

OPINION
IN
ARBITRATION

CITY OF KENOSHA, WISCONSIN)

-vs-)

LAW ENFORCEMENT PERSONNEL)
[KENOSHA PROFESSIONAL POLICEMEN'S ASSOCIATION])

WISCONSIN EMPLOYMENT RELATIONS
COMMISSION
Case XXIV #17674 - MIA - 91
Decision No. 12500-A

ISSUE IN DISPUTE: Whether (pursuant to the applicable provisions of Section 111.77 (4) (b) of the Wisconsin Statutes) the "final offer" of the City or such offer of the Association, in respect to "wages", a "no strike" clause and the "term of the Agreement" should apply for 1974 and 1975.

ARBITRATION PROCEEDINGS

Under date of February 17, 1974, the City submitted to the Wisconsin Employment Relations Commission a Petition (pursuant to Section 111.77 (3) of the Wisconsin Statutes) "to initiate final and binding arbitration" on the matters which, in respect to the terms of the collective bargaining Agreement, then remained in dispute between itself and the Kenosha Professional Policemen's Association. Subsequently, when "mediation" by the Wisconsin Employment Relations Commission failed to produce an agreement by the parties, the undersigned impartial arbitrator, H. Herman Rauch, was appointed under date of March 14, 1974, to hear and decide which of the disputed final offers of the parties should be incorporated into the Agreement.

By agreement of all concerned, the arbitration hearing was held in the City Hall, Kenosha, on April 9, 1974. The parties were permitted to present such evidence and testimony as they deemed pertinent to their interest in this proceeding. The arbitrator made a record of the proceedings by means of his tape recorder. Both parties requested a copy of the taped record and it was furnished to them on April 12, 1974. The post-hearing briefs of the parties were exchanged by the arbitrator on May 9, 1974.

PRESENT FOR THE PARTIES

<u>For the City:</u>	James J. Warzon	Supervisor of Personnel	[Witness]
	John A. Serpe	City Administrator	
	James F. Honzik	[Peck, Brigden, Petajan, Lindner, Honzik & Peck]	Attorney
	Roger E. Walsh	[Peck, Brigden, Petajan, Lindner, Honzik & Peck]	Attorney

<u>For the Association:</u>	Terry J. Kriz	President	
	Raymond W. Hamm	Wage Chairman	[Witness]
	Gerald P. Boyle	Attorney	

BACKGROUND TO ISSUE

The first written Agreement between the parties was applicable to 1967. However, there was collective bargaining prior to that year.

Currently, the Association is the exclusive collective bargaining representative of all of the City's 142 regular employees in the classifications of Captain (6), Lieutenant (9), Sergeant (12), Detective (10), Investigator (15), Canine Specialist (2) and Patrolman (88).

The Agreement which is being replaced was in effect for the calendar year of 1973.

Under date of November 9, 1973, the Mayor of the City submitted to the Common Council the proposed budget for 1974. In it he explained the limitation which the State Legislature had placed on tax levies for city purposes, the increases in financial State "aids" which accompanied that limitation, etc. His letter stated that:--

- 1) The 1973 revised revenues--other than property taxes--was \$8,030,579.00
and the estimated 1974 revenues: \$7,980,772.00
--a decrease of \$ 49,807.00
- 2) The 1973 revised expenditures were: \$13,355,761.00
and the recommended 1974 expenditures: \$14,288,170.00 -- \$932,409.00 more than
was spent in 1973.
- 3) The actual revenues in 1972 were "only \$20,603.00 more than" what had been
estimated, and the expenditures "for 1972 were \$137,000.00 less than" what
was appropriated for that year.

On November 16, 1973, the Common Council adopted the budget proposed by the Mayor. This was prior to the completion of any Agreements for 1974 with any bargaining units. The budget contemplated for 1974 an 8.3% increase over 1973 for employee wages and benefits. The sum appropriated (\$9,186,920.00) for wages and benefits to employees for 1974 included what was then calculated would be the cost of the various employee benefits then in effect, and a reserve of \$491,560.00 for anticipated increases in personnel costs which were expected.

