

**STATE OF WISCONSIN
BEFORE THE ARBITRATOR**

**In the Matter of the Arbitration of
a Dispute Between**

**Wisconsin Professional Police
Association/LEER Division**

and

City of Fitchburg

**Case 40
No. 65831
MIA-2727
Dec. No. 32133-A**

Appearances

For the Union: **Thomas W. Bahr**, WPPA/LEER, 340 Coyier Lane, Madison, WI 53713.

For the Employer, **Michael J. Westcott**, Axley Brynelson, LLP, Attorneys, 2 East Mifflin Street, P.O. Box 1767, Madison, WI 53701-1767.

ARBITRATION AWARD

The Wisconsin Professional Police Association/LEER Division and the City of Fitchburg have been party to a series of collective bargaining agreements, the last of which expired on December 31, 2005. The parties exchanged initial proposals and bargained on matters to be included on a successor agreement.

A petition was filed with the Wisconsin Employment Relations Commission alleging the parties had reached an impasse and requesting compulsory, final and binding interest arbitration. Wisconsin Employment Relations Attorney/Mediator Karen Mawhinney conducted the statutorily required investigation and mediation of the alleged impasse, and became satisfied that an impasse had been reached within the meaning of Section 111.77(3) with respect to the issues that remained in dispute between the parties. On June 7, 2007, the Investigator closed the investigation and recommended that the Commission issue an order requiring arbitration, and the Commission did so.

Following the Commission ordering the parties to compulsory, final, and binding arbitration, the parties selected A. Henry Hempe as the impartial arbitrator to arbitrate the dispute and to issue a final and binding award pursuant to Wis. Stats. 111.77(4) of the Municipal Employment Relations Act. The arbitrator conducted a hearing in Fitchburg, Wisconsin on October 1, 2007, at which time the parties were afforded the opportunity to present testimony, other evidence and arguments, as they chose. The hearing was transcribed. The parties agreed to submit briefs, reserving the right to submit reply briefs.

Briefs were submitted, the last of which the arbitrator received on or about November 15, 2007.

Based on Wis. Stats. 111.77(6), and full consideration of the arguments of the parties, and the entire record herein, I issue the following award.

BACKGROUND

The City of Fitchburg, hereinafter City or Employer, and the Wisconsin Professional Police Association/Law Enforcement Employee Relations (LEER) Division, hereinafter WPPA or Association, are parties to a collective bargaining agreement that expired on December 31, 2005.

The City is a municipal corporation organized under Wisconsin law. Located to the south of and adjacent to the state's capitol city of Madison, the municipality has an approximate population of 23,240.

WPPA is the exclusive bargaining representative for all City of Fitchburg full-time sworn police officers (with the power of arrest) below the rank of sergeant, excluding elected or appointed officials, the Chief, and part-time, special, temporary seasonal, supervisory, managerial, clerical and confidential employees.

This bargaining unit, consisting of approximately 31 Fitchburg police officers, is one of four represented collective bargaining units of City of Fitchburg employees. Two of them are the Highway/Utility/Parks employees represented by Local 695 of the Brotherhood of Teamsters, and a Residual Employee unit, represented by Local 60, AFSCME, AFL-CIO. These two have reached voluntary settlements with the City. The fourth unit, also represented by WPPA, consists of dispatchers, court liaison officers and community service officers, had not reached a voluntary settlement at the time of hearing in this matter and, apparently, not by the time briefs in this matter were prepared and mailed.

FINAL OFFERS OF THE PARTIES

City:

The City's Final Offer is annexed hereto as Exhibit A and incorporated by this reference as if fully set forth herein.

WPPA:

The Final Offer of the WPPA is annexed hereto as Exhibit B and incorporated by this reference as if fully set forth herein.

Tentative Agreements:

During their negotiations for a successor collective bargaining agreement, the parties reached seven tentative agreements (TAs). Each tentative agreement consists of a modification to an existing section in the 2003-2005 collective bargaining agreement between the parties, namely Sections 9.01, 12.03, 13.06, 14.02, 17.02, 19.02, and 19.05.

The Final Offer of the WPPA contains six of the seven tentative agreements reached by the parties during their negotiations for a successor agreement,¹ omitting the TA that modified Section 12.03. The Final Offer of the City contains all seven tentative agreements the parties reached during negotiations for a successor agreement.²

Summary of Differences between Respective Proposals:

There are three issues remaining between the parties, namely, 1) term of the successor Agreement, 2) health insurance, and 3) wage increases.

Term of Agreement

The WPPA proposes the term of the successor Agreement shall be for the period of January 1, 2006 through December 31, 2008 (3-year agreement).

The City proposes the term of the successor Agreement shall be for the period of January 1, 2006 through December 31, 2007 (2-year agreement).

Salaries:

The WPPA proposes:

a) 2% ATB wage increase on January 1, 2006, and an additional 1% ATB wage increase effective December 31, 2006 for all police officer and detective salaries. In addition, the Union proposes a 3% ATB wage increase effective January 1, 2007 for all police officer and detective salaries;

b) Creation of a separate wage table, effective upon the arbitrator's award, for new employees hired after the arbitrator's award, with the condition that when employees hired prior to the implementation of the new wage table have progressed to the "After 4-Years" rate, the current employee wage table be replaced exclusively by the "new" wage table;

c) 3% ATB increase of the January 1, 2007 salaries for patrol officers and detectives, effective January 1, 2008;

¹ The six TAs included by the WPPA in its Final Offer are listed as Items 3.a. through 3.f. in said Offer.

² The seven TAs included by the City in its Final Offer are listed in said Offer under the Section number of the collective bargaining agreement that the particular TA would amend. Proposed language additions and deletions are indicated by underlining the proposed additions and running a line through the proposed deletions

d) Effective January 1, 2008 (after the 3% general wage increase listed above) adding an “After 7-Years” step to Police Officer wage steps (in both wage tables) by adding 1% to the January 1, 2008 “After 4- Years” annual salary;

e) Effective January 1, 2008 (after 3% general wage increase and addition of “After 7-Years” Police Officer wage step) to add “After 15-Years” step to Police Officer wage steps (in both wage tables) by adding 1% to the January 1, 2008 “After 7-Years” annual salary.

The City proposes:

- a) 2% ATB wage increase effective January 1, 2006;
- b) 3.5% ATB wage increase effective January 1, 2007;
- c) Additional 1% ATB wage increase, effective the first complete calendar month following the arbitrator’s award in this matter.

Health Insurance

The Union proposes:

- a) Effective October 1, 2006, the City reduce its health insurance premium contribution of 105% of the lowest cost option to 100% of the lowest cost option
- b) Effective January 1, 2007, the City further reduce its health insurance premium contribution to 97.5% of the lowest cost option.

The City proposes:

- a) For 2006 it continue to contribute 105% of the lowest cost premium option;
- b) For 2007, the City continue to contribute 105% of the lowest cost premium option *until* the first calendar month following the award, at which time the City’s contribution be reduced to 97.5% of the lowest cost premium option.

RELEVANT STATUTORY PROVISIONS

Wis. Stats. 111.77(4)(b): * * * The arbitrator is required to “select the final offer of one of the parties and shall issue an award incorporating that offer *without modification.*” (Emphasis supplied)

Wis. Stats. 111.77(6): “In reaching a decision, the arbitrator shall give weight to the following factors:

- (a) The lawful authority of the 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 those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally.
 1. In public employment in comparable communities.
 2. In private employment in comparable communities.

- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitrations or otherwise between the parties, in the public service or in the private sector.

RELEVANT CONTRACTUAL PROVISIONS

Article 1 – Recognition

The CITY OF FITCHBURG (hereinafter referred to as Employer) recognizes WISCONSIN PROFESSIONAL POLICE ASSOCIATION/LAW ENFORCEMENT EMPLOYEE RELATIONS DIVISION (hereinafter referred to as Association) as the exclusive bargaining representative for all sworn full-time police officers below the rank of sergeant, excluding appointed and elected officials, the Chief, and part-time, special, temporary, seasonal, supervisory, managerial, clerical and confidential employees.

EXTERNAL COMPARABILITY POOL

The parties have stipulated that for purposes of this award the appropriate pool of external comparable communities shall be McFarland, Middleton, Monona, Stoughton, Sun Prairie, Verona, and Waunakee. Arbitrator R. U. Miller originally established this pool.³

POSITIONS OF THE PARTIES

Association:

Analysis and application of the statutory criteria set forth in Wis. Stats. 111.77(6) to each of the two competing Final Offers lead the Association to conclude that its Final Offer is the more reasonable of the two and should, therefore, be selected by the Arbitrator for inclusion in the parties' successor collective bargaining agreement.

