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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Arbitration Between	*	
BARGAINING UNIT OF THE CLARK COUNTY LAW ENFORCEMENT ASSOCIATION	*	ARBITRATOR'S DECISION AND AWARD
and	*	Case No. XIV No. 25544
THE COUNTY OF CLARK	*	MIA - 468 Decision No. 17584-A

SCOPE AND BACKGROUND

Clark County (hereafter, "Employer") and the Clark County Law Enforcement Association (hereafter, "Union") negotiated on the 1980 Employment Agreement (hereafter, "Contract") from September, 1979 to January, 1980.

The Union is composed of all of the full-time personnel of the Clark County Traffic Department and the Sheriff's Department except the Sheriff himself and his Chief Deputy and the Traffic Coordinator.

When no further progress could be made between the parties, the Union petitioned the Wisconsin Employment Relations Commission for final and binding arbitration on January 2, 1980. Thereafter, on January 17, 1980, a Wisconsin Employment Relations Commission staff member held an investigation session at Neillsville. Further settlement progress was made at that session (Jt. Ex. 1). Nevertheless, certain outstanding issues remained unresolved. Finally, the investigator notified the Commission that impasse had indeed been reached.

Thereupon, the WERC, on February 6, 1980, issued an Order officially declaring impasse and appointing Milo G. Flaten of Madison, Wisconsin as Arbitrator pursuant to Section 111.77(4)(b) of the Municipal Employment Relations Act.

Final offers were presented to the WERC staff member at the investigation session which were subsequently transmitted to the Arbitrator along with his Order of Appointment.

The Arbitration Hearing was held at the Clark County Courthouse at Neillsville, Wisconsin on April 29, 1980. Bargaining Committees from both sides were present as well as their spokesmen. Appearing for Clark County was Attorney

Stephen L. Weld of Mulcahy and Wherry, Eau Claire. Appearing for the Union was Patrick J. Coraggio, Business Agent.

At the Hearing seven witnesses testified and presented seven exhibits, some of which were lengthy and had many sub-parts (the Employer's exhibit had 36 sub-parts). A verbatum transcript was not made of the proceedings. Briefs were prepared and submitted as per agreement on June 10, 1980. Copies of the briefs were exchanged to the parties by the Arbitrator.

Inasmuch as neither side elected to use Form 1 provided by the Statutes (empowering the Arbitrator to determine the issues in dispute point by point), the proceedings were conducted via Form 2 (in which the Arbitrator must make his award incorporating the final offer of one of the parties without modification).

FINAL OFFERS

The Union listed six items in dispute in both its final offer of January 17, 1980 and in its current presentation and brief.

They are:

"(1) Duration - 1 year.

(2) Wages - Increment steps 1 through 5 shall increase by 11%.

(3) Current increments of 7 years, 10 years and 12 years shall be labeled "Longevity" and shall be set $40.00 per month apart as is in the 1979 contract.

(4) Establish a new longevity step at 15 years which shall be $40.00 apart from the existing step at 12 years.

(5) The cook's salary shall increase .35 per hour to $3.85 per hour from the current $3.50 per hour.

(6) All increases shall be retroactive to 1/1/80."

The Employer recorded but three items on its final offer of January 17, 1980 and the third item listed was not really an item in controversy but instead was a sentence which read, "All other items as in existing contract except previously agreed items".

Thereafter, in its presentation at the Hearing and in its supporting brief, the Employer listed but a single item at controversy, "Wages".

The Employer's final offer proposes to increase the base pay of each employee by $60 per month for 1980 across the board. In addition, the Employer proposes to continue to grant each employee another $40 per month called a "step increment" on each anniversary date for the first eight years of employment. (This represents a decrease from the previous year in that in 1979 the Employer paid $40 per month step increment raises on the anniversary date for the first seven years plus the tenth year and the twelfth year.)

At the outset, it should be noted that two previous items of impasse, "Duration of the Contract" and "Retroactivity of Pay" have been resolved. That is, both the Union and the Employer now agree that the Contract be of one years' duration and its implementation should date back to January 1, 1980.

POSITIONS OF THE PARTIES

The Union takes the position that its wage proposal is in the best interests and welfare of the public because by granting same, the morale of the Employer's office will be maintained and thereby the best and most highly qualified officers will be retained by Clark County.

