

JUN 25 1987

IN THE MATTER OF MEDIATION-ARBITRATION	)	WISCONSIN EMPLOYMENT RELATIONS COMMISSION
	)	
between	)	
	)	
Tigerton School District, Tigerton, Wisconsin	)	Case 11 No. 37714 MFD/ARB-4092
	)	Decision No. 24280-A
-and-	)	
	)	
Tigerton Education Association	)	June 19, 1987
))	)	

APPEARANCES

For the Tigerton School District

Steven Holzhausen, Membership Consultant, Wisconsin Association  
of School Boards, Inc., Tomahawk, Wisconsin  
Walter W. Barker, Superintendent  
Rebecca Skarie, School Board Member  
Jeanette Peters, School Board Member

For the Tigerton Education Association

Thomas J. Coffey, Executive Director, Central Wisconsin UniServ  
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Jerry Murray, Negotiator  
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Harold V. Nelson, Negotiator  
Joyce Sheat, Negotiator  
Elizabeth LeClair, Negotiator

JURISDICTION OF MEDIATOR-ARBITRATOR

On July 14, 1986, the Parties, the Tigerton School District (hereinafter referred to as the "School District" or "School Board") and the Tigerton Education Association (hereinafter referred to as the "Association") exchanged initial proposals on matters to be included in a new contract to succeed the agreement which expired on June 30, 1986; that thereafter the Parties met on three occasions in efforts to reach an accord on a new contract; that on October 17, 1986, the School District filed an instant petition requesting that the Commission initiate Mediation-Arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Act; that on December 15, 1986, Edmond J. Bielarczyk, Jr., a member of the Commission's staff, conducted an investigation which reflected that the Parties were deadlocked in their negotiations, and, by February 12, 1987, the Parties submitted to said Investigator their final offers, as well as a stipulation on matters agreed upon, and thereupon the Investigator notified the Parties that the investigation was closed; and that the said Investigator advised the Commission that the Parties remain at impasse.

The Commission having, on February 20, 1987, issued an Order requiring that mediation-arbitration be initiated for the purpose of resolving the impasse arising in collective bargaining between the Parties on matters affecting wages, hours and conditions of employment of all regular full-time certified classroom teachers, librarians and counselors, excluding administrators, non-certified personnel, part-time teachers and substitute teachers; and on the same date the Commission having furnished the Parties a panel of

6. Tigerton's equalized valuation per student was the fifth lowest in the conference. (D-33).
7. Tigerton's levy rate was the second highest among the conference schools, 25.8% higher than the average. (D-33).
8. Tigerton's 1984 gross and effective property taxes rank second highest among the conference schools. (D-107).
9. Tigerton is a rural school district with 77.5% of its property classified as rural. (D-108).
10. Tigerton has the third and fourth highest percentage of families and persons below poverty, respectively. (D-100).
11. The 1984 adjusted gross income per capita in Shawano County - the county containing nearly all of the School District - was \$5,575, ranking it fifth among the six surrounding counties. (D-103).
12. The median household effective buying income by each category in Shawano County is second lowest among the surrounding counties. (D-101).

In rebuttal, the Association notes that Tigerton receives the highest state aid per member among the conference schools at \$1,958.10 per member. (A-11). In addition, the Association also points out that on School District Exhibit 113, a section entitled Recent Tax Changes provided for an 8% reduction in income rates and a one-time property tax/rent credit.

The School District provides no evidence to identify what percentage of its rural population is actually engaged in farming for their livelihood. However, it is obvious from the arbitrator's past experience in this area of the state and by merely observing the number of farms passed by the arbitrator while driving to Tigerton that some taxpayers are engaged in farming. The following summary of economic conditions facing farmers and taxpayers in general is therefore relevant to this proceeding.

1. There was 259 property foreclosures in the six county area during 1985, almost 15% of these being farms. (D-118).
2. The price of milk in 1986 stood at \$10.50 (per hundred weight), a drop of \$2.02 or 16% since 1984. (D-117,119).
3. Wisconsin was the only midwestern state in which the rate of decline in farmland values steepened at the beginning of 1986. (D-120).
4. The U.S. Department of Agriculture's decision to cut the price it will pay for surplus dairy products may cost the average Wisconsin dairy farmer more than \$200 a month in lost income. (D-122).
5. Farm prices fell to 49% of parity by the end of 1985 which equals the all-time low. (D-124).
6. Farm foreclosures may double in 1986. (D-126).
7. Falling land values tend to shift the property tax burden from rural to city dwellers. In that Tigerton is predominately rural there is nowhere else for a shift in the property tax burden. A result of this situation is

the increase in delinquent taxes in the past few years in Shawano County which is above the state average. (D-111).

