

In the Matter of Final and Binding :  
Final Offer Arbitration Between :  
CITY OF БЕЛОIT :  
and :  
LOCAL UNION NO. 2537 :  
AFSCME, AFL-CIO :  
Case 103 No. 45306 :  
INT/ARB-5946 :

**RECEIVED**  
JUN 2 1992

**AWARD**  
WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

Decision No. 27006-A

**I. NATURE OF PROCEEDING.** This is a proceeding in final and binding final offer arbitration between the City of Beloit and Local Union No. 2537, AFSCME, AFL-CIO. The City having filed a petition on February 12, 1991, with the Wisconsin Employment Relations Commission alleging that an impasse existed between it and the Union, the Wisconsin Employment Relations Commission caused an investigation to be made by Karen J. Mawhinney of the Commission staff. The staff investigator reported that the parties were deadlocked, and the Commission concluded that an impasse within the meaning of Sec. 111.70 (4) (cm) 6 existed, certified that the conditions precedent to the initiation of arbitration as required by the statute had been met, and on September 10, 1991, ordered final and binding arbitration to be initiated. The parties having selected Frank P. Zeidler, Milwaukee, as arbitrator, the Commission appointed him on October 29, 1991.

**II. HEARING.** A hearing in the above entitled matter was held on March 2, 1992, at the City Hall in Beloit, Wisconsin. Parties were given full opportunity to give testimony, present evidence and make argument. Briefs were supplied by the parties by April 29, 1992, and a Reply Brief was forthcoming from the City on May 18, 1992.

**III. APPEARANCES.**

THOMAS LARSEN, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appeared for the Union.

BRUCE K. PATTERSON, Employee Relations Consultant, appeared for the City.

**IV. FINAL OFFERS OF THE PARTIES.** The final offers of the parties are as follows:

FINAL OFFER THE UNION FOR CHANGES TO  
THE COLLECTIVE BARGAINING AGREEMENT  
BETWEEN THE CITY OF БЕЛОIT AND  
LOCAL 2537, AFSCME, AFL-CIO

- 2 -

28 June 1991 (Revised)

The Union reserves the right to make additions, modifications, amendments, deletions or corrections to these proposals. No agreement is final until approved by ratification by the membership. No portions of these proposals shall be deemed a waiver of any existing rights; all proposals regarding existing rights are merely attempts to codify existing conditions.

1. Modify §6.04 to provide as follows:

"Except for employees working on a 5/2-5/3 schedule, custodial employees and employees working at the Library, employees shall be regularly assigned to work shifts between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday except as otherwise mutually agreed to."

NOTE: For the purposes of the application of this provision all employees working shifts other than as provided above, as of June 28, 1991 will be deemed as working such shift per a mutual agreement (example, Irey Pollock and WWTP Laboratory personnel).

3. Provide for the following reclassifications:

Motacek from Clerk Typist II to Secretary (PR-VI)  
Ryan from Animal Control Warden to Humane Officer

5. Modify §6.05 to provide as follows:

"Employees shall receive time and one-half their hourly rate of pay for all hours worked in excess of eight (8) hours per day or forty (40) hours per week. Vacations and holidays shall be considered as time worked in computing overtime pay."

6. Modify §8.03(b) to provide as follows:

"Employees working a 5/2-5/3 schedule in the Police Department who are required to work a full shift on the holidays listed above shall be compensated at double the employees normal pay for the work day. Such employees will receive a minimum of eight (8) paid holidays."

7. Modify §6.10 to provide as follows:

"Employees who are required to carry a paging device during off-duty hours will receive fifty cents (50¢) per hour for each off-duty hour that the employee is on-call."

8. Provide for a wage increase of three percent (3%) effective 1/1/91, three percent (3%) effective 7/1/91, three percent (3%) effective 1/1/92 and three percent (3%) effective 7/1/92, such amount to be applied to each cell of the wage schedule.

9. Provide for a duration of two (2) years, retro-active to January 1, 1991 through December 31, 1992.

10. Except for the tentative agreements of the parties all other provisions as are currently constituted.

NEGOTIATION DISPUTE

Final Offer

In the Matter  
Between  
Local 2537 AFSCME  
And  
The City of Beloit

WERC Case 103  
No. 45306  
Int./ARB 5946  
City's Final Offer

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The City of Beloit makes the following final offer on all issues in dispute in the cited matter for a successor agreement between the Parties to be effective January 1, 1991 and remain in full force and effect through December 31, 1992.

1. All provisions of the 1989-90 Agreement between the Parties not modified by this final offer or a Stipulation of Agreed Upon Items, if any, shall be included in the successor Agreement between the Parties for the term of said agreement.
2. The term of the Agreement shall be for years January 1, 1991 through December 31, 1992. All dates relating to term shall be changed to reflect the above cited term.
3. The Custodian Supervisor at Beloit Housing Authority is reduced to Custodian. His rate of pay is "red circled" or frozen at the 1990 24-month rate for Custodian Supervisor until the 24-month rate for Custodian equals or exceeds that amount. Then he will be paid at the 24-month rate for Custodian.
4. The impact of the schedule change for Animal Control is addressed as follows:
  - a. The new shift for the Animal Control Warden will be from 12:30 p.m. to 9:00 p.m. Monday through Friday during Daylight Savings Time and 9:30 a.m. to 6:00 p.m. during non-Daylight Savings Time.

- b. When the day person takes vacation of one (1) week or more, the night person will go to days.
  - c. When the Animal Control Warden is assigned to the 12:30 - 9:00 shift, he or she will be paid a shift premium of \$.20 per hour for hours after 3:00 p.m.
5. Wages will be increased by 4% effective 1/1/91 and 4% effective 1/1/92.

Alan S. Tolson

For the City

8/14/91

Date

**V. FACTORS TO BE WEIGHED BY THE ARBITRATOR.** The following factors are to be given weight by the arbitrator under Section 111.70 (4) (cm) 7 of the Statutes:

"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 employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.

"e. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes generally in public employment, in the same community and in comparable communities.

"f. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes in private employment in the same community and in comparable communities.

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

"h. The overall compensation presently received by the municipal employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all benefits received.

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

"j. *Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration by 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.*"

**VI. LAWFUL AUTHORITY OF THE MUNICIPAL EMPLOYER.** There is no issue here as to the lawful authority of the municipal employer to meet the terms of either offer.

**VII. STIPULATIONS.** The parties have stipulated to all other matters between them.

**VIII. COSTS OF THE OFFERS.**

Table I

CITY OF БЕЛОIT - AFSCME LOCAL #2537  
 COST OF COMPARATIVE WAGE PROPOSALS

	CITY PROPOSAL	CITY PROPOSAL	UNION PROPOSAL	
ANNUAL PAYROLL 1990	1,907,988		1,907,988	
INCREASE EFF JAN 1, 1991				
CITY-4% UNION-3%	76,320	57,240	1,965,228	
INCREASE EFF JULY 1, 1991				
CITY-0% UNION-3%	0	58,957	2,024,184	
ANNUAL COST OF INCREASE	76,320	86,718		4.55%
INCREASE EFF JAN 1, 1992				
CITY-4% UNION-3%	79,372	60,726	2,084,910	
INCREASE EFF JULY 1, 1992				
CITY-0% UNION-3%	0	62,547	2,147,457	
ANNUAL COST OF INCREASE	79,372	121,478		6.00%
BI-ANNUAL COST OF INCREASE	155,692	208,196		10.91%
% INCREASE IN ANNUAL RATE 12/31/92 OVER 12/31/90	155,692	239,469		12.55%

**IX. COMPARABLE DISTRICTS.** The comparable districts of the Employer are the Cities of Eau Claire, Fond du Lac, Janesville, La Crosse, Manitowoc, Oshkosh, Sheboygan, and the County of Rock. The Union is using Eau Claire, Fond du Lac, Janesville, La Crosse, Oshkosh, Sheboygan, and the County of Rock, but not Manitowoc.

Data on the comparables is found in this table supplied by the Employer.

