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STATE OF WISCONSIN
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Petition of the
VERNON COUNTY COURTHOUSE and
SOCIAL SERVICES, LOCAL 2918
WCCME, AFSCME, AFL-CIO
For Final and Binding Arbitration
Involving Courthouse and Social
Services Personnel in the Employ of
VERNON COUNTY

CASE LXVI
NO. 33140 MED/ARB 2696
Decision NO. 21795-A

I APPEARANCES

For Local 2918, WCCME, AFSCME, AFL-CIO
Robert Lowy, President, Local 2918
Kenneth G. Wilterdink, Member, Local 2918
Trent M. Stang, Member, Witness, Local 2918
Daniel R. Pfiefer, District Representative, WCCME, AFSCME, AFL-CIO

For Vernon County
John Parkin, Chmn., Vernon Cty, Personnel Comm., Witness
Claude Seibon, Member, Personnel Comm., Witness
Harry, Baller, Member, Personnel Comm.
Madeline Eberhart, Vernon Cty. Personnel Coordinator
Richard Scott, Director, Vernon Cty. Social Services Dept.
Jerome Klos, Labor Attorney, Vernon County

II BACKGROUND

On March 27, 1984, the Vernon County Courthouse and Social Services Local 2918, WCCME, AFSCME, AFL-CIO (Hereinafter called the Union), filed a petition requesting the Wisconsin Employment Relations Commission to initiate Mediation-Arbitration pursuant to Sec. 111.70(4) of the Municipal Employment Relations Act, for the purpose of resolving an impasse arising in collective bargaining between the Union and Vernon County (Hereinafter called the Employer) on matters affecting the wages, hours and conditions of employment of the Courthouse and Social Services personnel, with the exceptions of elected officials, Executive, Supervisory, Managerial or Confidential employees in the employ of said Vernon County. An investigation into the matter was conducted by a member of the Commission's Staff on June 11, 1984. The investigator finding the parties still at impasse, accepted the parties final offers and stipulations on all matters agreed upon. Thereafter the Commission staff investigator notified the parties and the Commission that the investigation was closed, and the parties remained at impasse. Subsequently, the Commission rendered a FINDINGS OF FACT, CONCLUSION OF LAW, CERTIFICATION OF RESULTS OF INVESTIGATION, and ORDER requiring Mediation/Arbitration.

The parties selected Donald G. Chatman as Mediator/Arbitrator on July 12, 1984. A mediation meeting was held on October 11, 1984 at the Vernon County Courthouse, Viroqua, Wisconsin at 10:00 A.M. in an attempt to resolve the outstanding issues in dispute. The parties were unable to reach agreement over the outstanding issues in dispute, and the Mediator served notice of the prior written stipulation to the parties to resolve the dispute by final and binding arbitration. The mediation meeting was closed at 11:15 A.M. on October 11, 1984, and a hearing on the issues at impasse was held.

III PROCEDURE

A hearing on the above matter was held on October 11, 1984, at 11:15 A.M. at the Vernon County Courthouse, Viroqua, Wisconsin before the Arbitrator, under the rules and procedures of Sec. 111.70(4) of the Municipal Employment Relations Act. At this hearing both parties were given full opportunity to present their evidence, testimony and arguments, to summon witnesses, and to engage in their examination and cross examination. The parties agreed to the submission of final arguments presented in the form of written briefs. The arbitration hearing was adjourned on

October 11, 1984, until receipt of the written briefs. The exchange and submission of briefs was completed on November 13, 1984, and the hearing was closed at 5:00 P.M. Based on the evidence, testimony, arguments and past practices of the parties, and the criteria set forth in Sec. 111.70(4)(cm)6c-h of the Municipal Employment Relations Act, the Mediator/Arbitrator renders the following award.

IV FINAL OFFERS AND ISSUES

The Union's final offer is attached to this award as Appendix A. The Employer's final offer is attached to this award as Appendix B. The parties have stipulated to the following:

that the duration of the successor agreement shall be from January 1, 1984 to December 31, 1985;

that the 1984 wage increase be 4.75% over the existing agreement (1983), with the 1984 increase based on the average bargaining unit wage;

that the 1985 wage increase be 5.0% across the board, beginning January 1, 1985;

that Section 9.01 of the existing agreement be amended to read:

Any regular employee in the bargaining unit shall be permitted if physically and emotionally fit to perform the functions of their position, and if the position is continued by the COUNTY, to remain in the employ of the COUNTY until the date they attain their 70th birthday. Calendar quarters end the last day of March, June, September, December. The COUNTY reserves the sole right to grant or deny any extension predicated on the needs of the department.

