

BEFORE THE ARBITRATOR

In the Matter of the Petition of

Case 83 No. 72123

MIA-3087

WISCONSIN PROFESSIONAL POLICE
ASSOCIATION/LAW ENFORCEMENT
EMPLOYEE RELATIONS DIVISION

Dec. No. 34680-A

For Final and Binding Arbitration Involving Law
Enforcement Personnel in the Employ of

Heard: 5/13/2014

Briefs Received By: 7/11/2014

Award Issued: 10/2/2014

CITY OF RICE LAKE

Sherwood Malamud, Arbitrator

APPEARANCES:

Robert West, Consultant for the WPPA/LEER Division, 660 John Nolen Drive, Suite 300, Madison, Wisconsin 53713, appearing on behalf of the Association.

Weld, Riley, Prenn & Ricci, S.C., Attorneys at Law, by James M. Ward, 3624 Oakwood Hills Parkway, P.O. Box 1030, Eau Claire, Wisconsin 54702-1030, appearing on behalf of the Municipal Employer.

ARBITRATION AWARD

Jurisdiction of Arbitrator

The Wisconsin Professional Police Association/Law Enforcement Employee Relations Division, hereinafter the Association, and the City of Rice Lake, hereinafter the City or the Employer, selected Sherwood Malamud from a panel of names submitted to them by the Wisconsin Employment Relations Commission to hear the within interest arbitration dispute. On January 6, 2014, the Wisconsin Employment Relations Commission appointed Sherwood Malamud to determine this dispute involving this unit of law enforcement personnel and to issue an Award pursuant to Sec. 111.77(4)(d) of the Municipal Employment Relations Act. Hearing in the matter was held on May 13, 2014, in the City of Rice Lake City Hall in Rice Lake, Wisconsin. A transcript of the hearing was not prepared. The parties submitted briefs and reply briefs by July 11, 2014, at which time the record in the matter was closed. This Award is issued pursuant to Sec. 111.77(4)(b) Form 2 in that:

The Arbitrator shall select the final offer of one of the parties and shall issue an award incorporating that offer without modification.

ISSUES

Wages

The Association proposes in 2013, the first year of the three-year agreement 2013 through 2015, that wage rates increase by 3.5% effective August 17, 2013.

The City proposes the following:

Increase all wage rates by 1% upon the execution of the Working Agreement;*

[*In the event the execution of the Working Agreement is delayed beyond January 1, 2014, the 1% wage increase as of that date will remain in effect, with the '1% upon execution' instead taking effect thereafter. Thus, the City's final offer including retroactivity as necessary, will produce a 5% 'lift' in wages over the life of the 3-year contract in any event.]

Wisconsin Retirement

The Association proposes that bargaining unit police officers pay half the employee's share of Wisconsin Retirement effective August 17, 2013.

The City proposes that the employees pay half the cost of the employee's share towards Wisconsin Retirement upon the execution of the agreement. For calendar years 2014 and 2015, see the section, Agreed Upon Items, below.

AGREED UPON ITEMS IN THE PARTIES' FINAL OFFERS

Wages

Both the Association and the City propose that wage rates in effect January 1, 2014 (which would differ under the offer of the Association and the City), nonetheless, would increase by 1% effective January 1, 2014, and an additional 1% effective July 1, 2014. Similarly, they both propose to increase the wages in effect on January 1, 2015 by 1% effective January 1 and an additional 1% effective July 1, 2015.

In addition, both parties agree on health insurance under the program established by the City which provides for the Employer to pay 100% of the premium for both single and family coverage

in conjunction with the establishment of a health savings account program to which the Employer contributes.

Wisconsin Retirement

Both the City and the Association propose that patrol officers pay 100% of the cost of the employee's share of Wisconsin Retirement up to a maximum of 6.65% beginning in 2014. Since the employee share of Wisconsin Retirement increased to 7% in 2014, the remaining 0.35% of the employee share will be picked up by the City. Both the City and the Association propose that the City pay 100% of the employee's share to a maximum of 6.65% of Wisconsin Retirement in 2015. Any increase above 6.65% of the employee's share would be paid by the City.

