

STATE OF WISCONSIN

ARBITRATION AWARD

In the Matter of

CITY OF PORT WASHINGTON

and

PORT WASHINGTON CHAPTER OF THE WISCONSIN  
PROFESSIONAL POLICEMEN'S ASSOCIATION

Re: City of Port Washington  
Case XII No. 19670  
MIA-172  
Decision No. 14111-A

APPEARANCES

For the City, Roger E. Walsh, Attorney; Jonathan Swain, Attorney, both of Brigden, Petajan, Lindner & Honzik, S.C., 700 North Water Street, Milwaukee, Wisconsin 53202; Mr. Richard Klein, Alderman, Chairman, Personnel Committee of the Port Washington City Council, 1525 North Wisconsin Street, Port Washington, Wisconsin 53074.

For the Association, Janet P. Koerber, Attorney, 400 W. Silver Spring, Milwaukee, Wisconsin 53217; Allen Esselmann, President, Port Washington Chapter of the Wisconsin Professional Policemen's Association, 546 North Montgomery, Port Washington, Wisconsin 53704.

A hearing in this matter was held in the Port Washington City Hall on January 7, 1976. At the end of the hearing the parties agreed to file briefs. The briefs were exchanged by the arbitrator on January 24. The City's attorney then raised certain objections to the Association's brief in a letter to the arbitrator dated January 27. The Association's attorney replied in a letter to the arbitrator dated January 29. The opinion section of this award contains comments on the City's objections.

This is a proceeding pursuant to Chapter 111.77 of the Wisconsin Statutes. The arbitrator is expected to choose one or the other final offer without modification.

THE ISSUE

There is one issue. The Association's final offer is an increase in wages of \$112.00 per month across-the-board. The City's final offer is an 8 per cent increase in the starting rate and first two steps for Patrolman, then an across-the-board increase of \$81.00 for the top step for Patrolman and to each step of the Sergeant's range.

A comparison of the current rates and the two final offers follows:

<u>PATROLMAN</u>	<u>1974-75 RATE</u>	<u>CITY OFFER</u>	<u>ASSOCIATION'S OFFER</u>
Start	\$808.50	\$ 873.18	\$ 920.50
After One Year	845.43	913.06	957.43
After Two Years	948.23	1024.41	1060.53
After Three Years	988.23	1069.23	1100.23
<u>SERGEANT</u>			
Start	\$1010.91	\$1091.91	\$1122.91
After One Year	1039.26	1120.26	1151.26
After Two Years	1067.61	1148.61	1179.61
After Three Years	1095.96	1176.96	1207.96

POSITIONS OF THE PARTIES

The Association bases its support of the \$112 per month across the board increase on (a) trends of increasing complaints, issuance of citations for parking and traffic violations, and more building and commercial and non-commercial operations that increase traffic and the necessity of police regulation; (b) a comparison of annual salaries of Port Washington policemen with salaries of policemen in some nearby communities; and (c) a comparison of the increases proposed in this proceeding with the percentage increases granted to various administrative officials of the City.

The evidence of increasing necessity of police regulation was presented in the following table:

	<u>1973</u>	<u>1974</u>	<u>1975</u>
Accidents	319	390	335
Complaints	2345	2241	3586
Parking Tickets	4632	5839	5373
Traffic Arrests	637	650	667
Other Arrests	<u>472</u>	<u>480</u>	<u>453</u>
Totals	8405	9600	10414

The Association also introduced in its brief some figures and a statement about increased building and increased flow of traffic. In his letter of January 27 the City's attorney pointed out that this information should have been introduced at the hearing.

