the Wisconsin Employment Relations Commission on September 2, 1982, issued an order setting aside the order appointing the undersigned as Mediator-Arbitrator. On September 3, 1982, the tripartite Board of Arbitration consisting of Joseph Melli, Employer designee to the Board of Arbitration, Robert Lyons, Union designee to the Board of Arbitration, and Jos. B. Kerkman, Chairman of the Board of Arbitration, met and considered the amended final offers of the parties which set forth fully each party's position with respect to the remaining eight disputed issues. During the executive meeting of the Board of Arbitration, the Board of Arbitrators discussed and considered the facts surrounding the disputed issues; evidentiary materials submitted by the employer and employee designees to the Board of Arbitration; and in said discussion applied the statutory criteria set forth at Wis. Stats. 111.70 (4)(cm) 7. At the conclusion of the executive meeting of the Board of Arbitration the partisan arbitrators waived any right to participate in the signing of the written opinion of the Chairman of the Board of Arbitration. Pursuant to the foregoing understandings, after considering all of the facts and evidence, and in light of the statutory criteria set forth at Section 111.70 (4)(cm) 7, and for the reasons fully discussed by the arbitrators at the executive meeting of the Board of Arbitration on September 3, 1982, the Board of Arbitration now makes the following:

AWARD

1. All issues which had previously been settled in the mediation phase of the Mediation-Arbitration proceedings which were conducted by Jos. B. Kerkman, while he functioned as Mediator-Arbitrator pursuant to the order of the Wisconsin Employment Relations Commission dated June 17, 1982, are to be considered as stipulations of the parties which will be incorporated into their written Collective Bargaining Agreement.

2. With respect to the eight disputed issues before the Board of Arbitration, the Board of Arbitration awards as follows:

a. FAIR SHARE - DUES CHECKOFF

The final offer of the Union as set forth in its amended final offer of August 30, 1982, is awarded on this issue.

b. GRIEVANCE PROCEDURE

The final offer of the Union as set forth in its amended final offer of August 30, 1982, is awarded on this issue.

c. DISCIPLINE AND DISCHARGE

The final offer of the Employer as set forth in its amended final offer of September 2, 1982, is awarded on this issue.

d. SENIORITY (Layoff and Recall)

The final offer of the Employer as set forth in its amended final offer of September 2, 1982, is awarded on this issue.

e. JOB POSTING

The final offer of the Union as set forth in its amended final offer of August 30, 1982, is awarded on this issue.

f. HOLIDAY PAY

The final offer of the Union as set forth in its amended final offer of August 30, 1982, is awarded on this issue.

g. SICK LEAVE - VACATION

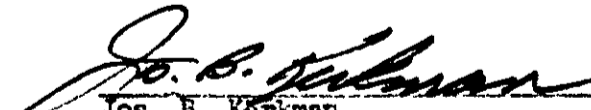
The final offer of the Employer as set forth in its amended final offer of September 2, 1982, is awarded on this issue.

h. CONTRACT ENFORCEMENT RIGHTS - POST EXPIRATION DATE

The final offer of the Employer as set forth in its amended final offer of September 2, 1982, is awarded on this issue.

The foregoing items as set forth above are to be incorporated into the parties' written Collective Bargaining Agreement which becomes effective January 1, 1982, and remains in full force and effect to and including December 31, 1983.

Dated at Fond du Lac, Wisconsin, this 10th day of September, 1982.



Jos. B. Kerkman,
Chairman, Board of Arbitration

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

 In the Matter of the Petition of :
 :
 WISCONSIN COUNCIL OF COUNTY :
 AND MUNICIPAL EMPLOYEES, :
 COUNCIL 40, AFSCME, AFL-CIO : Case II
 : No. 28879 MED/ARB-1451
 To Initiate Mediation-Arbitration : Decision No. 19649-B
 Between Said Petitioner and :
 :
 CITY OF LANCASTER :
 :

ORDER SETTING ASIDE APPOINTMENT OF
MEDIATOR-ARBITRATOR

The Wisconsin Employment Relations Commission having, on June 4, 1982 issued an Order requiring that mediation-arbitration be initiated for the purpose of resolving the impasse arising in collective bargaining between Wisconsin Council of County and Municipal Employees, Council 40, AFSCME, AFL-CIO and the City of Lancaster on matters affecting wages, hours and conditions of employment of all regular full-time and regular part-time employees in the city crew, parks, sewerage plant, and cemetery departments; and on the same date the Commission having furnished the parties a panel of mediator-arbitrators for the purpose of selecting a single mediator-arbitrator to resolve said impasse; and the Commission having, on June 15, 1982, been advised that the parties had selected Jos. B. Kerkman, Fond du Lac, Wisconsin, as the mediator-arbitrator; and the Commission having on June 17, 1982 issued an Order appointing Jos. B. Kerkman as the mediator-arbitrator; and the parties having subsequently requested that the Order Appointing Mediator-Arbitrator be set aside by the Commission and having filed a Voluntary Impasse Resolution Procedure with the Commission pursuant to Sec. 111.70(4)(cm)(5) Stats.; and the Commission being satisfied that the Order Appointing Mediator-Arbitrator should be set aside;

NOW, THEREFORE, it is

ORDERED

That the Order appointing Jos. B. Kerkman as mediator-arbitrator in the above-entitled matter be, and the same hereby is, set aside.

Given under our hands and seal at the City of
Madison, Wisconsin this 2nd day of September, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Gary L. Covelli /s/
Gary L. Covelli, Chairman

Morris Slavney /s/
Morris Slavney, Commissioner

Herman Torosian /s/
Herman Torosian, Commissioner