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STATE OF WISCONSIN JUN 20 1984

BEFORE THE ARBITRATOR

From: WEAC Collective Bargaining Division

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WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Voluntary Impasse Resolution Procedure of

MANITOWOC PUBLIC SCHOOL DISTRICT

and

MANITOWOC EDUCATION ASSOCIATION

Appearances:

Nash, Spindler, Dean & Grimstad, Attorneys at Law, by Mr. John Spindler, appearing on behalf of Employer.
Mr. Richard Terry, Executive Director, Kettle Moraine UniServ Council, appearing on behalf of Association.

ARBITRATION AWARD:

On March 8, 1984, the undersigned was advised that he had been selected to serve as Independent Arbitrator, pursuant to the terms of a Voluntary Impasse Resolution Procedure entered into by Manitowoc Public School District, referred to herein as the Employer, and Manitowoc Education Association, referred to herein as the Association. The Voluntary Impasse Resolution Procedure adopted by the parties provides for mediation/arbitration of an impasse resulting from a reopener of salary schedule only for the 1984-85 school year.

The Procedure of the parties provides that a staff mediator from Wisconsin Employment Relations Commission mediate the dispute and remain with the parties until he had resolved the dispute or obtained their final proposals which were turned over to the undersigned. The Procedure further provides that the parties meet with the undersigned on May 5, 1984, first to attempt to mediate the dispute, and in the event of mediation failure, to accept the final proposals of the parties and such testimony or written evidence they may have. The Procedure further provides that no further briefs be submitted by the parties subsequent to May 5, 1984, unless it was to correct erroneous data.

Pursuant to the foregoing Procedure, the undersigned met with the parties on May 5, 1984, at Manitowoc, Wisconsin, and proceeded to take evidence in arbitration hearing after the parties declined any mediation effort on the part of the

undersigned. At arbitration hearing on May 5, 1984, the parties were given full opportunity to present oral and written evidence and relevant argument. Both parties submitted trial briefs at hearing. No further briefs were filed in the matter, and hearing was closed at the conclusion of hearing on May 5, 1984.

The terms of the parties' Voluntary Impasse Resolution Procedure limits the undersigned's jurisdiction to the selection of the final offer of the Employer or the final offer of the Association.

THE FINAL OFFERS:

EMPLOYER FINAL OFFER:

1. WAGES

New Teacher Minimum	$ 17,000.		
1983-84 Salary $14,000.	17,500.	$ 7,840.	
1983-84 Salary $15,450. - $16,841.	18,000.	24,366.	
All Other 1983-84 Salaries Increase $1,000.		227,130.	
		$ 259,336.	= 4.4%

2. Part IV Fringe Benefits and Wages

18. Wages and Compensation (page 25)
Change A to read:

"The entry level wage for all new employees will be at the discretion of the Board and administration within the lowest and highest salary in Appendix A, but no new employee can be paid more than a current employee of the same degree and years of experience.

B. No changes in amount paid for Master's Degree.

ASSOCIATION FINAL OFFER:

1. *WAGES AND COMPENSATION* (Part IV, 18 A.) page 25

The entry level wage for a BA will be a minimum of $17,000.
The entry level wage for a MA will be a minimum of $18,800.
However, no new employee can be paid more than a current employee with the same degree and years of experience.

2. WAGES AND COMPENSATION (Part IV, 18 B) page 26

Change $1,100 to $1,500.

3. Wages attached.

DISCUSSION:

Both parties to the dispute focus their evidence and argument to the criteria set forth at Wis. Stats. 111.70 (4) (cm) 7. a through h. Neither party, however, submits evidence or argument with respect to all of the criteria. The undersigned, therefore, in considering which final offer to adopt, will consider the evidence and argument as it applies to the statutory criteria of the statute, based on the evidence and arguments submitted by the parties.

In addition to the amount of the salary increase on the teacher salary schedule, the parties are in dispute with respect to the entry level wage. In view of the significant differences in the parties' positions with respect to the basic salary increase on Exhibit A of the Collective Bargaining Agreement, the undersigned concludes that the dispute with respect to the entry salary will be resolved by the determination as to which basic salary offer should be accepted.

