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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

EDWARD B. KRINSKY, ARBITRATOR

In the Matter of Arbitration Between	:	
	:	
FOND DU LAC COUNTY SHERIFF'S	:	
DEPARTMENT EMPLOYEES LOCAL 1366C,	:	Case 94
AFSCME, AFL-CIO	:	No. 36032
	:	MIA-1038
and	:	Decision No. 23369-A
	:	
FOND DU LAC COUNTY	:	
(SHERIFF'S DEPARTMENT)	:	
	:	

Appearances:

Mr. Richard Celichowski, Director of Administration,
for the County.
Mr. James L. Koch, District Representative, for the
Union.

On April 15, 1986, the Wisconsin Employment Relations Commission appointed the undersigned as arbitrator in the above-captioned matter. A hearing was held at Fond du Lac, Wisconsin, on July 11, 1986. Prior to the start of the hearing, and with the consent of the parties, a brief but unsuccessful attempt to mediate the dispute took place. At the hearing the parties had the opportunity to present evidence, testimony and arguments. No transcript of the proceedings was made. The parties submitted post-hearing briefs, and the record was closed on October 2, 1986, with receipt by the arbitrator of the County's reply brief.

The arbitrator is required by statute to select in its entirety one party's final offer or the other. The final offers are appended to this Award. The statute requires that the arbitrator consider certain factors in reaching his decision. Several of these statutory factors are not in controversy in this dispute: "(a) lawful authority of the employer; (b) stipulations of the parties; (g) changes during the pendency of the arbitration proceedings; (h) other factors . . . normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment . . ." The other factors are discussed below.

Wages

The Union's wage proposal of equity adjustments and across-the-board increases is designed to bring the wage rates of the bargaining unit closer to the wage rates paid to employees in the City of Fond du Lac Police Department. The Union presented unrefuted evidence that these employees do virtually identical jobs, work in the same building and by and large live and shop in the same community as do the City police. If anything, according to the Union, the jobs of unit members are more difficult and dangerous than those of City police because the unit members cover a much larger geographical area, with relatively much less manpower. The Union stresses the point that it is the usual case that unit members have to respond to difficult situations with little or no backup, and what backup there is may involve considerable delay. City police on the other hand have immediate backup.

The County does not deny Union assertions about the comparable nature of the County and City jobs. However it argues that there are other wage comparisons which are important, namely, the wage rates of Sheriff's Department employees in comparable counties, and the wages paid to other employees within the County. Moreover, the County argues that the current financial difficulties faced by the County make this an inappropriate time for larger than normal wage increases. It notes that the combination of equity adjustments and across-the-board increases sought by the Union amount to 17.1% for patrolmen, 20.9% for detectives and 20.6% for sergeants over the two year period.

The statute requires the arbitrator to give weight to "wages, hours and conditions of employment" of the employees in this arbitration "with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally: 1. In public employment in comparable communities. 2. In private employment in comparable communities."

The County makes wage comparisons with six other Sheriff's Departments: Dodge, Manitowoc, Outagamie, Sheboygan, Winnebago and Washington. These are counties that Arbitrator Zeidler determined to be comparable in a previous arbitration award involving the County based on factors of geography, population and financial considerations. The arbitrator views these as comparable counties for this arbitration as well. From the data presented by the County the arbitrator has put together the following table:

	Ranking of Fond du Lac County Compared to Six Comparable Counties				Fond du Lac County in Relation to 1985 Median	Fond du Lac County in Relation to 1986 Median
	1981	1984	1985	1986		
Sergeant	5	4	3	2-U. 4-Co.	+14 cents	+99 cents-U. +12 cents-Co.
Detective	5	5	5	2-U. 5-Co.	(-16 cents)	+62 cents-U. (-14 cents)-Co.
Patrolman	4	4	3	1-U. 4-Co.	+14 cents	+63 cents-U. +01 cents-Co.
Communications Officer	4	4	4	4	+83 cents	+89 cents-U. +69 cents-Co.
Correctional Officer	6	6	6	6	(-97 cents)	(-87 cents-U. 1.09 -Co.
Secretary	n/a	n/a	n/a	n/a	+63 cents	+74 cents-U. +56 cents-Co.
Cook	n/a	n/a	n/a	n/a	+48 cents	+57 cents-U. +40 cents-Co.