The Union argues further it is lawfully and financially possible for the Employer to accept its final offer. Both of the latter criteria are set forth in Sec. 111.77(6) of the Wisconsin Statutes argues the Union, and therefore should bear heavily in any decision passing on the reasonableness of a final offer.

The Union next contends that its final offer compares favorably to the wage packages of police officers in comparable communities.

The Union also argues that its final offer will mean the Union will be receiving a wage package which compares favorably to that received by other Clark County municipal employees.

The Union additionally points to the Consumer Price Index for Urban Wage Earners and Clerical Workers which shows that no matter which index is used, be it information relative to the Minneapolis-St Paul area, the Milwaukee area, the average of the two or the U.S. National average, a pay increase of at least 14.6% should be granted in order to keep up with CPI. Further, argues the Union, a recent report of the National Center for Economic Alternatives listed items which

closely reflect increases in a household budget at 23.7% per year and that its final offer therefore better reflects the rising cost of living then does the County's final offer.

Finally, the Union points out that no matter which final offer is chosen, the Employer's or its own, the Union will not be receiving wages and benefits comparable to that being paid in similar communities.

To counter this, the Employer argues that no matter what you label the additional monies, be it salaries, longevity, step increments or experience increments, it is a cost to the County. Thus, to contend that the increment should not be "costed" is a mathematical exercise which simply does not reflect the real impact of the respective offers.

The Employer next argues that its final offer is more reasonable when viewed in terms of increases in the cost of living. However, unlike the Union, the Employer feels the Consumer Price Index is not an accurate measurement for determining the cost of living. Instead, it cites the personal - consumption expenditures (PCE) deflator which showed that consumer prices only rose at an annual rate of 9.8% in 1979. Thus, the Employer contends that its offer of 11.3% more than keeps pace with the real inflation rate.

In the areas of comparison with the wages of other counties, the Employer states that the Union's examples of comparison are not really valid. It states that Clark County is essentially a rural county and should not be compared with urban police departments because City police duties are different and urban labor markets heavily influence city police departments. It urges that the only city which really can be compared is the City of Neillsville and its wages for police officers. The Employer further avers that not even six counties contiguous to Clark County should be used because there are great variances in population, per capita adjusted gross income and equalized budget evaluation even with those counties which cannot be validly compared with Clark County. Instead, the Employer argues, only nearby Taylor and Jackson Counties, which are basically rural in nature, should be used for comparison.

The Employer next argues that when comparing other Clark County

bargaining unit wage settlements, one should look at the Clark County Department of Social Services contract which only awarded a 6% increase in 1980 instead of the Clark County Highway Department which paid an increase of 13%.

Finally, the Employer contends that most 1980 wage contracts in the private sector called for increases of from 9 to 11%. Therefore, even comparing employment by Clark County to the private sector, especially considering the private sector's layoffs, seasonal undulations and general instability, the Employer's offer of 11.3% is clearly more reasonable and comparable than the Union's offer of 15%.

DISCUSSION

In its presentation the Employer treats this whole controversy as a single item dealing with overall compensation rather than a multi-faceted dispute dealing with basic wage rates, step increments, longevity and the like. By doing so, it is consistent with its main thesis that the primary consideration of a decision-maker should be given to the total wage benefits and their cost rather than discussing the individual merits of each type of benefit. The following sentence from its Brief seems to sum up the Employer's position (p. 6):

> "No matter what we label the additional monies-salary, longevity, step increments, experience increments, whatever - being paid to the men under this offer, it is a cost to the county and results in an increase in taxable income for the men. Hence, to contend that the increment should not be costed is a mathematical exercise which simply does not reflect the real impact of the respective offers."

According to the uncontradicted testimony of Employer witnesses, the Union had initially agreed to the validity of that concept.

It has been this observer's experience that the stance of the municipal Employer almost always relates to the overall cost in a particular bargaining year whereas the Union's quest often seeks longer-range changes. That certainly is the case in the instant matter. The Employer, about to face the cold scrutiny of the voters, says, "I don't care how you slice it, how much does it cost?" The Union says, "The Employer has been shifting the employment grid around for years and we can't depend on it or make plans for the future."

Both arguments have validity although the Union's initial concurrence with the Employer's costing conceptduring contract bargaining somewhat dilutes its argument.

The two sides also have differing views on the validity of proof concerning the cost of living and its impact on Clark County.[1]

For instance, the Union cites the Consumer Price Index published by the U. S. Department of Labor.