Some time after the adoption of the budget, the Wisconsin Department of Employee Trust Funds notified the City, in effect, that the pension premium rates for 1974 had been revised upward. This produced an unexpected \$181,296.00 anticipated increase in the cost to the City for this item.

On December 17, 1973, the Common Council adopted a schedule of salaries applicable to "Non-Represented Employees" for 1974. On January 7, 1974, -- following the completion of a 2-year Agreement (1974-'75) with Local #71, AFSCME (representing 262 City employees), -- the Common Council passed a resolution which granted all 94 "Non-Represented Employees" (73 Classifications) of the City, for 1974 and 1975, "the same employee benefits" and, for 1975, "the same increase in compensation (7%)" that was "granted to Local No. 71,..."

At the time of the hearing in this case, the City had also concluded 2-year Agreements (for 1974 and 1975) with the "Fire Fighters" (134 employees), (Local #414, IAFF), and the Amalgamated Transit Union (15 employees), (Division #998).

As a result, the City now is committed to pay the following wage increases for the years 1974 and 1975:

- 1) To members of Local #71, AFSCME (262 employees), a \$45.99 (6.1%) monthly increase for 1974 and a \$56.10 (7.0%) increase for 1975,--a total of \$102.09 (13.1%) per month for the 2 years.
- 2) To "Non-Represented Employees" (94), a \$54.98 (5.5%) monthly increase for 1974 and a \$73.82 (7.0%) increase for 1975,--a total of \$128.80 (12.5%) per month for 2 years.
- 3) To members of Amalgamated Transit Union (15), a \$39.87 (6.1%) monthly increase for 1974 and a \$43.33 (6.2%) for 1975,--a total of \$83.20 (12.3%) per month for the 2 years.
- 4) To members of Local #414, Kenosha Fire Fighters (134 employees), a \$51.50 (5.7%) monthly increase for 1974 and a \$70.00 (7.3%) increase for 1975,--a total of \$121.50 (13.0%) per month for the 2 years.

In line with the above cited commitments, the City proposes that the employees represented by the Kenosha Professional Policemen's Association receive a \$51.50 (5.7%) monthly increase for 1974 and a \$70.00 (7.4%) increase for 1975,--a total of \$121.50 (13.1%) per month for the 2 years.

PROPOSALS OF THE PARTIES, RE: SALARY RATES

The "Final Offer" of the City of Kenosha proposes the following in respect to "Wages": "Revise Appendix 'A' [of the 1973 Agreement] to read:

"Effective in 1974:

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Police Captain	\$1,088	\$1,118	-	-	\$1,118
Police Lieutenant	1,023	1,053	-	-	1,053
Detective	968	993	-	-	993
Investigator	968	993	-	-	993
Police Sergeant	968	993	-	-	993
Police Canine Specialist	933	-	-	-	933
Police Patrolman	838	-	878	-	918

"Effective January 1, 1975:

Police Captain	\$1,158	\$1,188	-	-	\$1,188
Police Lieutenant	1,093	1,123	-	-	1,123
Detective	1,038	1,063	-	-	1,063
Investigator	1,038	1,063	-	-	1,063
Police Sergeant	1,038	1,063	-	-	1,063
Police Canine Specialist	1,003	-	-	-	1,003
Police Patrolmen	908	-	948	-	988 "

The City contends, in effect, that this "Offer" is more appropriate and, under the circumstances, more reasonable than is that of the Association because:

- 1) Assuming that the City's wage offer is incorporated into the Agreement, the increase it proposes for 1974 will produce for it a wage commitment to its employees which exceeds the 1974 budget by \$64,852.00. This is due primarily to the fact that the pension contribution increase required exceeds the budgetted amount for this item by \$181,296.00.