STATUTORY CRITERIA

Section 111.77(6), Wis. Stats., requires that the Arbitrator give weight to the following factors:

(am) In reaching a decision, the arbitrator shall give greater weight to the economic conditions in the jurisdiction of the municipal employer than the arbitrator gives to the factors under par. **(bm)**. The arbitrator shall give an accounting of the consideration of this factor in the arbitrator's decision.

(bm) In reaching a decision, in addition to the factors under par. **(am)**, the arbitrator shall give weight to the following factors:

1. The lawful authority of the employer.
2. Stipulations of the parties.
3. The interests and welfare of the public and the financial ability of the unit of government to meet these costs.
4. 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:
 - a. In public employment in comparable communities.

- b. In private employment in comparable communities.
- 5. The average consumer prices for goods and services, commonly known as the cost of living.
- 6. 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.
- 7. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- 8. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

INTRODUCTION

The Association proposes a 3.5% wage increase on August 17, 2013. That date is the effective date on which the other bargaining unit of the City with the statutory right to proceed to arbitration to resolve a wage and benefit dispute, the Firefighters, reached a voluntary agreement with the City. The effective date of that agreement is August 17, 2013. The Firefighters agreed to a 1% wage increase in 2013 and they agreed that employees would pay one-half the employee's share of Wisconsin Retirement effective August 17, 2013. The Association proposal with regard to effective date is consistent with the effective date agreed to by the City and the Firefighters.

The City offer to make the wage increase effective upon the issuance of this arbitration award is twofold. First, it results in no wage increase provided to police officers in 2013. The first wage increase would be the 1% the parties agreed to for 2014. The second 1% increase would be the wage increase the parties agreed to effective July 1, 2014. Under the City offer, the third 1% increase would be effective approximately October 1, 2014. This would provide for no retroactivity and no wage increase in 2013 under the City's final offer.

The effect of the City's offer on Wisconsin Retirement is to eliminate the requirement that bargaining unit employees pay half the employee's share of Wisconsin Retirement in 2013 for approximately 3-1/2 months. The Firefighters, who reached a voluntary agreement, had to pay that portion of the Wisconsin Retirement under their agreement. The Police Association proposes that bargaining unit employees police officers pay that one-half the cost of the employee's share of Wisconsin Retirement for the approximately 3-1/2 months in 2013. The effect of the City offer is to eliminate that requirement.

The parties agree to the term of the agreement, three years. They agree on the bargainable issues with regard to health insurance. As noted above, they agree as well to the wage increases that occur in 2014 and 2015. However, the Association proposal to increase wage rates by 3.5% as contrasted to the effective zero proposed by the City results in the total cost of all compensation (salary, longevity, Wisconsin Retirement, social security, health insurance) amounts to a little over \$50,000 over the term of the agreement 2013 through 2015.

Comparables

The parties agree on the comparable cities to which Rice Lake should be contrasted. The City Council in 2002 identified these communities as comparable to the City of Rice Lake and has benchmarked its mill rate to these communities. It strives to maintain its mill rate below the average of these communities.

In her award between these parties for the 2006-2007 Agreement, Arbitrator Rose Marie Baron adopted these communities as the comparability pool that served as a basis for her award. The parties in this proceeding have agreed upon this comparability pool. The communities are:

Antigo, Ashland, Portage, Rhinelander, Shawano, and Tomah

What is Not at Issue

The parties agreed on a costing method. Both use the cast forward method of establishing the costs of their proposal. The 16 bargaining unit members in place in 2012 are cast forward over the three years of the three-year term of the agreement to establish the cost of implementing the proposed wage and retirement contribution to Wisconsin Retirement made by the parties.

Although the parties argued over the impact of vacation and sick leave on the totality of their offers, there is no dispute in need of arbitral resolution concerning the amount or structure of sick leave and vacation.