From the outset it should be noted that the salary appendix of the Collective Bargaining Agreement in this school district is atypical. There is no traditional teacher salary setting forth salaries to be paid at certain years of experience with the District and at certain levels of education. The undersigned, therefore, is unable to make any comparisons with other traditional teacher salaries among comparable districts. Association here has urged and argued that the salary schedules can be reconstructed based on increases that were negotiated from the time the last salary schedule existed. The undersigned rejects any attempts to reconstruct a salary schedule. Here the parties have voluntarily abandoned the traditional concepts of a teacher salary schedule through the process of collective bargaining. The undersigned concludes that it would be inappropriate to attempt to reestablish a salary schedule for comparative purposes, where the parties have voluntarily agreed to abandon those concepts. Consequently, the undersigned is unable in this matter to compare salary schedules among comparable school employers.

Association also argues that percentage increases be evaluated for comparative purposes at certain bench marks within salary schedules. The undersigned rejects the foregoing Association argument by reason of the conclusions reached in the preceding paragraph.

The Arbitrator, here, is faced with the decision as to whether to select an increase of 4.4% offered by the Employer, or 8.9% as offered by the Association. The undersigned has recalculated the percentages of increase, and finds that the Association proposal is actually 8.98%, whereas the Employer proposal is actually 4.35%. In terms of dollar increases, the Employer here has proposed new money in the amount of $259,336.00, assuming all teachers from the present year return for next year. The Association proposal carries a new money cost of $535,501.63, also assuming that all teachers from the present year return. Thus, the final offers of the parties leave them $276,165.63 apart. The question before the Arbitrator,

then, is which is the appropriate final offer, based on the criteria.

Association relies on the traditional criteria in teacher matters, i. e., the patterns of settlement among comparable school districts. Association concedes that the most comparable school districts to which the instant district compares are those of Fond du Lac, Green Bay and Sheboygan, however, none of these most comparable districts have settled their 1984-85 collective bargaining agreements. Therefore, based on the most comparable districts, the undersigned cannot make any comparison. Association, however, provides settlement data with respect to other surrounding school districts which they also consider to be comparable to the instant district. In its evidentiary presentation, Association presents the percentage of increases for wages only, as well as total package costs. The undersigned will consider only the percentage of wage increases in this matter, since this is a salary reopener only, and the parties are unable to bargain over other cost items in this reopened round of bargaining.

The evi dance shows that in the remaining comparables urged by the Association (Appleton, Menasha, Neenah, Two Rivers and West Bend), the percentages of increase for wages range from 6.35% in Two Rivers to a high of 8.7% in Menasha. Thus, the Association here submits a proposal of settlement which is two tenths percent higher than any other settlement on wages among the comparables; and is 2.63% over the wage settlement in the Two Rivers School District, a sister city to the instant Employer.

Employer here offers 4.35%, which is 4.35% below the highest settlement among the Association comparables (Menasha at 8.7%); and is 2% below the wage settlement in the Two Rivers School District.

Association Exhibit No. 34 establishes that the non-weighted average at the schedule maximum for the districts of Two Rivers, West Bend, Menasha, Neenah and Appleton is $1,929.00, representing a 6.6% increase at the schedule maximum. Association here proposes that the top salaries be increased by $1,875.00, representing an increase of 6.33%. Employer offers $1,000.00 at the top of the 1983-84 salary schedule, which represents an increase of 3.38%. The undersigned has concerns over this comparison, however, by reason of the manner in which the Association offer is formulated. The Association offer provides less increase at the top rates of the schedule than it does at the lower rates of the schedule.

The Association proposal proposes $1,875.00 which would affect 80.68 full time equivalent teachers; while it proposes $2,375.00 increase which would affect 161.19 full time equivalent teachers. By reason of the proposed increase of the Association, the undersigned finds that the top of the salary schedule comparisons are not persuasive. The undersigned considers the amount of increase proposed at the median step of the 1983-84 salary schedule to be more typical for analytical purposes. The median step of the 1983-84 schedule is $23,252.00. The Association proposes an increase of $2,375.00 at this step, which calculates to a 10.21% increase at this step. Using the same comparison for the Employer offer, the $1,000.00 increase the Employer proposes at the median step represents a 4.30% increase.

From all of the foregoing comparisons, it is obvious that the Association proposal is much closer to the patterns of settlement among the comparables that the Association proposes here. The undersigned is troubled when making these comparisons, however, because the most comparable districts are not settled and, therefore, the undersigned has no basis on which to make a comparison within the athletic conference. Furthermore, the Association proposal is the highest proposed settlement for salary only among the patterns of settlement among the comparables it proposes. Given the fact that the parties to this Agreement have departed from traditional salary schedules, the undersigned concludes that the Association is unable to make a persuasive case for catchup in order to justify the highest wage settlement among the comparables that it proposes. If the choice between the offers is based solely upon the comparables proposed by the Association, the Association would necessarily prevail, because its proposal is much closer to the patterns of settlements among the comparables it compares itself to.