The increase was announced by the Wisconsin Retirement Board after the 1974 budget had been established and after the City had been given reason to believe that the old rates would prevail.

- 2) In its 1974 budget, the City projected a \$175,000.00 revenue from Municipal Court fines. This was based on the 1973 revenue from that source. The actual income from that source during the first 3 months of 1974 was \$25,000.00 less than was expected. (The City attributes this to the "ticket writing slowdown" which, it contends, was engaged in during this period). As a result, the City now estimates that, if the last 3 quarters of 1974 produce revenue from this source at the 1973 rate, the anticipated \$175,000.00 budgetted estimate for 1974 will be an over-estimate of \$16,000.00.
- 3) The payroll records of the City establish that, since at least 1954, the top salary rate for its Patrolmen and Fire Fighter employees has always been identical. Union testimony indicates that a third of the cities in Kenosha's population grouping have this parity.
- 4) The adoption of the Policemen's Association proposal that a salary increase of 9% be awarded would upset the stability of the City's relations with the other bargaining units which have agreed to accept from 5.5% to 6.1% for 1974.
- 5) The compensation for Patrolmen has, in the 6 years preceding January, 1974, exceeded the cost-of-living increase. During that period, the cost-of-living increased 37% while, under the City's offer for 1974, the top salary for Patrolmen increased 45.8%. When the employees' share of the pension contribution which the City paid is considered, the employees' compensation will have risen 54.6% during the cited 6 years. And, when the contribution required of the City (as the Employer) is added to that, the compensation during that period will have increased to \$1,089.66 (or 61.4%).
- 6) "No other city which has settled for 1974 has given an increase which is equal to the percentage rise in the consumer price index from January, 1973 to January, 1974. The average [wage] increase [of cities cited by the City of Kenosha in its Exhibit #12] is 6.28%." [City's Brief, page 19.] The average settlement of those cities (Wausau, Appleton, La Crosse, Fond du Lac, Manitowoc, Racine, Sheboygan, Eau Claire and Janesville), ranging from a 1974 increase in annual earnings for top-step Patrolmen of \$432.00 (Wausau) to \$957.84 (Janesville), amounts to approximately \$638.00. The City of Kenosha "has offered a \$618 increase and the Policemen's

Association a \$936 increase." [City's Brief, page 17.] Janesville's large increase "will leave [its] total 1974 compensation \$50 a month below that of the City of Kenosha." [City's Brief, page 17.]

- 7) The City of Kenosha offers an increase of \$618.00 (5.94%) applicable to "top step" Patrolmen for 1974. This rate is reached in 2 years. Other cities which have established the rate for the cited classification for 1974 are paying the following annual increase over 1973: Wausau, \$432.00 (4.61%); Appleton, \$480.00 (4.77%); La Crosse, \$504.00 (5.36%); Fond du Lac, \$612.00 (6.10%); Manitowoc, \$600.00 (6.15%); Racine, \$685.68*(6.18%); Sheboygan, \$708.72 (7.02%); Eau Claire, \$761.04 (7.77%); Janesville, \$957.84 (8.56%). Testimony by the Association indicates that, except for Kenosha, it normally takes from 3 to 5 years to reach the top step.

It should be noted, also, that the City of Kenosha pays "the full health insurance premium," and "the full employee contribution to the Wisconsin Retirement Fund," which most of the cities cited do not. "Kenosha pays longevity premiums" ... "shift differential," ... "an educational incentive program" and liberal vacation and holiday pay, -- considerations which, if provided by the other cities named, are generally less liberal. [City's Brief, page 15.]

- 8) "In the last six years there have been only eleven resignations in the Police Department." In September of 1973 there were 130 applicants for the Patrolman job,--(when there were no vacancies),--of whom 84 were placed on the eligible list. [City's Brief, page 20.]