APPLICATION OF THE STATUTORY CRITERIA TO THE ISSUES IN DISPUTE

The Arbitrator turns to evaluate the parties' final offers in light of the statutory criteria under Sec. 111.77(6)(am):

... the arbitrator shall give greater weight to the economic conditions in the jurisdiction of the municipal employer than the arbitrator gives to the factors under par. (bm).

The City made an extensive presentation concerning its finances at the arbitration hearing and devoted an extensive part of its brief to this issue. The City argues that its final offer should be considered in the context of past, present and future budget shortfalls.

The City emphasizes that it serves as a service center for a large geographic area. The 8,000 citizens of Rice Lake pay to support two landfills, an indoor pool, and the maintenance of county roads located within the city's boundaries. The municipalities that comprise the comparability pool all serve as service centers surrounded by a large geographic area. Although the comparability group is dispersed throughout the state, the communities all share in that they reap the benefits of a center and must endure the costs of serving a much larger community than the taxpayers located within the boundaries of their respective communities.

With regard to the budget shortfalls, the City has elected to keep its mill rate below the average of the comparable communities. The Association argues that raising the mill rate to more closely approximate the average mill rate in the comparable communities, and in the past year raise it to the maximum that the City could tax, would generate funds sufficient to finance either offer.

The Arbitrator recognizes the wisdom of the long-range financial plan the City has adopted in terms of monitoring the growth of its mill rate. The Arbitrator, in this award, will not disturb that plan. The Arbitrator concludes that an award either favorable to the City or the Association will not disturb that plan even though the difference in the total cost of total compensation between the parties' offers is significant. The City has taken timely prophylactic action in reducing its operating

costs through shrinking its staffing levels that resulted in \$291,000 in annual savings under the 2013 budget.

However, the City forecasts in its 2014 budget message that the money collected through the property tax levies will decrease in 2014 from the levels forecast under the 2013 budget. The 2% decrease in 2014 revenues as projected would pose a problem for the City. However, the same budget message for 2014 suggests that increasing the mill rate to the level of the average of the comparables would generate \$345,000 in additional revenue which would more than pay for the total compensation differential between the Association and City offers.

Employer Exhibit 19, which sets out the equalized value of property that is the tax base of the City and its comparables, suggests that over 2010 to 2011 the equalized value of property in Rice Lake has declined by 3.82%. Portage, Rhinelander, Antigo, and Shawano all suffered declines in their equalized value. Only Ashland and Tomah saw increases of 2% and just under 4% respectively. Rice Lake's municipal tax per capita in the base year 2011-2012 was the highest among the comparables. The mill rate was fourth out of a comparability pool of seven, inclusive of Rice Lake, the mill rate in 2011-2012 in Rice Lake was \$8.64. The highest was \$10.33 and the lowest \$7.8 with the average mill rate of \$8.73. Some of the data presented in Employer Exhibits 24, 25 and 26 all relate to a period from 2007 through 2011. The Arbitrator finds this data does not reflect the turn that has occurred in the economy from 2011 to 2014. The unemployment rate of 8.1% through March 2014 falls precisely in the middle of the unemployment rate among the comparables and the counties in which they are located from 10.1% in Rhinelander (Oneida County) to 6.4% in Tomah (Monroe County).

The City presented a compelling narrative that the decrease in shared revenue, which has only accelerated after the passage of Act 10 in 2011, provides a challenge to all municipalities to meet their budgetary needs. The evidence suggests a favorable turn in the economy in 2012 and 2013 going into 2014; however, the increase in economic activity in Rice Lake does not overcome the cautious approach followed by City administration in handling its finances. This analysis supports the Employer offer. However it is not so persuasive as to make it determinative. Any projected shortfall is more the result of a determination to keep tax rates below the average of the comparables, indicates that the City could fund the Association offer if it were selected. With regard to the economic condition extant in the City of Rice Lake, other than the unemployment rate which stands in the middle of the comparables at 8.1% as of March 2014, the evidence does not suggest that the City of Rice Lake or its environs are doing any better or worse than the comparable communities.