**Table II**

**Comparables**

<u>Municipality</u>	<u>1990 Population</u>	<u>1990 Full Value</u>
Eau Claire	55,049	1,232,213,400
Fond du Lac	37,472	921,804,800
Janesville	53,284	1,396,064,200
La Crosse	50,030	1,262,140,500
Manitowoc	32,833	727,304,200
Oshkosh	53,670	1,334,549,900
Sheboygan	48,700	1,154,104,000
Beloit	34,714	591,999,010

Source: Town, Village and City Taxes, 1991 - Taxes Levied 1990 - Collected 1991 Wisconsin Department of Revenue

The Union questions why the City included Manitowoc which is neither geographically proximate to Beloit geographically, but comparable in population. The cities of Brookfield, Greenfield, New Berlin and Wausau have populations within the range of Beloit and are geographically closer. The Union avers that Manitowoc was selected because it is the only external comparable that had lower pay rates than Beloit.

The City on the other hand notes that Beloit is the second smallest of the comparable jurisdictions in population and property valuation and that it has been close to the bottom in comparables historically. The City also argues that Manitowoc is close to Oshkosh and Sheboygan, and Manitowoc has a similar economic base to Beloit. Manitowoc also is as close to Beloit as Eau Claire and La Crosse which are used as comparables.

Discussion. The arbitrator notes that the parties have agreed to using comparables used in the past, and that these comparables include a group of cities mostly larger and quite far flung in Wisconsin. The previous list is not one represented by close comparison in populations. The addition of Manitowoc by the City to its list is nevertheless not without some merit, since it belongs to a cluster of cities in East Central Wisconsin where the parties are using Sheboygan, Fond du Lac and Oshkosh as comparables.

**X. COMPARISON WAGES AMONG COMPARABLES.** The Union represents all regular full-time and part-time employees and craft employees employed at the City Hall, Engineering Department, Library, Health Department, Fire Department, Housing Authority, and Department of Public Works, but excluding law enforcement personnel, fire fighters, supervisory, confidential, professional and casual employees, and all employees of the Department of Public Works represented by Local 643, AFL-CIO.

Benchmark positions used by the parties for comparisons are these:

**Table III**

Union Benchmark Positions	Employer Benchmark Positions
Clerk Typist I	Clerk Typist I
Clerk Typist II	Clerk Typist II
Librarian Assistant	Dispatcher
Engineering Aide	Secretary
Account Clerk I	Assessor
Building Inspector	Account Clerk II
	Engineering Aide
	Custodian

The following information on wage comparisons is derived from Employer Exhibits 5-9 to 5-40 inclusive:

**Table IV**

**BENCHMARK TOP WAGE COMPARISONS OF БЕЛОIT  
WITH EMPLOYER COMPARABLES AND RANK**

	1990		1991				1992			
	\$	Rank	ER		EE		ER		EE	
			\$	Rank	\$	Rank	\$	Rank	\$	Rank
Comm. Oper.	10.54	4/7	10.96	4/7	11.99	4/7	11.40	3/4	11.88	3/4
Assessor	13.28	4/8	13.81	4/8	14.09	3/8	14.36	2/3	14.95	2/3
Secretary	9.14	5/7	9.51	5/7	9.69	5/7	9.89	3/4	10.28	3/4
Acct. Clerk	8.89	5/9	9.25	7/9	9.43	6/9	9.62	5/5	10.00	3/5
Custodian	10.75	2/8	11.18	3/8	11.40	2/8	11.63	2/4	12.09	2/4
Eng. Aide II	11.34	5/7	11.79	5/7	12.03	3/7	12.26	4/4	12.76	4/4
Clerk Typist I	7.62	6/8	7.92	7/8	8.09	6/8	8.24	4/4	8.56	3/4
Clerk Typist II	8.46	4/8	8.80	8/8	8.97	4/8	9.15	3/4	9.52	3/4



The following information is derived from Exhibit 7 of the Union exhibits:

**Table V**

TOP MAXIMUM WITHOUT LONGEVITY WAGE RATES FOR  
BELOIT AND UNION COMPARABLES, AND RANK

Classification	1990		1991				1992			
	\$	Rank	EE		ER		EE		ER	
			\$	Rank	\$	Rank	\$	Rank	\$	Rank
Clerk Typist I	7.62	7/7	7.92	7/7	8.09	6/7	8.56	3/4	8.24	3/4
Clerk Typist II	8.46	5/7	8.97	5/7	8.80	5/7	9.62	3/4	9.15	3/4
Eng. Aide II	11.34	7/7	12.03	6/7	11.79	7/7	12.76	2/3	12.26	3/3
Acct. Clerk	8.89	6/7	9.43	6/7	9.25	6/7	10.00	3/4	9.62	3/4
Library Asst.	7.62	4/5	8.08	4/5	7.92	4/5	8.57	2/2	8.24	2/2
Building Off.	15.89	4/5	16.86	2/5	16.52	3/5	17.88	1/3	17.19	2/3

The following table is derived from Union Exhibit 9 and shows percentage increases in wage rates in Beloit compared in rank to comparables in the Union list:

**Table VI**

RANK OF BELOIT IN PERCENTAGE INCREASE IN LIFTS FOR  
BENCHMARK POSITIONS, MAXIMUM WAGES WITHOUT LONGEVITY,  
AMONG UNION COMPARABLES

Position	1990		1991				1992			
	%	Rank	EE		ER		EE		ER	
			%	Rank	%	Rank	%	Rank	%	Rank
Clerk Typist I	10.76	1/7	6.09	1/7	4.0	6/7	6.09	2/4	4.0	3/4
Clerk Typist II	4.32	3/7	6.09	1/7	4.0	6/7	6.09	2/4	4.0	3/4
Librarian Asst.	4.81	1/3	6.09	1/5	4.0	3/5	6.09	1/2	4.0	2/2
Eng. Aide	3.18	6/7	6.09	1/7	4.0	6/7	6.09	2/3	4.0	2/3
Acct. Clerk	4.10	4/7	6.09	1/7	4.0	5/7	6.09	2/4	4.0	3/4
Building Off.	2.25	5/5	6.09	2/5	4.0	4/5	6.09	1/3	4.0	2/3

The following information on wage settlement patterns is derived from Employer Exhibit 5-4:

Table VII

PERCENTAGE WAGE INCREASES IN COMPARABLES OF EMPLOYER FOR COMPARABLE TYPES OF EMPLOYEES WITH BELOIT EMPLOYEES

<u>Government Unit</u>	<u>Employee Class.</u>	<u>Increase</u>	
		<u>1991</u>	<u>1992</u>
Eau Claire	non-union	4.0%	N.S.
Fond du Lac			
1-1		\$0.33/h.	\$0.47/h.
1-1			0.19/h.
7-1		0.22/h.	0.18/h.
Janesville	non-union	4.5%	3.0%
	Dispatchers	4.5%	N.S.
La Crosse			
1-1		2.0%	N.S.
7-1		3.0%	N.S.
Manitowoc	Clericals	5.0%	N.S.
	Dispatchers	6.0%	4.0%
Oshkosh	Clericals		
	1-1	2.0%	3.0%
	7-1	2.0%	2.0%
	10-1	2.0%	
	Appraiser	N.S.	N.S.
Rock County		5.0%	N.S.
Sheboygan	1-1	3.0%	N.S.
	10-1	1.0%	
Beloit			
City	1-1	4.0%	4.0%
Union	1-1	3.0%	3.0%
	7-1	3.0%	3.0%

Union Position on Wages Summarized. Five comparables have given a total increase in 1991 which exceeds the City offer of 4%. Only two had an increase equivalent to Beloit's. Of the two municipalities settling for 1992, both have settled for a higher increase than Beloit City's offer. The Union offers this table on average rates and the City offer.

<u>Classification</u>	<u>Average (\$)</u>	<u>Beloit (\$)</u>
Clerk Typist I	8.14	7.62
Clerk Typist II	8.87	8.46
Librarian Asst.	7.99	7.62
Engineering Aide	12.35	11.34
Account Clerk	9.83	8.89
Building Official	15.67	15.89

From Employer's Exhibit 5-5, the longevity plans of the nine Employer comparables are listed. Most plans started sooner than the Beloit plan which begins at 10 years, and many have more steps and a higher percentage increase after 15 years.