The Association's "Final Offer" proposes the following, in respect to "Wages", applicable to its proposal that a 2-year Agreement be effected:

"Wages for the 1974-75 contract between the City and the Association shall be 109% of these wages as enumerated in the 1973 contract between the City and the Association. Such one hundred and nine percent (109%) figure shall be applicable to each and every employee in the bargaining unit and each and every job classification which was filled by members of the bargaining unit during the term of the 1973 contract. Such increase shall establish a new base salary for each member of the bargaining unit and each job classification filled by members of the bargaining unit. As stated in issue two of this revised last and final offer, the issue of wages for the period of January 1, 1975 to December 31, 1975 shall be re-opened for further negotiations, such re-opened negotiations to be based on base salary as established for the period January 1 to December 31, 1974."

It considers this proposal reasonable and justified for the following reasons:

- 1) Its proposal to re-open the 2-year Agreement (1974-'75) for the sole purpose of negotiating wages for the 2nd year is "not only extremely fair but most equitable." "With the economy as it exists today it is anyone's guess as to what the cost of living may be one year hence." [Association's Brief, page 2.] Under the City's proposal, if the cost-of-living should increase by more than 5.5% during 1974, the employees represented by the Association would "not be able to maintain a proper standard of living [during 1975], due to the erosion of [their] income... By January 1, 1975...the City will know what its budget will allow and the Association will...know...how inflation has affected the individual officers." [Association's Brief, pages 2-3.]
- 2) In view of the cost-of-living trend in 1973, the 9% across-the-board increase proposed for 1974 will be necessary to maintain the standard of living of 1973.
- 3) The top Patrolman's annual salary in Kenosha in 1973 was \$10,398.00 and for Sheriff's Deputies it was \$10,932.00. For 1974 in the City of Racine, the top Patrolman's salary is \$11,482.00 plus a possible cost-of-living increase, while in 1973 the Sheriff's Deputies were paid \$11,229.00. In Oak Creek, the 1973 rate for top Patrolmen was \$12,024.00. In the communities around Milwaukee, the rate was generally between \$11,000.00 and \$12,000.00 in 1973 and some of those who have their salary rates established for 1974 (Brookfield, West Allis,

* Assuming same rise in cost-of-living as in 1973.

Menomonee Falls, Grafton and Brown Deer) receive between \$12,048.00 (Brown Deer) and \$12,700.00 (Grafton). Greenfield and Germantown have 2-year contracts covering 1974-'75 and both of them have general increases plus cost-of-living clauses applicable to 1975.

- 4) The City received from the State \$314,051.00 in "police aid" funds, which it chose to make a part of its "general fund", instead of earmarking it for compensation to police officers. [Association's Brief, page 6.]
- 5) In the past, the City has had surpluses, but "police officers should not suffer the consequences of substandard wages in order to produce surpluses in the budget." [Association's Brief, page 7.]
- 6) "To grant the City's...Final Offer would not only keep the police at a substandard income but also have in effect the ultimate result of having a substandard police force." [Association's Brief, page 8.]
- 7) "There has been no argument that Kenosha cannot pay..." [Association's Brief, p.8.]

PROPOSALS OF THE PARTIES, RE: NO STRIKE CLAUSE

The City of Kenosha proposes that the following "No Strike Clause" be added as a new clause to the 1974-'75 Agreement:

"Section 1. The Association agrees, individually and collectively not to strike, slowdown, engage in mass sick calls, or in any other manner impede the full working efficiency of the City Police Department, including refusals to perform customarily assigned police duties, including overtime.

"Section 2. The Association shall neither cause nor counsel any or all of its members to engage in the acts prohibited in Section 1.

"Section 3. Participation by employees in the actions prohibited by Section 1 shall be basis for disciplinary actions including discharge.

"Section 4. The acts prohibited by Section 1 are hereby deemed illegal and a violation of this Agreement.