Employer here argues that the interest and welfare of the public as set forth at criteria "C" of the Statute, and the comparison of wages, hours and conditions of employment generally in public employment in the same community and in private employment in the same community, as set forth at criteria "D", favors the Employer position. With respect to the interest and welfare of the public, the Employer adduces evidence that establishes that Manitowoc County has the highest unemployment rate among the comparable counties of Brown, Sheboygan and Fond du Lac. The foregoing counties embrace the school districts which tradi-

tionally have been held to be the most comparable to this Employer. Manitowoc County's unemployment rate through March, 1984, stands at 11.8%, compared to 6.7% in Sheboygan County, 8.2% in Brown County, 8.4% in Fond du Lac County, and 8.7% unemployment state-wide. (Employer Exhibit No. 4) Without question, the unemployment statistics indicate that the economic status of Manitowoc County is more severely distressed than the comparable counties contiguous to it. Furthermore, testimony at hearing from John D. West, Chairman of the Board of Manitowoc Company, as well as Employer Exhibit No. 1, establishes that the major private sector employer in the City of Manitowoc has experienced significant decline in its business activity, and its employment levels, and further, that the economic picture for the Company does not appear to have any significant upturn within the immediate future.

Similarly, Joseph Schmidt, President of Chamber of Commerce for Manitowoc County, testifies that the economy of the Manitowoc area has experienced a significant decline, including the hospital employer in the community, and that there is no immediate prospect of substantial improvement in the general economy of the community. From the foregoing, Employer argues that Manitowoc School District, as part of the community of Manitowoc County, presents a different economic environment in which this collective bargaining has occurred, and justifies a lower settlement percentage than the percentage of settlements that the Association advocates. The undersigned has considered the Employer argument of the economic distress within the community as it impacts on criteria "C", the interest and welfare of the public. The undersigned concludes that the economic distress of the community should and does have impact on the level of settlement to be imposed in the instant matter. Here, the Employer offers 4.35%. The undersigned concludes, however, that the 4.35% is not totally indicative of the settlement that should be imposed by reason of the community's economic distress. Specifically, the undersigned is impressed with the fact that the sister school district of Two Rivers abuts the instant school district, and resides within Manitowoc County. The undersigned, therefore, concludes that the impact on collective bargaining among school districts caused by the economic distress within the county is typified by the Two Rivers settlement. The Two Rivers School District settled for a 6.35% wage increase, a full 2% higher than the Employer offer here. The undersigned believes that under all of the foregoing circumstances, the Two Rivers School

District is the most comparable district for comparative purposes and, therefore, when considering the comparables advocated by the Association, as well as the impact of the economic distress argued by the Employer, the undersigned, if he had wide open jurisdiction in this matter, would establish a salary increase for these parties at the same level at which Two Rivers settled. Unfortunately, the undersigned has no authority under the Voluntary Impasse Resolution Procedure of the parties to impose a 6.35% settlement on the parties.

Employer also has adduced evidence with respect to the levels of settlement among other municipal employers, and private employers in the area. Turning first to considering the pattern of settlements among the private employers, the undersigned has carefully reviewed Employer Exhibit No. 14, and finds the exhibit unpersuasive in support of the Employer position. The exhibit sets forth contract settlements in the private sector, wherein certain of the employers have negotiated a no increase contract for the relevant period of time. The exhibit contains nine settlements, and of the nine, two of the employers negotiated a zero percentage wage increase for one of the years at issue. Four of the employers negotiated either cents per hour or percentage increases, and three of the employers negotiated a cents per hour or percentage increase, plus a COLA increase in addition to the foregoing. Of the employers negotiating a percentage or flat dollar wage increase, Brillion Iron Works (Patternmakers) negotiated a 5.2% increase totaling 85¢, staggered at two six month intervals. The Ironworkers at Consumers Steel negotiated a wage increase of 20¢ across the board. The Teamsters at F. C. Heiden negotiated a 40¢ increase for the year 1984, and the Plumbers and Steamfitters at Wisconsin Fuel & Light (Manitowoc) negotiated a wage increase of 3.5% effective April 1, 1984, amounting to 36¢ per hour. Most significant, however, are the three settlements with Eggers Industries at 6.25% effective August 20, 1983, plus COLA increases; 3.3% plus COLA negotiated by the IAM with Stoelting; and the 5.75% negotiated in two separate increases at Wisconsin Electric Power (Two Creeks) with the IBEW, plus a COLA provision. The undersigned, therefore, concludes that in view of the negotiated wage increases among one-third of the private sector employers contained in Exhibit No. 14, which greatly exceeds the 4.35% wage offer of the Employer here, that the private sector settlements fail to support the Employer offer in this matter. The undersigned further notes that there are no settlement terms reported for The Manitowoc Company and The Mirro

Corporation, the two most distressed major employers in the community.