The Arbitrator concludes that this important criterion, the economic condition of the City of Rice Lake favors the City position. The Arbitrator accords this criterion greater weight than the other factors considered below. In the concluding section of this Award, the Arbitrator discusses the weights accorded all of the statutory criteria.

THE APPLICATION OF THE OTHER STATUTORY FACTORS

The following factors do not serve to distinguish between the offers of the parties: the lawful authority of the Employer; stipulations of the parties; changes in any of the foregoing circumstances . . .

The City argues that the interests and welfare of the public criterion supports its final offer. The City does not make an inability to pay argument. There is no question but that the City does have the financial resources to meet the costs imposed by the Association final offer should it be selected. In the discussion above concerning the economic conditions in Rice Lake, the Arbitrator has addressed this factor. It supports the adoption of the City's final offer.

Comparability - External Comparables

The parties did not put in any evidence concerning private employment in the Rice Lake area or in the state generally in support of their arguments. Consequently, this portion of the comparability factor does not serve to distinguish between the parties' offers.

The data submitted into the record concerning the percentage increases granted by the comparables supports adoption of the Association final offer. The average year-end lift increase among the comparables was 2.75%. In 2013, the City proposed a 1% raise which under the wording of its offer would not go into effect in 2013. Consequently, the Arbitrator considers that the City offers no increase for 2013. The Association proposes a 3.5% increase effective August 17, 2013. Its proposal is .75% above that paid by the comparables. Although the Association offer is above the average percentage wage increase paid by comparable employers, nonetheless, it is closer to the average than the offer of the City for calendar year 2013. For calendar year 2014, the City with the 1% it proposes for 2013 and which would be effective in 2014 would provide a year-end lift in the wage rate of 3%. The Association proposal is for a 2% increase. The City's offer is very slightly closer to the average wage increase granted by comparable employers for 2014.

With regard to 2015, the lift of the wage increase proposed by both the City and the Association is 2%. The average provided by the comparables is 1.5%. Over the three year period the average percentage increase impact on the year end rate, the lift rate, the total average year end lift increase provided by comparable employers over the term of 2013 through 2015 is 6.83%. The City offer generates a lift of 5%. The Association generates a lift of 7.5% over the three years. The Association offer exceeds that of the average of the comparables, but it is closer to the average than the City's offer.

Employer Exhibit 34 breaks down the average hourly rate received by patrol officers at the maximum without longevity. A wage comparison of the top rate is difficult because in Antigo, the top wage rate is reached in 10 years. The longevity provision was deleted in 1997. In Portage, the top rate is achieved after 20 years of service. The Arbitrator finds that comparison of the wage rates including longevity provides a better comparison to the Rice Lake wage structure. This comparison provides weight to a longevity schedule that begins after 4 years at 1% and concludes after 16 years at 5% of the basic wage rate. It does provide a measure of what the experienced police officer in Rice Lake receives in compensation. However, it is only in 2015 that the four patrol officers hired in 2010 would begin to receive any longevity. That amounts to a quarter of the 16 officers in the bargaining unit.

Exhibit 37A reflects the average hourly rate of patrol officers with 13-years of service in Rice Lake. It reflects 4% of the 5% total longevity available to the Rice Lake officer. Here again, the Arbitrator uses the year end rate as the rate for purposes of comparison. The average hourly rate paid by the comparables including longevity in calendar year 2013 is \$25.32. The City offer is the same rate as the hourly rate in 2012, \$24.51. The Association 3.5% increase would bring the hourly rate with 4% longevity to \$25.37, 5 cents above the average rate paid by the comparables in 2013.

