

WISCONSIN EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE MEDIATOR-ARBITRATOR

MAY 06 1987

WISCONSIN EMPLOYM  
RELATIONS COMMISS

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 In the Matter of the Arbitration Between )  
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 LOCAL 20, DISTRICT COUNCIL 40, ) Case 63  
 AFSCME, AFL-CIO, CITY OF BROOKFIELD ) No. 37147  
 LIBRARY EMPLOYEES ) Dec. No. 23989-A  
 ) MED/ARB-3926  
 )  
 and )  
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 CITY OF BROOKFIELD (PUBLIC LIBRARY) )  
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Appearances: For the Union, Richard W. Abelson, Staff Rep., AFSCME, Waukesha.

For the Employer, Tom E. Hayes, Esq., Milwaukee.

BACKGROUND

On June 23, 1986, Local 20, District Council 40, 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 (MERA) to resolve a collective bargaining impasse between the Union and the City of Brookfield (Public Library)(referred to as the Employer or City) concerning a successor to the parties' collective bargaining agreement which expired on December 31, 1985.

On October 7, 1986, the WERC found that an impasse existed within the meaning of Section 111.70(4)(cm). On November 3, 1986, after the parties notified the WERC that they had selected the undersigned, the WERC appointed her to serve as mediator-arbitrator to resolve the impasse pursuant to Section 111.70(4)(cm)(6)(b-g). No citizens' petition pursuant to Section 111.70(4)(cm)(6)(b) was filed with the WERC.

By agreement with the parties, a mediation session was held between the undersigned and the parties on December 29, 1986 in Brookfield, Wisconsin. When mediation was unsuccessful, an arbitration hearing was held on February 2, 1987 in Brookfield, Wisconsin. At that time, a full opportunity was provided for the parties to present evidence and oral arguments. A brief on behalf of the City was presented at the hearing. The Union filed a post-hearing brief and the City subsequently filed a reply brief.

ISSUES IN DISPUTE

There are three issues in dispute. The first concerns wages for 1986-87. The Union proposes 5.5% effective January 1, 1986 and 5% effective January 1, 1987. The Employer proposes 4% in 1986

and 3.5% in 1987. The second issue concerns holiday pay for part-time employees. The Union proposes to delete the last sentence of § 25.05 while the Employer proposes to retain this sentence. The third issue relates to an evening shift differential. The Union proposes to add new § 6.06 which would state: "Employees scheduled to work an evening shift shall receive an additional twelve cents (12¢) per hour for all hours worked after 5:00 p.m." The Employer opposes the addition of this new section and the concept of shift differentials for this bargaining unit.

### 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 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 pension, 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 the private employment."

### POSITIONS OF THE PARTIES

#### The Union

The Union supports its final offer relating to wages by first pointing to external comparables. It believes that the follow-

ing communities are appropriate comparables in this proceeding: New Berlin, Waukesha, Menomonee Falls, Wauwatosa, West Allis, South Milwaukee, Greenfield, Eau Claire, Beloit, Fond du Lac, and Manitowoc. Although the parties agree upon the inclusion of New Berlin, Waukesha, Menomonee Falls, Wauwatosa, and West Allis, only the Union proposes South Milwaukee and Greenfield (because of demographic data and the fact that four of the thirteen unit employees live in Milwaukee or one of the Milwaukee suburbs) and Eau Claire, Beloit, Fond du Lac, and Manitowoc (because the 1984 Library Annual Report lists them as comparable communities). The Union rejects the City's inclusion of Muskego and Oconomowoc because their library system is far smaller than Brookfield's. It also rejects the City's heavy reliance upon comparable data from the County's federated library system (which Brookfield just joined effective January 1, 1987) because many of the component libraries differ significantly from the City's Library. The Union concludes that its comparability data supports its final offer.

The Union next points to the testimony and documents supplied by the President Elect of the Brookfield Taxpayers Alliance who volunteered to testify on behalf of the Union in this proceeding. He provided information to demonstrate that there has been under-assessing of property in Brookfield, hence the revenue intake of the City is substantially lower than it would be under a proper assessment system. This, according to the Union, is relevant on the issue of ability to pay, one of the statutory criteria.

The Union's final argument to support its wage offer relies upon internal comparability data. The Union notes that non-represented employees received 1986 salary increases which averaged 5-6%. Since this was based upon management arguments that these were justified because of external comparability, the Union concludes that such arguments are also applicable to members of this bargaining unit. Moreover, the Union contends that Library employees' salaries have been historically tied to non-represented employees' wage increases. As for comparisons with the City's blue collar unit's wage increases, the Union explains that the latter unit's wages have traditionally been among the highest in the comparability pool (in contrast to the Library employees' unit). Accordingly, the lower percentage increases agreed to by the City's blue collar unit should not be relevant in this proceeding.

As for its shift differential proposal, the Union's arguments emphasize employee hardship, minimal cost of the proposal, and blue collar unit precedent. The Union's proposal for holiday pay for part-time employees is supported by the significant number of part-time employees now in the unit (as a result of a recent representation election).

For all these reasons, the Union concludes that its offer should be selected.

#### The City

In addressing the statutory criteria, the City first notes that its final offer is well in excess of the cost of living. It

also notes that there is no inability to pay argument raised by the City in this proceeding and there is virtually no support in the comparables or in the Milwaukee area generally for the Union's proposals for a shift differential and for holiday pay for part-time library employees, including days when the employee would not be scheduled to work if the holiday did not occur.