Employer's Authority and Stipulations of the Parties

The Association finds no indication that the Employer lacks the authority to meet the WPPA offer.

The Association acknowledges that no formal stipulations have been reached, but points to the agreement of the parties at hearing that there are several items "the parties

³ City of Fitchburg (Police), Decision No. 28980-A (Miller, 9/97)

have in common in their respective final offers.” Since neither party provided any costing information or explanation for these changes, the Association suggests that these items should not be determinative in an overall analysis of either final offer.

Interests and Welfare of the Public

The Association urges the arbitrator to give weight to the interests and welfare of the public in determining which final offer is the most reasonable. According to the Association, its offer best serves the interests of the citizens protected by the Fitchburg Police Department by recognizing the need to maintain the morale and health of the law enforcement officers, thereby retaining or recruiting the best and most qualified officers.

The Association argues that intangible benefits including morale and unit pride are just as important as tangible ones, such as salary, fringe benefits, and steady work.

The Association posits the importance of intangible benefits is apparent when one realizes that law enforcement officers of one department work side by side with officers from other departments on a daily basis. It views “the overall comparison of the Fitchburg law enforcement officers with other law enforcement officers employed by similarly situated departments as the most relevant comparison made in these proceedings.” Citing Elkouri & Elkouri’s *How Arbitration Works*, 3rd Ed., for the proposition that “employees are sure to compare their lot with that of other employees doing similar work in the area,” the Association appears to be saying that the employees’ perceptions, as they make the employee comparisons the Elkouri authors describe, play a significant role with respect to maintaining employee morale.

Continuing to stress employee morale, the Association believes the “[importance of] the intangibles” is “. . . magnified when one recognizes the unique circumstances under which law enforcement officers must function. Regardless of the circumstances or workload,” says the Association, police officers must perform their duties “with a professional demeanor and the knowledge that any action taken will be held to the utmost scrutiny by the general public and the City.” Thus, the Association concludes, “the maintenance of a high level of morale is imperative to an officer’s well-being.”

The Association also notes that the prior collective bargaining agreement for the Fitchburg officers expired in 2005, and the parties have labored diligently in a protracted series of negotiations to reach agreement to a successor labor contract. The Association notes the term of the prior agreement was three years, which is what the Association is proposing be the term for the successor agreement. “A 3-year term will allow for a modicum of labor peace and allow the parties to take a collective breath before coming back together for the next agreement,” the Association suggests. In contrast, the Association finds the City’s proposed term of two years as casting the parties back into a situation from which there is no relief from bargaining, and requiring them to resume negotiations immediately. Under this circumstance, the Association suggests, the 3-year labor contract term it proposes would be more helpful to police officer morale in Fitchburg than the 2-year contract term proposed by the City.

Financial Ability of the City to Meet Costs of WPPA Final Offer

The Association posits that the City has provided no evidence indicating it lacks the financial ability to meet the costs of the WPPA Final Offer. The Association finds abundant data in its Ex. 1, Tab 3C to dispel any financial inability arguments, in the event the City should raise any.

Association Caveats as to Appropriate Pool of External Comparables (Public Sector)

Although the Association acknowledges its stipulation to the appropriate pool of external comparable communities,⁴ it suggests that developments within the various pool municipalities (including Fitchburg) during the past ten years have reduced appropriate comparability between Fitchburg and the other pool members, to some extent. In support, the Association notes substantive changes in the composition of the municipalities have taken place. It cites, for example, that from 1990 to 2000 Fitchburg's population has increased by 31.01%, making it the second largest city in the pool. Moreover, the Association continues, two of the comparable municipalities are only one-third as large as Fitchburg, and, except for Sun Prairie, the rest are approximately one-half as large as Fitchburg.

In addition, the Association notes, Fitchburg's equalized value has increased by what the Association describes as a factor of 91.61%, the third largest increase of the comparables.

However, these were not the only increases experienced by Fitchburg, the Association relates. According to the Association, from 2000 to 2005 Fitchburg had an increase in violent crimes of 178% – second largest among the comparables, and ranked in second place for the frequency of crimes against property.

External Comparables (Public Sector)

The Association claims its Final Offer proposals for a wage increase, for a restructured wage schedule, and for increases in employee contributions to health insurance premiums, with *status quo* on all remaining material items of the labor contract are supported by the external comparables.

The Association explains that 28 of 32 bargaining unit officers are in the classification of "patrol officer." (Association Ex. 1, Tab 2B) As such, the Association says, the largest group of similarly situated employees is found by comparison to the top patrol wages of their counterparts.

The Association notes that one effect of its wage proposal would be the restructuring of the starting rate upon ratification or award of the instant matter. The

⁴ Besides Fitchburg, the pool consists of McFarland, Middleton, Monona, Stoughton, Sun Prairie, Verona and Waunakee. See f.n. 3, page 5, *infra*.

Association argues that in 2005, the hourly rate for a starting Fitchburg officer was 14% more than the average of the comparables and 7% higher than a starting officer for the City of Monona, the next highest rate of the comparable pool. Yet for the same year, says the Association, the base top patrol rate is only 1% higher than the nearest comparable and 5% more than the average wage.

The Association describes its offer as taking into account the incumbent officers “by having concurrent wage schedules and affecting only new officers while the current employees continue under the present schedule until all reach the 4-year rate.” At that time, the “new” wage schedule would become applicable to all officers.

The Association describes the other effect of its proposed wage schedule is on the senior end of the current wage schedule. Effective January 1, 2008, the Association proposes to create a 7-year and a 15-year wage step for patrol classification.

According to the Association, creation of these two additional steps is supported by comparison to other comparable departments in two ways: 1) three of the seven comparables have wage steps in excess of the 4-year step of Fitchburg; 2) when calculating longevity benefits comparable officers receive, Fitchburg is “nearly at the bottom in terms of longevity benefits derived which is based upon a dollar amount as opposed to the 3% to 5% range of additional longevity compensation paid to their counterparts.”

The Association disagrees with critics of the Association’s proposed two-tier wage structure. It dismisses as invalid the hearing testimony of the Deputy Police Chief (Don Bates) of the potential negative effect on police officer morale caused by the perceived inequity of two officers, working side by side, each earning a different rate of pay. If the City had the same belief as the Deputy Chief it would be proposing a one-rate wage scale, the Association posits.

The Association also anticipates arguments from the City that the new wage scale will adversely affect incumbent police detectives. But, says the Association, in 2005 a Fitchburg detective earned a base rate that was 3.0% higher than a 4-year patrol officer, adding that this differential would remain unchanged until January 1, 2008 when the Association’s proposed 7-year and 15-year steps would take effect.

Furthermore, the Association contends, “the comparable municipalities’ bargaining agreements either provide a specific wage scale for detectives or, in the alternative, pay patrol officers the same wage and assign them detective duties.” The Association states the average differential between patrol and detective classification hourly wages of the seven comparable departments is 3.25%. However, none of the four incumbent Fitchburg detectives would be affected for years 2006 and 2007, because the “new” wage structure would not go into effect until 2008, the Association notes. In addition, the Association says, only two of the four detectives would be eligible for the 7-year wage step in 2008 – the last year of the Association’s 3-year labor contract. Thus, if

the Association's Final Offer is implemented, the parties could easily address at that time any adverse effects on detective that had been perceived.

External Comparables (Private Sector)

The Association notes that neither party introduced any evidence or testimony regarding any private sector comparisons.

Consumer Price Index (Cost of Living)

The Association maintains simply "(t)he Association's Final Offer, when measured against the Consumer Price Index and the external settlements, should be deemed to more reasonably meet the criteria." The Association has submitted a chart depicting month-to-month cost of living increases for 2005, 2006 and the first half of 2007. The exhibit (Association 1, Tab 7) shows a COL increase of 3.2% for 2005, 2.4% for 2006, and 2.2% for the first half of 2007.

Overall Compensation

The Association contends it has provided information regarding the direct compensation provided to bargaining unit members and a comparison of the various types of compensation to the other comparable departments, and adds: "However, no other benefit elevates any member of the Association to a position beyond that of their counterparts which would give cause to find the Association's Final Offer unreasonable." However, the Association alleges inequity in the area of educational benefits in that five of the seven municipal comparables provide education benefits ranging from an additional wage of 3% to 8%, depending on the degree or number of credits obtained, while the Fitchburg police officers receive no benefits in this area.

