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WISCONSIN EMPLOYMENT RELATIONS COMMISSION
BEFORE THE MEDIATOR-ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Arbitration Between *

MANITOWOC COUNTY HIGHWAY DEPARTMENT *
EMPLOYEES, LOCAL 986, WCCME, AFSCME, *
AFL-CIO *

and *

MANITOWOC COUNTY (HIGHWAY DEPARTMENT) *

Case CXXXI
No. 29309
Decision No. 19942-A
MED/ARB-1560

OPINION AND AWARD

APPEARANCES:

For the Union: Michael J. Wilson, District Representative,
Wisconsin Council 40, AFSCME, AFL-CIO, Manitowoc.

For the County: Edward J. Williams, Esq., Mulcahy & Wherry, Oshkosh.

BACKGROUND

On February 15, 1982, the Manitowoc County Highway Department Employees, Local 986, WCCME, AFSCME, AFL-CIO (referred to as the Union) filed a petition with the Wisconsin Employment Relations Commission (WERC) requesting that the Commission initiate Mediation-Arbitration pursuant to Section 111.70(4)(cm) (6) of the Municipal Employment Relations Act to resolve a collective bargaining impasse between the Union and Manitowoc County (Highway Department) (referred to as Employer) concerning a successor to the parties' collective bargaining agreement which expired December 31, 1981.

On September 27, 1982, the WERC found that an impasse existed within the meaning of Section 111.70(4)(cm). On October 12, 1982, after the parties notified WERC that they had selected the undersigned, the WERC appointed the undersigned to serve as mediator-arbitrator to resolve the impasse pursuant to Section 111.70(4)(cm)(6)(b-g). A citizens' petition pursuant to Section 111.70(4)(cm)(6)(b) was filed with the WERC.

By agreement, the mediator-arbitrator met with the parties in Manitowoc, Wisconsin, on January 19, 1983 to hold the required public hearing and to mediate the above impasse. When no agreement was reached in mediation, the arbitration hearing was held the same evening. At the arbitration hearing both parties were given a full opportunity to present evidence and arguments. Post hearing briefs were filed by both parties. The County also filed a reply letter.

ISSUE PRESENTED

STATUTORY CRITERIA

Under Section 111.70(4)(cm)(7) the mediator-arbitrator is required to 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 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.

POSITIONS OF THE PARTIES

The Union

The two main grounds relied upon by the Union to support its final offer are: (1) the Union's final offer provides a percentage increase for the average bargaining unit employee identical to increases already granted unilaterally by the County to supervisory/managerial employees of the Highway Department, and (2) the Union's final offer is in line with already agreed to wage increases for other unionized employees of the County. The Union calculates that its 1982 wage offer represents an 8.5% increase and the County's 1982 wage offer represents an 8% increase. It notes that fringe benefits for bargaining unit employees are substantially similar to fringe benefits for all other County employees (whether represented or not) in such areas as health insurance, life insurance, vacations, sick leave, holidays, longevity, overtime, leaves of absences, etc. While there are certain differences as to shift and holiday premiums, clothing and tool allowances, educational pay credits, and County contribution toward the employee's retirement contribution share, the Union concludes that differences relating to these benefits, including the differing employee share retirement contribution, have a minimal cost impact from employee group to employee group, particularly since the major cost for group health insurance is uniform for all employee groups.

The Union challenges the Employer's cost calculations on a number of different grounds. First, the Union believes that the County is incorrect in its costing since bargaining unit attrition was not taken into account and errors were made in calculating changing employee classifications. Second, the Union believes that the Employer, although entitled to some "credit" for agreed upon

bargaining unit reclassifications, incorrectly added the full costs for these reclassifications into its costing of the final wage offers. Third, the Union believes that bargaining unit members should not be "penalized" for a dramatic 1982 increase in health insurance premiums since the main reason for substantially lower health insurance costs in the past was "outstanding claim experience" and the main reason for escalating 1982 costs was the County's unilateral change in insurance arrangements. Finally, the Union argues that the County's cost calculations did not take into account the varying nature of overtime and sick leave payments from year to year.

In general, the Union does not believe that comparability data is very helpful in this proceeding because there is a real problem of equating job classifications from county to county and from county to city based upon differing staffing patterns and work responsibilities. However, the Union notes that all AFSCME bargaining units in the City of Manitowoc, the City of Two Rivers and the School Districts of these two cities received at least an 8 1/2% wage increase. It also argues that it is willing to use all of the County's comparables plus Winnebago and Door Counties. However, if there is to be some limitation of this enlarged grouping of comparables, the pool of comparables should be restricted to the counties adjoining Manitowoc (Sheboygan, Calumet, Brown and Kewaunee). It believes that comparability data supports the Union's offer.