The average hourly rate including longevity paid by the comparables is \$25.87 in 2014. Under the City offer, the wage rate lifts to \$25.26 and under the Association offer the lift is \$25.88. With regard to 2015, only four of the comparables are settled for that year. Only one of those comparables, Antigo, has a wage rate of \$24.89 below that of the City. All the other rates of Portage, Rhinelander, and Shawano are well above the rates proposed by the Association.

The City emphasizes that its offer would leave the Rice Lake police officer in the precise middle of the group of comparables, the place that patrol officers wage rates fell at the end of 2012. However, it is apparent from the above figures that the Association proposed 3.5% increase brings

the wage rate for the Rice Lake police officer within five cents of the average paid by the comparables in 2013 and within a penny of the salary paid by the comparables inclusive of longevity in 2014.

The parties disputed whether the top rate in Ashland should include a position, the School Liaison Officer, which is the highest paid position in that community's police department. The Association would include that position. The City does not. The Arbitrator has prepared the above discussion based on the Employer Exhibit 37A. In any event, the Arbitrator concludes that the inclusion or exclusion of that position does not materially change the analysis reflected above. The wage data support the Association offer, both with regard to the percentage wage increases generated over the three year term of the agreement and in terms of the salary levels generated by those percentage increases. The external comparability factor provides substantial support for the adoption of the Association final offer.

Internal Comparability

This Arbitrator discusses the Internal Comparability criterion under the statutory heading "Such other Factors. . ." For ease of reading, the Arbitrator discusses that criterion at this juncture.

Both the Association and the City argue that their respective offers more closely follows the pattern of settlement, parity that has existed between the Firefighter and Police units from 1991 to date. Although the City ignores the impact of the wage rates put into effect in 2006 and 2007, it maintains that with two exceptions the Police and Fire have received the same percentage wage increase for in excess of 20 years. The Association argues that its final offer provides "catch-up" to the wage rates differential that arose from the arbitration awards issued in 2006-2007. Its final offer restored the 2.5% differential between Police and Fire that existed in 2005 and before the issuance of the two arbitration awards.

Both the Police Association and the Firefighters resorted to interest arbitration to reach settlements for the wage and benefit package for calendar years 2006 and 2007. Arbitrator Rose Marie Baron adopted the City offer. She adopted the comparability pool that continues to this date and is reflected as the comparables for this Award. Arbitrator Thomas Gallagher had the Firefighter unit. He found that the City offer with regard to the reduction of the sick leave benefit through a buy back program proposed by the City did not have a sufficient quid pro quo for the loss of that benefit. Although he found the City's offer preferable with regard to the percentage increase in salary,

nonetheless, he ruled in favor of the Firefighter unit. The result of the two awards generated a 2.5% “gain” in the salary levels enjoyed by the Firefighters.

In the City’s reply brief, it objects to the Association’s reference to “catch-up” in its original brief. The City maintain that that phrase and all its meaning was never used in bargaining. It was not referenced during the arbitration hearing. The Association presented its wage proposal in the context of offsetting the police officer pickup of the full cost of the employee share of Wisconsin retirement in 2014 and payment of half the employee’s cost of Wisconsin Retirement for the 3-1/2 month period from August 17 to December 31, 2013.

The Arbitrator finds that the traditional meaning of “catch-up” is inapplicable in this case. The police enjoy salary levels that are greater than the firefighters. The impact of the 2006-2007 arbitration awards was to bring the wage rates somewhat closer, but it did not distort wages to the point that there is some need of catch-up.

The other traditional meaning of “catch-up” is with regard to salary levels paid to police officers in comparable communities. The Rice Lake police officer falls in the middle of the group of seven communities, inclusive of Rice Lake, that comprises the comparability pool. This does not support a case that the Rice Lake police officer should receive a salary bump to bring its wage level up to the level paid by the comparables.