Changes in Circumstances – Tax Levy Limit Raised

The Association requests the arbitrator take notice of the passage of Act 40 (2007) which, inter alia, raises the tax levy limit to 3.86% or the value of new municipal growth, whichever is greater.

Conclusion

The Association urges its analysis demonstrates that the Association's Final Offer is more reasonable than that of the Employer and requests the Arbitrator direct that the Association's proposals in the successor agreement be included in the successor agreement.

City:

Predictably, the City's analysis of the statutory criteria leads it to conclude the factors favor adoption of the City's Final Offer.

Lawful Authority of the Employer and Stipulations of the Parties

The City finds neither the lawful authority nor stipulations of the parties are applicable to the present dispute. With respect to the latter factor (stipulations), the City suggests that the parties have, in effect, stipulated that the tentative agreements (TAs) of the parties be included in the successor agreement.⁵

Interest and Welfare of the Public

The City posits that the interest and welfare of the public is advanced by responsible measures of public safety that include the hiring and retention of capable, well-motivated law enforcement officers with high morale and an ethos of public service. The City describes its Final Offer as embracing this concept, but fails to find the same quality in the Association offer.

The City reviewed the hearing testimony of Deputy Police Chief Don Bates who said there is an overall shortage of candidates for law enforcement positions, both nationally and locally. The City buttressed Bates' testimony with figures indicating a declining number of applicants for law enforcement positions over the past several years. The City says it is for that reason that both parties had agreed through bargaining in earlier years to a starting pay rate that is substantially higher than that of other comparable communities.

The City notes that in 2005 the starting rate for a patrol officer in Fitchburg was almost \$2900 higher than the starting rate for a patrol officer in Middleton. When compared to the other community comparables, Fitchburg led the pack for starting patrol officer rates; Middleton was in second place.

This was intended as a deliberate inducement to area applicants to accept employment as patrol officers with Fitchburg, even though a particular applicant may reside in or closer to one of the other municipal comparables. The parties mutually bargained the inducement as they established the existing salary schedule by voluntary agreement, the City notes. The City's current proposal would maintain this significant disparity in 2007, and return the parties to the bargaining table in 2008.

⁵ The City notes the Association's Final Offer lists each of the parties' TAs, with the exception of the tentative agreement to modify sec. 12.03. The City believes this TA is a "housekeeping" item, and even if the Association intentionally omitted it and no longer agrees to its adoption in the successor agreement, the item has no impact on the outcome of the arbitration.

The City is critical of the Union wage proposal, which, effective with the arbitrator's award, would reduce the patrol officer annual starting rate from the City's proposed \$48,145.58 to \$44,444.50. The City finds this reduction "startling," and argues that it serves to reduce significantly the attractiveness of the Fitchburg position to area candidates who reside outside Fitchburg and would necessarily incur expensive commuting expenses (given the current cost of gasoline) without any additional, offsetting compensation.

The City speculates that the Association is simply transferring the "savings" its offer produces when it reduces the pay rates for starting, 1-year, 2-year and 3-year patrol officers to the funding of two additional steps in the wage schedule the Association proposes to create. The City is mystified as to the Association's motivation for this. The City refers to the hearing testimony of Deputy Police Chief Don Bates who stated there have been no retention problems with Fitchburg police officers; indeed, for the last four years no Fitchburg police officer has left Fitchburg employment to take a law enforcement position with one of the comparable communities. Thus, says the City, the Association's proposal does nothing to fix a retention problem, because none exists, and concludes the proposal does not serve the interest and welfare of the public.

Comparison of the Wages, Hours and Conditions of Employment of the Fitchburg Police Officers with the Wages, Hours and Conditions of Employees Performing Similar Services and with Other Employees Generally in Public Employment and Comparable Communities.

The City notes that its wage proposal does not impact Fitchburg's relative ranking in any of the steps in the pool of community comparables during the City's proposed two-year contract term. Fitchburg leads the comparables in wages paid to police officers. This, says the City, cannot be said for the Association's proposal. Under the Association's proposal, in 2008, the starting and 1-year pay rates for Fitchburg patrol officers would not be leading the rest of the comparables, the City asserts, but would fall slightly below the starting and 1-year pay rates in Middleton.

The City posits that the relative rank of an employee as compared to external comparables is a matter that has been collectively bargained by the parties. Therefore, argues the City, a party that wants to make a change in the *status quo* has the burden of demonstrating that a problem exists and that its proposal is reasonably designed to address the problem.

In this case, City continues, the Association is proposing major changes in the salary schedule, without showing through evidence or testimony that a legitimate problem exists or that its proposal is reasonably designed to address that problem. Specifically, the City notes there has been no showing by the Association of the loss of any senior Fitchburg police officers due to salary dissatisfaction.

The City underscores its belief that a rational basis exists for the current salary and compensation plan. Altering it, in the City's opinion, could have a harmful effect in other areas of employment. Any realignment of the existing salary structure should await the bargaining process, says the City.

The City also objects to the two-tier wage scale the Association's proposal would create and expresses concern that such a wage system would create employee morale problems.

The City additionally notes that the Association's proposal for a 15-year step is without precedent in the external comparables. Furthermore, the City charges that the creation of the 15-year step, along with the 7-year step, creates a serious wage compression situation between patrol officers and detectives. At present, filling detective slots is done through promotion. The City states that at present there is anywhere between a \$8,584.96 and \$2,055.54 difference between pay rates for patrol officers and detectives, depending on what step the patrol officer is at when promoted to detective. Under the Association's proposal, the City charges, this difference would be reduced to \$1,651.10 for a 7-year patrol officer and \$1,094.17 for a 15-year officer. To maintain motivation and serve as an incentive for promotion to a detective slot, the City believes it is important to maintain a significant wage disparity between detective and patrol officer positions.

Consumer Price Index (Cost of Living), Overall Compensation and Changes in any Foregoing Circumstances During the Pendency of the Arbitration Proceedings

The City finds these factors inapplicable under the circumstances of this case.

Such Other Factors, Not Confined to the Foregoing, Which Are Normally or Traditionally Taken Into Consideration in the Determination of Wages, Hours and Conditions of Employment . . .

Under the aegis of this factor, the City argues that the Association has not met its burden to change the *status quo*. The City notes the agreement of each party at the arbitration hearing that this factor ["h" under Wis. Stats. 111.77(6)] properly includes the typical *status quo* burden analysis.

To change the *status quo*, the City asserts, the Association must show that a significant, unanticipated problem exists, that the proposed change reasonably addresses the problem, and the proposed change is accompanied by an appropriate *quid pro quo*. In this case, the City identifies three changes the Association is attempting to make: a two-tier wage system; the insertion of a 7-year and 15-year step in the salary schedule; and compressing the wage schedules between patrol officers and detectives.

In regard to the two-tier wage system, the City denies that a problem exists with respect to retention or recruitment, but asserts that a recruitment problem would likely be

created with the two-tier wage system the Association proposes, and that not a single comparable community has a two-tier wage schedule. The City takes the same position with respect to the Association's proposal for the creation of a 7-year and 15-year salary schedule step [i.e., no evidence of a retention problem, only two of the other seven comparable community pool members (McFarland and Verona) have a 7-year step, and none have a 15-year step.]

Neither has the Association met its obligations under the 3-part test with respect to the wage compression issue its wage proposals create between patrol officers and detectives, the City adds.

The City is also critical of the Association's proposal with respect to the issue of health insurance premium contribution, which would result in the imposition of significant retroactive financial burdens on bargaining unit members. The City notes that its proposal ultimately arrives at the same contribution rate as is accomplished under the Association's proposal, but its impact on bargaining unit members is totally prospective.

Conclusion

In conclusion, the City describes its wage offer as in sync with settlements of comparable communities. It acknowledges it offers one significant change by proposing a health insurance premium contribution reduction for the Employer, but claims mitigation since the Association is proposing the same contribution rate, but in what the City terms "a more controversial manner."

In contrast, the City characterizes the Association's Final Offer as proposing significant departures from the *status quo*. Describing its own wage increase proposal as "clearly in sync with settlements of comparable communities," the City concedes that the Association wage proposal "is also consistent with other comparable settlements."