City Position on Wages Summarized. The City notes that Beloit is the second smallest of the comparable jurisdictions in property valuation and population. It has been at the bottom or close to it of comparables historically, and several contracts have been agreed to since the last arbitration award without the application of the criterion of catch-up. The settlement percentages for 1991 among the comparables is just above 4% so that the City's offer is consistent with that of 1991 and that which is forming in 1992. The City also has a longevity package which is competitive and it is the only jurisdiction fully paying benefits for all insurances and retirement.

The City also argues that the 12.55% wage lift is well in excess of any settlements and that the Union's offer has the highest cost factor also. There is a deferred cost factor in the Union offer, but the City, because of its small economic base in terms of property value should not defer costs to future years.

Discussion. Table V foregoing indicates that both the City and Union offers for 1991 will leave the Beloit employees at the low end of the comparables.

Table VI indicates that the City offer in percentage increases for benchmark positions at top wages are again at the low end of the comparables. However it must be noted that the actual dollar amount of the wage increase under the Union offer for each year is of course lower than the final lift rate would indicate.

Table VII shows that the Beloit City offer is generally less in percentage increases than the majority of comparables. Five of the comparables have split wage features.

The arbitrator is of the opinion here that a catch-up situation obtains and that the City offer in terms of percentage increase will cause a further lag. The "lift" proposed by the Union of 12.55% otherwise could not be justified. There is however a percentage increase of 2.75% over two years or an annual average higher cost of the Union offer of 1.375% which makes the Union offer to catch-up justified in terms of actual cost.

The Union offer on the basis of catch-up with comparables is justified.

**XI. COMPARISON OF WAGES WITH OTHER PUBLIC EMPLOYEES.** The following table is derived from Employer Exhibits 4-1 and 4-2:

**Table VIII**

**WAGE SETTLEMENTS WITHIN БЕЛОIT CITY  
BARGAINING UNITS EXPRESSED IN PERCENTAGES**

<u>Unit</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>% of All Employees</u>
Fire Fighters	4.0	4.0	4.0	21
Police	4.0	4.0	N.S.	19
AFSCME #643	4.0			
City		4.0	4.0	27
Union		5.0	5.0	
AFSCME #2537	4.0			
City		4.0	4.0	33
Union				
1-1		3.0	3.0	
7-1		3.0	3.0	

Union Position on Internal Comparables. The Union holds that comparison with Beloit Fire and Police units is not controlling. They bargain under a different section of the statutes, and their settlements cover a different time frame. The Police have not settled for 1992 and neither has the D.P.W. unit, Local 643, AFSCME.

City Position on Internal Comparables. The City says the evidence for internal comparables shows a historic consistency. This consistency should be adhered to, for to disturb it invites instability in bargaining, dissension and morale problems. The City notes that its settlements with the Fire and Police Unions were attained voluntarily under the same statutory criteria governing the instant matter, and that its certified final offer for Police in 1992-93 is identical to its final offer here.

Discussion. Table VIII foregoing shows that the City's offer of 4.0% for two years is the more comparable offer in internal comparison.

**XII. COMPARISON OF WAGES WITH EMPLOYEES IN PRIVATE EMPLOYMENT.** This subject was not addressed by the parties.

**XIII. OVERALL COMPENSATION AND GENERAL BENEFITS.** City employees in Beloit bargaining units received 100% of paid benefits for Dental/Health Insurance, Life Insurance, and Retirement. (ER 4-3)

Among the nine comparables used by the City in 1991 for Clericals, one comparable does not pay 100% of the single plan premium for Health Insurance, and one is not settled. Four comparables do not pay the full premium for family plan insurance, and one is not settled. (ER 5-7)

For Dental Insurance, single or family plan, only four have this benefit, and only two including Beloit pay 100% for clerical workers. (ER 5-7).

Eight of the nine comparables provide Life Insurance, and Beloit is one of four comparables that pay 100% of the premium for 1991. (ER 5-7).

All comparables pay 100% of retirement contributions. (ER 5-7).

The conclusion is that as far as clerical employees are concerned, the City offer in terms of benefits is comparable.

**XIV. CONDITIONS OF EMPLOYMENT - CUSTODIAN SUPERVISOR POSITION.** The City is proposing to reduce the Custodian Supervisor at the Beloit Housing Authority to Custodian. The pay of employee Floyd Voss, holding the position, would be red-circled or frozen at the 1990 rate of Custodian Supervisor until the 24 month rate for Custodian equals or exceeds that amount, after which the employee would be paid at the 24 month rate for Custodian.

Floyd Voss was listed as a Maintenance Supervisor in Wage Change Authorization forms effective from 9/29/86 to 1/1/89. (ER 6-27, pp. 2-8). On 1/1/90 under the 1990 contract wage changes, he was classified as "Custodian Supervisor" (ER 6-21, p. 1). He was employed by the Beloit Housing Authority during this period.

The 1990 contract between the parties at Appendix B lists Custodian Supervisor and Housing Maintenance Supervisor both in Pay Range XI. (ER 3). The City of Beloit itself has a job description for Custodian Supervisor. (ER 6-23). A job description for Maintenance Supervisor in the Public Housing Authority was in a form marked "Draft". (ER 6-18). Another Beloit Housing Authority job description was for a job title, "Maintenance Supervisor (Lead Maintenance Serviceman)". (ER 6-26, pp. 1-6).

In a memorandum dated April 10, 1991, Alan M. Tollefson, Personnel Director of the City advised Betty Villalobos, President, Local #2537, that a review of the work of Floyd Voss who had the title "Custodian Supervisor" was currently that of a "Custodian" and therefore the City proposed that his rate of pay be reduced from the 24 month rate for Custodian Supervisor to the 24 month rate for Custodian. (ER 6-20). Prior to this on March 12, 1991, the Public Housing Manager, Donald W. Johnson, notified Voss in writing that his remaining supervisory duties were eliminated immediately. (ER 6-6).

Voss grieved the matter. This resulted in an explanation given by the Manager to the City Personnel Director. This explanation said that the Manager, newly appointed himself, found deficiencies in the maintenance operation, and therefore he fostered a series of reorganizations which ultimately resulted in Voss doing only Custodian's work, under a Property Operations Coordinator.

Union Position on Housing Maintenance Supervisor. The Union says that the City's proposal to demote the Housing Maintenance Supervisor, Floyd Voss, has three defects. One is that the City offer states the "Custodian Supervisor" position is to be red-circled. Thus the City testimony as to the position is misplaced. Testimony relating to his work as Housing Maintenance Supervisor is not relevant since it is not within the scope of the City proposal on "Custodian Supervisor".

Another defect is that the City did not terminate Voss until March 1991 but is proposing to take away his earnings from January 1, 1991. The City cannot justify taking away pay retroactively.

A third defect is that the City in its proposal is circumventing the bargaining agreement on layoff language. Voss should be entitled to exercise bumping rights when the City reduces the number of classifications.

The City should not be allowed to use the arbitration procedure to do something it cannot do under the collective bargaining agreement.

The Union contends that Voss is not being demoted because he failed in his responsibilities, but because a new position was being created at the Housing Authority for a crony who lost a previous position. Voss worked his way up to Housing Maintenance Supervisor and now may lose his position through subterfuge by the City. The duties are still there, though distributed to others. The position of Voss should be continued.

City Position on Housing Maintenance Supervisor. The City holds that its proposal to reclassify the Custodian Supervisor rate was based on a methodical study conducted by the Housing Authority Manager. This study resulted in a major reorganization of the Housing Authority to increase efficiency. The functions of Voss according to his own testimony are those of Custodian and not Custodian Supervisor. Since the pay range of Custodian Supervisor which Voss held is above that of Custodian, it is appropriate that his pay now be "red-circled".

The City states that as to the Union charge that the City is attempting to circumvent the collective bargaining agreement relative to layoff, the Union chose its arbitration brief as the first time for raising this issue. Its grievance never indicated this concern. The fact is the employee long since has not been performing supervisory duties.

Discussion. The arbitrator here is of the opinion that the City under its contractually agreed upon powers under Section 2.02 can determine the methods, means and personnel by which operations are to be conducted, so it could change the methods of the Housing Authority and the personnel to carry them out.