8. Property taxes in the State of Wisconsin in 1984 ranked 13th in the nation, at least 25% higher than the nation average. (D-113, p. 7). Personal income per capita during the same year was \$12,474, 2.4% below the nation average, ranking Wisconsin 22nd. (D-113, p. 28).

The arbitrator does not live in a vacuum and, therefore, cannot ignore the economic difficulties faced by the taxpayers of the Tigerton School District. It is undisputed that the farm economy has experienced and still is experiencing a down economic cycle. However, the record fails to distinguish that the School District's introduction of "unique characteristics" of the Tigerton School District or the farm economy in this area is significantly different in make-up from the majority of the school districts in the Central Wisconsin Athletic Conference Schools, (except Shawano-Gresham), which constitutes the primary comparability group chosen by the Parties.

The Tigerton taxpayers are not suffering from an isolated incident of financial plight. The facts and circumstances do not justify different or preferential treatment which would establish that the Tigerton School District is less able to pay the economic demands of the Association or that the interests and welfare of the School District's taxpayers require a lower wage settlement than comparable school districts. It is for that very reason that the emphasis for comparison of teacher salary with comparable school districts is important in this matter. If the selected comparables support the Association's final offer, the logical result is that it would be in the best interest and welfare of the public to grant that request, as it would be no different than the comparable settlements.

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 the private employment in the same community and in comparable communities.

This statutory criterion mandates that the arbitrator compare the Parties' final offers with other teacher settlements in comparable schools.

The Parties are not new to the statutory impasse procedure. In the last school year (1985-86), the Parties were unable to resolve their differences and Neil Gundermann was selected to be the mediator-arbitrator. Mr. Gundermann was unable to mediate the impasse between the Parties, so he had to issue an arbitration decision on June 12, 1986, which upheld the School District's position on wages and travel. (D-7).

The Association, consistent with the dicta in Arbitrator Gundermann's award, is using the Central Wisconsin Athletic Conference Schools, except Shawano-Gresham, as its primary comparability group. Shawano-Gresham is excluded based on the acceptance of the School District's argument for exclusion in the 1985-86 arbitration case before Arbitrator Gundermann. There are seventeen schools in this conference, including Shawano-Gresham and Tigerton. Seven of the schools in this comparability group are

settled for 1986-87. These schools include: Almond-Boncraft, Tomorrow River (Amherst), Manawa, Menominee Indian, Port Edwards, Shiocton and Marion (per revised salary schedule of May 21, 1987). In addition, the conference schools of Bonduel and Wittenberg-Birnamwood have certified offers.

The School District has submitted the schools that comprise the Central Wisconsin Athletic Conference (with the exception of Shawano-Gresham) as being the most comparable to Tigerton. The Association, however, also includes settled schools districts in CESA 8, excluding the three large districts (Clintonville, Marinette, and Shawano-Gresham) and Marion, along with statewide schools, as its secondary comparables, assuming the arbitrator needs more schools to affirm the wage rate increases for 1986-87.

The arbitrator has considered all of the demographics with respect to the appropriate set of comparables in this matter. Both Parties have agreed that the athletic conference schools are comparable to Tigerton. The Arbitrator must therefore focus his primary attention on the Central Wisconsin Athletic Conference schools since both Parties are in agreement that these schools are comparable to Tigerton. The Parties, by both advancing the athletic conference schools, are giving the arbitrator the best view of what comparables both sides believe to be the most relevant and influential in resolving the instant dispute. The Central Wisconsin Athletic Conference schools are the most appropriate set of comparables that have influenced bargaining between the Parties in the past. Arbitrator Gundermann only last year recognized the significance of using only the athletic conference schools as the appropriate set of comparables. It would severely undermine the Parties future bargaining relationship if schools deemed to be comparable by Arbitrator Gundermann only one short year ago were expanded to include those schools that have not been considered comparable in the past. Stability in the collective bargaining relationship will be destroyed if the arbitrator ignores the dicta in last year's case and seeks out different school districts, as suggested by the Association, just because they are settled for 1986-87.

The record establishes that the athletic conference schools of Almond-Bancroft, Iola-Scandinavia and Port Edwards do not have traditional salary schedules. A number of arbitrators have spoken to the issue of comparisons with the few schools without salary schedules and have rejected their comparison with traditional salary schedules. Manitowoc School District (Voluntary Impasse Procedure, 6/24/84, Kerkman); Port Edwards School District (Dec. 20915-A, 2/29/84, Weisberger); Two Rivers School District, Dec. 18610-A, 7/10/81, Yaffe).

The School District does not provide any historical background that establishes any systematic approach on how experience and training was treated by the Almond-Bancroft and Iola-Scandinavia School Districts. Rather, the variance of pay seems to be determined by the random choice based on the year the across-the-board raise system began.