But the City underscores the Association's departure from the norm with its proposal for a two-tier wage system, which the City describes as not only totally inconsistent with any internal comparables of the City, but also with all of the external comparables, as well. The City continues to be critical of the Association's failure to provide a nontraditional wage scale without any explanation, justification or *quid pro quo* on record. The City finds the Association's attempt to create a 7-year and 15-year step in the salary schedule, again without explanation, also lacking external comparable support. Finally, the City faults the Association's proposal to increase the employees' share of the health insurance premium contribution to October 6, 2006, which will require retroactive, as well as prospective premium contributions from the employees, in contrast to the City's proposal that is prospective, only, in effect.

DISCUSSION

The parties describe themselves in disagreement over three issues: wages, health insurance and the term of the successor agreement. Of the three, the most important appears to be the wage issue, primarily because of the potential policy impact its outcome has on the existing wage policies to which the municipality and the Association were once in agreement, but are no longer. The issue of health insurance recedes from its usual prominence in labor disputes due to the parties' agreement on the ending percentage of premium contribution each party is to make,⁶ and will follow the direction of the award as to wages. The issue of the contract term is not insignificant, but will flow from my findings and conclusions as to the respective wage packages.

I turn to consideration of the statutory factors that impact the parties' respective proposals.

Lawful Authority of the Employer

The parties agree that the Employer has the lawful authority to implement either offer.

Stipulations of the Parties

During their negotiations for a successor collective bargaining agreement, the parties reached seven tentative agreements (TAs). Each tentative agreement consists of a modification to an existing section in the 2003-2005 collective bargaining agreement between the parties, namely Sections 9.01, 12.03, 13.06, 14.02, 17.02, 19.02, and 19.05.

The Final Offer of the WPPA contains as proposals six of the seven tentative agreements reached by the parties during their negotiations for a successor agreement,⁷ omitting the TA that modified Section 12.03. The Final Offer of the City contains as proposals all seven tentative agreements the parties reached during negotiations for a successor agreement.⁸

Since six of the seven TAs are replicated in each party's Final Offer, it is obvious that these six will be a part of the successor agreement regardless of the results of this award. The seventh TA (Sec. 12.03 modification) submitted in the Final Offer of the

⁶ The chief difference is that under the Association's proposal, bargaining unit members would be required to make retroactive premium contributions, while the City's offer would require only prospective contribution payments. Although the parties did not reach total agreement on this issue, they are to be commended for their apparent recognition that employee health insurance is a mutual problem for which superior solutions are usually best achieved by collaborative efforts.

⁷ The six TAs included by the WPPA in its Final Offer are listed as Items 3.a. through 3.f. in said Offer.

⁸ The seven TAs included by the City in its Final Offer are listed in said Offer under the Section number of the collective bargaining agreement that the particular TA would amend. Proposed language additions and deletions are indicated by underlining the proposed additions and running a line through the proposed deletions

Employer, but omitted from the Final offer of the Association, though once a TA, is not a stipulation for the purposes of this proceeding. It is described by the Employer as a “housekeeping” measure, which is validated by a cursory perusal. Since the Association does not include it in its Final Offer, however, it is not a stipulation. It will become a part of the successor agreement only if the Final Offer of the Employer is adopted.

The TAs do not affect the respective wage, health insurance, and/or contract term proposals. The Association suggests that since neither party provided costing or other explanation about the TAs these items should not be determinative in the overall analysis of the Final Offers. It is a reasonable suggestion that I shall follow.

Interests and Welfare of the Public

Each party asserts its own offer best meets the interests and welfare of the public. The Association stresses the interests and welfare of the public are enhanced by good morale among police officers, which is promoted by the Association’s wage proposal. The Employer contends that the Association’s wage offer necessarily destroys the recruitment and hiring policy of the City’s police officers and that therefore the interests and welfare of the public are better served by the City’s wage offer.

The Association’s wage offer would provide police officers of at least 7-years seniority with an additional step increase and officers with at least 15-years of seniority with another additional step increase. Almost half of the police bargaining unit would receive the additional benefit of these provisions in 2008.⁹ Presumably, their morale would be enhanced, as they see the improved remuneration of more veteran officers. There can be little dispute that high employee morale serves well the interests and welfare of the public.¹⁰

The argument can also be made that increasing the salaries of veteran police officers by providing financial recognition for an intermediate time in grade can be a benefit to the public interest and welfare. Experienced, veteran officers that are familiar with the community they police are the backbone of the protection of any community in emergencies, whether they be criminal activities, traffic problems, or other disasters. Retention of these officers can be an important step in providing an effective blue shield of protection for the public.¹¹

⁹ Association Ex. 1, Tab 2B is a seniority roster of the Fitchburg police bargaining unit. According to this list, 13 of 31 officers will have 7-years of service seniority sometime in 2008; 2 more will reach the 15-year mark.

¹⁰ However, bargaining unit enthusiasm for the new wage benefit that would accrue to almost half of its members in 2008 would likely be tempered somewhat when members were faced with making retroactive health insurance premium contributions that would stretch back to October 2006.

¹¹ The Association also cites 2000 – 2005 Fitchburg crime statistics as further justification of its restructured wage schedule (Association Ex. 1, Tab 4). According to the Association’s data, Fitchburg showed a 178% increase in violent crimes, the second largest among the comparables. However, substantial increases of criminal offenses in this category also occurred in four of the other Dane County comparables, (although their frequency seems significantly higher in Fitchburg). Undeniably, these figures dramatize the need for competent, experienced police officers in the five Dane County comparables

On the other hand, the City's policy for recruitment of qualified new officers to fill additional positions also serves the interest and welfare of the public. For both the protection of the community and the protection of incumbent officers with whom they will be working, qualified new officers need to be recruited. The disparately higher wages the City offers to new officers is a manifestation of the City's determination to attract the best possible candidates. Implementation of that policy would be impeded by adoption of the Association's offer. Moreover, as the City asserts, the Association has failed to demonstrate that there is any retention problem with respect to the more senior officers.

The City suggests another damper on the morale of newly hired officers placed on the reduced wage rate the Association proposes would occur when the new hires recognize and begin to resent the fact that they are being paid substantially less for their first four years of service than other officers possibly hired a day or a week or a month before the reduced rates have gone into effect, even though the new hires are performing the same duties and are assuming the same risks as their more highly paid, only slightly more senior, fellow officers.

It is, of course, for this reason arbitrators do not generally favor two-tier wage schedules.¹² They are a drastic remedy and in many instances inherently inequitable to the lesser-paid employee. What they offer in providing pragmatic solutions to difficult bargaining impasses is sometimes insufficient to overcome consequent and understandable employee resentments. Whether those resentments would occur if the proposed two-tiered wage schedule were adopted in this case is a matter of speculation. Presumably, the Association, as the bargaining representative and proponent of the change, would be able to defuse any such resentments, although neither party can offer assurances of what would occur if the schedule the Association favors were adopted. Nor can I.

Notwithstanding the general disapproval of many arbitrators of a two-tiered wage schedule, I do not necessarily reject all two-tiered systems out of hand. As a practical matter, in some situations a two-tiered wage schedule can provide a workable solution to bargaining dilemmas that can be resolved through no other means, although great care must be taken to minimize, to the extent possible, any consequent inequities. I do not doubt that the Association has attempted to do so in this case, and do not consider the two-tiered system it proposes a detriment to its proponent in this case.

Under all of the circumstances, I find the Final Offer of each party equally advances the interest and protection of the public.

impacted, including Fitchburg. But the Fitchburg crime statistic also validates the City's insistence that it needs a disparately higher hiring wage rate to assist the recruitment of qualified applicants for police positions in Fitchburg to help deal with any increased criminal activity.

¹² See *Village of East Troy*, Decision No. 30289-A (Roberts, 9/02). The Association appears to recognize this kind of employee resentment as a potential morale problem, but apparently believes that the beneficial effect of the two-tier schedule (funding new pay steps for more senior officers) and the schedule's temporary existence of no more than 4 years will overcome this possible detriment to employee morale.

I make this finding notwithstanding some discomfort with the notion of sizeable *retroactive* health insurance premium contributions by the police officers that would occur under the Association's offer, particularly since the retroactive period would cover reductions from the City's current contribution rate of 105% of the lowest cost coverage to 97.5%. The City has submitted a table (Ex. 1, Tab 17) estimating the 2006-07 costs of the retroactive contributions bargaining unit members would amount to \$31,644.44, which would, of course, reduce the net paychecks of the police officers affected.

