

Arbitration *
 of *
 CITY OF RIPON POLICE *
 DEPARTMENT EMPLOYEES, *
 LOCAL 1366D, AFSCME, *
 COUNCIL 40, AFL-CIO * ARBITRATION AWARD
 and * Arbitrator: James L. Stern
 CITY OF RIPON *
 re *
 Terms of 1977-1979 Agreement; * Decision No. 16143-A
 WERC Case X, No. 22586, *
 MIA-369 *

INTRODUCTION AND BACKGROUND

On February 1, 1978, Local 1366D, AFSCME Council 40, AFL-CIO, hereinafter called the Union, petitioned the Wisconsin Employment Relations Commission (WERC) for final and binding arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act (MERA) in order to resolve its dispute with the City of Ripon, hereinafter called the City. Mediation by a WERC staff member had been conducted on January 19, 1978 and the parties waived the informal investigation. The WERC, after being informed by its staff member, certified that a dispute existed about the matters listed in the final offers filed with the WERC as of February 21, 1978, and, on that date, ordered arbitration and furnished the parties with a panel of names from which to choose a neutral arbitrator. The WERC, being informed by the parties of their choice of arbitrator appointed the undersigned as arbitrator in an order dated March 29, 1978.

The arbitration hearing was conducted on September 13, 1978, in the City Hall in Ripon, Wisconsin. Appearing for the City was Howard Goldberg, attorney; appearing for the Union was James L. Koch, Representative, Council 40. The Union and the City introduced numerous Exhibits in support of their positions on the various items in dispute. Written post-hearing briefs were exchanged through the arbitrator on October 16, 1978, and a rebuttal brief was filed by the City with the arbitrator on October 31, 1978. The final offers of the parties are reproduced on the following pages. Under Section 111.77, Form 2, the arbitrator must choose one of these two final offers with full regard for the criteria listed in sub-paragraph (6) of Section 111.77. In the discussion section of this award, the arbitrator first considers the health insurance and wage issues separately and then the two packages as a whole.

DISCUSSION

Health Insurance:

The Union introduced the labor agreements of four Wisconsin counties and eleven Wisconsin cities (Exhibits #1-15) in support of its proposal that the City pay 90 percent of the family health insurance premium in 1978 and 95 percent of the family premium in 1979. The City offers to pay \$79 of the family premium in 1978 and \$84 in 1979--which, on a percent basis, assuming no increase in premium in 1979, amounts to approximately 85 percent of the 1978 premium and 90 percent of the 1979 premium. (Since the single premium is far less than the amount offered by the City and covers 100 percent of the single premium, there is no real dispute between the parties about the payment by the City of the total premium for the single individual.)

Appendix A

CITY'S FINAL OFFER

City of Ripon
Two (2) Year Package

EFFECTIVE January 1, 1978:

Health Insurance: (Actual cost Family Plan \$93.00)
City to increase their portion of premium payment from \$67.00 per month to up to \$79.00 per month towards the Single and Family Plan.

Wages: The City proposes to increase the wages for Patrolmen and Sergeants by \$66.00 per month for all Employees who are on the payroll as of January 1, 1978, but have proposed to freeze the Start, After six (6) months, and After one (1) year rates for the two (2) year period.

The City proposes to increase the wages for Dispatchers by \$33.00 per month for all Employees who are on the payroll as of January 1, 1978, but have proposed to freeze the Start, After six (6) months, and After one (1) year rates for the two (2) year period.

EFFECTIVE January 1, 1979:

Health Insurance: To be increased to City paying up to \$84.00 towards premiums for Single and Family Plan.

Wages: The City proposed to increase the wages of Patrolmen and Sergeants by \$70.00 per month for all existing Employees who are on the payroll as of January 1, 1978, but to continue the freeze on the Start, After six (6) months, and After one (1) year rates.

The City proposes to increase the rates of Dispatchers by \$36.00 per month for all Employees who were on the payroll as of January 1, 1978, but to continue the freeze on the Start, After six (6) months, and after one (1) year rates.

Longevity:

From:	TO:
Five (5) years of service; \$50.00 per year	\$75.00 per year
Ten (10) years of service; \$75.00 per year	\$100.00 per year
Fifteen (15) years of service; \$100.00 per year	Add a new step of Twenty (20) years of Service; \$150.00 per year.