These comparisons favor the County's final offer. The County's offer generally maintains the County's relative ranking and the relationship of its wages to the median wages of the comparison counties although with some wage deterioration. By contrast, the Union's offer would greatly improve the relative rankings and put the County far above the comparison medians for the sergeant, detective and patrolman classifications. No justification is given by the Union for this relative improvement in relationship to the other counties. The Union's presentation stresses the relationship with the City of Fond du Lac and does not address the relationship with the other counties.

The Union put into the record newspaper clippings of area settlements with various public employee bargaining units in cities, counties and school districts, but these data are not supported by persuasive arguments concerning why they should be weighed in this case. They are not comparisons to "wages, hours and conditions of employment of other employees performing similar services." While they are

comparisons with other employes generally in public employment, they are not shown to be "comparable communities," as stated in the statute.

As already noted, the Union urges comparisons with the City of Fond du Lac Police Department. The arbitrator has prepared the following table:

	1985		HOURLY RATES			1986	
	County	City	County Compared to City	County Offer	Union Offer	City	County Compared to City
Sergeant	11.94	12.67	(-.73)	12.27	13.14	13.31	(-1.04)-Co. (- .17)-U.
Detective	11.60	12.67	(-1.07)	11.92	12.78	13.31	(-1.39)-Co. (- .53)-U.
Patrolman	11.20	11.67	(- .47)	11.51	12.13	12.25	(- .74)-Co. (- .12)-U.

These comparisons demonstrate that the County's offer would result in deterioration in the County's wage position relative to the City's in 1986, by approximately 30 cents per hour. The Union's offer would produce improvement relative to the City, of some 55 cents per hour in the sergeant and detective positions. The parties did not present historical data showing the relationship between County and City wages for protective services. The County has not demonstrated why there should be a decrease in its position relative to City officers. The Union has made persuasive arguments that the wage rates should be closer, given the similarity of duties, geographic area, and the disadvantage of the County employees in relative manpower. Comparisons with the City favor the Union's final offer for 1986.

Both parties presented some evidence with respect to private sector comparisons. However, none of this evidence is particularly germane to the present dispute, in the arbitrator's opinion. The County showed that there are some private employers in the area that are cutting services and/or asking for concessions from their employees. The Union presented data on wages paid to workers in the construction industry. On an hourly basis their wages and benefits are considerably higher than those paid to the bargaining unit. There is no data offered with respect to the number of hours they work per year, or their employment stability, or what relationship, if any, there has been historically between the wages and benefits of unit members

and employees in the construction industry. Thus, the private sector comparisons offered do not lead the arbitrator to favor one offer over the other.

Both parties cite comparisons made to other employee groups within the County. The County's offer for 1986 to this unit is 2.75%. The Union's offer, after making sizeable equity adjustments for several classifications is 3.75% (2.5% at 6-month intervals).

Employees in the highway bargaining unit, also represented by AFSCME, received a 4.5% increase for 1986. Employees at Rolling Meadows and Health Care Center represented by AFSCME received increases of approximately 2% (2%-LPN; 2.2%-Nurses Aide). Employees represented by the Social Services Association received wage increases on the order of 3% or higher (3.6%-IM Worker; 3%-Social Worker if the Union's offer is selected in arbitration). Non-represented employees in the Sheriff's Department received increases of 3%. It would appear to the arbitrator that the County's offer is a bit closer to what most other County employees have received or settled for for 1986. The glaring exception is the Highway Department. The arbitrator does not know by what rationale the Highway Department employees should receive more than the employees of the Sheriff's Department for 1986, except perhaps that the data show that they have received lesser percentage increases in the Highway Department since 1981. If the equity adjustments sought by the Union are considered, the wage increases given to this unit by selection of the Union's offer would far exceed those given to any of the other bargaining units in the County, including the Highway Department.

The arbitrator views the internal comparables as mixed. There is not a fixed pattern for 1986. In his view the internal comparables do not provide a clear basis for decision concerning which offer should be selected.