Financial Ability of Fitchburg to Meet Those Costs

The Association contends and the City agrees that the City has sufficient financial ability to meet the costs of either offer. Neither step of the two the Association proposes is excessive. The funding formula for each is relatively conservative. With the proposed decrease in the first four steps of the current wage table, the fiscal cost of the steps to the City, though not specified by either party, is not an issue.¹³ The City's concern is not the amount of the money required, but how the money is to be spent.

Neither of the parties is disadvantaged by this factor.

External and Internal Comparables

The parties have stipulated that for purposes of this award the appropriate pool of external comparable communities with Fitchburg are McFarland, Middleton, Monona, Stoughton, Sun Prairie, Verona, and Waunakee. Arbitrator R. U. Miller originally established this pool.

The Association's proposed ATB wage increases for a three-year contract are 2% on January 1, 2006, 1% on December 31, 2006, 3% on January 1, 2007 and 3% on January 1, 2008. In addition the Association's wage offer proposes a salary schedule restructuring scheme that would provide 1) the creation of a second wage tier applicable only to employees hired on or after the date of the arbitrator's award,¹⁴ 2) a 2008 addition of a 7-Year step and a 15-Year step on the wage schedule, 3) substantial reductions in the first four steps of the "new" wage schedule; and 4) the ultimate replacement of the phased-out current schedule with the "new" tier of the two-tier schedule the Association attempts to install.¹⁵

¹³ An apparent additional funding source for the steps is the cost savings to the City by the accelerated decrease in the City's contribution to employee health insurance premiums that would require retroactive increased premium contributions from the employees. In contrast, the City's premium reduction proposal would reduce the City's contribution percentage to the same final mark of 97.5% of the lowest cost coverage, but the additional costs to the employees would be entirely prospective.

¹⁴ The date of the arbitrator's award will be on or about mid-January 2008.

¹⁵ Under the WPPA's plan, elimination of the current wage schedule would occur after all employees hired prior to the implementation of the "new" wage table have progressed to the "After Four Years" rate. The two-tiered arrangement is obviously intended as a transitional device to get to the "new" wage schedule.

Neither party has reported any additional cost to the City when the additional “after 7-Years” and “after 15-Years” steps in the Association’s proposal are factored into the calculations. Presumably, decreasing the size of the first four steps will cover costs of the new steps

Under the City’s two-year contract offer, employees would receive a 2% wage increase for 2006 wages, a 3.5% wage increase for 2007, and an additional 1% on [February] 1, 2008.

Thus the City proffers ATB wage increases of 2% on January 1, 2006, 3.5% on January 1, 2007, and 1% on the first complete month following the arbitrator’s award in this matter.¹⁶ The City’s offer does not greatly differ from that of the Association, particularly with the prospect of the immediate resumption of collective bargaining for further wage increases covering the balance of 2008 and subsequent years when City’s proposed two-year contract expires on December 31, 2007.

The two internal comparables that have reached a voluntary settlement present a reasonably clear advantage for the City’s offer, although that advantage is obscured somewhat by the existing “after 7-year” and “after 15-year” steps for the dispatcher unit.¹⁷

Comparison of the wage offers with the external comparables present a mixed, even somewhat confused, picture. This is probably due to the dual character of the two additional wage steps the Association proposes to insert in the wage table, for the “after 7-years” and “after 15-years” steps proposed by the Association can be characterized as both *wage* and *longevity* items.

In general, both parties appear to regard and analyze the Association’s proposal as a *wage* offer. On that basis, both offers are reasonably competitive.¹⁸ The City’s offer seeks to maintain the recruiting of new police officers advantage it perceives by continuing the wage disparity with the comparables in the first four steps; the

¹⁶ Since this award will be issued in January 2008, the final 1% ATB wage increase the City offers would be effective February 1, 2008.

¹⁷ According to Employer’s Ex 1, Tab 4, in an apparent three-year contract, the Hwy/Utility/Parks unit received annual wage increases of 2%, 4% and 3.5% in 2006, 2007 and 2008, respectively. The Residual Unit received wage increases totaling a 10% lift spread over a three-year agreement. The WPPA Dispatcher unit had not settled at the time of hearing in this matter. The City explains that the 7 and 15 years steps in the Dispatcher contract were recently negotiated and deemed necessary for the City to maintain its ranking in the pool of municipal comparables.

¹⁸ According to Employer’s Ex. 1, Tab 3, in general, wage percentage increases for the municipal comparables for 2006 and 2007 averaged a 3% cost. Verona fell slightly below this at 2.75% in each year, but has a relatively generous longevity plan. Waunakee provided a reported 5% wage increase in 2006 and 3% in 2007. Middleton provided a pair of 2% increases in 2006 (cost: 3%; lift: 4%), a 5.5% wage increase in 2007, and will provide a 3.5% increase in 2008. Stoughton police sergeants received a 4% increase in 2006 and 3% in 2007. Information for Sun Prairie in this exhibit indicated that although the parties had reached several TAs, no voluntary settlement for the years 2006, 2007, and 2008 is reported. This is confirmed by examination of Association Ex. 1, Tab 14B. In general, the ATB wage increase proposals of both parties herein fall within these ranges.

Association's proposal would cause the starting and "after 1-year" of the Fitchburg wage table to fall into second place in 2008.

Based on a comparison of only wages, the City's offer appears to have at least a slight advantage. The ATB increases it proposes are generally consistent with the ATB increases in the comparables. No wage step would cause a change in the City's ranking among the comparables. Only three out of the eight-member pool of municipal comparables offer *wage steps* in excess of four years. (Association Ex.1, Tab 6B).

However, a different picture may emerge if the Association's proposal for the insertion of two additional wage steps that give financial recognition to both 7-years and 15- years of service is considered as a *longevity* benefit.¹⁹ The Association alleges that Fitchburg is nearly at the bottom of the comparable pool as to longevity benefits. Both parties submit exhibits that purport to compare longevity benefits of pool members.²⁰ However, neither party attempts any in-depth analysis of the longevity benefits that each reports. Indeed, neither party specifically refers to its respective longevity exhibits. Without the benefit of any interpretation of these exhibits by either of the parties, my reading of them suggests that 1) Fitchburg is second from the bottom in this area, and 2) as a practical matter, the City's relatively low position ranking in the comparable pool with respect to this benefit could improve if the Association's wage offer that includes the 7-year and 15-year wage steps were adopted .

In summary, if the Association's proposal to insert the 7-year and 15-year steps in the wage table is regarded strictly as a wage offer, I find this factor favors adoption of the City's Final Offer. If, on the other hand, the Association's proposal is regarded as a mixture of a wage and a longevity offer that would likely improve the City's comparable ranking in the area of longevity, this factor appears to favor adoption of the Association's proposal.²¹

Overall, with respect to this factor I credit each party's offer in equal measure.

Cost of Living

Neither party's offer is disadvantaged by this factor.

The Overall Compensation Presently Received by the Employees

The Employer suggests this factor is not applicable to this case. The Association treats it as a supplementary inquiry into comparability, noting simply that no current benefit elevates any Association member to a position beyond his/her counterparts, and specifically pointing to apparent inequity in the area of educational incentives or benefits.

¹⁹ Although each step is based on a percentage increase, neither step appears excessive in amount.

²⁰ Association Ex. 1, Tab 5D; City Ex. 1, Tab 2, p. 3. Each exhibit reports identical information.

²¹ I make this finding even though the Association's offer would put the City in second place in 2008 with respect to the start and "after year-1") wage table steps due to the slimness of the margin between first and second place. However, this conclusion does *not* include consideration of the policy ramifications involved in reducing any of the first four steps of the wage table.

Neither of the respective Final Offers submitted by the parties address this area. In the context of this case neither party's offer is significantly enhanced by application of this factor.

Changes in Any of the Foregoing Circumstances During the Pendency of This Action

Neither party reports or argues any changes in the foregoing circumstances have occurred during the pendency of this action.

Such Other Factors, Not Confined to the Foregoing, Which Are Normally or Traditionally Taken into Consideration in the Determination of Wages, Hours, and Conditions of Employment through Voluntary Collective Bargaining, Mediation, Fact-Finding, Arbitrations or otherwise between the Parties, in the Public Service or in the Private Sector.

As the City made clear at the arbitration hearing, it is not the cost of the Association's wage proposal to which it objects. The issue, said the City, "is where you put the money," and the City is adamant in its opposition to putting the money into the Association's plan to restructure the wage schedule.

The City expresses two concerns:

- 1) By decreasing the wage rates in the first four steps (start, after 1-year, after 2-years, and after 3-years) in the current wage plan, the Association's new wage schedule plan necessarily eliminates whatever advantage those rates may give the city in attracting qualified applicants to employment with the City's police department as opposed to employment with a police department of one of City's municipal comparables;
- 2) The restructured wage table results in wage compression between the new patrol officer rates and the rates for detective.

