

NOV 20 1987

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In The Matter Of The Petition Of:

MARINETTE COUNTY EMPLOYEES LOCAL 1752,
AFSCME, AFL-CIO

To Initiate Arbitration Between
Said Petitioner

Decision No. 24438-A

-and-

MARINETTE COUNTY

Appearances: Guido Cecchini, Staff Representative, for the Union.
James E. Murphy, Corporation Counsel, for the Employer.

Marinette County Employees Local 1752, AFSCME, AFL-CIO, hereinafter referred to as the Union, filed a petition with the Wisconsin Employment Relations Commission, hereinafter referred to as the Commission, wherein it alleged that an impasse existed between it and Marinette County, hereinafter referred to as the Employer, in their collective bargaining. It requested the Commission to initiate arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act.

At all times material herein the Union has been and is the exclusive collective bargaining representative of certain employees of the Employer in a collective bargaining unit consisting of all regular full-time and regular part-time employees of the courthouse, but excluding all elected personnel and supervisory personnel and confidential personnel. The Union and the Employer have been parties to a collective bargaining agreement covering wages, hours and working conditions of the employees in the unit that expired on December 31, 1986. On October 28, 1986, the parties exchanged their initial proposals on matters to be included in the new collective bargaining agreement. Thereafter, the parties met on one occasion in an effort to reach an accord on a new agreement. On November 13, 1986, the Union filed a petition with the Commission requesting it to initiate arbitration. On February 10, 1986, a member of the Commission's staff conducted an investigation that reflected that the parties were deadlocked in their negotiations. The parties submitted their final offers by March 20, 1987.

The Commission concluded that an impasse exists between the parties with respect to negotiations leading toward a new collective bargaining agreement. It ordered that arbitration be initiated for the purpose of issuing a final and binding award to resolve the impasse and the parties were directed to select an arbitrator from the panel submitted by the Commission. Upon being advised by the parties that they had selected Zel S. Rice II as the Arbitrator, the Commission issued an order on June 2, 1987 appointing him as Arbitrator to issue a final and binding Award to resolve said impasse by selecting either the total final offer of the Union or the total final offer of the Employer.

The final offer of the Union, attached hereto and marked Exhibit A, proposed an increase of 22 cents an hour for 1987 and a 3.5 percent increase for 1988. The Employer's final offer, attached hereto and marked Exhibit B, proposed a 1987 increase of 17 cents per hour across the board and an increase of 2.5 percent for all employees for 1988.

The Wisconsin Employment Relations Commission recently issued a unit clarification decision in which it determined that the positions of Clerk/Dispatcher, Dispatcher, Records Manager/Dispatcher and Secretary/Dispatcher should be included in the collective bargaining unit represented by the Union. The Employer and the Union have stipulated that those employees shall receive the same percentage pay increase as other employees in the bargaining unit and it shall be retroactive. The parties have stipulated that the average wage rate for the bargaining unit during 1986 was \$7.93 per hour.

The Employer has given its elected officials a 6 percent increase in wages for 1987. Those officials were the Clerk of Court, the County Clerk, the Register of Deeds, the Treasurer, the Coroner, the Sheriff and the District Attorney. The Employer has reached agreement with its Highway Department employees providing for a 1987 increase of 20 cents per hour or 2 percent. The parties further agreed that the 1988 increase for the Highway Department employees would be 2.5 percent. As part of that agreement, the parties agreed to a "Me Too" clause that provided that the Employer would reopen contract negotiations with the Highway Department employees if a negotiated contract with some other bargaining unit of the Employer exceeded 4.5 percent over the two year contract period of 1987 and 1988. The employees at Pine View Home are not represented by a Union and the Employer unilaterally gave them a 3 percent increase for 1987.

The City of Marinette has agreed to give its employees represented by Unions a 4.5 percent wage increase in 1987 and a 5 percent increase in 1988. The Marinette Board of Education has agreed to give its custodial and maintenance support staff a 4 percent increase for the 1986-87 school year and a 4 percent increase for the 1987-88 school year. The Marinette Board of Education agreed to give its clerical employees a 5.5 percent increase for the 1986-87 school year.