The issues in dispute are:

Holidays

The Union's proposed amendment of Section 10.01(b) to all of Good Friday as a holiday. The Employer is opposed to such a change.

Sick Leave pay

The Union's proposal to amend Section 12.05 which currently reads:

Accumulated sick leave is not payable nor granted upon termination of employment. Any proven misuse or abuse of sick leave will subject the employee to disciplinary action including discharge.

It would be amended to read:

Upon retirement death or disability, the employee (or his/her estate in case of death) shall receive the cash value of twenty-five percent (25%) of his/her unused accumulated sick leave. Any proven misuse or abuse of sick leave will subject the employee to disciplinary action including discharge.

The Employer is opposed to this change.

Definition of Employee Classes

The Union proposed to amend Section 19.04 to increase "On Call pay from \$0.50 per hour to \$0.75 per hour. The Employer is opposed to this change.

Equity Adjustment

The Union proposed to acquire an equity adjustment in the Sanitarian Zoning Administrator position in each of the two years of the successor agreement in the sum of \$1,350.00 per year. The equity adjustment is to be computed for this position prior to the overall wage increase for each year. The equity adjustment is to be retroactive to January 1, 1984. The Employer is opposed to this change.

Fair Share Agreement

The Union proposed addition to the successor agreement of a new Article(Fair Share Agreement).The proposed Article would read:
Section 1 Union Responsibilities: The union as the exclusive bargaining representative of All employees in the bargaining unit will represent all such employees. No employee shall be required to join the Union, but membership in the Union shall be made available to all employees who apply consistent with the Union constitution and by-laws. No employee shall be denied Union membership because of race, creed, color or sex.

Section 2. Deduction: Effective upon ratification of this agreement by both parties, the County agrees that each month it will deduct from the pay of the employees represented by the Union dues as established by the Union as a fair share service fee in the same amount. As to all unit employees employed on the date of ratification, such deductions shall be made only from the monthly earnings of those employees who are members of the employee organization. Unit employees who are not members of the employee organization on the date of ratification, shall not be covered by this article. However, the aforementioned employees not covered by this article may opt to join the employee organization and thus become covered by this Article, at any time. The County shall pay such Amount in a lump sum to the treasurer of the Union. Changes in the amount of dues to be deducted shall be certified by the Union thirty(30) days before the effective date of such changes.

Section 3. Indemnification: The Union shall indemnify and save the County harmless for any liability which may arise out of actions taken by the County under this section.

The Employer is opposed to this addition to the successor agreement.

The Employer and the Union stipulate that no other outstanding issues are at impasse which would prevent resolution of the 1984-1985 successor agreement between the parties.

V. CONTENTIONS OF THE PARTIES

Holiday

The Union contends its proposal to have all of Good Friday as a paid Holiday rather than from 12:00 P.M. until the end of the employees shift is valid. To support its contentions the Union offers as evidence the number of paid holidays given in 12 other Wisconsin counties considered to be comparable governmental corporations. This documentation shows that of thirteen counties, Vernon County is tied for the bottom position in number of paid holidays for its employees. The average holidays for these other counties is 9.5 days/year, while the number of holidays for Vernon County is 8.5 days/year. The Union contends the Employer's argument in opposition to the additional 1/2 day, that taxpayers expect the Courthouse to be operative at least a part of Good Friday, and that the testimony from a County Board member that residents of his district did not wish to have the County employees have all of Good Friday off is not relevant to the issue of comparability with other governmental units. The Union contends that comparability supports its position.

The Employer contends that Vernon County's position in contesting the issues in dispute are grounded in certain purported facts. First, Vernon County has limited population growth and is 44th out of 72 Wisconsin Counties in population growth. Two-thirds of