The City stresses that the current wage table reflects a wage policy that was mutually crafted by the parties in collective bargaining. The Association does not deny its participation in the negotiations that produced the current wage table.

Neither does the Association explain its rationale for reducing the wage rates of the first four steps, except that they are disparately higher than corresponding rates of the comparables. The City plausibly suggests the Association's sole motivation is to move a portion of the money now funding the first four steps to fund, instead, the two new wage table steps the Association proposes to insert, the first an "after 7-years" step; the second, an "after 15-years" step.

The City defends the existing wage structure on the merits.

Acknowledging a significant disparity between the wage rates of the first four Fitchburg steps and the corresponding steps of the comparable municipalities, the City explains that the higher beginning rates for Fitchburg provide the City with a recruitment and hiring advantage it would not otherwise possess as it attempts to induce qualified police applicants to join Fitchburg Police Department in an era when applications for police positions are in decline.²² The City believes this policy is essential to insure a continuum of quality police protection for the community.

I am not insensitive to Association arguments that more senior Fitchburg police officers deserve additional financial recognition. But while the Association's offer would provide that recognition, it does so by sacrificing a previously negotiated wage policy that the City describes as instrumental in its ability to continue to recruit high quality police officers to Fitchburg employment.

Moreover, I perceive no apparent current problem the City faces in retaining these more senior patrol officers in Fitchburg employment. In fact, such evidence as was submitted on this point convincingly indicates the opposite, *i.e.*, that there is yet no employee retention problem in the Fitchburg Police Department.²³

As to the wage compression issue, the City's existing policy reflects its desire to fill vacant detective slots by promotion from the ranks of the patrolmen. The City believes it is important to maintain a significant wage disparity between the patrol officer position and the detective position so that patrol officers are provided a financial incentive to bid on detective positions. In addition, the City notes, the detective positions deserve a higher salary because they are required to perform different and additional duties and responsibilities than are required of the patrol officers. The Association's rejoinder is that no vacancies in detective positions will occur until 2008 – the last year of the Association's proposed contract term, and suggests any issues with the detectives' salaries can be dealt with in the next round of negotiations.

In this posture we arrive at the final statutory factor to be considered. This factor, set forth in Sec. 111.77(6) h., mandates the arbitrator's consideration of "such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through . . . arbitration . . ."

One "such other factor" was announced 25-years ago by long-time Wisconsin arbitrator Zel Rice:

"Salary schedules are not something with which an arbitrator should tamper and ordinarily such changes are left to the parties to make through bargaining . . . Arbitrators prefer negotiated provisions over awarding modifications,"²⁴

²² City Ex. 1, Tab 13.

²³ City Ex. 1, Tab 14.

²⁴ *School District of Colfax*, Decision. No. 19886-A (Rice, 3/83).

Twenty-one years later Arbitrator William Petri elaborated on the same theme:

“Wisconsin interest arbitrators generally recognize that the proponent of a change in the *negotiated status quo ante* is normally required to establish three determinative prerequisites: **first**, that a significant and unanticipated problem exists; **second**, that the proposed change reasonably addresses the problem; and **third**, that the proposed change is accompanied by an appropriate *quid pro quo*.”²⁵

In this case, the Association has not demonstrated the existence of a significant, unanticipated problem to which its Final Offer is responding. To the contrary, the evidence on this point demonstrated the opposite, *i.e.*, there is no significant and unanticipated problem that the Association’s proposal addresses! Nor, for that matter, is there any evidence of any *quid pro quo*.²⁶

In determining this matter, I am primarily influenced by the City’s contention, not disputed by the Association, that the current wage structure policy and the structure itself, *was mutually crafted by the parties in collective bargaining*. Obviously, the wage table structure and the rates therein are a part of the current wage schedule of the parties’ 2003-2005 labor agreement as is as well as the size of the gap between the top patrol officer’s rate of pay and that of detectives. The bases for the underlying policies that led to the adoption of these features are rational and have continued relevance. Given the origin and approval of these policies in the milieu of collective bargaining, and absent the emergence of an unanticipated, demonstrated problem or significant change in circumstances, collective bargaining is the most appropriate venue for policy changes to the negotiated *status quo ante* that either party may propose.

In my view, application of this factor to the wage issue favors adoption of the City’s wage proposal instead of the Association’s. As I indicated earlier herein, I find the primary significance of that issue to the parties as controlling the outcome of the remaining issues. Accordingly, it is my intent to direct the City’s Final Offer (as set forth in Exhibit A annexed hereto) be included in the successor agreement for these parties, including the offers pertaining to health insurance, term of the contract and the seven TAs to which the parties had previously agreed during negotiations.

Finally, this award is not intended to suggest that retaining experienced police officers should *not* be a *potential* area of concern in any well-run municipality, including Fitchburg. Certainly, there can be a strong public policy rationale that supports

²⁵ *Unified Community Services of Grant and Iowa Counties*, Decision No. 30621-A (Petri, 2004).

²⁶ In theory, the Association might argue (though it does not) that its *quid pro quo* for its proposed restructured wage schedule consists of its reduction in the wage rates of the first four steps as well as the changes in the percentage contribution rates for employee health insurance premiums by both the City and the employees. If this was the Association’s intent, it was never expressed as such. To the City, moreover, any such *quid pro quo* would have been unwelcome as not only unhelpful but damaging to the City’s best interests.

appropriate recognition and remuneration for experienced police officers that will encourage and induce them to remain with the force. Enlightened municipal leadership understands this, and nothing prevents them from seeking preemptive measures of employee retention *before* a recognizable employee exodus takes place. If the retention of experienced police officers is a nascent problem in Fitchburg, the parties will have an immediate opportunity to address and remedy the problem at their mutual convenience as they commence their next round of bargaining.

AWARD

In reaching this award, I have carefully considered and given appropriate weight to each of the factors enumerated in Wis. Stats. 111.77 (6).

Wis. Stats. 111.77(4)(b) requires the arbitrator to “select the final offer of one of the parties and shall issue an award incorporating that offer without modification.”

Based on consideration of the aforesaid factors, the evidence, testimony and evidence of the parties, I conclude and direct that:

The Final Offer of the Employer in its entirety set forth in Exhibit A annexed hereto shall be incorporated into the collective bargaining agreement between the parties hereto for the 2006-2007 term.

Dated at Madison, Wisconsin this 14th day of January 2008.

By: _____
A. Henry Hempe, Arbitrator

**MAY 7, 2007
FINAL OFFER OF
CITY OF FITCHBURG**

TO

**FITCHBURG POLICE OFFICERS ASSOCIATION
WISCONSIN PROFESSIONAL POLICE ASSOCIATION
LAW ENFORCEMENT EMPLOYEE RELATIONS DIVISION**

The following is the Final Offer of the City of Fitchburg for a successor Agreement. Any provisions not contained herein shall remain as set forth in the January 1, 2003 - December 31, 2005 Agreement between the parties unless previously tentatively agreed upon.

The following revisions to Section 9.01, Section 12.03, Section 13.06, Section 14.02, Section 17.02, Section 19.02 and Section 19.05 were tentatively agreed to between the parties as of March 26, 2006:

ARTICLE IX - GENERAL PROVISIONS

Section 9.01 Agreement Furnished. The ~~Employer-Union~~ shall furnish all employees in the bargaining unit with a copy of this Agreement.

ARTICLE XII - HOLIDAYS

Section 12.03 Holiday Work. Employees whose shift begins on a paid holiday will receive one and one-half (1-1/2) times their regular earnings for all hours worked on such shift, ~~in addition to one (1) compensatory day off at the employee's choosing, subject to the approval of the Chief of Police. Said employee will not also receive holiday pay under Section 12.01 above. In each calendar year, employees are provided a bank of holiday hours equivalent to the hours of each holiday as specified in Section 12.01. Use of these hours is subject to the approval of the Chief of Police.~~

ARTICLE XIII - VACATIONS

Section 13.06 Scheduling. The vacation schedule shall be approved by the Chief of Police taking into account the requests of the officers. ~~Effective the first of the month falling thirty (30) or more days from the execution of this Agreement, Three (3) officers will be allowed off at the same time, regardless of shift worked, subject to the terms and conditions set forth herein. The Chief of Police shall allow a fourth officer off on vacation at the same time unless, in his sole discretion, he determines it would result in inadequate staffing or overtime. Approval~~

must be obtained at least two (2) weeks prior to taking any vacation of one (1) week or more. Vacation shall be selected by seniority with the most senior officer choosing first, up to twelve (12) days. After all officers have made their first choice, the next most senior officer shall choose first any remaining dates until all officers have chosen all their vacation dates.