Florence County paid its Highway Department employees an average of \$7.96 per hour during 1986. It reached a two year agreement with the Union representing those employees that provided an increase of 16 cents per hour or 2 percent on January 1, 1987, 16 cents an hour or another 2 percent on July 1, 1987, 16 cents per hour or another 2 percent on January 1, 1988 and 16 cents per hour or another 2 percent on July 1, 1988. Forest County has not reached agreement with its Highway Department employees and both the employees and the county have submitted final offers to the Commission. The county's final offer, which is the lowest possible settlement in Forest County, provides for an increase of 22 cents per hour on January 1, 1987 and 7 cents per hour on July 1, 1987. On January 1, 1988 the county's proposal provides for a 3.1 percent wage increase and on July 1, 1988 it provides for another .6 percent. The July 1, 1988

percentage increase is to be based on the December 31, 1987 average. The 1986 average wage rate for the Highway Department employees in Forest County was \$7.88 per hour. Oconto County has reached a two year agreement with its Unified Service employees. It provides for a 3 percent increase for 1987 and a 3.5 percent increase for 1988. The Wausaukee School District reached agreement with the Union representing its support staff on a 4 percent increase for the 1987-88 school year and a 4 percent increase for the 1988-89 school year. The Goodman-Armstrong school district reached agreement with the union representing its support staff employees on a 5 percent increase for the 1987-88 school year and a 6 percent increase for the 1988-89 school year. The Pembine School District reached agreement with the union representing its support staff on an increase for the 1987-88 school year of 4.5 percent and for the 1988-89 school year of 4.9 percent.

The Urban Wage Earners and Clerical Workers Consumer Price Index and the All Urban Consumers Price Index both increased 3.7 percent between June of 1986 and June of 1987. Data Resources Inc., a national econometric forecasting firm, projects that the All Urban Consumer Price Index will increase by 4.4 percent between the second quarter of 1987 and the second quarter of 1988. An article in the New York Times dated April 17, 1987 reported that most economists expect inflation to be somewhere between 4 percent and 6 percent during 1987. The Kiplinger Washington Letter dated May 15, 1987 projected that the increase in the Consumer Price Index during 1987 would total 4.5 percent. The May 29, 1987 Kiplinger Washington Letter projected that the jump in inflation would be between 4.5 percent and 5 percent during 1987.

The Union's proposal would result in an average wage for this bargaining unit of \$8.15 per hour in 1987 and \$8.44 per hour in 1988. The Employer's proposal would result in an average wage for the bargaining unit during 1987 of \$8.10 per hour and in 1988 it would be \$8.30 per hour. Door County has reached agreement with its courthouse employees and the average wage in 1987 is \$7.08 per hour. No agreement has been reached for 1988. Shawano County has reached agreement with its courthouse employees on an average wage of \$6.84 per hour during 1987. No agreement has been reached on a 1988 wage level. Oconto County has reached agreement with its courthouse employees on an average wage of \$7.99 per hour during 1987. That is a 3.5 percent increase. There was no agreement for 1988 in Oconto County but an arbitrator awarded a 2.5 percent increase which will result in an average wage of \$8.19 per hour. The City of Menomonee, Michigan has reached agreement for 1987 and 1988 with its city hall employees. The agreement provides an average wage of \$6.75 per hour in 1987 and \$7.13 per hour in 1988. Menomonee County in Michigan has reached agreement with its courthouse employees for 1987 on an average wage of \$7.50 per hour. The City of Marinette has reached agreement with its employees in city hall for the years 1987 and 1988. The agreement provides for an average wage of \$7.73 per hour in 1987 and \$8.05 per hour in 1988.

The Employer has reached agreement with its social service professional employees on a 2 percent increase for 1987. As part of that agreement, the parties agreed to a "Me Too" clause if the courthouse bargaining unit received a

higher increase in 1987. A written contract reflecting that agreement has been executed and the wage increases are being paid. The Employer has given its non-organized employees a 2 percent increase in 1987 and a 2.5 percent increase in 1988. The County Library Board employees are not organized but the employees received a 2 percent increase in 1987 and will receive a 2.5 percent increase in 1988. The Employer and its deputy sheriffs agreed to a consent award by Arbitrator Stanley H. Michelstetter that gave them a 2% increase in 1987 and a 2.5% increase in 1988.

UNION'S POSITION

The Union argues that there is no inability to pay issue before the arbitrator. It contends that there is no trend established with respect to either the duration of the agreement or the amount of the increases. The Union points out that there is a "Me Too" agreement between the Employer and its high-way department employees and between the Employer and the social services unit. It contends that no real negotiations were conducted between those bargaining units and the Employer and the courthouse bargaining unit is expected to set the trend.