Having disposed of the “catch-up” controversy that arose in the parties’ briefs and reply briefs, the question remains which offer is supported by the internal comparability criterion. At the outset of this analysis, it should be noted that this Arbitrator, like many of the arbitrators cited by the City in its briefs, gives greater weight to internal comparability than the external comparability factor. There is one exception where this Arbitrator gives greater weight to the external comparability factor. That is when the Association provides compelling evidence of the need to bring salary levels up to the average paid by comparable employers to bring wage rates to a competitive level for purposes of recruitment and morale. Also, the Arbitrator gives greater weight to the external comparables where an employer is able to establish that the wage rates in a particular jurisdiction are far higher and out of proportion to the average wage paid by comparable employers. The wage rates for police officers in the City of Rice Lake are neither well above average nor well below average. Consequently, the internal comparability criterion is afforded greater weight.

At first blush, it appears that the City's offer of a 5% lift by the end of the three-year term of the agreement at issue is identical to the 5% lift in percentage wage increase provided through the voluntary agreement between the City and the Firefighters. If this were the case, that would provide strong support for the adoption of the City final offer.

The City settled with the Firefighters in August 2013. As a result, the Firefighters paid half of the employee's share of Wisconsin Retirement for 3-1/2 months from August 17 through December 31, 2013. On January 1, 2014 each firefighter contributed the full employee share, 6.65%, what was the full employee's share of Wisconsin Retirement in 2013. However, in 2014 the full cost of the employee share of Wisconsin Retirement increased to 7%. The firefighters paid 6.65% of the employee share. The City paid the remainder, 0.35%, of the employee's share plus the City's share.

Under the City proposal which sets the effective date of the 1% wage increase for 2013 and the employee payment of one-half the cost of the employee's share of Wisconsin Retirement conditioned on the issuance of this Award results in the police officers having the full employee's share of Wisconsin Retirement paid by the City in 2013, when the employee group that settled in 2013 had to pay half the employee's share of Wisconsin Retirement. This turns the bargaining process on its ear. It is not consistent with the settlement reached by the City and the Firefighter unit.

In that regard, although the Association proposes a 2.5% wage increase effective August 17, 2013, it also picks up the Wisconsin Retirement effective August 17, 2013. The wage proposal of the Association is not consistent with the Firefighter settlement for 2013. The Association proposal with regard to the payment of Wisconsin Retirement is consistent with the Firefighter settlement. The City's offer, in that regard, is not consistent with regard to wages. It provides the payment of the 1% some time in the last quarter of 2014. It is inconsistent with the employee contribution towards Wisconsin Retirement, paid by the firefighters, but would not be paid by police officers, under the City's offer for 2013.

The Association offer increased its wage levels for police officers by 3.5% when the wage level increase received by the Firefighters effective August 17, 2013 was 1%. The 2.5% differential brings the wage levels of police and fire back to the approximate level of disparity that had existed between police and fire since 1991 with notable exceptions in 1997, 2000, 2006 and 2007. Accordingly, the Arbitrator finds that the Association offer after close analysis is more consistent with the Firefighters unit settlement.

Furthermore, it is noteworthy that as a result of the front loaded 3.5% Association proposal, the wage level lift of the Association proposed wage increases in 2013, 2014, and 2015 result in an average hourly rate for police officers that is just about at the average hourly rate paid by comparable communities to their police officers by the end of the second year of the agreement 2014, the year in which five of the six comparable communities have settled. Consequently, the Arbitrator finds that the internal comparability criterion favors the inclusion of the Association offer in this three-year agreement.

Cost-of-Living

The City argues that the best indicator of the “cost of living in a particular community” is measured by the level of settlement achieved among comparable communities. This Arbitrator finds that the legislature established a separate criterion identified as the cost of living. In common parlance that is recognized as the appropriate index, in this case, Employer Exhibit 5, the Non-Metro Urban Midwest Region for Urban Wage Earners and Clerical Workers-All Items is appropriate index for this case.