ARTICLE XIV - SICK LEAVE

Section 14.02 Accrual. Sick leave shall be earned at the rate of ~~one-half (1/2) day~~ four (4) hours per bi-weekly pay period of service. Sick leave credits may be accumulated to a total not to exceed one hundred seventy (170) days. In the event of an approved leave of absence under Section 14.01 for which any employee has insufficient sick leave; the time off shall be charged to vacation or leave without pay, at the employee's option. If the time is taken without pay, the employee shall be reimbursed quarterly within the same calendar year for such time lost as a consequence of the insufficient accumulation of sick leave; such reimbursement is to be based on the amount of unused sick leave accumulated during the quarter.

ARTICLE XVII - GRIEVANCES AND ARBITRATION

Section 17.02 Time Limits. Time limits set forth in the grievance procedure shall be exclusive of Saturdays, Sunday and holidays. The time limits for processing grievances from one step in the procedure to another may be extended upon mutual agreement. Failure to abide by such time limits, or any extension thereof, shall cause the grievance to be barred. Grievances not responded to by the City within the prescribed time limitations, or any extension thereof, shall be considered denied.

ARTICLE XIX - OVERTIME

Section 19.02 Compensatory Time Off. In lieu of receiving overtime pay, an employee may request compensatory time off up to a maximum of ~~forty (40)~~ sixty (60) overtime hours worked. Compensatory time off shall be taken at a time mutually agreed to between the employee and the Employer. Any compensatory time not used by December 31 of any year will be computed at the hourly rate in effect at December 31 and paid out to the employee with the first payroll in January that includes December 31.

Section 19.05 Court Time. When not on duty, employees shall be compensated at the overtime rate for time spent in court appearances at a minimum of two (2) hours. ~~In the event a court appearance is cancelled and the officer shows up for said appearance, the affected employee shall receive three (3) hours overtime pay. Effective January 1, 2001, the preceding sentence will be replaced with the following language: In the event a court appearance is cancelled, and the officer does not become aware of the cancellation at least twelve (12) hours before the scheduled court time, the officer shall receive two (2) hours of pay at the overtime rate. This two hours' pay shall only apply if the officer confirms the court appearance with the Fitchburg Municipal Court Clerk or the Dane County District Attorney's call-in line, whichever~~

is applicable, twelve (12) hours before the scheduled court time. In the event a court appearance is cancelled less than twelve (12) hours before the scheduled court time, or if the officer timely calls to confirm a court appearance and is informed it is still on, and the officer shows up for said appearance and it has been cancelled, the affected employee shall receive three (3) hours overtime pay. Court time occurring on an employee's vacation shall be compensated at two (2) times for all hours described above.

The following proposed revisions to Sections 20.04 and ARTICLE XXIII are outstanding:

ARTICLE XX - RETIREMENT, WORKERS COMPENSATION AND LIFE INSURANCE

Section 20.04 Health Insurance Coverage and Carrier. Employees will have the option to choose a group health insurance plan from the standard plan and alternative health insurance plans offered by the Wisconsin Public Employers' Group Health Insurance Board in the Employer's service area. The Employer agrees to pay the premium for single or family health insurance in the amount of one hundred five percent (105%) of the gross premium of the alternative or standard health insurance plan that is the least costly qualified plan within the service area, but not more than the total amount of the premium of the plan selected for full-time regular employees and ninety-seven point five percent (97.5%) effective the first complete calendar month following the interest arbitrator's award.

ARTICLE XXIII - COMPENSATION RATES

The Employer proposes a two percent (2%) across-the-board increase in wages effective January 1, 2006 and an additional three point five percent (3.5%) across-the-board increase in wages effective January 1, 2007. Effective the first complete calendar month following the interest arbitrator's award there shall be an additional one percent (1%) across-the-board increase.

Section 23.01 Salary Commencing 20036.

	Annual Salary	
	Effective January 1, 20036	Effective July 1, 2003
Police Officers		
Starting	\$40,301.64	\$41,107.67
After One Year	43,355.19	44,222.29
After Two Years	45,365.24	46,272.54
After Three Years	45,739.38	46,654.17
After Four Years	46,158.11	47,081.27

	Annual Salary	
	Effective January 1, 20036	Effective July 1, 2003

EXHIBIT A

Detectives \$48,901.80 \$48,961.84

Section 23.02 Salary Commencing 2004~~7~~

Police Officers	Annual Salary	
	Effective January 1, 2004* 7	Effective July 1, 2004*
Starting	\$41,929.82	\$42,768.42
After One Year	45,106.74	46,008.87
After Two Years	47,197.99	48,141.95
After Three Years	47,587.25	48,539.00
After Four Years	48,022.90	48,983.36

Detectives	Annual Salary	
	Effective January 1, 2004 7 *	Effective July 1, 2004*
Detectives	\$49,941.08	\$50,939.90

Section 23.03 Salary Commencing 2005.

Police Officers	Annual Salary	
	Effective January 1, 2005*	
Starting	\$44,051.47	
After One Year	47,389.14	
After Two Years	49,586.21	
After Three Years	49,995.17	
After Four Years	50,452.86	

Detectives	Annual Salary	
	Effective January 1, 2005*	
Detectives	\$52,468.10	

ARTICLE XXV - TERM OF AGREEMENT

Section 25.01 Effective Date. This Agreement shall become effective as of January 1, 2003~~6~~ and remain in full force and effect up to, and including, December 31, 2005~~7~~, unless amended, changed or terminated pursuant to Section 25.02 below.

EXHIBIT A

Section 25.02 Notice to Amend or Terminate. In the event either party desires to amend, change or terminate the Agreement, it shall give notice thereof at least sixty (60) days prior to the expiration date or any anniversary thereof. Upon giving said notice, the parties shall meet within ten (10) days in order to negotiate said amendments or changes.

Dated this _____ day of _____, 20037.

**FOR THE EMPLOYER
CITY OF FITCHBURG**

**FOR THE ASSOCIATION
FITCBURG POLICE OFFICERS
ASSOCIATION**

Mayor

Business Representative

Clerk

Association Representative

**STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

In the Matter of a Negotiation Dispute

Between

The City of Fitchburg

And The

Fitchburg Professional Police Association, WPPA/LEER Local No. 72

Case 40 No. 65831 MIA-2727

Fourth FINAL OFFER OF THE ASSOCIATION

The Association hereby presents its' fourth *Final Offer* on all issues in dispute for a successor Agreement to commence on January 1, 2006 and to remain in full force and effect through December 31, 2008.

1. All provisions of and attachments to the 2003-2005 Agreement between the parties not modified by way of any previous tentative agreements, and/or by this final offer 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 the period of January 1, 2006 through December 31, 2008. All dates relating to term shall be modified to reflect said term.
3. The following revisions to Sections 9.01, 13.06, 14.02, 17.02, 19.02, and 19.05, as tentatively agreed to by the parties March 27, 2006:
 - a. Article IX (General Provisions), Section 9.01 Agreement Furnished. The Employer Union shall furnish all employees in the bargaining unit with a copy of this Agreement.