The discussion to this point has been focussed on the 1986 offer. When the 1987 offer is considered, the result appears to be that in all likelihood the wages of the bargaining unit will be higher than those of the comparable Sheriff's Departments (even the employees of the highest paid County in 1986 would need an 8% increase to stay even with the bargaining unit, and other departments would have to have much higher increases in order to keep up). Unless the City of Fond du Lac grants increases to its police in 1987 of 7 - 8% or more, the bargaining unit's wages will be higher than the City's wages in 1987. The arbitrator is not persuaded by the record in this case that the County should be required to pay wages to the bargaining unit which will put it into a leadership position ahead of these counties in 1987, and perhaps ahead of the City as well. If the parties want to voluntarily bargain such a change in relative wage

relationships, they will do so. In considering the statutory decision factors, the arbitrator does not view the record as supporting an order by him to accomplish such a restructuring of relationships.

Overall Compensation

The statute requires the arbitrator to consider the "overall compensation presently received by the employees . . ." There is no issue presented in this case concerning overall compensation. No data were presented showing the relationship of overall compensation in the County as compared to the comparison counties. The Union presented comparisons with overall compensation paid by the City of Fond du Lac. On many of the benefits, the County and City employees receive the same or very similar benefits, e.g. call-in pay, overtime, funeral leave, credits for schooling, shift differentials. On others the City appears to pay greater benefits, e.g. longevity, worker compensation, retirement, life and health insurance. The County benefits appear to be better with respect to vacations and holidays. It may be the case that overall the City's benefits are somewhat better, but this factor does not lead the arbitrator to prefer either party's final offer over the other's.

Interests and Welfare of Public

The statute requires that the arbitrator consider the "interests and welfare of the public and the financial ability of the unit of government to meet these costs." There is no dispute concerning the County's ability to pay. Through taxation and borrowing, if necessary, it can fund the Union's final offer.

The County has presented evidence of present and forthcoming economic difficulties. County Executive Anderegg testified about the problems faced by the County including: shrinking equalized value, increasing tax delinquencies, County takeover of the City Health Department and mandated County takeover of relief, decreasing state and federal revenues, lack of surplus funds on which to draw, reductions in County positions and non-filling of vacancies, and a need for a large increase in the tax levy. While these problems may not be worse in the County than they are in comparison counties, it remains the case that these are real economic difficulties.

Certainly it is in the interests and welfare of the public to have a quality Sheriff's Department with high employee morale and competitive wages and benefits. The County has offered to maintain its competitive position with comparison counties, but it has not shown a willingness in this dispute to pay the large increases necessary to bring the wages of the bargaining unit up to those of comparable

employees working for the City of Fond du Lac. It is not unreasonable for the Union to want to achieve equality with those employees when they do the same work in the same building and serving much of the same populace. However, the arbitrator does not believe that the County should be required to pay such catchup adjustments at this time in the present economic climate. This is not a case of the County paying to bring its employees back into line with City police. There is no documentation presented showing a history of equality between the two groups of employees. Rather, this is an attempt by the Union to achieve that equality for the first time. The goal is an appropriate one, but the timing is bad given existing economic conditions. It is the arbitrator's conclusion that the interests and welfare of the public are better served by selection of the County's offer.

Duration

The Union proposes that the Agreement be for two years; the County proposal is for one year. The parties have traditionally agreed to one year agreements, the most recent exception being in 1973-74. The other County bargaining units also have a history of one year agreements. In the arbitrator's opinion there is something to be said for the stabilizing effects of multi-year agreements which reduce the time spent at the bargaining table. However, given the pattern of one year agreements, the arbitrator favors the County's offer in this regard. The arbitrator views the duration issue as a secondary one, however, and would not view a two year offer as unreasonable if it were part of an offer which was preferred on other grounds. What is apparent in this case, however, is that the Union's second year proposal would put the unit's wages above all of the comparison Sheriff's Departments, and possibly ahead of the City of Fond du Lac Police Department as well. This result gives further support to the County's offer of a one year Agreement, for reasons explained above.

Shift Change

The County proposes to change the shifts of two employees. One is a typist position. The other change is in the shift of a detective position from 4:00 p.m. to midnight, to 3:00 p.m. to 11:00 p.m. The Union objects because the affected detective, the Union President Tzakais, will be required to get a baby sitter for one hour on each of three days a week when his wife's work schedule will overlap with his. The County gives as reasons for the shift changes that they are more in line with the shifts in other departments, and communication inside and outside the Department will be improved by the change. The County argues that the period between 11:00 p.m. and midnight is not a productive one, and the change will increase productivity. The Union argues that

the present shift is a productive one, and that there is no evidence to the contrary, nor have there been complaints made concerning the productivity of that shift or the performance of the incumbent in the position. Moreover, Tzakais, the incumbent, believes that the County's action is being taken for personal reasons against him as Union President.