the county's assessed value is nonurban, the County's farmers' capital investments is declining in real estate, machinery and livestock. The Employer further contends that the County has built in increases for employee health benefits, and that Vernon County has traditionally been behind most other counties in salaries, and fringe benefits; that past bargaining settlements have not increased this disparity. The Employer contends that this particular bargaining unit's work-week is thirty-seven hours, while other bargaining units in the county work forty hours. Thus, the Employer has adopted the position that if the Union wished a wage increase in addition to the anticipated increase in employer costs for medical insurance payments, then the bargaining units' members must forego all fringe benefit or contract language changes. Specifically, with regard to the issue of Good Friday as a total holiday, the Employer contends that the taxpayers expect the Courthouse to be operative for at least a part of Good Friday, that this bargaining unit has 8.5 paid holidays the same as the Sheriff's and Highway units, and that 8.5 days far exceed the Vernon County private sector. To further substantiate the Employer's position, documentation was submitted as evidence that the norm for Wisconsin public employees ranged from seven to fifteen days with the norm closer to 8.5 days, and testimony from a County Supervisor that his constituency had told him they did not wish the Courthouse employees to be off on Good Friday. On cross examination the witness could not remember the number of paid holidays he received on his private sector job, or the number of paid holidays other employees at his organization received, even though he is a senior manager.

Sick Leave Payout

The Union proposes that the Employer pay the employee twenty-five percent (25%) of his or her accumulated sick leave upon retirement, death, or disability. The Union contends that comparable counties have such a payment at least for retirement, and that ten of the fourteen counties the Union desires to consider comparable have a payout plan for sick leave that is greater than the Union's proposal. The Union contends that the percentage payout for accumulated sick leave should be viewed as severance pay upon retirement, death, or disability, which the Employer does not presently provide. The Union maintains that this proposal will provide a positive incentive for good work attendance. The Union contends that comparable bargaining units sustain its' position.

The Employer contends that the only purpose of sick leave is to provide a pay cushion while the employee is sick, that sick leave is not and never should be a substitute for wages, as in a termination payout. The Employer contends that while other counties have chosen to negotiate sick leave payout, it is the Employer's position that it should not be compelled to enter into this aberration when it wishes to maintain a clear distinction between sick leave and wages. The Employer rejects the Union's argument that non-usage of sick leave should be rewarded, and argues that the reward for non-usage of sick leave is not being sick. The Employer contends that no other Vernon County bargaining has this fringe benefit, and this bargaining unit should not be the exception.

On Call Pay

The Union proposal seeks to raise the On Call rate of pay from \$0.50/hour to \$0.75/hour. The Union contends that the rate of \$0.50/hour has been in effect since the inception of the On Call program in 1979, that the pay is to compensate employees for the disruptions in their non-working life, the limitations on their freedom of movement by the necessity of being available for up to 24 hours a day. The Union contends that the present compensation is not adequate and offers as documentation in support of their position the purported on call pay schedules from presumed comparable counties adjusted for comparison with Vernon County On Call pay. The submitted data shows that with two exceptions, (one county has no On Call policy and another has no data reported) the average pay ranges from \$0.57-0.61/hour. The Union contends that the comparisons with other counties On Call pay schedules

substantiates the Union's final offer on this issue.

The Employer contends that when called these bargaining unit employees are paid a minimum of two hours at their regular rate of pay. Further, some other counties do not pay. It is the Employer's contention that the number of times an "On Call" person is actually disturbed by the activation of a beeper is so rare that it is de minimus. Because of the County's size and type of clientele, the need for on call is minimal and no raise in rate is warranted.

Equity Adjustment

The Union proposes an equity adjustment of an additional \$1,350.00 per year in each of the two years of the successor agreement for the position of Sanitation and Zoning Administrator. The Union contends that the current Sanitation and Zoning administration position is ranked 98th in pay out of 106 Vernon County employee positions, that this position has professional responsibilities and performs all the required duties within the county. The Union contends that the pay for this position is far below the pay for other comparable counties position where similar duties are performed. In documentation of its position the Union submitted data which purports to show that the work load for this position exceeds that of comparable counties which have more than one employee performing similar duties, while the pay is considerable less than those of comparable counties. The Union contends that internal comparables (Other Professional Employees) and external comparables (Other County Sanitation and Zoning positions) favor an adjustment for this position.