May 15, 2007

Page 1 of 5

- b. Article XIII (Vacations), Section 13.06 Scheduling. The vacation schedule shall be approved by the Chief of Police taking into account the requests of the officers. ~~Effective the first of the month falling thirty (30) or more days from the execution of this Agreement.~~ Three (3) officers will be allowed off at the same time, regardless of shift worked, subject to the terms and conditions set forth herein. The Chief of Police shall allow a fourth officer off on vacation at the same time unless, in his sole discretion, he determines it would result in inadequate staffing or overtime. Approval must be obtained at least two (2) weeks prior to taking any vacation of one (1) week or more. Vacation shall be selected by seniority with the most senior officer choosing first, up to twelve (12) days. After all officers have made their first choice, the next most senior officer shall choose first any remaining dates until all officers have chosen all their vacation dates.
- c. Article XIV (Sick Leave), Section 14.02 Accrual. Sick leave shall be earned at the rate of ~~one-half (1/2) day~~ four (4) hours per bi-weekly pay period of service. Sick leave credits may be accumulated to a total not to exceed one hundred seventy (170) days. In the event of an approved leave of absence under Section 14.01 for which any employee has insufficient sick leave, the time off shall be charged to vacation or leave without pay, at the employee's option. If the time is taken without pay, the employee shall be reimbursed quarterly within the same calendar year for such time lost as a consequence of the insufficient accumulation of sick leave; such reimbursement is to be based on the amount of unused sick leave accumulated during the quarter.
- d. Article XVII (Grievances and Arbitration), Section 17.02 Time Limits. Time limits set forth in the grievance procedure shall be exclusive of Saturdays, Sunday and holidays. The time limits for processing grievances from one step in the procedure to another may be extended upon mutual agreement. Failure to abide by such time limits, or any extension thereof, shall cause the grievance to be barred. Grievances not responded to by the City within the prescribed time limitations, or any extension thereof, shall be considered denied.
- e. Article XIX (Overtime), Section 19.02 Compensatory Time Off. In lieu of receiving overtime pay, an employee may request compensatory time off up to a maximum of ~~forty (40)~~ sixty (60) overtime hours worked. Compensatory time off shall be taken at a time mutually agreed to between the employee and the Employer. Any compensatory time not used by December 31 of any year will be computed at the hourly rate in effect at December 31 and paid out to the employee with the first payroll in January that includes December 31.

- f. **Article XIX (Overtime), Section 19.05 Court Time.** When not on duty, employees shall be compensated at the overtime rate for time spent in court appearances at a minimum of two (2) hours. ~~In the event a court appearance is cancelled and the officer shows up for said appearance, the affected employee shall receive three (3) hours overtime pay. Effective January 1, 2001, the preceding sentence will be replaced with the following language:~~ In the event a court appearance is cancelled, and the officer does not become aware of the cancellation at least twelve (12) hours before the scheduled court time, the officer shall receive two (2) hours of pay at the overtime rate. This two hours' pay shall only apply if the officer confirms the court appearance with the Fitchburg Municipal Court Clerk or the Dane County District Attorney's call-in line, whichever is applicable, twelve (12) hours before the scheduled court time. In the event a court appearance is cancelled less than twelve (12) hours before the scheduled court time, or if the officer timely calls to confirm a court appearance and is informed it is still on, and the officer shows up for said appearance and it has been cancelled, the affected employee shall receive three (3) hours overtime pay. Court time occurring on an employee's vacation shall be compensated at two (2) times for all hours described above.
4. The following revisions to Section 12.03, as tentatively agreed to by the parties May 8th and 9th, 2007:
- a. **Section 12.03 Holiday Work.** Employees whose shift begins on a paid holiday will receive one and one-half (1- ½) times their regular earnings for all hours worked on such shift, ~~in addition to one (1) compensatory day off at the employee's choosing, subject to the approval of the Chief of Police. Said employee will not also receive holiday pay under Section 12.01 above.~~ In each calendar year, employees are provided a bank of holiday hours equivalent to the hours of each holiday as specified in Section 12.01. Use of these hours is subject to the approval of the Chief of Police.
5. Amend ARTICLE XX – RETIREMENT, WORKERS COMPENSATION AND LIFE INSURANCE as follows:
- a. **Section 20.04 Health Insurance.** Employees will have the option to choose a group health insurance plan from the standard plan and alternative health insurance plans offered by the Wisconsin Public Employers' Group Health Insurance Board in the Employer's service area. The Employer agrees to pay the premium for single or family health insurance in the amount of one hundred five percent (105%) of the gross premium of the alternative or standard health insurance plan that is the least costly qualified plan within the service area, but not more than the total amount of the premium of the plan selected

May 15, 2007

Page 3 of 5

for full-time regular employees. Effective October 1, 2006, the Employer shall pay the premium for single or family health insurance in the amount of one hundred percent (100%) of the gross premium of the alternative or standard health insurance plan that is the least costly qualified plan within the service area, but not more than the total amount of the premium of the plan selected for full-time regular employees. The remaining premium, if any, shall be paid by the employee via payroll deduction. Effective January 1, 2007, the Employer shall pay the premium for single or family health insurance in the amount of ninety-seven and one-half percent (97.5%) of the gross premium of the alternative or standard health insurance plan that is the least costly qualified plan within the service area, but not more than the total amount of the premium of the plan selected for full-time regular employees. The remaining premium, if any, shall be paid by the employee via payroll deduction.

6. Amend ARTICLE XXIII – COMPENSATION RATES as follows:

a. Section 23.01 Salary Commencing ~~2003~~ 2006

- i. Effective January 1, 2006, increase the January 1, 2005 Police Officer and Detective annual salaries across-the-board (ATB) for all steps by two percent (2.0%).
- ii. Effective December 31, 2006, increase the January 1, 2006 Police Officer and Detective annual salaries ATB for all steps by one percent (1.0%).

b. Section 23.02 Salary Commencing ~~2004~~ 2007

- i. Effective January 1, 2007, increase the December 31, 2006 Police Officer and Detective annual salaries ATB for all steps by three percent (3.0%).

EXHIBIT B

Attachment to:
 Association's 3rd Final Offer of March 21, 2007
 Association's 4th Final Offer of May 15, 2007

Fitchburg Professional Police Association

CURRENT	Annual Salary Effective January 1, 2005	3% ATB 1.02	Annual Salary Effective January 1, 2006	1% ATB 1.01	Annual Salary Effective December 31, 2006	3% ATB 1.03	Annual Salary Effective January 1, 2007	3% ATB 1.03	Annual Salary Effective January 1, 2008
Police Officers									
Starting	\$ 44,051.47	Starting \$ 44,932.50	Starting \$ 45,311.83	Starting \$ 46,743.28	Starting \$ 48,145.58	Starting \$ 49,584.90	Starting \$ 51,061.22	Starting \$ 52,579.45	Starting \$ 54,141.88
After One Year	\$ 47,389.14	After One Year \$ 48,336.92	After One Year \$ 49,082.71	After One Year \$ 50,284.90	After One Year \$ 51,593.02	After One Year \$ 52,916.22	After One Year \$ 54,254.54	After One Year \$ 55,617.97	After One Year \$ 57,006.50
After Two Years	\$ 49,366.21	After Two Years \$ 50,577.93	After Two Years \$ 51,393.02	After Two Years \$ 52,616.22	After Two Years \$ 53,950.17	After Two Years \$ 55,298.54	After Two Years \$ 56,661.17	After Two Years \$ 58,048.97	After Two Years \$ 59,451.00
After Three Years	\$ 49,993.17	After Three Years \$ 51,461.92	After Three Years \$ 52,376.54	After Three Years \$ 53,325.84	After Three Years \$ 54,228.92	After Three Years \$ 55,174.40	After Three Years \$ 56,158.54	After Three Years \$ 57,080.27	After Three Years \$ 58,039.00
After Four Years	\$ 50,452.86	After Four Years \$ 51,461.92	After Four Years \$ 52,376.54	After Four Years \$ 53,325.84	After Four Years \$ 54,228.92	After Four Years \$ 55,174.40	After Four Years \$ 56,158.54	After Four Years \$ 57,080.27	After Four Years \$ 58,039.00
Detectives	\$ 52,468.10	Detectives \$ 53,517.45	Detectives \$ 54,053.63	Detectives \$ 55,074.21	Detectives \$ 56,063.34	Detectives \$ 57,030.27	Detectives \$ 57,985.00	Detectives \$ 58,928.50	Detectives \$ 59,860.00

NEW Employees	Annual Salary Effective upon Ratification or Arbitration Award	3% ATB 1.03	Annual Salary Effective January 1, 2008
Police Officers			
Starting	\$ 44,444.50	Starting \$ 45,777.84	Starting \$ 47,108.95
After One Year	\$ 46,222.28	After One Year \$ 47,511.35	After One Year \$ 48,839.00
After Two Years	\$ 48,302.28	After Two Years \$ 49,711.40	After Two Years \$ 51,380.92
After Three Years	\$ 50,717.40	After Three Years \$ 52,238.92	After Three Years \$ 53,980.92
After Four Years	\$ 53,535.84	After Four Years \$ 55,693.34	After Four Years \$ 57,406.27
Detectives	\$ 55,674.21	Detectives \$ 57,344.44	Detectives \$ 59,214.44

*When all employees hired prior to the implementation of the "new" wage table have progressed to the "After Four Years" rate, please use the current employee wage table and use "new" wage table exclusively

Prepared by Michael Goetz
 WPPA Business Agent
 March 21, 2007