The Union points out that the counties of Door, Shawano and Oconto, with which the Employer seeks to be compared, are all smaller than the Employer. It takes the position that the Employer has not given the positions included in computing the averages or the number of employees in each of the classifications average. The Union asserts that wage rates given by the Employer for 1987 and 1988 for Oconto County are not accurate because the courthouse unit in that county was involved in an arbitration proceeding to determine those wages. It notes that the Employer contended at the hearing that it does not have a "Me Too" agreement with its Department of Social Services Professional Bargaining Unit. Because of those inaccuracies it takes the position that the Employer's data on wages in the other counties cannot be relied upon. The Union contends that the Employer's proposal is considerably below the pattern in the nearby communities. It points out the average increase for municipal employees in the immediate area is 4.2 percent for 1987 and 4.3 percent for 1988. The Union argues that the rate of increase of the Consumer Price Index is substantially higher than the Employer's proposal. It points out that its own proposal will result in a decrease in purchasing power for its members in 1987 and 1988.

EMPLOYER'S POSITION

The Employer argues that its nonrepresented personnel, with the exception of elected officials, will receive the same percentage increase the Employer offered the Union. It points out that the Highway Department bargaining unit and the Department of Social Services Professional bargaining unit settled for the same percentage increase that the Employer has proposed for the courthouse bargaining unit. Its deputy sheriffs bargaining unit accepted a similar increase in a consent award. The Employer takes the position that its weighted average hourly rate is higher than that of four of its adjoining counties and

the two largest cities in the same geographical area. It asserts that it has the highest average hourly rate of all the municipalities in the area.

DISCUSSION

The statutes set forth the factors to be considered by the arbitrator in making any decision under the arbitration procedures set forth in the statute. It requires the consideration of the lawful authority of the municipal employer. Either of the proposals of the Union or the proposal of the Employer falls within the lawful authority of the municipal employer. The stipulations of the parties do not impact on the position of either the Employer or the Union. The interest and welfare of the public do not favor the position of either of the Employer or the Union and there is no issue with respect to the financial ability of the Employer to meet the cost of either its proposed settlement or that of the Union. The overall compensation presently received by the employees is not a factor and does not support the position of either party over that of the other.

Wages are the only issue involved in this proceeding. The wages of the municipal employees involved in the proceedings averaged \$7.93 per hour in 1986. That rate was higher than the average rate of the employees who perform similar services in the four adjoining counties and the two largest cities in the same geographical area. None of the municipal employers in the area paid as high an average hourly rate in 1986 for employees doing the same type of work as the Employer's courthouse employees received. The percentage increase pattern for employees in the immediate area performing work similar to that being performed by the employees represented by the Union was somewhat higher than the Employer's proposal. Florence County gave its employees a 2% increase on January 1, 1987, a 2% increase on July 1, 1987, a 2% increase on January 1, 1988 and a 2% increase on July 1, 1988. Forest County proposed a two step increase in 1987 and a two step increase in 1988 that would provide increases in excess of 3 1/2% each year. Oconto County has reached an agreement on a 3.5% increase for 1987 and a 2.5% increase for 1988. Oconto County reached a two year agreement with its unified service employees providing for a 3% increase for 1987 and a 3.5% increase for 1988. The Wausaukee School District reached agreement with the Union representing its support staff on a 4% increase for the 1987-88 school year and a 4% increase for the 1988-89 school year. Goodman-Armstrong School District reached agreement with its support staff employees on a 5% increase for the 1987-88 school year and a 6% increase for the 1988-89 school year. The Penbina School District reached agreement with its support staff on an increase of 4.5% for the 1987-88 school year and 4.9% for the 1988-89 school year. The City of Marinette gave its employees a 4.5% increase in 1987 and a 5% increase in 1988. The Marinette Board of Education gave its custodial and maintenance staff a 4% increase for the 1986-87 school year and a 4% increase for the 1987-88 school year. Its clerical employees received a 5.5% increase for the 1986-87 school year. That pattern of increases is somewhat higher than the increase proposed by the Employer. It should be noted that even though the Employer's proposed percentage increase of 2% in 1987 and 2.5% in 1988 is

somewhat below the pattern of increases for the area, the Employer would still pay the highest rates in the immediate area for employees performing the same type of work performed by the employees represented by the Union.