Arbitral opinion as well as the School District's exhibits establish that meaningful benchmark comparisons cannot be made to these schools with their nontraditional pay system. As such, the arbitrator has excluded Almond-Bancroft, Iola-Scandinavia and Port Edwards for only the benchmark comparisons.

The appropriate increase in dollars and percentage at the seven benchmarks have been used extensively by arbitrators in Wisconsin as one of the measures in determining the reasonableness of a particular final offer. In addition, the Association has used

the BA career and MA career measurement to determine comparable value of the salary schedules over a twenty-five year period. This measurement provides additional relevant evidence for consideration by the arbitrator. The following charts prepared from Association Exhibits 41(a-c) and 42(a-c), and the Marion revised data establish how the seven benchmarks compare to the Parties' final offers with respect to the average dollar and percentage increases of the settled schools with traditional pay systems.

CHART I

	<u>ASSOCIATION</u>	<u>SCHOOL BOARD</u>
	<u>+/- Average</u>	<u>+/- Average</u>
BA Minimum	- \$8	- \$233
BA 7	- \$46	- \$325
BA Maximum	- \$60	- \$273
MA Minimum	- \$1	- \$241
MA 10	- \$54	- \$380
MA Maximum	- \$78	- \$433
Schedule Maximum	- \$357	- \$712

CHART II

	<u>ASSOCIATION</u>	<u>SCHOOL BOARD</u>
	<u>+/- Average</u>	<u>+/- Average</u>
BA Minimum	- .2%	- 1.7%
BA 7	- .5%	- 2.0%
BA Maximum	- .3%	- 1.7%
MA Minimum	- .0%	- 1.4%
MA 10	- .5%	- 1.6%
MA Maximum	- .3%	- 1.7%
Schedule Maximum	- 1.1%	- 2.5%

The above charts show that the Association's offer for 1986-87 is below the average increase in both dollars and percentage at all seven of the commonly used benchmarks, except for an average percentage increase at the MA Minimum, which is exactly at the average of the settled schools.

The average salary dollar increase per full time equivalency is an important measure in any impasse matter. This evidence is particularly relevant based on the specific dicta from Arbitrator Gundermann's 1985-86 award, wherein he states at page 10:

In making a comparison of settlements, a benchmark analysis, consideration of percentages, and consideration of dollar amounts all contribute to some degree to the determination of comparability. Thus, no single factor can be determinative.

The Association's final offer is \$56 below the average of the comparable school districts with respect to the average salary dollar increase per full time equivalency. The School District, on the other hand, is \$362 below the average increase in the comparable school districts. (A-108-A; Marion's Revised Salary Schedule).

Another important measure is the percentage increase per full-time equivalency. This also follows the guidelines set forth by Arbitrator Gundermann in his recent award. The Association's offer is .15% below the average increase of the comparable schools. The School District's final offer widens that gap, as it is 1.65% below the average increase. (A-108-A; Marion's Revised Salary Schedule).

Both the Association and the School District have presented evidence, including charts and tables, in their briefs with respect to Tigerton's historical wage rates in comparison to the other athletic conference schools. In a nutshell, as a result of Arbitrator Gundermann's award in which he ruled in favor of the School District's final offers for the 1985-86 school year, the Tigerton teachers received both dollar and percentage increases on the seven benchmarks which were below the average of the comparable schools for that school year. The teachers, on the other hand, are still above the average of the other comparable schools in regards to the benchmark salaries for 1985-86 and will retain that ranking for the 1986-87 school year. In fact, Tigerton's rank on the benchmark salaries continues to be at the top under either final offer when compared with the seven settled comparable school districts. There is no deterioration and even improvement on the MA base under either final offer.

In this regard, the School District argues that it would be wrong for the arbitrator to evaluate the final offers only in terms of "absolute" average dollar and percentage increases on the benchmarks, as it ignores the fact that Tigerton retains its high ranking on the benchmarks under either final offer. The School District's argument fails to recognize that the Association's final offer in this matter is not an attempt to "catch-up" for last year's loss in arbitration. Rather, the Association's offer is actually less than the average of the settled schools when any of the above measures are applied. The Association has substantially moderated its demands for 1986-87 while the School District has accelerated its pushing down of Tigerton's wage rate increase. The Association's final offer, which provides a below average increase, is clearly the more reasonable offer regardless of which of the commonly used comparable measurement criteria are used.