The City's main arguments center around the wage issue, however. For the City, the appropriate comparables are the larger libraries in the Waukesha County Federated Library System: Menomonee Falls, Muskego, New Berlin, Oconomowoc, and Waukesha. In addition, the City acknowledges the abutting communities of Wauwatosa and West Allis as traditional comparables. It rejects two additional abutting communities, Elm Grove and Butler, as substantially smaller with libraries staffed largely by residents; it also rejects other suburban Milwaukee area libraries as significantly smaller. In discussing comparables, the City cautions that comparisons are complicated because of significant size differences among the comparables, differences relating to the time required for attaining the maximum salary, classification differences, and salary structure differences. Utilizing the appropriate comparables and taking into account various structural and title differences, the City concludes that the hourly wage rates elsewhere support its final offer for most job categories. Moreover, the City's Reply Brief notes that the percentage increases utilizing the Union's comparables indicate wage increases mostly in the range of 3.5% to 4% for 1986 and for 1987. Thus, according to the City, external comparability favors the City's wage offer.

Turning to internal comparables, the City rejects the Union's argument that the wage increase for this unit should parallel the increases unilaterally given to the City's unrepresented employees, particularly the classified City Hall employees. Instead, the City argues that the more reasonable internal comparisons are with the City's Public Works bargaining unit which is represented by the same union as is the library employees unit. Comparisons with the blue collar unit's negotiated increases support the Employer's final wage offer in this proceeding.

Finally, the City's Reply Brief dismisses the testimony and documents presented by the Union's witness, the President-Elect of the Brookfield Taxpayers Alliance, as not relevant to the substance of this proceeding. The witness' arguments that there is underassessment of high-valued residential property (and, therefore, less City revenue) is neither persuasive nor germane, particularly in light of the fact that the City has not contended in this proceeding that there is an inability to pay the Union's final offer or that City taxpayers have been excessively burdened by taxes.

For all the above reasons, the City concludes that the statutory criteria support its final offer.

#### DISCUSSION

The parties' arguments have concentrated upon the wage issue in this proceeding. There is little support for the Union's proposals for a shift differential and expanded holiday pay for part-time employees

among the traditional criteria. To support these proposals, the Union has mostly relied upon equitable considerations.

Turning to the wage dispute, it is evident that the parties differ sharply about: 1) what are the appropriate external comparables, 2) what are the appropriate internal comparables, and 3) predictions about increased workloads in 1987 (as a result of Brookfield joining the County's federated library system). As for the differences between the parties concerning what are the appropriate comparables, it is clear to the undersigned that Eau Claire, Beloit, Fond du Lac and Manitowoc are too distant and too dissimilar to Brookfield to constitute appropriate comparables in an interest arbitration proceeding concerning wages of library employees, even if the 1984 Brookfield Library Annual Report listed them as comparable communities. As for the other library systems which each party has selected as an appropriate comparable, it is not surprising that each party argues that the opposing party's list is highly selective and self-serving. Common to both lists, however, are New Berlin, Waukesha, Menomonee Falls, Wauwatosa and West Allis, despite differences in size and operations. While the Union argues that Brookfield salaries are significantly below average (with high productivity), the Employer believes these comparisons to be misleading because the Union compares only maximum rates and ignores the length of time required to reach the top wage rates. In addition, the City argues that comparing wage rates is less important than comparing percentage increases. When making percentage increase comparisons, the City concludes that Union exhibits demonstrate that such increases are mostly in the range of 3.5% to 4% among the external comparables. The undersigned believes that percentage increase comparisons deserve more weight than hourly rate comparisons, particularly in the absence of job descriptions and comparisons of other terms and conditions of employment, since the interest arbitration process is generally designed to maintain existing relationships, absent special circumstances.

As for internal comparables, the undersigned believes that both the increases given to unrepresented City employees and the increases negotiated with the Public Works bargaining unit are significant in this proceeding. However, looking to these two internal comparables is not particularly helpful in this proceeding since the 5%-6% increases given to the unrepresented City Hall workers supports the Union's final offer while the negotiated increase for the Public Works unit (as well as police and fire department units) supports the City's final offer.

Finally, the Union supports its final wage offer by contending that bargaining unit members will have an increased workload in 1987 as a result of Brookfield joining the County's federated library system. The City acknowledges that there will be more library usage but points out that additional employees are being hired - or will be hired - to take care of the contemplated increase. Since the arbitration hearing took place days after the beginning of 1987, the parties could only speculate as to what the new structure would mean to the workload of the bargaining unit. It certainly was too early to tell much about the extent of changes and whether new employees would in fact be able to minimize significant workload changes. Accordingly, the undersigned does not believe that it is appropriate to give weight

in this proceeding to speculation that there will be significant work load changes in 1987 for members of the bargaining unit. If the City fails to fulfill its promises to hire new employees or if there are in fact workload increases for other reasons, then the Union will be justified in renewing its argument for a wage increase in recognition of this special circumstance.

Since the undersigned believes that it is inappropriate to consider speculation about an increased 1987 workload and an examination of the internal comparables is inconclusive, the outcome of this arbitration necessarily revolves upon the external comparisons with appropriate comparables. As noted above, these comparisons indicate that the percentage increases of the comparables favor the City's wage offer. This conclusion is further supported by Employer arguments that a more precise hourly wage rate comparison (taking into account minimum rates, length of time required to attain the maximum rates, exclusion of supervisors, workweeks, etc.) also appears to favor the City's wage offer.

AWARD

Based upon the statutory criteria contained in §111.70(4)(cm)(7), the evidence and arguments of the parties, and for the reasons discussed above, the mediator-arbitrator selects the final offer of the Employer and directs that it, along with all already agreed upon items, be incorporated into the parties' collective bargaining agreement for 1986 and 1987.

Madison, Wisconsin  
April 30, 1987

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June Miller Weisberger  
Mediator-Arbitrator