The Employer contends that this position was created in 1980 and its duties were previously satisfied by a part-time County Board Supervisor. The position was advertised and the job requirements were singular, that of a Certified Well Inspector. The Employer contends that the activity for this position is sparse, that Vernon County does not have a Comprehensive Zoning Ordinance, and the position title of Zoning Administrator is of no consequence in wage administration. The Employer argues that the current holder of the position did not meet minimum specifications of certification when hired, and should not be compared to other counties that have comprehensive zoning ordinances, or require extensive training as a minimum requirement for fulfilling the Sanitation or Zoning positions. The Employer submitted as documentation to substantiate its position the Job Advertisement for the position of Vernon County Sanitarian and Zoning Administrator (Employer Exhibit 12) which published the minimum qualifications for the position. The Job Description (Employer exhibit 13) which outlines the scope of the position, the employment application (Employer exhibit 14) of the current and original holder of this position, a listing of the number of sanitary permits issued since 1980 along with the salary paid this position during the same period of time (Employer exhibit 15). The Employer also submitted as documentation the job descriptions and salaries for a Zoning Administrator, and a Sanitarian for two counties (Employer exhibit 16, 17) which the Employer deems comparable. The Employer contends the Sanitarian and Zoning Administrator position in Vernon County has no educational or training requirements as required by other counties, that the duties for this position are only those of a sanitarian, not a zoning administrator, and was conceived to meet minimum state requirements. The Employer contends that with the minimum expectations of the position no equity increase is warranted.

Fair Share

The Union proposes the adoption of a fair share provision in the successor agreement that contains provisions for a grandfather clause exempting bargaining members as of the date of ratification and an indemnification clause which holds the employer harmless as a result of the fair share agreement. The Union contends with these provisions "employees who are currently in the bargaining unit but not members of the Union will not be

required to pay dues, if they do not so desire. Newly hired employees will know at the time of their employ that paying the fair share fees will be a condition of their employment." The Union presents as evidence in support of their contentions data that indicate that of the thirteen other counties the Union considers comparable, ten of these counties have fair share agreements. The data indicate that of the three counties not counted, one has no information provided, one has no union, and one other along with Vernon County has no fair share agreement. The Union submits that in a previous arbitration (1982) the issue of fair share was presented and found to be a reasonable request, but did not prevail in the final award. The Union argued that the Employer's position on this issue presented as testimony by a County Board Member, that he had talked to some employees, and they did not wish to be covered by fair share is not relevant to this issue since the Union is the exclusive bargaining agent for the employees of this group.

The Employer contends it is opposed to the inclusion of a fair share clause in the agreement because the County believes it should not be involved in Union affairs. It has recently acceded to the addition of dues check-off to the agreement and presumes this issue to be dead. This provision forces an employee to pay dues against his free will as the price of employment. The provision is discriminatory, contains no provision for employees to opt out, and provides a continuing flow of funds to the Union whether or not the Union provides effective service. The Employer presented testimony to substantiate its position by a County Board member that some employees did not wish to pay dues, that other County bargaining units do not have this provision, and the County should not assist in forcing new employees to surrender rights without their knowledge and consent.

VI DISCUSSION AND CONCLUSIONS

The positions of the parties in their final offers do not differ greatly in real economic terms. The parties have agreed or stipulated to the length of the successor agreement (January 1, 1984-December 31, 1985), the wages to be paid during this period, and a change in retirement age from age 65 to 70. The Employer deems the stipulated items to be the furthest extent necessary for the equitable settlement of a successor agreement. The Union desires the inclusion of several other issues of concern for the successor agreement. Two of these issues (On-Call Pay and the Equity Adjustment) would add an immediate economic cost to the successor agreement, another issue (Sick Leave Payout) would have some future economic costs. The costs of the 1½ day Good Friday holiday is not costed because payment for this time whether worked or off, is presently budgeted. The projected immediate cost of the Union's final offer is less than \$3,500.00 in the first year of the agreement.

The other Union proposals for inclusion in the successor agreement are non-economic in context. These are the Union's proposal that all of Good Friday be granted as a holiday, and that a fair share agreement be incorporated into the successor agreement. The parties have elected to have the impasse between them resolved in final and binding arbitration under Section 111.70(6d) of the Municipal Employment Relations Act "Whereby... acting as Arbitrator shall adopt without further modification the final offers of one of the parties on all disputed issues submitted under subd. 6".

Employers' Bargaining Position

The Employer has presented a wide argument that the economics of Vernon County are the primary consideration, and that any change in compensation or fringe benefits must consider the per-capita income of county residents. Further that the County is rural with the majority of the tax base and income in agriculture, with limited population growth.