Turning to a comparison of settlements among other municipal employers compared to the Employer offer here, the undersigned has reviewed the contents of Employer Exhibit Nos. 15 and 16. Employer Exhibit No. 15 establishes the City of Manitowoc wage settlements, and Employer Exhibit No. 16 establishes the County of Manitowoc wage settlements. Exhibit No. 15 establishes that the wage increase for all employees within the City of Manitowoc for the year 1984 was 5%. The wage increase was calculated, based on a formula within the Collective Bargaining Agreement predicated upon the increase in the Consumer Price Index from October, 1982, to October, 1983. The formula would have resulted in a 3% increase to all bargaining units for the year 1984, however, the Employer there bargained to a 5% increase, 2% over the formula, and received as a quid pro quo an increase in the deductible health insurance coverages. The undersigned assumes that the quid pro quo, the increased health insurance deductible, to have a 2% value and, therefore, concludes that the City of Manitowoc municipal employees bargained a 3% increase. The undersigned, however, is not persuaded that the 3% increase resulting from the CPI formula in the City's Collective Bargaining Agreement supports the Employer offer here. The parties to that Agreement elected to rely on a formulation based on the Consumer Price Index which placed a floor of the increase at 3% and a ceiling on any increase at 8%. Thus, when the Contract was bargained there was a potential increase of 8% for the year. There, the parties were willing to rely on the amount of escalation of the Consumer Price Index to set the wages for the succeeding year. The parties there entered into a bargain which provided for a range of an increase of 3% to 8%, and consequently, the undersigned is unwilling to conclude a 3% settlement reflects the appropriate level of settlement in this matter.

Similarly, Employer Exhibit No. 16 establishes that the amount of wage increase for the year 1984 (6.5%) for employees of the County represented by unions was arrived at by reason of a CPI formulation, in addition to the basic 3.25% which was bargained for the year 1984. The fact that the parties agreed to a zero percent increase in 1983 is reflective, however, that the economic distress of the community impacted the bargaining for that year.

Association has argued that the uniqueness of teacher salary schedules makes

comparisons with nonteacher units difficult, if not impossible. The undersigned has come to that same conclusion in prior arbitration awards. Here, however, the parties have removed the uniqueness of costing of teacher salary schedules when they eliminated the traditional teacher schedules. Therefore, the offers of the parties each reflect the amount of wage increases negotiated from the year 1983-84 to the year 1984-85. The foregoing, in the opinion of the undersigned, is consistent with the costing methods used among employers of nonteacher units such as those units represented by unions with the City of Manitowoc and Manitowoc County. The undersigned, therefore, concludes that consideration of the patterns of settlements internal to the community reflects the economic distress of the community, and that economic distress will have weight in this decision.

Both parties have adduced evidence and made argument with respect to the Consumer Price Index. Association cites a series of arbitration awards holding that the measure of insulation against inflation is properly ascertained by the patterns of settlements voluntarily entered into between parties during the same period that the CPI index covers. Among the cases cited by the Association is a prior Award of this Arbitrator subscribing to that principle. The undersigned sees no reason to vary his opinion in the matter of how the CPI should impact this settlement and, therefore, will rely on patterns of settlement in determining the outcome of this dispute.

Association has argued that the undersigned should consider the total compensation criteria. The undersigned has considered the criteria, however, the Association's reliance on total compensation in this matter is misplaced. Here, we have a reopener for negotiation of salary only. The negotiations are limited to salary matters and do not go to other fringe benefits. Consequently, the parties have entered into voluntary Collective Bargaining Agreements which continue through an additional year under the terms of the Contract now in force as it goes to other compensation items. As a result, since the parties have voluntarily agreed to the fringe benefit packages set forth in the Collective Bargaining Agreement, the undersigned considers it inappropriate when evaluating a salary increase under a limited reopener provision of this type to give weight to the total compensation question.