A comparison of the increases proposed by the Employer with the increases given to its other employees is particularly revealing. Its highway department employees agreed to a 2% increase for 1987 and a 2.5% increase for 1988. The professional employees in the department of social services reached agreement on a 2% increase for 1987. The Employer and its deputy sheriffs agreed to a consent award by an arbitrator of a 2% increase in 1987 and a 2.5% increase in 1988. Almost all of the other employees of the Employer except the elected officials will receive a 2% increase for 1987 and a 2.5% increase for 1988. The only exceptions were the employees at Pine View Home who were given a 3% increase for 1987. An internal pattern of a 2% increase in 1987 and a 2.5% increase in 1988 for the employees of the Employer has been firmly established through negotiations and by a consent award. The only basis for an arbitrator to depart from the internal pattern arrived at by negotiations and the consent award would be if the courthouse employees were paid less than employees doing similar work in the immediate area. However that is not the case. The Employer's employees receive the highest wages of any employees performing similar work in the four adjoining counties or any of the municipalities in the area. The Employer's proposal would result in an average wage for the bargaining unit during 1987 of \$8.10 per hour and in 1988 it would be \$8.30 per hour.

No evidence was introduced by either the Employer or the Union with respect to the wages of employees in private employment in the area. The Employer argues that the average wage increase for the year 1987 in private employment was 2.1%.

The Union points out that the increase in the cost of living during the period from June of 1986 to June of 1987 was 3.7% and that many economic forecasters were projecting a 4.4% increase in the cost of living between the second quarter of 1987 and the second quarter of 1988. There is some evidence that the rate of increase in the cost of living has been stepped up in 1987. However the increase in the consumer price index in 1986 was slightly over 1%. The rate of increase in 1987 will be somewhat higher and might be higher than the Employer's proposed 1987 increase. However the Employer's proposal for 1987 is higher than the 1986 increase.

It appears that over the years the Employer has bargained itself into a position where it has paid the highest wages in the area to its employees. Its 1987 and 1988 proposed percentage increases are somewhat lower than the increases given by the counties and municipalities and school districts in the area to their employees performing work similar to that performed by the courthouse employees. However the Employer would still have the highest average wage per employee in the area. The Employer's employees in its highway department, department of social services and deputy sheriffs have agreed to an

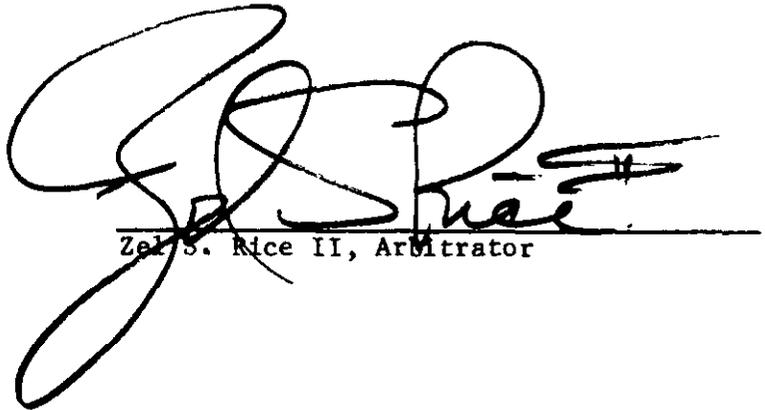
increase pattern for 1987 and 1988 that provides percentage increases somewhat lower than the regional pattern but still results in wages that are higher than those paid by other public Employers in the area to employees performing similar work. The Union's proposal is not outrageous and compares favorably with the regional pattern, but it would increase the differential between the average wage paid by the Employer and the average wage received by other public employees in the area doing similar work. Under the circumstances the arbitrator is satisfied that the interest and welfare of the public requires that the award fall in line with the pattern of increases agreed to by the Employer's other bargaining units. In the absence of some inequity, compelling reason or unique circumstance, there is no reason why the Employer's courthouse employees should receive increases through arbitration that are greater than those obtained by the other employees of the Employer through bargaining. Such a result would encourage employees to seek to resolve their wage disputes by arbitration as opposed to bargaining.

It therefore follows from the above facts and discussion thereon that the undersigned renders the following

AWARD

After full consideration of the criteria set forth in the statutes and after careful and extensive examination of the exhibits and briefs of the parties, the arbitrator finds that the Employer's final offer more closely adheres to the statutory criteria than that of the Union and directs that the Employer's proposal contained in Exhibit B be incorporated into an agreement containing the other items to which the parties have agreed.

Dated at Sparta, Wisconsin this 17th day of November, 1987.



Zel S. Rice II, Arbitrator