TABLE 1
COUNTY PER CAPITA INCOMES 1973-1981

COUNTY	1973	1974	1975	1976	1977	1978	1979	1980	1981
ADAMS	2,712	2,814	2,853	3,152	3,469	4,059	4,444	4,789	4,384
COLUMBIA	3,189	3,606	3,828	3,982	4,402	5,402	6,063	6,404	6,475
CRAWFORD	2,670	2,812	2,972	3,407	3,603	4,133	4,875	4,654	4,775
GRANT	3,028	3,175	3,362	3,750	4,091	4,721	5,234	5,379	5,438
IOWA	3,005	3,094	3,177	3,636	3,915	4,605	5,323	5,511	5,346
JACKSON	2,819	2,979	3,103	3,547	3,905	4,418	4,947	4,808	4,910
JUNEAU	2,821	2,882	3,084	3,467	3,809	4,338	4,861	4,924	4,869
LaCROSSE	3,477	3,768	4,047	4,433	4,831	5,471	5,883	6,597	6,884
MONORE	2,930	3,137	3,264	3,704	3,984	4,504	5,185	5,495	5,382
RICHLAND	2,867	3,039	3,119	3,587	3,805	4,427	5,054	5,070	5,055
SAUK	3,584	3,761	3,819	4,237	4,627	5,234	5,849	5,841	6,135
TREMP-EAU	2,915	3,082	3,114	3,506	3,778	4,279	4,829	4,992	4,928
VERNON	2,641	2,736	2,938	3,338	3,637	4,211	4,795	5,079	5,042
WOOD	3,592	3,882	4,152	4,719	5,135	5,774	6,404	6,824	7,160
STATE-WIS	3,867	4,155	4,352	4,844	5,327	5,936	6,618	7,088	7,431

Source: Wis. Dept of Rev. Dec. 1982

TABLE 2
SELECTED CHARACTERISTICS-COMPARABLE COUNTIES
(PER CAPITA)

COUNTY	AREA MI.	82-POP. EST.	POP./MI	RANK	73 RANK	81 RANK	9YR. GROWTH AVG.	GROWTH RANK
ADAMS	648	13,989	21.58	13	12	14	6.4	14
COLUMBIA	771	43,513	56.43	3	4	3	7.4	9-10
CRAWFORD	566	16,835	29.74	9	13	13	8.6	3
GRANT	1,144	52,157	45.59	4	5	5	7.8	7
IOWA	760	20,273	26.67	12	6	7	7.7	8
JACKSON	998	16,831	16.91	14	11	11	7.3	11
JUNEAU	774	21,634	27.95	11	10	12	7.4	9-10
LaCROSSE	457	93,582	204.77	1	3	2	8.9	2
MONORE	904	35,822	39.62	7	7	6	8.0	6
RICHLAND	585	17,998	30.76	9	9	8	8.2	5
SAUK	838	44,791	53.44	4	2	4	7.0	12
TREMP-EAU	736	26,455	35.94	8	8	10	6.9	13
VERNON	808	25,968	40.44	6	14	9	8.5	4
WOOD	801	73,676	91.98	2	T	T	9.0	T
STATE-WIS	54,426	4.756M.	87.38				8.5	

Source Wis. Dept. Rev. Dec. 1982

The Arbitrator's examination of the data on comparable counties indicates that while the population of Vernon County is stable it exceeds the population growth of the state over the last nine years. The data also indicate that agriculture accounts for thirty-one percent of the county's income, not the majority as argued by the Employer. When demographic characteristics are considered Vernon County is sixth of fourteen counties compared, as demonstrated by the population per square mile figures. When the per capita incomes are examined they show that while Vernon County was 14th in 1973 it rose to ninth by 1981. The increase in county per capita income matched the State of Wisconsin's growth and was fourth among comparable counties during this same nine year period. In summary, the documentation data indicate the Employer's argument on its bargaining position to be specious in content and unsubstantiated by the evidence.

Holiday

On the issue of the 1/2 day holiday the Union's argument focused on the data that other counties have more holidays than this bargaining unit, on the average by one full day, and the employer is opposed to additional time off no matter which day was presented. Therefore, this Union ought to get what other comparable county unions get in holiday time. The Employer's