"Section 5. In the event of any strike, slowdown, mass sick call, interruption of work or interference of operations of the Police Department prohibited in this Article, the City shall notify the Association thereof and the Association shall give notice to the employees involved that they are in violation of this Agreement and shall end such activity."

The Association proposes the following clause:

"The Association shall be bound by the appropriate provisions of Section 111.70 Wis. Stats., as regards strikes and other job actions. Nothing in this contract shall be interpreted to act as an extension of the applicable provisions of Wisconsin Statutes."

In respect to its proposed "No Strike Clause", the City of Kenosha contends that:

- 1) The "statutory responsibilities not to engage in strikes...have been in force for a number of years and were in force in February, 1974. Yet,...policemen in the City of Kenosha engaged in prohibited concerted activity... [The Association witness who testified] did not deny the existence of the 'blue flu' but only stated that the Policemen's Association did not sanction that 'job action'... Merely stating that they [Kenosha policemen] will abide by their statutory obligations will be completely ineffective..." [City's Brief, pp. 21-22.]
- 2) Concerning the \$25,000.00 less Municipal Court revenue for the 1st quarter of 1974 than was received for the same quarter in 1973: "Either the citizens of the City of Kenosha and visitors to the City have suddenly become increasingly law abiding (figures for November and December of 1973 and January of 1974 showed an increase in revenues over the corresponding months in 1972 and 1973), or the policemen in the City of Kenosha are not using the utmost diligence in insuring that the City's ordinances are being observed." [City's Brief, page 22.]

The Association contends that its proposal is adequate because:

- 1) Under the law, "'job actions' and strikes are forbidden." The law provides remedies for violations which do occur. Violators "are subject to discipline by the Chief of Police." [Association's Brief, page 5.]
- 2) "We will be bound by the law." "Policemen are upholders of the law, they will abide by the law." [Association's Brief, page 5.]
- 3) The City's proposal contains "unnecessary verbiage".. "which is really nothing more than a statement of the law as contained in Section 111.70, Wisconsin Statutes." [Association's Brief, page 5.]

PROPOSALS OF THE PARTIES, RE: TERM OF THE AGREEMENT

The City of Kenosha contends, in effect, that a 2-year Agreement (1974-'75), with all its terms fixed for 2 years, is necessary and proper because:

- 1) "All other bargaining units that the City deals with have entered into two-year (1974-1975) fixed contracts with no wage reopeners." [City's Brief, page 22.]
- 2) The "Non-Represented Employees" also have their wages and working conditions fixed for the same period.
- 3) "Multiple year contracts are becoming more the custom in [the] public sector..." In his decision involving the Appleton Professional Policemen's Association and the City of Appleton in August, 1973, Arbitrator Russell L. Moberly stated that:

"Multi-year contracts are also desirable so that the parties can be spared the present situation of being involved in almost continuous bargaining throughout twelve months of each year. One-year agreements give the parties little respite from the rigors and unrest of negotiations each year."

"The parties need a respite" from bargaining. The City's offer provides that. [City's Brief, page 23.]

The Association contends that its proposal to have a wage re-opener for the 2nd year (1975) of the 2-year Agreement is "not only extremely fair but most equitable" because:

- 1) "With the economy as it exists today it is anyone's guess as to what the cost of living may be one year hence." "Most people in public service were forced...to accept wage increases...in the range of 5.5%" for 1973, while "the cost of living" for that year "was almost 3% above that amount."
- 2) In the event the Agreement provides for a 5.5% wage increase for the 2nd year (1975) and the cost-of-living increase exceeds that amount, the employees here involved will not be able "to maintain a proper standard of living due to the erosion of [their] income."
- 3) By Jan. 1, 1975..."the City will know what its budget will allow and the Association will...know how inflation has affected" the employees in the bargaining unit. [Association Brief, pages 2-3.]