Addressing the cost of living factor, the Union argues that the appropriate figure is 8.5%, the 1981 BLS Non-Metro Urban Area (CPI-W) rate for the North Central United States. While the traditional CPI measurement may be subject to some criticism, the Union believes that the County failed to justify the use of a different measure (such as PCE) in this proceeding.

In conclusion, the Union notes that the County's arguments supporting its final offer depend in large measure on the state of the economy in Manitowoc County including the high unemployment rate, wage concessions, and a decrease in production of durable goods. It notes, however, that these economic facts should adversely effect all County employees, not merely Highway Department bargaining unit members. Since Highway Department non-represented supervisors and managers and other County employees already have received 1982 increases averaging at least 8.5%, then equity requires similar treatment for bargaining unit members of the Highway Department.

The County

The County begins by noting the limited nature of this dispute and highlights the differing costs of the parties' final offers. The County's costing of the final offers differs from that of the Union, however. By including costs for agreed-upon reclassifications, the County calculates the Union's wage offer to be 8.7% and its own final wage offer as 8.2%. Looking at the total package costs (including health insurance premium increases as well as mandated roll-ups), the County calculates the cost for the Union's final offer to be 10.3% and the cost for its offer to be 9.8%.

The County then contends that six of the eight statutory criteria (listed above) support its final wage offer in this proceeding. First, the County claims that the "interest and the welfare of the public" favors the County's position. The County notes that not only the nation generally but Manitowoc County specifically is experiencing deteriorating economic conditions and economic hardship. This is true because industry in Manitowoc County mostly manufactures durable goods. Local county businesses have suffered a decline with a corresponding decrease in the work force and reductions in pay for many remaining members of the work force. The unemployment rate in the County is substantially above that of the state and nation. In fact, the County has been designated a "labor surplus area" since for the past two years, the County's unemployment level exceeded the national average by 20%. Moreover, according to a County survey, the average 1982 wage increase for private sector employees was 5.62%. Also, on the agricultural side of the County's economy, farm prices and income have dropped substantially. Since Manitowoc County's 1982 tax levy increased by 43.3%, the

highest percentage increase in the state, the County concludes that its offer herein of 8.2% (9.8%) strikes a responsible balance between the public interest and the needs of the members of this bargaining unit.

Second, the County believes that its offer is more reasonable because it exceeds the increase in the cost of living. Utilizing third quarter 1982 CPI-U (national Consumer Price Index for All Urban Consumers), CPI-W (national Consumer Price Index for All Wage Earners and Clerical Workers), and PCE (Personal Consumption Expenditure Index) data, the County underscores the point that its offer significantly exceeds any of these accepted cost of living measurements.

Third, the County points to wage increases received by private sector employees in Manitowoc County and notes that its final offer significantly exceeds these private sector increases.

Fourth, the County looks at its treatment of other unionized County employees where there have been 1982 settlements (Courthouse, Social Service, Park Lawn Nursing Home, and the Nurses units) and notes that its wage offer herein for Highway Department employees substantially equals the average wage increase for other units (8.18% for Social Service unit members, 8.22% for Courthouse unit members, 8.28% for Park Lawn Nursing Home unit members and 8.26% for the Nurses unit). Also looking at the cents per hour increase for the various County bargaining units, the County points out that its final offer to the Highway Department employees exceeds the cents per hour increase for all other units except the Nurses. This latter point is not only true for 1982 but is also true for increases from 1979 on. For the County, these favorable monetary increase comparisons are more important than theoretical average percentages (citing Arbitrator Gundermann in a January 1982 decision, Waukesha County Technical Institute).

As for the Union's argument that the County has inequitably granted higher increases than its final offer herein to supervisory employees of the Highway Department, the County responds that this apparent special treatment for supervisory/managerial personnel was due to the fact that this management level does not receive overtime compensation, that a narrowing of wage differentials is undesirable, and that, overall, from 1980 through 1982, management personnel received increases which substantially conformed to increases received by bargaining unit members during the same time period.