At the hearing the Association based its salary comparisons on annual payments to deputy sheriffs in Milwaukee County and policemen in Grafton, Thiensville, Mequon, and Bayside. In its brief the Association added Germantown, Cedarburg, and Ozaukee County but dropped out Milwaukee County and Bayside. The figures used for comparison by the Association are shown in the following composite table:

<u>Governmental Unit</u>	<u>Annual Salary 1975</u>	<u>Annual Salary 1976</u>	<u>Percentage Change</u>
Grafton	\$13800	\$14628	6.0
Mequon	13733	14928	8.7
Thiensville	13008	14048	8.0
Germantown	12305	Negotiating	N.A.
Cedarburg	12500	Submitted to arbitration	N.A.
Ozaukee County	12504	13754	10.0
Milwaukee County	14035	Not furnished	N.A.
Bayside	13920	Not furnished	N.A.
Port Washington	11858 (74-75)	12828 (75-76 City offer) 13202 (75-76 Association offer)	

In its comparison of increases granted to City administrative officers the Association showed that their average increase for 1975 had been 12.1 per cent and that the Police Chief had received a 17.2 per cent increase in annual salary.

The City bases its position on four arguments: (a) The Association changed its wage offer in November, 1975 from \$85 per month across-the-board to \$112; (b) the offer by the City is consistent with its settlement with another bargaining unit of City employees; (c) when combined with certain estimates of dollar values for various benefits, the City's offer, when considered as a total package, is comparable or better than the total packages of comparable jurisdictions; and (d) the City's offer is consistent with changes in the cost of living during the past year.

As to the change in the Association's position during the bargaining, the City asserts that the Association had maintained the former position for several months and that the position was unqualified. (The Association responds that its \$85 offer was qualified by a need to settle another issue to its satisfaction. When the other issue was settled, but not entirely to its satisfaction, the Association shifted its position on wages.) The City's argument appears to the arbitrator to have no merit and will not be discussed further in this report. Even if the City did understand the Association's offer on wages to be unqualified, there was no final settlement in November and therefore no reason why the Association could not change its position in any way it wished.

The City also bargains with another union representing its public works employees. In negotiations with that union for approximately the same period as the one under consideration here there was a wage reopener settlement of 40 cents per hour. According to the City, this was approximately 8.2 per cent, about the same as the City's offer in this unit.

In making comparisons with salaries in other jurisdictions, the City introduced the data in the following table: (Table on page 4)

An identical kind of comparison was made for Sergeants and the results shown were similar. The City also introduced figures indicating that the number of hours worked per year by Port Washington policemen is 44 hours below the average number of hours worked per year by policemen in the other jurisdictions with which the City would compare itself.

The City introduced Bureau of Labor Statistics Consumer Price Index figures purporting to show that the increases in cost of living, as measured by the Index, have been reduced somewhat in the past six months from the level of increases in the period of a year to eighteen months prior to July, 1975. These figures showed the rate of increase in the Index as of November, 1975 to be 7.7 per cent, or approximately 0.3 per cent less than the City's wage increase offer.

#### OPINION

The City's evidence to support its position is more substantial than the evidence presented by the Association. The Association's figures showing the basis for an increased work load for policemen in Port Washington were not impressive. Although the figures used demonstrate a total trend increase from 8405 in 1973 to 9600 in 1974 and 10414 in 1975, this is accounted for mostly by a large increase in parking tickets in 1974 and another large increase in complaints in 1975. It was not clear from the testimony that the increase in complaints was necessarily an indication of a comparable increase in work load. In my opinion the evidence presented to support the increase in work load is quite fragmentary.

More impressive support for the Association's position was contained in the figures on comparable annual salary rates. In its brief the Association pointed out that while this proceeding relates to a contract period running from July 1, 1975 to June 30, 1976, the City's comparisons are all based upon 1975 levels in the jurisdictions with which it compared itself. In this connection the Association introduced some comparisons in its brief that showed how the jurisdictions with which the Association had compared Port Washington would look if the salaries were put on a comparable basis, i.e., showing earnings from July, 1975 through June, 1976. These annual salary figures were as follows:

Grafton	\$14214
Mequon	14328
Thiensville	13529
Ozaukee County	13128
Port Washington	12528 (based on six months of the 1974-75 rates and six months of the rate if the Association's offer of \$112 were in effect)