As to the Union contention that the City proposal is to red-circle a "Custodian Supervisor" instead of a "Housing Maintenance Supervisor", the evidence is that in the 1990 contract the title of Voss was recorded as "Custodian Supervisor" and that he was paid at the Custodian Supervisor rate,

which was the same rate as the Housing Maintenance Supervisor. Whether Voss or the Union were aware of the change is not in evidence, but the arbitrator is of the opinion that this situation is not of sufficient gravity to be adverse to the City proposal, since the pay range for both titles is the same.

What are more troubling are the facts that Voss was terminated as a Custodian Supervisor on March 12, 1991, when the City's proposal which is to be effective on January 1, 1991, would raise the Custodian Supervisor's pay by 4% or from \$10.99 per hour at the 24 month rate to \$11.43 per hour. The effect of the City proposal which the arbitrator cannot modify would be to have had assigned Voss to higher level duties for about two and one half months without paying him for them. Further the effect of the City's action would be to assign Voss to the Custodian job without allowing him to bump under Article XVII (a).

A decision supporting the City's position could lead to further grievances under the newly adopted contract as to a claim for back wages for assignment out of classification and the right to bump. This arbitrator is reluctant to make a ruling which does not quiet all matters. Thus although the City has the power to organize departments and assign personnel for efficiency, the bringing in of this issue for contract arbitration instead of through the grievance procedure, clouds the future of a decision for the City, because of issues left unclear. In the opinion of the arbitrator the weight of the Union offer here not to seek the reduction of the Custodian Supervisor to Custodian and red-circle his pay at the 1990 rate through means of contract arbitration is for the term of this contract more reasonable. Changes can be effected by exercise of the City's authority under the new contract.

**XV. CONDITIONS OF EMPLOYMENT - ANIMAL CONTROL WARDEN SCHEDULE.** The City is proposing that the Animal Control Warden will work a shift from 12:30 p.m. to 9:00 p.m. Monday through Friday during Daylight Savings Time and 9:30 a.m. to 6 p.m. in non-Daylight Savings Time. The Warden during work in the DST period will receive a 20 cents per hour shift premium after 3 p.m. If the "day person" takes vacation of one week or more, the Warden will work the day shift.

Currently in Beloit there are three employees assigned to animal control. These employees are under the Police Department. There is a Humane Officer who works from 8 a.m. to 4:30 p.m., the Animal Control Warden who is currently working the same hours, and a casual employee who is on call after hours and during weekends. The proposal to change hours was originally from Police Captain Ferguson on September 4, 1990, after conferring with the Police Chief Ebert. (ER 7-11). This original proposal would have assigned the Warden working a shift from Tuesday through Saturday. The purpose of the Police Department's proposal was to provide more hours of coverage on animal complaints and possibly to reduce overtime. (ER 7-6).

In 1989 50% of all overtime by animal control personnel occurred between 4:30 p.m. and 9:00 p.m. In 1990 32% of the overtime occurred during weekdays from 4:30 p.m. to 9 p.m. In 1989 35% of the overtime occurred on weekends; in 1990, 29% occurred on weekends. (ER 7-6).

In 1990 police calls for animal complaints amounted to 501, of which under the 8 a.m. to 4:30 p.m. system in effect, 26.9% were covered. If the proposed system had been in effect, 45.7% would have been covered. (ER 7-14). By a similar calculation in 1991 of 510 calls, 31.2% were covered whereas under the proposed system 49.9% would have been covered. (ER 7-15).

Currently, the Union in its offer is proposing that the Animal Control Warden be reclassified as Humane Officer. (ER 2-2).

The Humane Officer and Animal Control Warden (Officer) function under City Ordinance 2223 adopted January 8, 1990, and were shifted from a health department to the Police Department. (UX 42).

The nature of the work of Animal Control Warden is described in a job description as:

"This position includes animal apprehension and control work and a variety of care and maintenance activities at the City Animal Shelter. Work involves apprehending, retaining and disposing as required of stray and unlicensed dogs and other animals and for assisting in the care of such animals while detained. Work is performed under the direction of the Chief of Police or his designee." (UX 43).

A Humane Officer functions under Chapter 58.07 Stats. The duties are prescribed by the board or council appointing the officer, but they shall include enforcement of S. 95.21 and Chaps. 174 and 951 of the Statutes. Humane Officers are vested with the power of Police Officers. (UX 44).

On January 18, 1991, the Union proposed to the City to use existing funds to hire an "on-call" person for a seasonal employee to provide service after 4 p.m. on weekdays and on Saturday. (UX 45).

This was done after August 8, 1991. There was a resulting drop in overtime for the Humane Officer in emergency call-out, cleaning weekends and working late. (UX 46).

In Beloit, a job description for Humane Officer says, NATURE OF WORK. "Work in the enforcement of Wisconsin State Statutes pertaining to the humane treatment of animals and local animal control ordinances. Work involves animal apprehension, rescue and control work insuring the protection of citizens and the welfare of animals. Employee is responsible for the maintenance of the City Animal shelter and investigation of complaints, filing of oral or written reports, maintenance of records and initiation and follow-up of legal action against persons suspected of violation of City animal ordinances. Work is performed under the direction of the Chief of Police or his/her designee and is reviewed through reports and inspections." (UX 47).



In the 1991 budget request for the Animal Shelter, an amount of \$2,313 for after hours animal calls of 150 hours was requested for the existing employees. For the fill-in employee, \$2,313 was requested for an estimate of 416 hours. (UX 48).

The testimony of Deputy Chief Earl Farmer was that citizens had complained to the Chief of Police about the unavailability of animal control officers for service. So a study was made on how to improve the service and the resulting proposal was to extend the number of hours on which an officer was on duty by 28. (TR 90). When no animal control officer is on duty, Police will respond only if the matter is life threatening. (TR 99). A major concern of the City was to have officers on duty during the daylight hours in summer. (TR 102).

City Manager David W. Wilcox in testimony stated that for years he had received calls from the public as well as from the City Council about the inability of the City to cover the community for animal control purposes for more hours. The City councilors all complained that they observed a duplication of effort on the part of the animal control personnel and questioned why the personnel couldn't be scheduled independently. (TR 76, 77). The City is proposing to make the changes to get the most highest level of service at the least cost. (TR 78).

Union Exhibit 36 was a memorandum of May 12, 1988, from Dick Nenahlo of the Health Department to the City Manager on "Animal Control Split Shift for Summer, 1988." The matter discussed was a split shift with one shift from 8 a.m. to 4:30 p.m. and one from 11:30 a.m. through 8 p.m. Monday through Friday from June 6, 1988, through September 15. The memorandum stated that the advantages of a split shift would be the availability on shorter notice from 4:30 p.m. to 8 p.m. than through call-in. However it was uncertain where this added coverage would result in a greater number of animal calls being responded to. Most animal incidents occurred with unattended children. Under the past system emergencies are handled between a Police Officer and the Animal Control Warden. The Officer is released to police duties when the Animal Control Warden arrives. Some types of situations defined as emergency do not require immediate response as in animal bite cases. Further after 4:30 p.m. the vast majority of calls are "animals-at-large" situations. Most animal control problems which reach the police after hours are referred by the police to the Health Department, and since most are of a non-emergency type, this has seemed satisfactory to the public.

Further internal animal control operations such as cleaning and delivery trips and capture of strays is more efficient with two officers working together. The number of animals dealt with by the Animal Control Warden rises dramatically during the summer, and this would place a greater burden on one officer working alone. Also there was a fear of violence that occurs as the evening progresses, and the Animal Control Officer would be operating without police protection in the event the ACO responds first.

Also a burden would be placed on dispatchers who would have to take the nature of the calls when the ACO officer would not be at the shelter. The health officer did not therefore recommend the split shift schedule.

Union Exhibit 40 shows that in the period from 8/19/91 through 1/12/92 the Humane Officer and Animal Control Warden worked 100 days, while the on-call casual employee worked on 40 days. The regular employees handled a total of 2514 calls, or an average of 25.1 per day, while the casual employee had 209 calls in 40 days or an average of 5.2 per day. The two regular employees covered 71.4% of the days and the casual employee 28.6% of the total of 140 days covered.

Teresa Ryan, Animal Control Warden, in testimony described duties which she defined as a wide variety; rabies control, bites, strays, wild animals, crimes against animals, inspection of sanitary conditions, vaccinations and quarantining, holding animals in shelter, transporting them to the Humane Society in Janesville and clerical duties. (TR 128-130). There are also emergency call-outs. (TR 131).