The cost of living in 2012, the year prior to the effective date of the three-year agreement, the cost-of-living increased by 2.1%; in 2013, it increased by 1.6%; and in the first three months of 2014, it increased by 1.2%. Since the cost-of-living is a trailing indicator, it is appropriate to include the increase in the cost-of-living in the base year (2012) when constructing a comparison to the increase in wages and/or total compensation over the term of the agreement at issue in a particular dispute.

The Associations’s offer more closely approximates the increase in the cost of living, in 2013. The City zero increase vs the Association 3.5 %. Both are wide of the mark, but the Association offer is closer to that target. However, over the term at issue, the City offer would lift the wage rate by 5% just a touch above the increase in the cost of living over that period, 4.9%. Accordingly, the Arbitrator finds that this criterion supports the inclusion of the City’s offer in a successor agreement.

Total Compensation

The Association argues that total compensation is not a disputed factor between the parties. However, the Arbitrator finds that the total compensation factor provides some context to the breadth of the dispute between the parties. It, along with agreed-upon items, identifies those areas of both cost and benefit levels that are paid by the City and enjoyed by its employees. In this regard, it is

noteworthy that the City pays the full premium for both family and single health insurance for police officers. It does so through its establishment of a high deductible health insurance program together with a health savings account for each employee to which the City contributes. Health insurance is a costly item. It is not an issue in dispute between the parties; however, in the context of total compensation, it represents a cost to the City and it provides support to the City offer.

Valuation of the Parties' Offers and Selection of the Final Offer for Inclusion in a Successor Agreement

In the above analysis, the Arbitrator carefully considered the economic conditions in the City of Rice Lake both with regard to the economic activities in that community and its immediate environs and the impact of the costs of the two final offers would have on the City's finances. This factor, under this statutory scheme, equates to all the other statutory factors traditionally considered in the context of interest arbitration for law enforcement and firefighter personnel. The statute provides that the Arbitrator should give these economic conditions greater weight than the other criteria combined. In addition, the Arbitrator in his analysis found that the City did establish the need to carefully monitor the increase in its mill rate.

The City Council made the political decision to keep its mill rate lower than the average of the comparables. However, the difference between the Rice Lake mill rate and the average mill rate of comparable communities in 2013 and 2014, for which data is available, the mill rate is below the average of the comparables. If the mill rate were allowed to increase to the level in comparable communities, it would generate \$345,000 additional funds. It is more than sufficient to fund either the City's or the Association's offers, without straining the City's finances.

The City has taken the kinds of pre-emptive steps necessary to keep its financial house in order. The Arbitrator finds this factor favors the selection of the City's offer but only slightly. The factor is not in and of itself determinative of this dispute. If the other factors equally support the Association or City offer, then certainly this factor would tip the balance in favor of the City.

With regard to all the other factors that serve to distinguish between the final offers of the parties, the Arbitrator concludes that both external and internal comparability favor the inclusion of the Association offer in a successor agreement. The cost of living criteria favors the adoption of the City final offer. In addition, total compensation and the health insurance program put in place by the City deserves recognition in terms of the total compensation package that the City affords to its

employees. The Arbitrator is constrained in terms of the weight he can accord this criterion since the ability of the Association to bargain over this issue is narrowed by the legislative scheme in place. The traditional statutory criteria listed in 111.77(6)(bm) favor the adoption of the Association offer. The balance between the consideration provided to the economic condition factor, 111.77(6)(am), and the weighing of the factors in 111.77(6)(bm) require additional analysis.

The Arbitrator concludes that the traditional statutory criteria 1-8, particularly the external and internal comparables, strongly favor the adoption of the Association final offer. However, the statutory scheme establishes that weight exceeding that accorded to the traditional statutory criteria should be accorded to the economic conditions in the Rice Lake community and of the municipality itself. The City does not make an argument that it lacks the ability to pay. The evidence strongly indicates otherwise.

The unusual form of the City's offer in which it makes its offer effective on the issuance of this arbitration award is very troublesome. The City justifies its proposal on the grounds that it tracks the precise language used with regard to the offer it made to and that was accepted by the Firefighters. The Firefighters and the City reached an agreement. It makes sense, therefore, that the parties would indicate their intent to begin the economic cost of their settlement on a particular date. They chose August 17, 2013, a date certain.