Fifth, the County points to comparable public employees elsewhere to justify its final offer. Based upon geographic proximity, population and unit size, equalized value and full value tax rate, and per capita income, the County selects the following nine county highway departments and two city departments of public works: Brown, Calumet, Dodge, Fond du Lac, Kewaunee, Outagamie, Ozaukee, Sheboygan, and Washington counties and the cities of Manitowoc and Two Rivers. Using these comparables, the County argues that its final offer providing increases ranging from 7.7% to 8.14% is more in line with existing wage increases in the public sector than is the Union's. The County notes that its offer exceeds average hourly increases in all positions (except Foreman) and maximum hourly rates in 1982 (as well as 1981) (based on the County's 1982 final wages offer) compare favorably with the figures in the comparable counties and cities. This conclusion is also valid when fringe benefits received by Manitowoc County Highway employees are compared with fringe benefits received by employees in the comparable counties and cities. Thus the County concludes that the level of total compensation found among the appropriate comparables supports the County's final offer.

For all of the aforementioned reasons, the County concludes that its offer is the more reasonable one and should be selected.

DISCUSSION

There is only a single area of dispute in this arbitration proceeding: the parties are four cents an hour apart in their final offers to increase the hourly rates for Class Grades II through V by a fixed flat sum (62 cents versus 66 cents). In percentage terms, the difference between the parties amounts to approximately one-half a percentage point. In dollars, according to the County's costing method, the wage differences (without roll-ups) amounts to approximately \$8000 including reclassification costs. The Union's approach would consider bargaining unit attrition and exclude at least a part of the costs for reclassifications which would significantly reduce that total cost. These facts which indicate a relatively narrow difference between the parties have the potential for serving as the basis for a voluntary settlement. Unfortunately, each party believes that its position in this arbitration proceeding is supported by an important principle. For the Union, obtaining an increase which is substantially similar to increases already received by Highway Department supervisory/managerial employees, other represented County employees, and external comparables (particularly AFSCME represented units in the cities of Manitowoc and Two Rivers and the Boards of Education of those two cities) is its guiding principle. The Union concentrates on an average salary increase percentage of 8.5% as the correct figure unit members are "entitled" to receive.

For the County, viewing many local manifestations of widespread unemployment, significant contraction of the private sector and an unprecedented 1982 tax increase of 43.3%, it appears critical to "draw a line" and not voluntarily agree to any amount which it believes to be in excess of its own 1982 settlements. Given the economic times, it views its offer calculated as a 9.8% increase over 1981 wage and benefit costs as exceedingly generous. Thus, there is little "give" in the parties' positions despite the fact that the economic differences separating them are comparatively small.

The Union believes itself particularly aggrieved in this proceeding because the County has already given an 8.5% raise for 1982 to the supervisory/managerial employees in the Highway Department. The Union believes that bargaining unit members merit similar treatment. Thus, the Union's final offer is for a 66 cents per hour increase for all bargaining unit members in Class Grades II through V. While the Union is correct in pointing out that these already granted 1982 increases tend to undercut significantly County arguments emphasizing a serious economic crisis facing County government presently, the County is correct in noting that supervisory/managerial employees may deserve special treatment for several reasons including recognition of the fact that, unlike bargaining unit members, they do not receive overtime compensation and, historically in Manitowoc County, they have received lesser wage increases than these bargaining unit members. Nevertheless, while there may be multiple reasons to justify an 8.5% increase for 1982 for County Highway Department's management personnel, this particular County action detracts from the County's appeal to other of its employees (such as the Highway employees in this bargaining unit) to "settle for less" in view of existing bad economic times.

Other considerations must be examined to determine the outcome in this proceeding, particularly arguments relating to external comparisons (similarly situated public employees in comparable communities), changes in the cost of living, and internal Manitowoc County comparables.

Both parties presented some evidence in this proceeding relating to comparable wages and (sometimes) comparable fringe benefits for other public employees they believed to be in comparable circumstances or in some other way relevant to the wage dispute in this proceeding. Comparability data of this type is normally very important, often determinative, in an interest arbitration case such as this one. Unfortunately, the record in this proceeding relating to external comparables is not sufficiently complete to permit the undersigned to utilize the evidence in any

significant manner. This is primarily because no evidence was presented in the form of job descriptions or other related testimony to establish that various job titles were standardized or substantially equivalent. It is well known that employees of different employers may share a common job title but may be required to perform very different job duties and may possess very different job qualifications. Close scrutiny of the evidence presented did not establish clearcut patterns favoring either the Union's final offer or the County's final offer. In addition, the Union presented comparability data as to 1982 wage increases (ranging from 8 1/2% to 9 1/2%) for AFSCME represented units in the cities of Manitowoc and Two Rivers and the Boards of Education of these two cities. The Union did not establish, however, that these were units containing employees who are similarly situated to members of this bargaining unit or that the data submitted represented patterns of settlement which merited special weight in this proceeding under the statutory standards.