ANNUAL BENEFIT AND WAGE COSTS - PATROLMAN

	<u>Clothing</u>	<u>Vacation</u> <sup>(1) (2)</sup>	<u>Holidays</u>	<u>Longevity</u> <sup>(1)</sup>	<u>Total Benefits</u>	<u>Annual Wage</u>	<u>Total Amount Wage &amp; Benefit</u>
Cedarburg	\$180	\$494	\$396	\$ 60	\$1130	\$12504	\$13634
Fond du Lac	220	482	410	300	1412	11748	13160
Grafton	225	546	464	60	1092	13800	14892
Hartford	160	434	455 <sup>(3)</sup>	108	1157	11436	12593
Mequon	200	543	475	75	1293	13728	15021
Ozaukee Co.	192 (Ave.)	494	420	120	1226	12504	13730
Sheboygan	200	767	429	0	1396	11412	12808
Thiensville	175	505	404	50	1134	13008	14142
Washington Co.	190	514	437	36	1177	12528	13705
West Bend	180	508	432	36	1156	12372	13528
				AVERAGE	1217	12504	13721
Port Washington							
City Offer	175	790	632 <sup>(4)</sup>	0	1597	12828	14425
Assoc. Offer	175	813	651 <sup>(4)</sup>	0	1639	13200	14839

(1) Based on employee with 5 years service (average length of service for Port Washington Patrolmen is 5.4 years).

(2) Per day rate computed on annual rate divided by number of workdays.

(3) Amount assumes employee works on two-thirds of holidays (4 out of 6).

(4) Amount assumes employee works on two-thirds of holidays (6 out of 9).

This comparison points up one of the problems of making wage comparisons in this dispute. The issue to be decided here is complicated by two factors. First, the period of the labor agreement is from July 1, 1975 to June 30, 1976, whereas the wages in the units with which this one is compared are all based upon a calendar year. Thus, Port Washington wage rates are not directly comparable either with 1975 nor 1976 rates in the other units. Second, at the hearing the Association based its case essentially on three pieces of evidence: (1) some data showing that incidents of complaints, parking tickets, and traffic arrests in Port Washington were trending upward from 1973 through 1975; (2) an annual salary comparison of the proposed Port Washington annual wages with Milwaukee County, Grafton, Thiensville, Mequon, and Bayside for 1975; and (3) an average figure of 12.1 per cent that was given to salaried employees for 1975. In its brief, however, the Association introduced 1976 annual wage figures for Grafton, Mequon, Thiensville, and Ozaukee County and 1975 annual wage figures for Germantown and Cedarburg. Although the parties had not expected to file reply briefs, the City's attorney sent a letter to the arbitrator objecting to the introduction of new data in the Association's brief.

Before commenting generally on the evidence introduced by the parties, it is necessary to dispose of the City's procedural objection. The Association's attorney has responded to it by describing the 1976 wage comparisons as a clarification of matters already presented, that the use of these data in the brief was not unreasonable because the period in question includes six months of 1976 and it is not possible to make valid comparisons without using both 1975 and 1976 wage figures.

Although it is true, as the City's attorney asserts, that he has not had an opportunity to cross examine on these new data, it is also true that we are not governed in this kind of a proceeding by the strict rules of evidence. Thus, I am inclined to take cognizance of whatever is useful in the new figures, even though as a matter of legal procedure they were introduced improperly. Having said that, however, I should add that I have not found them very useful. In the first place, Germantown and Cedarburg had not completed their bargaining for 1976. And for reasons described below the 1976 figures are only partially useful here for the reason that I have concluded that a wider set of comparisons ought to be used.