JLK:kmc

Appendix B

UNION'S FINAL OFFER

City of Ripon Police Department Employees
Local 1366 D AFSCME AFL-CIO
Two (2) Year Agreement

EFFECTIVE January 1, 1978:

Health Insurance: City to pay 100% of Single Plan
and 90% of Family Plan.

Wages: Patrolmen and Sergeants: 7% all steps
Radio Dispatchers 7½% all steps

EFFECTIVE January 1, 1979:

Health Insurance: City to pay 100% of Single Plan
and 95% of Family Plan.

Wages: Patrolmen and Sergeants 7% all steps
Radio Dispatchers 7½% all steps

JLK:kmc

Of the fourteen other employers with which the Union compares the City, eight pay 100 percent of the family premium and one pays \$120/month, an amount which appears to be equal to or greater than the full family premium. The five other agreements call for employer payment of anywhere from 75 to 90 percent of the family premium or specify some dollar amount such as the employer payment of \$85.59 of the \$94.53 monthly premium as is specified in the Fond Du Lac County Agreement (Union Exhibit #4).

One of the problems to be faced in determining whether the Union offer is preferable to the City offer on the ground of comparability is the lack of data showing the dollar amount contributed by the employer in order to meet its obligation of paying 100 percent of the premium. As is pointed out by the City in its rebuttal brief, 100 percent of the premium may represent a dollar amount which is less than the City's offer of \$79/month in 1978 and \$84/month in 1979. For example, the Union claims that the employer is paying 100 percent of the family premium in Kewaunee but its Exhibit #7 shows that the employer payment in 1977 was only \$41.45. If that is 100 percent of the premium, then the coverage probably is less than the coverage in Ripon and from the Union's point of view is a less attractive arrangement than the City offer.

It should be noted also that the difference between the parties on the insurance premium is relatively small--being slightly less than \$5 per month. On the whole, the Union offer seems more in line with the other jurisdictions it cites than the City offer. Fond du Lac County, which is cited by both parties in connection with this and other issues, pays about 90 percent of the family premium in 1978, as is proposed by the Union in Ripon, and the dollar amount paid by Fond du Lac County of \$85.59 is slightly more than the amount to be paid by the City under the Union proposal.

Since the City offered no evidence on comparable jurisdictions which support its position and since more than half the jurisdictions cited by the Union pay 100 percent of the family premium or dollar amounts closer to the Union proposal than to the City proposal, the arbitrator believes that the final offer on insurance of the Union, standing alone, is preferable to the final offer of the City.

It should be noted, however, that the difference between the parties on this item is small and quite possibly the difference on the wage item will be controlling in the choice of packages as a whole since the difference in offers on health insurance premium may be less significant than differences on the wage item.

Wage Increase:

There are three aspects of the wage increase offers of the parties--the wage increase for patrolmen and sergeants, the wage structure, and the wage increase for radio operators. These are addressed separately.

As the City indicates in its post-hearing brief, the proposed wage increase for patrolmen and sergeants on the payroll as of January 1, 1978 under the City proposal does not differ appreciably from the wage increase proposed by the Union. The Union proposes a seven percent increase in 1978 and a seven and one-half percent increase in 1979 while the City proposes a \$66/month increase in 1978 and a \$70/month increase in 1979. An illustration of how close the offers are can be seen by taking the monthly salary of a patrolman in the last half of 1977 and applying the increases under the City and Union proposals:

7/1/77-12/31/77 Patrolman Monthly Salary <u>after 1 year service</u>	1978 Proposed Monthly Salary		1979 Proposed Monthly Salary	
	<u>Union</u>	<u>City</u>	<u>Union</u>	<u>City</u>
\$912.80	\$976.70	\$978.80	\$1049.94	\$1048.80

Since the parties are so close to agreement on this aspect of the wage issue, the arbitrator will make his choice based on the relative merits of the proposals on the other two aspects of the wage issue mentioned above.

The Union proposes that each step of the salary structure be increased by the 7 and 7-1/2 percent increase to be granted to each individual. The City proposes that the starting rate, after six months rate and after one year rate be frozen for the two year period of the proposed Agreement. Under the Union proposal, the starting rate of \$859.07 would be increased to \$919.20 in 1978 and to \$988.15 in 1979; under the City proposal it would remain at \$859.07 in 1978 and in 1979.