The arbitrator does not find any basis in the record for concluding that the County's action is being taken for personal reasons. The County's allegations that productivity will improve, or that productivity has been a problem have not been supported by data. The proposed new shift is somewhat more comparable to shifts in other comparison departments than is the present shift. The arbitrator, while sympathetic to the incumbent, does not view his need to get a baby sitter as a legitimate reason for preventing the County from making the change.

The arbitrator believes that shift changes should be bargained, where possible, and not changed through arbitration unless there is documented need for the change which is persuasive, which is not the case here. For this reason, on this issue, the arbitrator would support the Union's position.

Cost of Living

The statute requires the arbitrator to weigh changes in the cost of living. Neither side made arguments pertaining to this factor. The arbitrator notes, however, that the County's offer is more in line with recent cost-of-living changes than is the Union's. On this factor the arbitrator would favor the County's position.

Wisconsin Retirement Fund

The County has offered to pay an additional \$10 per pay period to employees in the bargaining unit for retirement. The Union has offered that the increase be \$12. The statute governing retirement provided for a 1% increase on January 1, 1986. The County's offer has the effect of a 1.12% - 1.31% increase, depending on the affected classification; the Union's offer is a 1.35% - 1.57% increase. The Union argues that lower paid employees in other bargaining units effectively received a larger percentage increase in retirement contributions when they also received an increase of \$10 per pay period.

The arbitrator regards the differences between the parties' positions on this issue as small and both parties' offers are reasonable. He prefers to view this issue as part of the overall economic package, and he does not prefer either offer based on this issue.


The arbitrator is required by statute to choose one offer or the other in its entirety. Based on the above facts and discussion it is his conclusion that the County's offer is preferable. He finds the County's offer to be competitive with other Sheriff's Departments, and more reasonable than the Union's offer when the factors of the interests and welfare of the public, and the cost of living are considered. While the arbitrator is sympathetic to the Union's desire to have equality or near-equality with the City of Fond du Lac police, he is not persuaded that this is the appropriate time for the County to have to pay the additional monies that would achieve that result. Also, the Union's offer for the second year, when combined with the first year offer, would put the bargaining unit above the competition in the other Sheriff's Departments and possibly above the rates paid to the police in the City of Fond du Lac. The arbitrator is not persuaded that increases of that magnitude are called for at this time. It is true, as the Union points out, that selection of the County's offer results in a smaller increase for this unit than for the Highway unit. There is no way for the arbitrator to address that difference without awarding the Union's offer in its entirety, something which he feels is not justified based on the record before him.

Based on the above facts and discussion, the arbitrator hereby makes the following

AWARD

The County's final offer is selected.

Dated at Madison, Wisconsin, this 18th day of November, 1986.


Edward B. Krinsky
Arbitrator

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ROBERT W. LYONS
EXECUTIVE MEDIATOR

FEB 14 1986



Appendix B

*CA #2
EB!!*

Wisconsin Council 40

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

AFSCME, AFL-CIO

5 ODANA COURT • MADISON, WISCONSIN 53719 • 608/274-9100

February 13, 1986

JAMES L. KOCH
STAFF REPRESENTATIVE
151 S. BOX 234, ROUTE 5
FOND DU LAC, WI 54935

(414) 922 - 8554

Robert McCormick, Mediator
Wisconsin Employment Relations Commission
14 West Mifflin, P. O. Box 7870
Madison, Wisconsin 53707

Re: MEDIATION February 4, 1986
FOND DU LAC COUNTY SHERIFF'S DEPARTMENT
EMPLOYEES LOCAL 1366-C AFSCME AFL-CIO
WISCONSIN COUNCIL #40

Dear Mr. McCormick,

As agreed to at the aforementioned mediation session, find enclosed copies of the Union's final offer for simultaneous exchange through your office.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