This statutory criterion also directs the arbitrator to compare inter alia the final offers with private sector settlements. Private sector settlements support the School District's final offer. (D-128). The private sector settlements in the Tigerton area varied from a wage freeze to a maximum of five percent for 1986. However, the teacher settlements in comparable school districts rather than the private sector settlements should be given more weight under this criterion to evaluate the reasonableness of the Parties' final offers. The 1986-87 settlement in the comparable schools were negotiated in the same economic climate and gives the proper measure of how teacher agreements have responded to private sector settlements.

E. The average consumer prices for goods and services, commonly known as the cost-of-living.

Cost of living as measured by the consumer price index (CPI) has been held in check over the past four years. (D-72). The cost of living for the relevant contract period at issue shows that from July 1985 to July 1986 the CPI increased by 1.8%. The School Board's final offer exceeds the CPI by at least 5.2%. The Association's final offer exceeds the CPI by approximately 6.7%. (D-3,5). Since the School District's final offer is well above the CPI, it guarantees that Tigerton teachers will not suffer reduction in spending power and will actually gain in very real terms. Yet, the Parties were aware of the "prevailing economic conditions" when they constructed their final offers on salary, as were the majority of the seven athletic conference districts who settled higher than

the School District's final offer for the 1986-87 school year. Consequently, this factor has little bearing on the outcome of this case.

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.

In that the only impasse issue involves salary, the arbitrator must conclude that the Tigerton teachers are satisfied with the current status of the such benefits as extra-curriculum pay, insurances, leaves of absence, pensions, and the continuity and stability of employment.

G. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

The Parties agreed at the end of the hearing that the record for this matter would be closed on May 22, 1987. The Association presented the revised Marion schedule in accordance with that agreement.

The School District introduced new evidence in its post hearing brief rather than on or before the deadline date with respect to the settlements at Tomorrow River Schools, Amherst, Wisconsin and at Manawa. The Association strongly objects to the inclusion of this evidence. The School District had until May 22, 1987, to refute any Association evidence with respect to any settlements, including Marion, Tomorrow River or Manawa. No evidence was submitted until the School District filed its brief on May 29, 1987, which is seven days beyond the agreed upon closing date. The intended purpose of submitting new evidence on or before May 22, 1987, was to give the opposing Party the opportunity to respond to it in the post hearing briefs and, if warranted, in the reply briefs. The School District breached this mutual agreement and, consequently, the arbitrator has not considered any new evidence submitted beyond May 22, 1987, in his deliberations.

Even assuming arguendo that this new data is considered by the arbitrator, it does not support the School District's case for the following reasons. First, it is unrefuted that Marion was used as a comparable by the School District in the 1985-86 arbitration. (A-114,115). In fact, the Marion salary schedule was improved after the hearing. The School District's exhibit in costing used by Arbitrator Gundermann in 1985-86 was inaccurate because of Marion's later salary adjustment. The School District then presents a 1986-87 Marion salary schedule that had not been adjusted according to the terms of their contract. The Association presented the revised Marion salary schedule in accordance with the May 22nd agreement. The Association used the standard Wisconsin Association of School Board (WASB) method of costing which is to cast forward teachers in establishing the new evidence of Marion.

Second, an examination of Association Exhibit 108(c) and Appendix A of the School District's post hearing brief shows the late School District exhibit does not use the standard WASB cast forward method. It should also be noted that the Association exhibit has no one on Step 0 for 1986-87, a cast forward of the 1985-86 staff. The School District has four teachers on Step 0,

which is impossible with the cast forward method. It is obvious the Association is using a consistent method with all the comparables.

Third, the School District has no evidence on Manawa in the official record. The Association provided unrefuted evidence on the Manawa 1986-87 settlement in its exhibits. Therefore, the unverifiable assertions on page 26 of the School District's post hearing briefs must be summarily dismissed.

II. 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.

This factor was not given great weight because such other factors normally or traditionally taken into consideration in the determination of the appropriate salary schedule for 1986-87 were already considered in the previous statutory criteria.

In conclusion, the Association's attempt to keep its salary schedule wage rate increases in line with comparable districts is particularly reasonable as the Association's final offer provides a lower than average increase for 1986-87 among the comparable schools while the School District's final offer constitutes a continuing deterioration of Tigerton's wage rates. The arbitrator has given careful consideration to the interests and welfare of the Tigerton School District residents. The Association's final offer strikes the balance between comparable salary increases and the needs of the taxpayers of Tigerton.

#### AWARD

Based upon the statutory criteria in Wis. Stats. 111.70(4) (cm)(7), the evidence and arguments presented in this proceeding, and for the reasons discussed above, the arbitrator selects the final offer of the Association and directs that it, along with any and all stipulations entered into by the Parties, be incorporated into the 1986-87 collective bargaining agreement.

  
Richard John Miller

Dated June 10, 1987, at New Hope, Minnesota