If one were to accept as valid the annual salary comparisons presented by the Association at the hearing, i.e., Milwaukee County, Grafton, Thiensville, Mequon, and Bayside, one would have to agree with the Association that a substantial inequity exists between the annual wages for policemen in those jurisdictions and those of the City. The difference between the average annual wage in those jurisdictions in 1975 and the offer of the City for the 1975-76 year is \$871. There was remarkably little justification offered, however, at the hearing and in the Association's brief as to why those five jurisdictions were chosen for comparison. As the City pointed out at the hearing and in its brief, Milwaukee County is a metropolitan area quite different from the City of Port Washington, and Bayside has a security force whose members perform both police and firefighter duties. I see little justification in including either of those jurisdictions in a comparison of wages with the City of Port Washington. And not surprisingly, the Association dropped both Milwaukee County and Bayside out of the comparisons used in its brief.

The question then becomes whether Grafton, Mequon, and Thiensville (and perhaps Cedarburg, added in the Association's brief, but also used in comparisons by the City) represent a valid basis of comparison by themselves. In my opinion they do not by themselves constitute a broad enough basis of comparison. Although as suggested above, the Association did not provide any information to back up its rationale for using these jurisdictions it appears to me that they all have one

Because of the paucity of that kind of information it is necessary for me to fashion my own standards of comparison based upon what has been given to me by the parties and my own experience in these matters. In this connection I feel constrained to use a broader basis of comparison than what was provided by the Association but somewhat narrower than that provided by the City. The City used 1975 data for the following jurisdictions: Cedarburg, Fond du Lac, Grafton, Hartford, Mequon, Ozaukee County, Sheboygan, Thiensville, Washington County, and West Bend. I see no reason for the use of either Sheboygan or Fond du Lac. They are cities respectively of the Second and Third Class whereas the City of Port Washington is a Fourth Class City, only about a quarter as large as the smaller of the other two. Although West Bend is about twice the size of Port Washington, it is useful as a basis for comparison because, like Port Washington, it is a County Seat and is in an adjoining county that has somewhat similar characteristics.

While I might have used different jurisdictions as the basis of comparison, I am constrained by what evidence was presented to me. Therefore, I have determined that for this purpose comparative data for the following jurisdictions should be used: Cedarburg, Grafton, Hartford, Mequon, Ozaukee County, Thiensville, Washington County, and West Bend. The average annual wage rate for those jurisdictions in 1975 was \$12,735. This is somewhat below the City's offer of \$12,828 for 1975-76. The summary of other fringes, however, presented by the City, including clothing allowance, vacation, holidays, and longevity for these jurisdictions is \$1171 as compared with the \$1597 offered by the City. When these figures are added together the comparable total wage and benefit figure in 1975 for the eight jurisdictions used for comparison is \$13,906, as compared with the City offer (including the same fringes as calculated by the City) of \$14,425, a difference in favor of the City's offer of \$519 per year.

This brings me back to the first factor described above which complicates the issues in this otherwise simple dispute, namely the issue of comparing this unit's conditions for six months of 1975 and six months of 1976 with either 1975 or 1976 figures for the other jurisdictions. Since I have overruled the City's objection to the use of 1976 figures, I would like to point out that on the basis of the less than complete data submitted in the Association's brief, the average percentage wage increase for 1976 for Grafton, Mequon, Thiensville, and Ozaukee County was 8.2 per cent. At the top of the Patrolman range this is the same as the City's offer. It is somewhat less than the offer of the Association, which is 11.3 per cent at the top of the Patrolman range.

I have not ignored consideration of the Association's comparison of the increase for members of this unit with increases granted to administrative officials of the City. But that comparison would have been more useful if the Association had shown what increases had been in previous years and if the Association had been able to demonstrate that the 1975 increases were not granted on a catch-up basis. Without that kind of information I am inclined to give greater weight to the comparison with the settlement made with the unit of public works employees, a settlement roughly equivalent to the City's final offer in this case.

For these reasons I am led to choose the City's final offer instead of the Association's final offer.

AWARD

The City's final offer is adopted.

Dated: March 1, 1976

Signed: David B. Johnson /s/

David B. Johnson  
Neutral Arbitrator