

NOV 14 1986

STATE OF WISCONSIN  
BEFORE THE ARBITRATORWISCONSIN EMPLOYMENT  
RELATIONS COMMISSIONIn the Matter of the Petition of the  
LABOR ASSOCIATION OF WISCONSIN, INC.For Final and Binding Arbitration  
Involving Law Enforcement Personnel  
in the Employ of theCase 14  
No. 36274 MIA-1077  
Decision No. 23457-B

CITY OF RIVER FALLS (Police Department)

## I. APPEARANCES

For the Labor Association of Wisconsin, Inc.  
 William A. Rassmussen, President, River Falls Unit  
 Dennis A. Pedersen, Spokesperson, Lab. Assoc. of WI., Inc.  
 For the City of River Falls  
 Cyrus F. Smythe, Counsel to the City  
 Eric Sorenson, City Administrator

## II. BACKGROUND

On December 30, 1985 the Labor Association of Wisconsin, Inc., hereinafter called the Union, being the certified exclusive collective bargaining representative of the law enforcement personnel in the employ of the City of River Falls, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission initiate final and binding arbitration pursuant to Sec. 111.77(3) of the Municipal Employment Relations Act for the purposes of resolving an impasse arising in collective bargaining between the Union and the City of River Falls (Police Department), hereinafter called the Employer, on matters affecting the wages, hours, and conditions of employment of law enforcement personnel for the year 1986.

An investigation into the matter was conducted by a member of the Wisconsin Employment Relations Commission's staff on February 17, 1986. The Investigator, finding the parties still at impasse, accepted their final offers and advised the parties and the Commission that the investigation was closed and the parties remained at impasse. Subsequently, the Wisconsin Employment Relations Commission rendered a FINDING OF FACT, CONCLUSION OF LAW, CERTIFICATION OF RESULTS OF INVESTIGATION, AND ORDER requiring Arbitration.

The parties selected Donald G. Chatman as Arbitrator on June 23, 1986. A hearing was held on August 28, 1986 at 11.00 A.M. in the offices of the City of River Falls before the Arbitrator under rules and procedures of Sec. 111.77 of the Municipal Employment Relations Act. At this hearing both parties were given full opportunity to present their evidence, testimony and arguments, to summon witnesses and to engage in their examination and cross-examination. The parties agreed to the submission of their final arguments in the form of written briefs by October 17, 1986. The briefs were timely received and the hearing was closed at 5:00 P.M. on October 17, 1986. Based on the evidence, testimony, arguments and criteria set forth in Sec. 111.77(6) of the Municipal Employment Relations Act, the Arbitrator renders the following Award.

## III. FINAL OFFERS, STIPULATIONS AND ISSUES

The final offers of the parties are as follows:

## Union Final Offer;

Article XXI- Wages: Amend the 1985 rates to provide for a 3.5% increase across the board, effective January 1, 1986.

Article XXII- Retirement: Increase the two listed percentages in section 22.1 by 1.0%. Accordingly, the last sentence of this Section would, pursuant to this amendment, read: "The

said employee's share of the retirement contribution shall be equal to seven (7.0) percent of the protective occupation employee's gross earnings and six (6.0) percent of the other participants."

Article XXVII- Duration: Amend the dates in Section 27.1 to reflect a one year (1986) Agreement effective from January 1, 1986 to December 31, 1986.

Incorporate into the 1986 Agreement any other amendments previously agreed upon during negotiations.

All other provisions of the 1985 Agreement to be continued, without change, in the 1986 Agreement.

#### Employer Final Offer;

Article XXI- Wages: Amend the 1985 rates to provide for a two and one-half (2.5%) percent increase across the board effective January 1, 1986.

Article XXII- Retirement: Increase the two listed percentages in Section 22.1 by one (1.0%). Accordingly, the last sentence of this Section would read:

"The said employee's share of the retirement contribution shall be equal to seven (7.0%) percent of the protective occupation employee's gross earnings and six (6.0%) percent of the other participants."