Turning to the cost of living factor and the data presented by both parties in this proceeding, there are additional difficulties. The Union emphasizes the 1981 CPI-W figure for the North Central United States, 8 1/2%, presumably because this is the most relevant figure for a labor contract which commences January 1, 1982. The County believes that this is the wrong figure to utilize. The County's data includes CPI-W (U.S. City Average) from December 1980 to November 1982, CPI-U (U.S. City Average) from December 1980 to November 1982, and the PCE from the first quarter 1980 to third quarter 1982. The County is correct that relevant cost of living figures favor its final offer herein, regardless of which index is used, because the appropriate comparisons must be made with the total package costs of the parties' offers, not merely the wage increase percentages standing alone. Even using the Union's 1981 figure of an 8.5% CPI increase, the cost of living factor favors the county's offer when the total package increase is examined (County - 9.8%; Union - 10.3%). However, although cost of living data favors the County's final offer, another relevant factor, internal comparability, must be considered before a final decision may be made determining the outcome of this proceeding.

Particularly where there are defects in external comparability data, data relating to internal comparability becomes a critical factor. As might be expected, the parties have reached very different conclusions on this issue. The Union believes its final offer is more in line with other 1982 County settlements because most positions, whether bargaining unit or not, received an increase in excess of 8.5%. Moreover, according to the Union, when the four year period, 1979-1982, is examined, the Union's final offer for 1982, if implemented, keeps Highway Department bargaining unit members more in line with other County employees (represented and non-represented alike) than will implementation of the County's final offer. (The Union concentrates upon wage data alone since fringe benefits for County employees, particularly health insurance, is substantially similar for all.)

On the other hand, the County calculates its 1982 wage offer (8.2%) as matching or exceeding 1982 increases for four County bargaining units (courthouse, Social Services, Park Lawn Nursing Home and Nurses). It notes that its offer in terms of cents per hour exceeds similar increases for other units (except for Nurses) and believes that this measure should be given special weight.

It appears to the undersigned after closely scrutinizing internal comparability data submitted by both parties that the Union's final offer is more in line with raises already granted by the County to its other represented and non-supervisory, non-represented employees. Both in its exhibits and in its brief, the Union has presented comprehensive, detailed data not just for 1982 but for a four year period.

included in some but not all County calculations (County Exhibit #62). No similar problems were evident in the Union's exhibits. Also, the County emphasized the reasonableness of its offer particularly as expressed in cents per hour increases for Highway Department bargaining unit members compared to the average cents per hour increases for other AFSCME represented employees (excluding Nurses) for 1982, and the average wage increases from 1979 to 1982. In this proceeding, the undersigned believes that it is more helpful to look at percentage increases instead of average or absolute cents per hour increases. While there may be some situations where the latter method is to be preferred, in this proceeding the undersigned believes that equity among similarly situated County employees may best be maintained by utilizing a percentage increase approach. Therefore, internal equity favors the Union's offer.

One more matter merits serious consideration. During this proceeding, the County produced much evidence and testimony regarding the economic plight of Manitowoc County, its high unemployment rate, major layoffs by local companies, wage freezes, and other economic difficulties faced by the taxpayers of Manitowoc County. Like many of her colleagues, this arbitrator is not unmindful of these serious financial strains in our economy generally and in Manitowoc County in particular. If the County had not already agreed to 1982 settlements with most of its represented employees and made 1982 wage adjustments for all its non-represented employees, the undersigned certainly would be bound to give great weight to these economic arguments. However, by making settlements that are within the range of the Union's final offer (according to Union exhibits), the County itself has signaled that other factors have been more influential. If other County employees, whether represented or not, have not been required to bear a proportionate share of current economic hard times, it is inequitable to expect this unit to shoulder a disproportionate share. If sacrifices are called for, a serious effort must be made to have all employees treated in a similar fashion.

Thus, although the cost of living factor and difficult economic times favor the County's final offer (particularly since escalating health care costs are properly included in any realistic costing of the parties' final offers), these factors are outweighed by internal equity considerations. Since the County is already paying most of its other represented and non-represented, non-supervisory employees 1982 wage increases which are consistent with the Union's final offer herein, the arbitrator concludes that the Union's offer is more reasonable.

AWARD

Based upon all the evidence and arguments presented by the parties, the discussion above, and the statutory factors set forth in Section 111.70(4)(cm)(7), the arbitrator selects the Union's final offer and directs that it be incorporated into a collective bargaining agreement along with all already agreed upon items.

Madison, Wisconsin