Under the City proposal, employees hired after January 1, 1978, would not be given the proposed wage increase but would be paid according to the structure proposed by the City. Since two of the eleven non-command officers shown on the seniority and anniversary list (Union Exhibit #18) were hired subsequent to that date, they would not receive the increase. It should be noted also that under the City offer, longevity pay would be increased by \$25 per year of service and a new step would be added providing \$50 more per year for individuals with twenty years service.

The City argument in favor of freezing the starting, six months and one year rates is twofold. It argues first that the lower rates are sufficiently high to enable it to hire competent individuals. In so far as the local labor market supply and demand factor is concerned, the City stated in its brief that it "had no difficulty in filling job openings at the frozen rates which clearly indicates that these wages are not out of line." (City Brief, pp. 8-9) The second part of the City argument is that the freeze "is designed to encourage low turn-over and further to provide the savings, derived therefrom, to fund the salaries of more senior employees." (City Brief, p. 8)

The Union argues that the freeze is an unusual approach which is not used by any of the fourteen cities with which it compares Ripon. The Union argues also that the two new employees would be treated unfairly as they would not get the \$66 and \$70 pay increases given to other employees. In its rebuttal brief, the City makes clear that these employees would receive the step increases called for in the 1977 schedule for the six months and one year rates. Only at the point that these two employees reach the two year rate would they gain the additional increase granted to other employees. Since these two employees would not reach the two year mark during the two year life of the Agreement, it is fair to say that they would not get the increase. The parties do not state specifically how a third employee, hired September 6, 1977, would be effected by the freeze but it appears to the arbitrator that this employee would receive no step increases until September, 1979.

The salary structures for patrolmen in 1978 and 1979 under the Union and the City proposal are shown below. As the City states, its proposal would lower the starting rate relative to the top and reward length of service relatively more.

<u>Salary After:</u>	<u>1978</u>		<u>1979</u>	
	<u>Union Proposal</u>	<u>City Proposal</u>	<u>Union Proposal</u>	<u>City Proposal</u>
Start	\$919.20	\$859.07	\$983.54	\$859.07
6 Months	952.59	890.27	1019.27	890.27
1 Year	976.70	912.80	1045.07	912.80
2 Years	1008.23	1008.27	1078.81	1078.27
3 Years	1032.34	1030.80	1104.60	1100.80
5 Years	1071.28	1067.20	1146.27	1137.20

On theoretical grounds, the arbitrator suspects that the Union proposal is superior to the City proposal for two reasons. The salary increase at the second year step is disproportionately large compared to any other step. In 1979, under the City proposal, the second year step increase would be \$165.47 as compared to \$22.53 and \$36.40 at the third year and fifth year steps respectively. Also the flat dollar increase does not increase the spread between the second, third and fifth year steps as much as an equivalent percent increase.

This theoretical defect, however, seems relatively unimportant compared to more practical standards such as comparability and supply and demand. In so far as the supply and demand factor is concerned, the City proposal seems adequate at this time. But on a comparability basis, the City proposal seems deficient. The starting rates in the eleven jurisdictions for which the Union submitted 1978 agreements are substantially above the \$859.07 proposed by the City. Fond du Lac County, which is at the median position of the eleven other jurisdictions is paying starting patrolmen \$975 per month during the first six months of 1978 and is paying \$993 during the second six months. If the City proposal were to prevail, the arbitrator believes that its beginning rates would be considerably out of line on the low side by the end of 1979 and that the rate structure proposed by the Union is more closely aligned with prevailing rates. Therefore, in so far as this second aspect of the wage issue is concerned, the arbitrator believes that the Union proposal is preferable to the City proposal.

The third aspect of the wage issue is the increase to be granted to the radio operators (identified by City as dispatchers in its final offer and identified as radio dispatchers by the Union in its final offer). The City proposes a freeze on the starting, six months and one year rates for the duration of the two year contract and that radio operators on the payroll as of January 1, 1978 receive a \$33/month raise January 1, 1978 and a \$36/month raise effective January 1, 1979. The Union proposes that the radio operator wage structure and all individuals should be granted seven and one-half percent increases effective January 1, 1978 and January 1, 1979. When the City offer for 1978 is converted into a percent, using the average annual dispatcher salary shown in City Exhibit #6, the City wage offer represents an increase of 5.1% ($\$33 \times 12 / \7813) as opposed to the Union 7-1/2% proposal; on a dollar basis, the City proposes an increase of \$33/month as compared to the Union proposal of \$48.83/month.