position is that the wages and fringe benefits are behind those of other counties based on the premise that Vernon County has the lowest per capita income of these comparable counties. Further, that the Employer desires to provide services, if necessary on the morning of Good Friday, and thus does not desire to give the time off. The Arbitrator finds both the Union's and Employer's arguments on this issue to be weak. The Union's position is deemed weak because they presented no other testimony or evidence to substantiate why they should be comparable to other county bargaining units. The argument that they have it so we should have it is not compelling in the Arbitrator's opinion. The Employer's position that the County Offices need to be operational at least part of Good Friday (8:00 A.M.-Noon) is not substantiated by argument or data on other non-national holidays (Memorial Day, Christmas Eve) as to whether County Offices should provide service. Why is Good Friday different? The testimony of the Employer's witness that his constituency did not wish this time off for employees fails to account for these other holidays, or a rationale for this particular day. Finally, the Employer's argument that its wages and fringe benefits (including holidays) lag behind other comparable counties because of its lagging per capita income is not substantiated by the data (See Table 1). One point in the plethora of Employer arguments appears to be salient, that the Employer just does not want to give these employees more paid time off, coupled with the Union's failure to demonstrate that lack of this benefit is detrimental to the bargaining unit tilts this issue in favor of the Employer.

Sick Leave Payout

On the issue of Sick Leave Payout the Union's argument that a substantial number of the counties it considers comparable have some percentage of sick leave payout on retirement and in 4/14 upon termination. The argument that this unit should have a similar benefit is not substantial. The Union presents no evidence or testimony as to how this benefit was derived, or whether it was exchanged in the bargaining process. The Union's argument appears to be that all comparable counties should be equal, without demonstrating the presence or attempts by Unions or Employers at an area master agreement. The Employer argues that sick leave should have no other purpose than pay protection during a disability while employed, that Vernon County does not desire to have sick leave used in any other manner and the only reward for accumulating sick leave is not being sick. The evidence supports the Union's position. Most of the compared counties provide sick leave payout for some of their employees. However, not all bargaining units in these compared counties have this benefit. The Employer's argument that it does not wish to alter the classic purpose of sick leave benefits does have some merit. It is the Arbitrator's opinion that this issue is a long term benefit and cost to both the Employer and Union, and should be resolved in the give and take of negotiations. However, the Employer has consistently argued in this and in a previous arbitration that it does not desire to be comparable with other counties, to the extent that this does not effect the wages, hours and terms and conditions of employment. This position is barely tenable. The sick leave payout is not one of these conditions. It can only be acquired at the termination of employment and should be resolved through the give and take of negotiation. Finally, the Union's proposal seeks payout for retirement, death, and disability. This is more than it has demonstrated comparable counties have given their employees thus the comparability evidence is weakened on its own merits. The position of the Employer is favored on this issue.

On-Call Pay

On the issue of On-Call Pay which the Union seeks to raise from \$0.50 to \$0.75 per hour, the Union's argument that the pay is the same since the program's inception in 1979 is a substantial argument in their favor. The Union's argument that most comparable counties have a higher wage for On-Call pay is also noted. The Employer's argument that the disruption of the employee is minimal, and that other comparable counties pay less or have no On-Call pay at all appears to be calculated from the Employer's

perspective of what constitutes a critical variable for inclusion or exclusion and which the Arbitrator finds flawed. In the Arbitrator's opinion, if the Employer desires to be considered uniquely as a disparate corporate entity among counties, the Employer must bear the positive and negative aspects of such singularity. In the instance of On-Call pay the Employer appears to seek obscurantism among certain comparable counties when deemed favorable, and uniqueness at other times. The Arbitrator is of the opinion that the Employer imposed mandate of some employee availability during non-working hours is confining to the employees freedom of choice. The need for employee availability is solely at the Employer's discretion both as to extent, scope, and duration, and a twenty-five cent per hour increase after four years is not unreasonable. The Employer has the authority to cease On-Call at any time, in that the 1983 Agreement and the stipulated portions of the successor agreement have excluded employees while on call.

19.06 Those employees, as defined in 19.02, 19.04 and 19.05 shall be excluded from the terms of this Agreement.

The position of the Union is favored on the issue of On-Call Pay.

Equity Adjustment

On the issue of an equity adjustment for the Sanitarian and Zoning Administrator the Union maintains that the position is professional with professional responsibilities and duties, and that the Employer is paying the current and original occupant of this position substantially less than other Vernon County administrators, and less than other sanitarian and or zoning positions in comparable counties. The Union presents evidence that the work loads are similar to other counties and argued that the pay should be similar. The Employer argued that the duties of this position are not similar in scope of duties, depth of expertise, educational qualifications, or technical interpretation with those of comparable counties. The Employer states that the position is not administrative in Vernon County, that the occupant supervises no one, and administers no comprehensive regulations or laws. The job requirements for this position were singular (Certified Well Inspector), and the title of administrator is of no consequence. In examining this issue the Arbitrator deems this proposal to be more complex than whether the position of Vernon County Sanitarian and Zoning Administrator should receive a salary adjustment in line with other Vernon County Administrators, or other county sanitarian and zoning administrators. First, the Employer has clearly and expressly published the position as an administrator (Employer Exhibit 12). The Employer has specifically listed as duties:

Administer and interpret County Sanitary Ordinance and Flood Plain Ordinance...