It is this Arbitrator's experience that a case that proceeds to arbitration contains definitive offers that establish well identified effective dates for the provisions at issue. In this regard, the Association proposes that the wage proposal it makes, a 3.5% increase in wage rates, would go into effect August 17, 2013. Similarly, its proposal that police officers begin to pick up half of the cost of the employee's share of Wisconsin Retirement commences on August 17, 2013. A City proposal similarly constructed that would provide for a 1% increase on August 17, 2013 and the payment by police officers of half the cost of their Wisconsin Retirement in 2013 commencing on August 17, 2013 would eliminate any confusion.

The City justification for its proposal that the language is consistent with that it proposed for the Firefighters is not convincing. In the arbitration setting, an offer consistent with the offers made to the Firefighters would have provided for a wage increase and the employee payment of half the employee's share of Wisconsin Retirement effective on August 17. If the City had made such a proposal, the Arbitrator would have evaluated that offer in the context of the discussion set out above. Such a final offer together with the economic condition factor would have prevailed.

The offer the City did make effectively freezes wages in 2013. What is most troublesome, the City's offer is inconsistent with the offer it made to the Firefighters. As a result of the wording of its offer, the City pays the full cost of the employee share of Wisconsin Retirement throughout 2013 for police officers. Although the Firefighters settled voluntarily in August 2013, they must pay for 3.25% of the cost of Wisconsin Retirement for 3.5 months in 2013. It is very disruptive of bargaining to penalize a union that settles early and reward the union that proceeds to arbitration.

In a recent Interest Arbitration Award, City of Green Bay involving its Law Enforcement Personnel, Dec. No. 34067-A, 11/2013 at page 33, the Arbitrator employed a point system to better explain the legislatively mandated complicated weighing process.

The Arbitrator concludes in the above analysis that the economic conditions factor must be accorded greater weight than the (bm) factors combined. The Arbitrator illustrates his analysis through the following description. The Economic Factors should be accorded 60 out of 100 points in the analysis and the weighing of the respective final offers. The City has established that its proposal should be favored by a score of 32 points to the Association's 28 points. This reflects the slim margin that the Arbitrator favors the City proposal in the context of the economic conditions of the City of Rice Lake. The budgetary constraints that the City faces are not only self-imposed but more conservative than their own economic considerations would require.

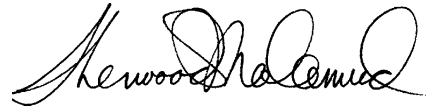
With regard to the other eight statutory criteria, the Arbitrator accords external and internal comparability a total of 25 points, 15 for internal comparability and 10 for external. The Arbitrator accords the Association offer 10 points to 5 for the City on internal comparability. The Arbitrator accords the Association offer on external comparables 8 points to 2 for the City.

With regard to the other remaining criteria (cost of living, interest and welfare of the public, and total compensation), the Arbitrator accords those criteria a total of 15 points. The Arbitrator gives the City 10 points for those criteria and 5 to the Association. The points analysis indicate how close this case is. It is apparent that the total points come to a differential of 51 favoring the Association final offer and 49 favoring the City's. It is on balance a very close case. The peculiar effective date language impacted the internal comparability criterion to the detriment of the City's offer.

SELECTION OF THE FINAL OFFER

On the basis of the above analysis, the Arbitrator selects the final offer of the Wisconsin Professional Police Association/Law Enforcement Employee Relations Division for inclusion in the 2013-2015 Successor Agreement between said Association and the City of Rice Lake.

Dated, this 2nd day of October, 2014.

A handwritten signature in black ink, appearing to read "Sherwood Malamud". The signature is fluid and cursive, with the first name "Sherwood" written in a larger, more prominent script than the last name "Malamud".

Sherwood Malamud, Arbitrator