SUMMARY AND CONCLUSIONS:

In the preceding section of this Award, the undersigned has noted that the most comparable school districts to this Employer have not settled for the 1984-85 school year. Therefore, it is impossible to ascertain an appropriate wage settlement based on the most comparable school employers of Green Bay, Fond du Lac and Sheboygan, all of whom reside within the athletic conference. The Association has submitted a list of secondary comparables, which include the school district of Two Rivers, the neighboring district to the instant district, which also resides in Manitowoc County. The undersigned has considered the argument of the Employer with respect to the economic distress of the community, and has concluded that the economic distress of the community should have impact as it affects the terms imposed upon the parties by the Arbitrator. Since the School District of Two Rivers resides within Manitowoc County and, therefore, experiences the same economic distress as that of the instant Employer, the undersigned now concludes that the comparable is to be considered in this matter is the School District of Two Rivers. The settlement established in Two Rivers is 6.35%. The Association here proposes an 8.89% settlement, which impacts at the median point of the salary schedule at 10.21%. Employer here proposes a 4.35% increase which impacts at 4.3% at the median point of the salary schedule. From the foregoing, the undersigned concludes that the Association final offer in this matter is too high. The undersigned further concludes that the Employer offer in this matter is too low. The differential between the offers of the parties as compared to the settlement established in the Two Rivers District places the Employer a full 2% below the Two Rivers settlement, and the Association at 2.63% above the Two Rivers settlement. The undersigned finds no equity in either party's final offer. The Association is too high - the Employer is too low. If the parties had provided wide open jurisdiction to the Arbitrator, he would have awarded the 6.35% Two Rivers settlement. Now the undersigned is confronted with a choice between two final offers which are unsatisfactory. The undersigned strongly believes that the 6.35% increase is the appropriate amount to be awarded in this dispute, and by the Arbitrator's calculations such an award would result in an average increase to the teachers in the unit of $1,565.00 over the preceding year.

The undersigned is unable to award what he considers to be the appropriate

settlement in this matter by reason of the jurisdiction the parties have conferred upon him. Notwithstanding the last best offer jurisdiction conferred upon the Arbitrator, there is nothing to prevent the parties from taking still another look at what the Arbitrator considers a reasonable settlement in light of all of the circumstances surrounding this matter. Because this Arbitrator strongly believes that an award which is either 2% low or 2% high should be avoided if possible, he elects to provide the opportunity of a voluntary settlement to the parties before issuing his final conclusions in this matter. Consequently, the undersigned requests that the parties consider the recommended settlement of 6.35% described above as a voluntary settlement. The parties will have ten days from the date of this Award to advise the Arbitrator whether they will accept his recommendation in this matter as a voluntary settlement. Upon receipt of the advice of the parties, the Arbitrator will close his file if both parties accept the foregoing recommendation of the undersigned. In the event that either party rejects the recommended settlement, the undersigned will proceed to make the Award based on the last best offer jurisdiction conferred upon him.

Dated at Fond du Lac, Wisconsin, this 13th day of June, 1984.

Jos. B. Kerkman,
Arbitrator

JBKirr

ENTER THE BREAK POINT. 26000

83-84 SAL.	NO. TCHRS.	84-85 SAL.	$ INC.	NEW $ COST
14000	2.24	17000	3000	6720
15450	1.7	17825	2375	4037.5
15620	2	17995	2375	4750
15935	4.8	18310	2375	11400
16600	3	18975	2375	7125
16841	1	19216	2375	2375
17665	2.3	20040	2375	5462.5
18330	4	20705	2375	9500
18995	4	21370	2375	9500
19660	5.35	22035	2375	12706.25
20325	5.9	22700	2375	14012.5
20990	2	23365	2375	4750
21123	5	23498	2375	11875
21218	1	23593	2375	2375
21655	2	24030	2375	4750
21921	7.9	24296	2375	18762.5
22720	10.5	25095	2375	24937.5
23067	2	25442	2375	4750
23252	3	25627	2375	7125
23518	13	25893	2375	30875
24050	5.5	26425	2375	13062.5
24169	1	26544	2375	2375
24316	10	26691	2375	23750
24847	1	27222	2375	2375
25114	8	27489	2375	19000
25646	10	28021	2375	23750
25699	10	28074	2375	23750
25743	33	28118	2375	78375
26260	1	28135	1875	1875
26444	3	28319	1875	5625
26469	9	28344	1875	16875
27375	5.8	29250	1875	10875
28072	7	29947	1875	13125
28124	11	29999	1875	20625
28560	24	30435	1875	45000
28821	3.88	30696	1875	7275
29407	1	31282	1875	1875
29605	7	31480	1875	13125
29624	8	31499	1875	15000

TOTAL OLD SALARIES = $5960192

TOTAL NEW SALARIES = $6495693.63

TOTAL NEW DOLLARS = $535501.631

THIS REPRESENTS A 8.98463726% INCREASE.