ARBITRATOR'S ANALYSIS OF ISSUE

The arbitrator must keep in mind that he is here functioning under the terms of Section 111.77 (4) (b) of the Wisconsin Statutes. This provision obligates the arbitrator to--

"...select the final offer of one of the parties and...issue an award incorporating that offer without modification." [Emphasis added.]

It also requires that:

"(5) 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 these costs.
- (d) Comparison of the wages, hours and conditions of employment of the employes involved in the arbitration proceeding with the wages, hours and conditions of employment of other employes performing similar services and with other employes 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 employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all 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, arbitration or otherwise between the parties, in the public service or in private employment."

At the time of the hearing, it was established that 3 issues remain in dispute:

- 1) Whether (as the City proposes) the salaries of the 142 employees who are represented by the Kenosha Professional Policemen's Association should--
 - (a) for 1974, be increased \$51.50 per month (for an average increase of 5.7%) and
 - (b) for 1975, be increased \$70.00 per month (for an average increase of 7.4%) for a total increase of \$121.50 (13.1%) for the years 1974-1975.

Or, as the Association proposes--

- (a) for 1974 every employee's salary and the rate of every classification in the Association's bargaining unit be established at 109% of the salary and rate provided for in the 1973 Agreement, and
- (b) the 2-year Agreement (1974-1975) be subject to re-opening for 1975 for wage negotiations only.

- 2) Whether (as the City proposes) the Agreement should be effective, without a re-opener, for the 2-year period of 1974-1975;

Or, as the Association proposes, a 2-year Agreement with a "re-opener" provision for 1975 wages.

- 3) Whether (as the City proposes) the "no-strike" clause of the Agreement should define the types of conduct which are prohibited;

Or, as the Association proposes, it should be confined to requiring compliance with "the appropriate provisions of Section 111.70 Wis. Stats., as regards strikes and other job actions."

ARBITRATOR'S COMMENTS

RE: SALARY RATES

In the opinion of the arbitrator, the first and most important aspect of the wage issue is the question, whether or not the City has the "ability to pay" the 9% increase which the Association proposes should be granted for 1974. If the City does not have that ability, then most of the other arguments in favor of the cited increase are academic. There is little point for people to discuss the degree of thirst, the extent of discomfort it produces and the blessings enjoyed by neighbors who are more fortunate, while the people in question are confronted by a dry well.

In this case, the City's contentions in respect to its ability to pay 3.3% more than the \$51.50 (5.7%) per month increase to Police Department employees for 1974 appear to be persuasive. This contention is based on the following:

- 1) The City's contention is undisputed, that its ability to produce a more liberal budget for 1974 was initially limited by State law and that, absorbing \$181,000.00 in unexpected added cost of pension contributions to the State Fund amplified the problem of available funds for compensation to its employees.
- 2) The City's wish to divide, as equally as reasonably possible among all of its employees, the money which it did have available for increased compensation (in various forms) was reasonable.
- 3) The results of the collective bargaining process with 3 other bargaining agencies suggest that those agencies not only acknowledged that the amount of the funds for increased wages and benefits in 1974 were limited (as here contended by the City), but also agreed with the policy that the available funds should be divided as equally as possible in line with the relationship which then existed between the various classifications of City employees.
- 4) The City's proposal to retain the wage-rate relationship which has existed for many years between the employees represented by the Fire Fighters Union and those represented by the Policemen's Association is, under the circumstances here involved, reasonable. In the opinion of this arbitrator, the collective bargaining process between the City of Kenosha and the bargaining agencies which represent various segments of its employees, and that process applied in other cities, must ultimately establish what constitutes an equitable relationship between the various functionaries in city government. This arbitrator recognizes that the agreements of other labor organizations with the City do not and should not govern the hopes of the Policemen's Association. However, he believes that, in performing his function in cases like this, he--as bargaining agencies, generally--must be concerned that equitable relationships are maintained between all of the employees and an employer.
- 5) While the arbitrator is not making light of the unfortunate results, whatever the relationship between the salary increase proposed by the City and the cost-of-living trend may prove to be in 1974, it is clear that the 505 other employees of the City will experience the same effect as will the 142 employees represented by the Policemen's Association.
- 6) Pertinent to "the public interest", in the issue at hand all concerned must recognize that the revenue which supports the current budget of the City comes from workers and others, many of whom (if not most) are affected by the "cost-of-living" trend in precisely the same manner as the members of the Policemen's Association are affected.
- 7) There was no showing by the Association that the \$314,051.00 in "police aid" funds were not properly applied by the City.
- 8) There was no showing by the Association either that the City was in error in respect to its ability to pay, or that it had reasonable means available to finance the increased deficit for 1974 which the application of the Association's wage proposal would produce.