James L. Koch
Union Representative

JLK:laa

Enclosures

cc: Christ Tzakais

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FEB 14 1986

FINAL OFFER OF THE UNION

FOND DU LAC COUNTY SHERIFF'S DEPARTMENT
EMPLOYEES LOCAL 1366 C AFSCME AFL-CIO
WISCONSIN COUNCIL #40

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

1. Two (2) year agreement effective January 1, 1986 through December 31, 1987.

2. ARTICLE XVI INSURANCE

16.03 Wisconsin Retirement Fund

(a) increase protective service employees share
paid by the County
FROM \$53.00 to \$65.00 (\$12.00 increase)

(b) increase all other participating employees share
paid by the County
FROM \$36.00 to \$46.00 (\$10.00 increase)

3. Provide wage adjustments on the following classifications prior to any across the board increases as follows:

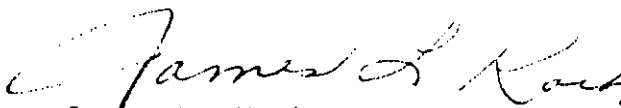
	1-1-86	7-1-86	1-1-87	7-1-87
SERGEANT	.28¢	.29¢	.28¢	.29¢
JUVENILE OFFICER	.28¢	.29¢	.28¢	.29¢
DETECTIVE	.28¢	.29¢	.28¢	.29¢
PATROLMAN	.17¢	.18¢	.17¢	.18¢

4. General wage increases across the board on all classifications as follows:

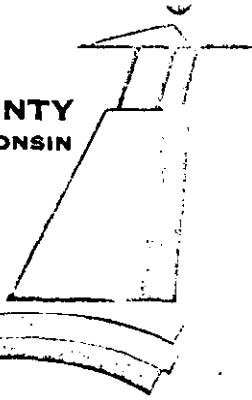
January 1, 1986	2.5%
July 1, 1986	2.5%
January 1, 1987	2.5%
July 1, 1987	2.5%

5. All items previously agreed to, and attached hereto.

Respectfully submitted on behalf of
Local 1366 C


James L. Koch
Union Representative

FOND DU LAC COUNTY
WISCONSIN



Appendix A

FEB 17 1986

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION
OFFICE OF THE COUNTY EXECUTIVE
CITY-COUNTY GOVERNMENT CENTER
160 SOUTH MACY STREET - 4th FLOOR
FOND DU LAC, WISCONSIN 54935
PHONE: (414) 929-3155

February 14, 1986

OK AT 1
EBK


Mr. Robert M. McCormick
Investigator
Wisconsin Employment Relations Commission
14 West Mifflin Street, Suite 200
Post Office Box 7870
Madison, Wisconsin 53707-7870

RE: Fond du Lac County (Sheriff's Department)
Case 94 No. 36032 MIA-1038

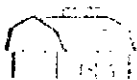
Dear Mr. McCormick:

Enclosed is a copy of Fond du Lac County's Final Offer in regard to the above referenced matter as well as a copy of the stipulation as to the items for which voluntary agreement has been reached.

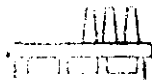
Very truly yours,


RICHARD CELICHOWSKI
Director of Administration

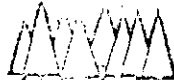
RC:ek
Enclosure



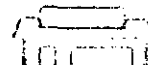
AGRICULTURE



INDUSTRY



RECREATION



BUSINESS

FOND DU LAC COUNTY

FEB 17 1986

FINAL OFFER

1986 SHERIFF'S UNION AGREEMENT

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION1. Article XII. Work Schedule

12.01 (a) (2) Delete "4:00 P.M. to 12:00 P.M." Detective

12.01 (f) Change "7:00 P.M. to 3:00 A.M."
to Typist
"1:00 P.M. to 9:00 P.M."2. Article XVI. Insurance16.03 Wisconsin Retirement Fund

Revise "For each employee who must be a participant of the Wisconsin State Retirement Plan and subject to the rules and regulations thereof, the County shall pay up to but not to exceed \$63.00 per pay period of each participating protective service employee's share of his/her monthly contribution to said plan and up to but not to exceed \$46.00 per pay period of all other participating employee's share of his/her monthly contribution to said plan."

(This constitutes a \$10.00 per pay period increase for each category of employee over that paid in 1985)

3. Wages

2.75% across the board increase

Richard Belchowski
2-14-86