The Employer has specifically listed in the job description (Employer Exhibit 13)

Administer and interpret all phases of County Sanitary Ordinance and Flood Plain and Shoreland Ordinance.

Advise applicants as to the provision of the Ordinances and assist in preparing permit application

Issue permit and inspect properties for compliance with Ordinances

Keep records of all permits issued, inspections made, work approved and other official actions return proper fee to the state within 90 days so County will qualify for additional funds.

The duties listed and job description would appear to be administrative, i.e. to administer, interpret, act as agent are in most work environments managerial duties. If that is the case in this instance then the Union is excluded from representing or bargaining for this position (Article 1). However, the Employer has ~~disavowed~~ that a managerial relationship exists for this position, and presented evidence, testimony and argument that the singular duties of this position is that of Certified Well Inspector. As such the position would appear to be covered by the bargaining agreement. The Employer's authority to assign or

limit the specific duties for this position are set forth in the Agreement.(Article II,Administration).The Employer would appear to desire having the position both ways,managerial in job performance,and bargaining unit member in pay performance.It is the Arbitrator's opinion that a definitive clarification of the position expectations for the Sanitarian and Zoning Administrator is necessary in that Employer's published expectations and stated expectations are at wide variance.That clarification is deemed by this Arbitrator to be a matter of Grievance rather than Interest resolution,and will not undertake its resolution.

Fair Share Agreement

With regard to the issue of fair share,the Union's argument that other comparable counties have fair share agreements is considered.However,the Union presented no evidence or testimony as to how this benefit was derived,or was in exchange for some other perceived or actual benefit.The Union's strongest position on this issue is that the majority of other comparable counties have a fair share agreement.The Arbitrator deems this a positive but weak argument for sustaining the Union's final offer on this issue. The Employer's argument, while clearly opposed to the fair share agreement, appears to be an intrusion into the Union's affairs. Article 1.01 of the Agreement is clear and unambiguous:"the protection and representation of all employees for the Courthouse and Social Services Department,... for the purposes of conferences and negotiations,relating to wages hours,and other conditions of employment" are the Unions' business.The testimony of the Employer regarding discussion with certain members of the bargaining unit and their desires on this issue, if valid, does not appear to indicate an arms length relationship in negotiations and is not accepted. The Employer's argument about protecting future employees in a present Agreement is not valid. The Agreement covers only present employees not those who may be employed in the future.The Arbitrator deems the Union's position on inclusion of A fair share clause in the successor agreement to be slightly perferable.

Discussion of Final Offers as a Whole

The parties at impasse on the aforementioned issues have chosen compulsory final offer arbitration under Sec.111.70(4)(b) as the means of resolving their dispute. In making that selection,the Arbitrator is compelled to select all of the final offer of only one party and issue an award incorporating that final offer without modification into the successor Agreement.The merit or lack of merit on individual issues becomes secondary to the final award. In this impasse the selection of the final offer of the Union would have incorporated all the contested issues in dispute,some of which the Arbitrator deems lack sufficient merit or justification to sustain themselves as individual issues.The Employer's final offer is only those issues agreed to or stipulated in the final offer. The Employer's opposition to the Union's final offer was in some instances not supported by the documentation the Employer presented(Table 1,Employer Exhibits 12,13). The Union's evidence was essentially based on a comparison with other non-specified bargaining units in other counties.The Arbitrator believes that while comparability is a significant factor of consideration in fashioning an award,it is not the sole criteria without supporting documentation or rationale. The Union's comparability issue also fails when it attempts to add more issues(i,e payment for death and disability) then are actually being compared. Additionally the Union's final offer incorporates an issue(equity adjustment) which this Arbitrator believes is an issue of grievance, rather than of interest arbitration and should not be incorporated as part of an interest award.Finally,because the Union's final offer has issues which are raised by the Union only,the union has the "burden of Persuasion" in carrying the issues.This burden was not satisfied on the issues of holidays and sick leave payout. For the aforementioned reasons the final offer of the Employer is perferable.