After a careful review of the exhibits submitted by the parties and after performing a variety of calculations, the arbitrator reached the conclusion that the Union proposal on this issue was more equitable than the City proposal for the reasons outlined below. The arbitrator notes, however, that he would have preferred to have received a good deal more evidence on this issue than was furnished. For example, neither side presented statistics showing the 1978 wage or the 1978 wage increase for radio operators in comparable communities.

Absent comparable data, the arbitrator turned to the question of the cost of living and believes that the increase in the consumer price index in 1978 will be over 9 percent--a figure that justifies a wage increase of the magnitude suggested by the Union rather than the increase suggested by the City. (The over nine percent estimate was derived by taking the 10 month increase and assuming that it would continue for the remainder of the year. The October 1978 index of 200.6 was 7.8% greater than the December 1977 index; continuation of this rate ($.0779 \frac{5}{6}$) provides an estimate of 9.35%).

In support of its position, the City introduced several exhibits which the arbitrator took into consideration. City Exhibit #1 shows that if the Union proposal is selected, the radio operators who formerly received a slightly lower wage than certain clerical workers in the City hall, will receive a higher wage than these clericals in 1978. This would occur because the Deputy Clerk and Deputy Treasurer, for example, received 1978 increases of 5.2%. Given the expected nine percent increase in the consumer price index in 1978, it seems to the arbitrator that the 5.2% is a little on the low side and that it would be unfair to limit the radio operator increase to that approximate figure just in order to maintain the former relative wage relationship.

The City also introduced evidence to show that the radio operators were paid about the same rate as radio operators in comparable jurisdictions (City Exhibit #6). Although the arbitrator would have preferred to see a table showing the wages paid at each jurisdiction cited and whether or not the individual was a sworn officer, the lack of this information is not crucial. Assuming that the Exhibit is correct and that the Union accepted the comparables, it only shows an equitable relationship for 1977 and does not speak to 1978. For example, if the average wage increase in 1978 in those communities was about 5% or \$33, the arbitrator would have had evidence on comparability in 1978. Without such evidence, he has no knowledge of whether comparable radio operators received an average increase of 5%, 7-12% or 10% in 1978.

The Economic Package as a Whole:

Finally there is the City argument that the Union package violates the guidelines set forth by President Carter in City Exhibit #5. The arbitrator is not persuaded by the City argument for several reasons. First of all, President Carter's guidelines have shifted since his April 11, 1978 press release and the guideline suggested to employers and unions as of this writing is seven percent rather than the lower (5-1/2%) figure which he originally intended to propose.

Second, the arbitrator believes that the City has not properly calculated the percent increase in cash benefits. The arbitrator's analysis of City Exhibit #4 and the percent increased based on it indicate that the City has calculated the increased cash benefits of salary, insurance and longevity as a percent of salary, rather than as a percent of salary, insurance and longevity. The proper calculation would reduce the percent value of these increased cash benefits.

Also, the arbitrator is under the impression that there is a low wage exemption and wonders whether the guideline limitation would be applicable to the dispatchers. It should be noted that the City would not have been able to submit written Presidential guidelines since none had been issued at the time of the arbitration hearing, and even now, in December, 1978, detailed administration rules have not been issued in final form so far as the arbitrator knows. It is questionable, under the rules, whether the guidelines apply to this dispute since the final offers were fixed long before the announcement of guidelines on October 24, 1978. For example, it is reported that a TWA-Machinists settlement exceeding the guideline was exempt from the guideline because it was negotiated prior to the deadline even though it was ratified and signed on October 31, 1978 (See 11/16/78 issue of Bureau of National Affairs' What's New in Collective Bargaining Negotiations and Contracts).

Turning to the package as a whole, the arbitrator is persuaded that the Union proposal is more equitable under the statutory criteria than the City proposal. On comparability grounds, the insurance and patrolmen salary proposal of the Union are superior to the City proposal. Absent data on comparable 1978 salaries for radio operators, cost of living criterion makes the Union proposal more appropriate than the City proposal.

FINDING AND AWARD

For the reasons explained in the prior section of this opinion, and with full consideration of the evidence and arguments of the parties and the criteria listed in Section 111.77(6) of the Wisconsin statutes, the arbitrator hereby selects the final offer of the Union and orders that it be incorporated into the January 1, 1978-December 31, 1979 Agreement.

12/11/78
December 11, 1978

James L. Stern /s/
James L. Stern
Arbitrator