Prior to the time of the hiring of the casual employee, Animal Control Officers were on duty seven days a week, 24 hours a day, through being on emergency call. (TR 133). With the casual employee on duty, this is no longer the case. Citations are issued and information packets sent out to persons for control of animals. Patrolling is done when other duties permit.

Prior to the employment of the casual employee on after hour and weekend work, the two Animal Control Officers had split pager carrying duties. For this they were paid ten dollars a week. (TR 144).

Animal Control Warden Ryan is the parent of a five year old child, was expecting another at the time of the hearing, and her husband works second shift. (TR 146, 147).

On a normal day of duties, both Animal Control Officers report at 8 a.m. and clean the shelter and take care of incoming calls. Calls are handled on a priority basis with bites, neglect cases and injured animals dealt with first. Currently under police rules, they are supposed to handle the City either on the west side for one officer and the east side for another. Trips may have to be made to Janesville when there are a large number of animals in the shelter. Trucks and cages have to be sanitized. Contacts have to be made with other agencies and reports filed and the answering machine checked. Administrative and clerical work is handled by the Animal Control Officers since transfer from the Health Department. (TR 147-150).

The Animal Control Warden states that she euthanizes all animals in the shelter, and that the Humane Officer does not. However, the Animal Control Officer also asserts that she performs all the duties that the Humane Officer does. (TR 153). The Warden states that when the City Ordinance was adopted, she was told she was an assistant Humane Officer and was able to do all the duties of the Humane Officer, and that she had been doing them already. (TR 154).

In the apprehending of animals, there are times when two persons are required. If the other Control Officer is not available, a Police Officer can be summoned or citizens may volunteer. However the Animal Control Officers try not to involve Police Officers. (TR 158, 160).

At one time the City had three Animal Control Officers; then there was a period when it had only one. According to the Warden, this did not work and so another position was added. Each year the staff has asked for additional personnel. (TR 166, 167).

According to Valjean LaFavor, the Humane Officer, at one time there were three Animal Control Officers, a part-time employee and a supervisor, the Director of Environmental Health. (TR 194). The Humane Officer testified that with aggressive animals or in a dangerous situation it would take more than one officer to handle the situation. In such cases the Humane Officer handles a snare pole and the second officer handles Mace. A second person is also used as a distraction. (TR 200). A single Animal Control Officer would have to get a back-up from the police, who are not trained in animal control procedures. (TR 202). The Humane Officer says that in the transfer of the animal control operations to the Police Department, the secretarial staff at the Health Department which took the class no longer did so, and so the Animal Control Officers have to go in and out of the building answering calls that they get or pick up off the answering machine. The Humane Officer is not certified to euthanize as the Warden is.

The Union Position on Animal Control Warden Schedule. The Union holds that changing the hours of work for Animal Control Warden Ryan is not justified and not a new matter. A previous supervisor in 1980 determined it was not feasible. Most activity occurs in the regular day shift hours, and therefore to reduce employees on the day shift will adversely affect the remaining employee, especially in lack of back-up.

The present method of hiring a part-time employee to handle after hours calls has been successful.

The City has to bargain the impact of a schedule change like the one proposed. The affected employee is the mother of one small child and soon to be mother of another, and a change in work hours would have an adverse impact on her life.

All the City is trying to do is to reduce overtime and that has now virtually been eliminated through the use of a part-time employee.

The City Position on Animal Control Warden Schedule. Community needs and the concerns of the citizenry for extended hours for the animal control support the City proposal. The Union proposal is a proposal to limit the City's ability to schedule work. The City has bargained the impact of the proposed changes during the bargaining for the 1991-92 contract. The City is also recognizing another impact factor by affording \$0.20 per hour for time after 3 p.m.

The City believes its exhibit clearly indicates the business need for a change in the work schedule. While it is true that reduction of overtime can occur under the City proposed schedule, yet it is also true that the City wants to expand the service hours for the public during certain times of the year. The City is also providing a shift premium for the employee assigned the later shift. There is a need for such a change, and the City is acting under its contractual rights.

Discussion. In this issue, the arbitrator is of the opinion that he has to weigh two conditions. The first is the general contractual right of an Employer to schedule work as the Employer deems fit. The second is the personal circumstances of a single employee holding the title of Animal Control Officer.

The work descriptions of the daily duties presented by the Humane Officer and the Animal Control Warden indeed indicate a burden of assignments that are better performed jointly at times than individually, and the changing of the schedules would produce a substantial change in record keeping, cleaning, and transporting. Nevertheless it is generally accepted in arbitration that the Employer can schedule work when the Employer feels it needs to be done.

Important as this consideration is, the special personal problem of the Animal Control Warden in her family responsibilities argues that the public interest might best be served for the remainder of this contract period in keeping the schedules as they have been, particularly when the after hours work is met by the employment of a part-time on-call employee.

**XVI. CONDITIONS OF EMPLOYMENT - ASSIGNMENT OF WORK SHIFTS.** The Union is proposing to modify Section 6.04 of the Agreement to provide as follows:

"Except for employees working on a 5/2-5/3 schedule, custodial employees and employees working at the library, employees shall be regularly assigned to work shifts between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday except as otherwise mutually agreed to.

"NOTE. For the purpose of the application of this provision all employees working shifts other than as provided above as of June 28, 1991, will be deemed as working such shift per a mutual agreement (example, Irey Pollack and WWTP Laboratories personnel.)".

Sections 6.03 and 6.04 of the previous Agreement read,

"6.03. The normal work day shall be eight (8) hours per day and the normal work week shall be forty (40) hours per week for regular full time employees and for those employees in a 5/2-5/3 schedule in the Police Department.

"6.04. The City may institute other work schedules as the needs of the City dictate except for those departments and positions that fluctuate due to seasonal work. The City must notify the Union of any proposed changes and bargain the impact of such changes."

Employer Exhibit 13-1 is the source of the following information:

Table IX

EMPLOYEE CATEGORIES WORKING OUTSIDE HOURS OF  
7:00 A.M. TO 5:00 P.M., MONDAY THROUGH FRIDAY

1. Vehicle Maintenance	6:00 a.m. - 3:00 p.m.	Monday - Friday
2. Transcriptionist	8:00 a.m. - 5:00 p.m.	Sunday - Thursday
3. Transcriptionist	5:00 a.m. - 2:00 p.m.	Monday - Friday
4. Computer Operator Tech.	9:00 a.m. - 6:00 p.m.	Sunday - Thursday
5. Transcriptionist	6:00 p.m. - 10:00 p.m.	Friday
	3:00 p.m. - 12:00 a.m.	Saturday and Sunday
6. Transcriptionist	1:30 p.m. - 5:30 p.m.	Monday - Friday
7. Clerk Typist I	11:30 a.m. - 5:30 p.m.	Monday - Friday
8. WWTP lab employees	Rotation of weekend hours.	

Employees listed in the first six positions above are in the Beloit Police Department. (TR 300).

The Union Position on Hours of Work. The Union contends it is fulfilling its obligation to negotiate the "hours" as under the Statute, Section 111.70 (1) (a). The Union says its proposal takes into account those employees who do not work the traditional schedule. Also exceptions are provided for on mutual agreement. The Union is doing this to protect its members from capricious actions by the City disrupting employees' personal lives. Under vacancies hours can be reached by agreement.

The Union cites Eau Claire, Fond du Lac, La Crosse, Sheboygan, Rock County, Janesville and Beloit D.P.W. which have contractual provisions in which there are specific hours of work and changes are usually made by mutual agreement.

The Union contends that the City has wanted to extend the hours of the Treasurer's Office temporarily, and is proposing a change of the Animal Control Warden's hours of work. If the City wants to extend hours of a department, it should do so only by mutual agreement or overtime.

The City Position on Hours of Work. The City holds that the Union offer is flawed, one flaw being that the offer mentions a specific individual. If that individual or any other individuals affected by the change would leave the City employment, the City questions then whether it would have to negotiate a work schedule each time someone moves into an affected schedule. This proposal would have significant impact on the City's operations in various departments, because current work hours would be prohibited.