VII AWARD

The 1984-1985 Collective Bargaining Agreement between the Vernon County Courthouse and Social Services, Local 2918, WCCME, AFSCME, AFL-CIO and Vernon County shall include the final offer of Vernon County, and the stipulations listed under Part IV of this Award and incorporated as part of this Award.

Dated this 31 day of December 1984, at Menomonie, Wisconsin.

Donald G. Chatman
Donald G. Chatman
Mediator/Arbitrator

Final offer - Vernon County Courthouse &
Social Services, Local 2918, WCCME, AFSCME, AFL-CIO

- ① Fair Share - See Attachment A
- ② Section 10.01 - All of Good Friday as a holiday.
- ③ Section 12.05 to read, "Upon retirement, death or disability, the employee (or his/her estate in case of death) shall receive the cash value of twenty-five percent (25%) of his/her unused accumulated sick leave. Any proven misuse or abuse of sick leave will subject the employee to disciplinary action including discharge."
- ④ Modify 19.04 to increase .50 to .75 per hour
- ⑤ (a) Wages
1/1/84 - 4.75% increase based on the average wage.
1/1/85 - 5% increase across the board.
- ⑥ (b) Sanitation / Janing positions to receive an equity adjustment in each of the two (2) years of the agreement of \$1,350.00, to be computed prior to the overall wage increases.
- ⑦ Retroactive to 4/1/84

- ⑦ Duration 1/1/84 to 12/31/85.
- ⑧ Modify 9.01 to provide "until the date they attain their 70th birthday" and delete "until the end of the calendar quarter in which they attain their 65th birthday. Calendar quarters end on the last day of March, June, September and December."
- ⑨ The Union's Final OFFER contains all of the provisions of the 1983 agreement unless addressed in the Union's Final OFFER.

For the Union
Daniel R Ojeje

Dated 6/11/84

ATTACHMENT A

Fair Share Agreement

Section 1. Union Responsibilities: The Union as the exclusive bargaining representative of all the employees in the bargaining unit will represent all such employees. No employee shall be required to join the Union, but membership in the Union shall be made available to all employees who apply consistent with the Union constitution and by-laws. No employee shall be denied Union membership because of race, creed, color or sex.

Section 2. Deduction: Effective upon ratification of this agreement by both parties, the County agrees that each month it will deduct from the pay of employees represented by the Union dues as established by the Union as a fair share service fee in the same amount. As to all unit employees employed on the date of ratification, such deduction shall be made only from the monthly earnings of those employees who are members of the employee organization. Unit employees who were not members of the employee organization on the date of ratification, shall not be covered by this Article. However, the afore mentioned employees not covered by this Article may opt to join the employee organization and thus become covered by this Article, at any time. The County shall pay such amount in a lump sum to the treasurer of the Union. Changes in the amount of dues to be deducted shall be certified by the Union thirty (30) days before the effective date of such changes.

Section 3. Indemnification: The Union shall indemnify and save the County harmless for any liability which may arise out of actions taken by the County under this section.

Name of Case: VERNON COUNTY (COURTHOUSE SOCIAL SERVICES)
CASE LXVI NO. 33110 MED/ARB-2696

The following, or the attachment hereto, constitutes our final offer for the purposes of municipal interest arbitration pursuant to Section 111.77 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.

6/11/84
(Date)

[Signature]
(Representative)

On Behalf of: Vernon County

6/11/84

VERMONT COUNTY FINAL OFFER
ON COURT HOUSE & JUDICIAL SERVICES CONTRACT.

2 year 1984-85 contract retroactive
to 11/1/84 with same terms as 1983
contract except:

1. Change duration provision to 11/1/84 to 12/31/85
2. Modify appendix A and B wage provisions
to ~~provide~~ ^{increase} 4.75% of unit average monthly wage
of 7/1/83 rates effective 11/1/84 and to
increase the 11/1/84 wage rates by 5% across
the board effective 11/1/85
3.

 2. Modify 9.01 to provide "until the
date they attain their 70th birthday"
and delete "until the end of the calendar
quarter in which they attain their
65th birthday. Calendar quarters end
on the last day of March, June,
September and December."
4. ~~no~~ no other changes.

Vermont County
J. [Signature], Negotiator.