The Consumer Price Index is the only index compiled by the U. S. Government that is designed to measure changes in the purchasing power of the urban consumer's dollar. It serves two major functions.

> (1) It is a yardstick for revising wages, salaries, and other income payments to keep in step with rising prices.
>
> (2) It is an indicator of the rate of inflation in the American economy.

Beyond that, it is dependent on neither management nor labor and therefore is ostensibly factual and dispassionate. However, this observer is encountering more and more valid criticism of the Consumer Price Index as a good indicator of living costs. The biggest complaint (and the one advanced by the Employer in this case) is that the current index is based on buying patterns in 1972 and 1973, and increases representing changes in the prices of items since that time. But Americans have begun using cheaper substitutes - for example, more poultry and less beef. Yet the relative weight of those two items in the CPI hasn't changed. Thus, the index does not reflect changing consumption patterns - and, as a result, it is often misleading. In criticizing the CPI, the Employer is particularly disturbed by its failure to take into account improvements in the quality of goods and by the disproportionate weight it gives to housing costs. It appears that the price of shelter comprises nearly 30% of the CPI, but that weighing seems to be clearly absurd because it assumes that every family in Clark County buys and finances a new house every month.

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[1]One of the criteria set forth in the Statutes to be considered by an Arbitrator is: "The average consumer price for goods and services, commonly known as the cost of living". Wis. Stats. 111.77(6)(e)

Even more important, is the fact the Consumer Price Index bases its cost of living information on conditions in either the Minneapolis - St. Paul area or the Milwaukee area, both relative urban giants with exaggerated industrial wages and living costs when compared to Clark County, Wisconsin. The Union recognizes that Clark County is not close to Minneapolis - St. Paul or Milwaukee geographically, so it reasons that an average between the two areas' indexes should be made. This computation also appears to be inaccurate, however, considering that the two indexes averaged from were invalid to start with.

Nor is the U. S. National Consumer Price Index a valid one to compare to Clark County. The enormous variations in the entire country make any equations with it too imprecise to be used.

All things considered, in this Arbitrator's view, the Consumer Price Index can no longer be regarded as anything but a general reference point of economic well being.

Neither is the Union's contention that the morale of the bargaining unit would suffer greatly if the Employer's last offer were chosen, a valid one. The rate of retention and turnovers of the Clark County Sheriff's and Traffic Department certainly does not reflect a morale problem of any real proportion that this observer could see from the proof.

In the area of comparability, the Arbitrator has already commented on the invalidity of comparing conditions in large communities with those in Clark County. Thus, Arbitrators' Decisions from West Milwaukee, New Berlin, Brookfield, Manitowoc, LaCrosse and Wausau are not appropriate in this case.

On the other hand, comparisons with nearby Taylor and Jackson Counties do seem appropriate. By geographical proximity, by population and by equalized valuation and per capita gross income, those counties are more nearly comparable to Clark County than is Eau Claire, Chippewa, Wood and Marathon Counties, all of which contain much larger populations, equalized valuations and per capita gross incomes.

The only valid comparable data presented which showed the Employer's final offer was suffering when compared to other employment areas, was when the

the county's final offer was compared with other Clark County employment contract settlements. Union Ex. 6 (p. 21), showed that the Clark County Highway Department settlement averaged 1.7% higher than the final offer of the County's in this case. However, the exhibit did not inform the reader what the total compensation settlement was, whether the settlement was a first contract involving a "catch-up" wage proposal or what other concessions might have been granted to gain the increase. (It is interesting to note from Union Ex. 6 that Clark County Department of Social Services employees got a 1980 wage increase of but 6% the first six months with an additional 6% the second six months. This would make that department's overall wage increase for 1980 about 9% which was less than the final offer of the County in the instant case.)

Thus, from the proof offered, the Employer's final offer compares favorably with other Clark County department settlements.

DECISION

For all of the reasons above stated and in consideration of the factors enumerated in Sec. 111.77(6), it is the Arbitrator's decision that the final offer of the Employer is the more reasonable.

AWARD

Under the provisions of Wis. Stats. Sec. 111.77, the 1980 Contract of Employment between Clark County and the Clark County Law Enforcement Association shall incorporate the terms of the final offer of Clark County without modification and, further, the provisions contained therein shall be made retroactive to January, 1980.

Dated this 4th day of September, 1980.

Milo G. Flaten, Arbitrator