The individual bargaining for hours of work which would occur under the Union proposal is a major flaw. The interests of the Union is amply protected by present Section 6.04 which allows the Union to bargain on the impact of the schedule changes.

Discussion. The Union's proposal would indeed restrict the City's capacity to change schedules, and might have a special effect in the future on the Police Department where transcriptionists have hours not within the 7:00 a.m. - 5:00 p.m. bracket. Nevertheless the texts in the contracts of the comparables support the Union position of limiting the Employer's ability to make changes.

**XVII. CONDITIONS OF EMPLOYMENT - RECLASSIFICATION OF BETTY MOTACEK.** The Union is proposing to reclassify an employee, Betty Motacek, who works for the Beloit Housing Authority as Secretary from Clerk Typist II.

The following are job descriptions of City of Beloit Clerk Typist II (ER 11-10); Clerk Typist II - Applications Specialist, Beloit Housing Authority (ER 11-8), and Secretary (UX 49).

*MOST RECENT  
(Late 1991)*

Status: AFSCME Local #2537

ER. EX. 11-10

#### General Summary

This is moderately difficult and varied typing and general clerical work.

Although typing is an essential duty for those of this class, work involves the responsibility for difficult clerical assignments which are determined by the assigned area. Work involves the exercise of initiative and independent judgement in work performance and frequently involves responsibility for carrying through entire clerical processes of considerable importance.

Work may involve contact with the public explaining established policies and regulations. Decisions made are subject to review by the supervisor.

#### Principal Duties and Responsibilities

1. Types from copy, rough draft, machine dictating equipment, or other sources not usually involving original composition; fills in forms, index cards, or other typed materials, frequently requiring independent action and discretion on standard difficulties encountered.
2. Composes some correspondence and other material with only general instructions.
3. Performs the work involved in a moderately difficult clerical procedure of considerable importance to the department; schedules work, makes necessary contacts for information; instructs other employees or departments as to portions of procedure with which they are concerned; makes decisions within limits of general instructions.
4. May maintain a simple system of accounts requiring decisions of an elementary bookkeeping nature; checks forms, posts records, takes balances, and makes standard bookkeeping reports.
5. May operate a typewriter, copier, and computer.

#### Reporting Relationships

Reports to a supervisor with the final reporting relationship to the Department Head. The supervisor would be responsible for the day-to-day assignments and review of work.

#### Knowledge, Skills, and Abilities Required

1. Working knowledge of arithmetic and business English.
2. Working knowledge of modern office procedures, practices and equipment usually acquired through graduation from high school or vocational school supplemented by course work in typing and commercial subjects and experience in typing and general office clerical work.

ER. EX. 11-8

JOB TITLE: CLERK TYPIST II - APPLICATIONS SPECIALIST

DEPARTMENT: BELOIT HOUSING AUTHORITY

DIRECT SUPERVISOR: SECTION 8 - PROGRAMS MANAGER

WORK HOURS: 8:00 A.M. - 5:00 P.M.

\*\*\*\*\*

NATURE OF WORK:

This position is generally clerical duties with some varied responsibilities such as explaining to the public the established policies and regulations. Specifically, this person is responsible for maintaining the Section 8 Waiting List.

EXAMPLES OF WORK:

Types from copy, rough draft, machine dictating machine equipment or other sources not usually involving original composition. Files index cards and other typed material, frequently requiring independent action and discretion on standard difficulties encountered.

Composes some correspondence and other material with only general instructions.

Maintains the office's address card file of Section 8 participants and landlords.

Types general correspondence and inspection letters in a timely manner.

Assists walk-ins; answering questions, and explaining policies and practices. Answers phone and directs callers to the proper person or department.

Is responsible for the answering machine; setting it up, noting important messages and conveying them to the appropriate people.

Reviews all Section 8 Applications, updating them when necessary. Enters applicant names on waiting list in manual books as well as on the computer system. Updates both periodically and sends correspondence letters to applicants and landlords.

Takes minutes at staff meetings and delivers mail to the Postal Office at the end of every day.



SECRETARY

NATURE OF WORK

This is moderate to difficult clerical and secretarial work and may include the taking or transcribing of dictation.

Work involves undertaking varied clerical duties and public contact work for a department head. Work of this class may require the ability to take dictation in shorthand and to transcribe it by use of a typewriter. The nature of work is such that employees have considerable freedom of action in disposing of standard work matters, preparing standard reports, or in giving out information to the public. Additionally, incumbents in this class are expected to acquire a relatively detailed knowledge of departmental regulations and policies and to relieve superiors of lesser administrative tasks. Work is normally subject to periodic checks by the department head who is usually available for advice and assistance on unusual or difficult problems.

EXAMPLES OF WORK

Types from rough copy, general instructions, and machine dictation. a variety of reports, contracts, letters, ordinances, minutes, standard form specifications, notices, indexes, studies, requisitions, applications, and testimonies.

May be required to take shorthand depending on assignment.

Composes and writes letters in the name of a superior.

Compiles information for and prepares charts, graphs, agenda, and reports.

Acts as a receptionist giving necessary information to visitors.

Receives telephone calls and provides routine information or directs calls to the appropriate authority.

Screens visitors and schedules appointments.

May maintain a bookkeeping system for various departmental transactions.

May keep personnel records and make up payroll and various reports on employee activities.

Supervises departmental files of fiscal, administrative, statistical, incident, and general records.

Searches, revises, and keeps up to date the files.

Prepares and reviews various documents for accuracy and completeness.

Performs tabulations of various data and from these tabulations makes up reports, forms, and summaries.

Expedites departmental business.

Performs related work as required.

009

SECRETARY (Cont)

REQUIREMENTS OF WORK

Considerable knowledge of office practices and equipment.

Considerable knowledge of arithmetic, English grammar, usage, and spelling.

Ability to take dictation in shorthand if required by assignment.

Ability to make computations and tabulations with speed and accuracy.

Ability to make work decisions in accordance with rules, regulations, and departmental policies and procedures.

Ability to understand and carry out complex, oral, and written instructions.

Ability to establish and maintain effective working relationships with other employees and the public.

Skill in the operation and care of a typewriter.

DESIRABLE TRAINING AND EXPERIENCE

Graduation from a senior high school or vocational school supplemented by course work in typing and commercial subjects and considerable progressively responsible experience in typing and general office clerical work.

10/73

Employee Motacek has worked for the Beloit Housing Authority for four years being hired as a Clerk Typist II and did general typing, typed correspondence, and took applications from the public. The employee says that later a previous Housing Authority manager put her in charge of handling the volume of applications to determine who is eligible for housing.

The employee drafted a two page exhibit (UX 50) in which she described the details of her work currently. This work includes setting up and taking down an answering machine and delivering messages from it, setting up and closing down a postage machine, answering two telephone lines, meeting the public at the counter and giving out information. Work also calls for maintaining the records on from 500 to 700 families who are applicants and checking their eligibility. Work also calls for scheduling briefings for applicants when a vacancy occurs and maintaining records relating to the briefings, handling a large volume of mail in connection with applications and briefings, dealing with landlords under Section 8 housing; keeping files on landlords and tenants, making periodic reports, keeping records of payments, working with a statewide clearing house on tenants; acting as back up for staff minutes and for mailing out rent statements.

The employee says that the position periodically requires overtime to catch up.

This description of job duties was also expressed in similar terms during her oral testimony at the hearing. (TR 254-264). The employee says that her position is very stressful with from twenty five to forty five calls a day, and much time must be taken to explain policies. (TR 264).

Sometime before March 14, 1990, employee Motacek filled in a form for the Housing Authority Manager as to her five most important duties. Her report included the following with numbers of importance handwritten:

- "2. Maintain waiting list of changes/removals/entering.
- "1. First in line to greet public at counter - first in line to answer line 2.
- "3. Get inspecting letters out in timely manner via dictaphone.
- "4. Receiving and reviewing new applications weekly.
- "5. Typing of general correspondence for S8 manager." (ER 11-12).

In a memo on this matter from Don W. Johnson, Housing Authority Manager, to the Beloit Personnel Director, the Manager said in summation that,

"1. Ms. Motacek's work, at least for the past two (2) years has been predominantly general in nature.