RE: TERM OF AGREEMENT AND 1975 SALARY RATES

The parties agree that the Agreement here involved should apply for the 2 years of 1974 and 1975. However, they have differing proposals respecting the salary rates for 1975. The City proposes that a salary increase of \$121.50 for 1975 now be established, while the Association asks that the salary rate for that year (the second year of the Agreement) be subject to negotiation when the time arrives.

In the opinion of the arbitrator, the City's proposal respecting the salary increase which should apply to 1975 is most appropriate, because:

- 1) A 2-year term with the wage structure established for both years would be in line with the commitments the City has with the 3 other bargaining agencies and with its Non-Represented Employees (a total of 505 employees). Furthermore, in addition to providing a substantial wage increase, it would also continue for 1975 the equitable relationship which was established for 1974.
- 2) The increase for 1975, if established with finality now, will give the City ample opportunity to provide appropriate budget and revenue measures to cover the known liabilities for employee compensations, which currently represent more than 75% of the budget.

RE: NO STRIKE CLAUSE

In the opinion of the arbitrator, the "no strike clause" proposed by the City is more appropriate in this case than is the proposal of the Association, because:

- 1) The objective of a labor agreement is to establish a mutually agreed upon structure of wages, hours and other conditions of employment, to the end that: (a) the employees involved will be disposed to perform their work in the manner expected; (b) the employer will have his work performed when, how and where properly assigned; (c) the parties to the contract will have an established, agreed upon procedure in the contract for the peaceful settlement of differences, etc., which may arise.
- 2) It is rare that labor agreements do not contain a provision which precludes strikes or similar actions as a method for solving disputes which may arise during the life of the contract.
- 3) A competent "no strike clause" in a labor agreement is a matter of personal commitment by the bargaining agency and the people it represents; -- the personal integrity of all concerned is at stake in a manner in which a requirement of law is not. That personal integrity remains at stake regardless of whether or not an applicable law continues to exist.

CONCLUSION

As a result of a careful and detailed analysis of material contained in the numerous Exhibits (34) and of the tape-recorded testimony and of the post-hearing briefs, and in light of the reasons the arbitrator expressed in respect to:

- a) the City's ability to pay what the Association's "Final Offer" proposed for 1974;
- b) the merits of the City's "Final Offer" applicable to that year;
- c) the total situation which now prevails in the relationship of the City and the great majority of its employees; and
- d) in view of the arbitrator's obligation under the law to award "without modification" the "Final Offer" of one of the parties,

the arbitrator is persuaded that the "Final Offer" proposed by the City of Kenosha is (all things considered) more appropriate than is the "Final Offer" of the Association.

The arbitrator notes that the cited Conclusion is based primarily on his findings in respect to the respective wage proposals for 1974 and to the "no strike" proposals.

AWARD: In respect to the issues involved in this case, the terms of the "Final Offer" of the City of Kenosha shall be incorporated into the 1974-1975 collective bargaining Agreement between the parties.

June 4, 1974

H. Herman Rauch /s/
H. Herman Rauch, Impartial Arbitrator
(by WERC Appointment)