"2. While the work performed is important to the Authority, it is not unique and does not require any specialized skills or experience beyond that expected of a clerical person at the current classification level.

"3. Work assigned is routine and follows established procedures, i.e., personal initiative or complex decisions are not required. Unusual questions or occurrences are referred to the technical staff or the supervisor."

In his memo the Manager stated that at the time of the Manager's appointment in 1990, he found that the employee's duties to be answering the Section 8 Program telephone line with referring of calls, taking applications one day a week and assisting by clarifying nontechnical questions and maintaining various waiting lists, keeping them in correct order and processing them as required, using a computer and purging the list twice a year. The employee typed housing quality inspection report letters which had a common format, typed other form letters and notices, typed correspondence from handwritten copy and maintained applicant files. The work, according to the manager was basically clerical in nature and came from clear specific instructions or followed past practices.

The Manager states that in this memo of January 23, 1992, that with the reorganization under way adding another clerical person, the employee's work will be even more clearly that of a Clerk Typist II.

Testimony of the Manager at the hearing generally re-affirmed the position found in his memorandum to the Personnel Director. The second Clerk II position however was not filled at the time of the hearing. The Manager said that the employee does not determine eligibility for applications. This is work performed by a housing specialist. She does however determine apparent eligibility. (TR 280, 281). The employee is the only Clerk Typist that routinely reviews applications and sees that they are properly filled out.

The Manager's position is that the basic work of the employee is that of a Clerk Typist, though she is involved in different work than other Clerk Typists. (TR 287).

Union Position on Reclassification of Betty Motacek. The Union notes that Ms. Motacek's primary responsibility was general typing and clerical work, but now it is that of taking applications and responding to eligibility determinations, drafting her own correspondence, briefing applicants, maintaining application files, and disposing of them. She also prepares various reports for appropriate higher officials, and maintains the accounts of Section 8 collections for people who have schedules of payment. The Housing Authority Manager has stated that two new Clerk Typists will be needed to relieve Motacek of routine clerical duties. Motacek thus performs duties separate and distinct from other Clerk Typists.

City Position on Reclassification of Motacek. The City notes that the organization chart of the Housing Authority already has one secretary, and owing to its size of the staff, it does not need another. The tasks and nature of assignments performed by Motacek now are those of a Clerk Typist II, and there is no justification to make any changes.

Discussion. A review of the positions of Clerk Typist II and of Secretary in relation to work performed by Betty Motacek indicates to the arbitrator that she is performing difficult clerical assignments determined by the assigned area, work which involves initiative and independent judgment and requires responsibility for carrying through entire clerical processes of considerable importance. From the testimony in the hearing the arbitrator is of the opinion that Motacek has a serious overload of work assigned to her, but it is work within the classification of Clerk Typist II. The work of Secretary, while it includes some of the functions of Clerk Typist II, is of a more complex order of activity. The conclusion then is that Motacek is properly classified as a Clerk Typist II.

**XVIII. RECLASSIFICATION OF ANIMAL CONTROL OFFICER TO HUMANE OFFICER.** The Union is proposing that Animal Control Officer Ryan be reclassified to Humane Officer. The Union is arguing that there is no discernable difference between the work performed by the Animal Control Officer and the Humane Officer, and in fact the Animal Control Officer is certified to perform euthanasia on animals and the Humane Officer is not.

The City notes that the Animal Control Warden received a pay increase from Range 5 to 8 in a previous award in 1985, and further on the basis of the record and testimony, there is a distinction between the Animal Control Warden and the Humane Officer.

The Nature of the work of the Animal Control Warden is found in this job description:

"Nature of Work. This position includes animal apprehension and control work and a variety of care and maintenance activities at the City animal shelter. Work involves apprehending, retaining and disposing of stray and unlicensed dogs and other animals and or assisting in the care of such animals while detained. Work is performed under the direction of the Chief of Police or his/her designee." (UX 43).

The Nature of the work of a Humane Officer is:

"Work is the enforcement of Wisconsin State Statutes pertaining to the human treatment of animals and local animal control ordinances. Work involves animal apprehension, rescue and control work insuring the protection of citizens and the welfare of animals. Employee is responsible for the maintenance of the City animal shelter and investigation of complaints, filing of oral and written reports, maintenance of records and initiation and follow-up of legal action against persons suspected of violation of City animal ordinances. Work is performed under the direction of the Chief of Police or his/her designee and is reviewed through reports and inspections." (UX 47).

The Animal Control Warden testified that when she was hired by the Health Department of Beloit she was shown a job description of Humane Officer and was told that basically that is what she would be doing, and

that the Health Department did not have an Animal Control Warden description available. The Warden also states that she was told she could perform the same duties as the Humane Officers. A City ordinance was written to allow Wardens to have the powers of Humane Officers. (TR 153, 154). The Humane Officer is a sworn officer and the Warden is not. The Warden was advised by a Health Department officer that she had the same powers as a Humane Officer.

The Humane Officer states she makes out the quarterly reports and keeps a daily log of activity, which was formerly done by the Health Department environmental officer. (TR 195). In rechecking on action and orders, the bulk falls on the Humane Officer. The Humane Officer maintains the files at the animal control center shelter. (TR 208). Both the Humane Officer and Animal Control Officer compile statistics for the quarterly report, (TR 212), but the Humane Officer is responsible for it. (TR 220).

Discussion. The arbitrator in reviewing the transcript of testimony and the exhibits is of the opinion that there is a distinction between the work of Humane Officer and Animal Control Warden as the positions function in Beloit. The Humane Officer is the person who has the principal responsibility for the functioning of the animal control service and who has the responsibility for reports and documentation. The Humane Officer is in effect a lead person. It seems reasonable to maintain a distinction between Animal Control Officer and Humane Officer. The City proposal to retain the present Animal Control Officer in that capacity is reasonable.

**XIX. CONDITIONS OF WORK - OVERTIME PROVISION.** The Union is proposing to modify Section 6.05 so that,

"Employees shall receive time and one-half their hourly rate of pay for all hours worked in excess of eight (8) hours per day or (40) hours per week. Vacations and holidays shall be considered as time worked in computing overtime pay."

The previous provision reads,

"Employees shall receive time and one-half their hourly rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week. Vacations and holidays shall be considered as time worked in computing overtime pay."

The Union says that the Employer reads the earlier provision to mean that the employee must have had a total of more than 40 hours per week worked before the employee can receive overtime pay, even if the employee worked more than 8 hours in one day. The Union states that its provision is simply a matter of clarification. (TR 12).

The City says that this is just one more Union position to drive up costs. The Union charge that the change is necessary to avoid litigation is hardly any reason to make a change. There are no problems that have arisen, and further bargaining for the next agreement is close at hand, so the status quo should be maintained.

Discussion. A review of contractual provisions in Union exhibits indicates that provisions for overtime pay generally provide for overtime after 8 hours a day or after 40 hours a week. Only Eau Claire has a provision with the phrase "and/or" in it. Thus the Union offer here is the more comparable one.

**XX. CONDITIONS OF WORK - HOLIDAY PAY FOR 5/2 - 5/3 SCHEDULED WORKERS.** The Union is proposing to modify Section 8.03 (b) of the previous contract as follows:

"Employees working a 5/2-5/3 schedule in the Police Department who are required to work a full shift on the holidays listed above shall be compensated at double the employees normal pay for the work day. Such employees will receive a minimum of eight (8) paid holidays."

The previous contract reads at 8.03 (b),

"Central Communications Operators and Police Aides in the Police Department who are required to work a full shift on the holidays listed below shall be compensated as follows: Work performed on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day shall be compensated at double the employee's normal pay for the work day. Work performed on Good Friday, Friday following Thanksgiving Day, December 24 and December 31, shall be compensated at time and one-half (1 1/2) the employee's normal pay for the work day.

"A holiday shall cover a twenty-four (24) hour period beginning at 7:00 A.M. on the day of the holiday and continue until 7:00 A.M. the following day."

Dispatchers in the Beloit Police Department are paid on a biweekly basis 26 times a year with an average biweekly salary for 80 hours. However under the 5/2-5/3 schedule they actually work 1946 hours a year, or 74.86 hours per pay period. Thus they are paid for 133.6 hours, or a total of 16.7 days, annually for hours not worked. (ER 10-1).

Other employees in the City including the Police Department who work a regular shift from Monday through Friday and are required to work on a holiday received holiday pay and time and one half for all hours worked on such a day. (ER 3).

Police in the Beloit Police Department worked a 5/2-5/3 schedule also, but work eight and one half hours a day so their annual hours come out to 2068. Ten holidays are named in the past agreement here, and the Police are guaranteed 8 holidays a year and are paid if they work on a holiday. (TR 297).

Union Position on Holiday Pay. The Union notes that Public Safety Technicians (dispatchers) work a schedule similar to that of Police Officers. The Police receive the same compensation for all of the named holidays, which is double-time for each holiday worked, and Police employees receive a minimum of 8 holidays. The Union proposal directly parallels the provision of the Police contract, and provides for consistency within the department.

City Position on Holiday Pay. The City contends that the net effect of the Union proposal on holiday pay is to create an elite holiday provision that is experienced by no one else in the City service. The dispatchers, though not working 2080 hours a year by virtue of the biweekly pay average, would get the same conditions as Police Officers who work more hours in the year. The Union proposal is unreasonable.

Discussion. It is the opinion of the arbitrator on the basis of Employer Exhibit 10-1 that the offer of the Union cannot be supported on the basis of comparability with the police since the dispatchers work on the average 133.6 hours less than the 2080 hours for which they are paid while the Police work more hours per year, since they have a work day of 8 1/2 hours.

**XXI. COMPENSATION - CARRYING PAGING DEVICE.** The Union is proposing that Section 6.10 of the previous agreement be changed by providing as follows:

"Employees who are required to carry a paging device during off-duty hours will receive fifty cents (50¢) per hour for each off-duty hour that the employee is on-call."

The previous agreement read,

"Employees who are required to carry a paging device during off duty hours will receive twenty five cents (\$.25) per hour for hours worked, such premium to be added to the base pay. The premium will not be paid for non-work hours or when the employee is not designated to be on call."

The Humane Officer and the Animal Control Warden were carrying a pager until August 19, 1991, when a casual employee was hired to work hours when the two regular employees were not on duty. Prior to that time each employee got \$10 a week (\$0.25 per hour) for on duty work when the pager was carried for hours off duty. With employment of an on-call employee, the Animal Control Warden received \$2.00 for carrying the pager one day, and the Humane Officer \$12 for carrying it for 50 hours. (UX 41).

Employees carrying pagers are assigned to do so by supervisors. Employees could be assigned to carry pagers every hour a week during the time they are not at work otherwise. (TR 302). Policies about carrying the pager depend on the department which the employee is assigned to. In the case of the Housing Authority Employee Voss, he testified that he had to respond within ten minutes or the next person on the list is called. Employees carrying pagers are expected to stay within a twelve mile limit. (TR 304, 309).

Two employees reported that they had never been disciplined for not responding to the pager when they gave a reason for not responding.

City Exhibit 12-1 showed that six different employees carried the pager for 10,360.3 hours. They were paid \$826.38 based on having 3,305.9 hours which they regularly worked and which were compensated at \$0.25 under the method used to calculate compensation.



Under the Union proposal for compensation, they would have been paid \$5,180.25, an increase of \$4,353.87 or a 526.87% increase.

Union Position on Pager. The existing system of compensating employees who are required to carry a pager when off-duty is unusual and unfair, in that they are compensated at the rate of 25¢ per hour worked when otherwise on duty. A more equitable system is to pay them for the hours they are required to carry the pager. The 50¢ per hour rate is proposed by the Union, because the employee is required to be able to report to work on short notice and must limit activities and travel.

City Position on Pager. The City contends that the Union proposal is unreasonable since it would have a significant financial impact on the City in requiring an increase of 526.87% in costs. The Union position has no support in comparables because no such provision exists. There is also no need to change the existing provision.

Discussion. The arbitrator in viewing this issue, considers that compensating employees carrying a pager by time previously worked other than by actual time when they are carrying the pager to be an unusual form of compensation. The Union proposal to associate payment for carrying a pager with the time the pager is actually carried is more reasonable. The Union proposed level of compensation amounts to \$12.00 for a 24 hour period. This also does not seem unreasonable given the restraint on what an employee may do when otherwise off duty.

**XXII. COST OF LIVING.** The previous agreement expired on December 31, 1990. Employer Exhibits 9-1 and 9-2 were reports on the changes in the consumer price indices. The City is applying the annual average in percentage change for the United States for All Urban Consumers (CPI-U). Under the CPI-U the change in January 1991 was 6.1% over January 1990. The change in January 1992 over January 1991 was 3.1%.

Union Exhibit 35 shows that the annual average increase in the CPI-U from 1990 to 1991 was 4.2%.

Positions of the Parties on Cost of Living. The Union states that the cost of living rose 6.1% in the year immediately preceding this proposed agreement, and this figure is the most appropriate for use. The City argues that the percentage rise in the CPI-U of 3.1% from 1991 to 1992 is the appropriate figure to consider. In two years the raise was 9.2%. The Union is proposing a 12.55% increase over two years where the City proposal of 8.16% is more comparable to the actual changes.

Discussion. The percentage increase in dollars expended under the offers comes to 8.16% for the City and 10.91% for the Union. The 12.55% is a figure of "lift" and not actual cost. The percentage increases in the CPI-U on January 1991 and January 1992 come to 9.2%. The City proposal is the more comparable one.

9. As to the reduction of the Housing Maintenance Supervisor to Custodian, a decision to do so under arbitration would leave matters of returning pay and layoff rights open to grievance, so it would be in the interests of the public not to effect the reduction in this contract, but consider the issue under a new contract.

The Union offer here not to seek reducing the Housing Maintenance or Custodian Supervisor to Custodian and to red circle his pay at the 1990 rate is for the term of this contract the more reasonable.

10. As to scheduling hours for the Animal Control Warden, the arbitrator is of the opinion that the public interest might best be served for the remainder of this contract period by keeping schedules as they have been.

11. As to scheduling work shifts, the Union proposal on fixing hours within the limits of 7 a.m. to 5 p.m. is supported in language of contracts submitted in the exhibits.

12. As to the reclassification of a Clerk Typist II, Betty Motacek, in the Housing Authority to that of Secretary, the conclusion is that though the employee is assigned a serious overload of work, yet the work is properly classified as the work of a Clerk Typist II.

13. As to the reclassification of the Animal Control Warden to Humane Officer, the arbitrator is of the opinion that there is a distinction in the responsibilities of the present Humane Officer and the Animal Control Warden, and that the City position to retain the current Animal Control Warden under that title is reasonable.

14. As to the change in the language of the overtime provision, the Union proposal is the more comparable one in comparison to other contracts among the comparables.

15. As to holiday pay for dispatchers, the Union proposal cannot be supported on the basis of comparability.

16. As to the issue of the payment provision for employees required to carry pagers on off-duty hours, the arbitrator is of the opinion that the Union offer is reasonable considering the restraint placed on the movement of employees when otherwise off duty.

17. As to the cost of living changes, the City offer is the more comparable.

18. The arbitrator is of the opinion that the City has the ability to meet the cost of either offer and that the public interest would be served by the City beginning to catch up to wage levels among comparables.

As to the foregoing, the following factors weigh in favor of the Union offer: the wage offer for basic wages, retention of the Housing Maintenance Supervisor (Custodian Supervisor) in his grade for this contract, scheduling of hours of work, the scheduling of the Animal Control Warden, change in the language of the overtime provision, and the provision for carrying pagers off duty. The City offer is more weighty with respect to percentage increases as relating to internal comparables, overall benefits, reclassification of Clerk Typist II, Housing Authority, and reclassification of Animal Control Warden, holiday pay for dispatchers, cost of living percentage changes.

After reflection and consideration, the arbitrator is of the opinion that the need for a catch-up at this time offers a preponderant weight for the Union offer, and hence the following Award is made:

**XXVII. AWARD.** The 1991-1992 Collective Bargaining Agreement between the City of Beloit and the Union should contain the Final Offer of the Union.

*Frank P. Zeidler*

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FRANK P. ZEIDLER  
ARBITRATOR

Date June 19, 1992  
Milwaukee, Wisconsin