Article XXVII- Duration: Amend the dates in Section 27.1 to reflect a one year (1986) Agreement effective from January 1, 1986, through December 31, 1986.

Incorporate into the 1986 Agreement items agreed to during negotiations.

All other provisions of the 1985 Agreement to be continued in the 1986 Agreement.

#### Stipulations

The parties have stipulated to agreement on Articles XXII (Retirement) and XXVII (Duration) as well as any other agreements reached during negotiations. They have further agreed that all other provisions of the 1985 agreement shall be continued in the 1986 Agreement. The Employer's Final offer is attached as Appendix A. The Union's Final Offer is attached as Appendix B.

#### Issues

The only issue remaining in contention between the parties is the 1986 wage rates. The Employer has proposed a two and one-half (2.5%) percent increase across the board beginning January 1, 1986. The Union has proposed a three and one-half (3.5%) percent wage increase across the board beginning January 1, 1986. The parties stipulate that no other issues are in contention which would prevent the resolution of a successor agreement.

#### IV. CONTENTIONS OF THE PARTIES

The Union contends the only issue to be decided by the arbitration is the amount of wages to be paid patrolmen during the 1986 contractual year. They argue that under Wisconsin Statutes, Sec. 111.77(6) the Union's final offer is more reasonable at a 3.5% across the board increase for 1986 than the Employer's final offer of 2.5% across the board. The Union maintains the Employer has the lawful authority and the ability to pay such final offer and this issue was never in dispute. The Union further contends that there

There are no stipulations which are or may be determinative in this impasse which are at issue. The Union contends its final offer best serves the interests of the public by recognizing the need to maintain the morale and retain the best and most highly qualified officers in the police department. Further, the Union's final offer maintains the long standing relationship between unit members pay and other law enforcement employees within the City of River Falls, as well as other law enforcement employees in similar classifications in the immediate area. The Union argues the Employer has relied on certain internal settlements with other represented non-law enforcement employee groups as justification for their lower final offer. The Union maintains that such lower settlement offers were voluntary on those other unions' part and law enforcement personnel should not be compelled to accept such settlement. The Union's position is that it is appropriate for law enforcement personnel to seek a settlement unique for its different type of bargaining unit. The Union argues that Arbitrators have previously held that different types of bargaining units under the same employer are independent of each other and able to pursue negotiation separately. To substantiate its position that the Union's final offer was more reasonable the Union presented exhibits which purported to show that this bargaining unit was never lower than second in pay for top rank patrolmen since 1980 (Union Exhibits 6-12). The Union maintains the Employer's 1986 final offer would leave them more deeply in this second position and thus, create an unreasonable disparity in the previous comparable relationship with other law enforcement personnel. The Union contends that it had maintained an internal comparability with the wages of the River Falls Police Sergeants. While both final offers create a heretofore unprecedented gap between that of the patrolmen's bargaining unit and the sergeants, the Employer's final offer widens that gap to an unacceptable level. While, the Employer's final offer was 2.5% to the Patrolmen's union, the non-unionized sergeants received a 4.0% base rate increase for 1986 in addition to a longevity pay buyout (Union Exhibit, 14). The Union maintains its final offer most closely maintains the historical relationship between itself and other law enforcement personnel in the City of River Falls, as well as other comparable law enforcement personnel in the area. The Union argues its final offer should prevail.

The Employer contends that the only issue before the Arbitrator is the appropriate percentage wage increase of 2.5% or 3.5% for the contractual year 1986. The Employer indicates that the Union's list of comparables is deficient and should include the counties of Dunn and Pepin. The Employer contends its non-management law enforcement officers (Patrolmen) group should not be compared to its management police officer's group (sergeants), because the sergeants do not receive overtime pay, or longevity pay and lost severance pay in 1986. These are alleged benefits received by the patrolmen, and thus, the two groups should not be compared to each other. The Employer contends its final offer should be zero percentage increase based on the change in the Minneapolis-St. Paul Consumer Price Index. The Employer states however, that because Wisconsin arbitration precedent has required the transition from an unjustifiable high or low wage to a rate which is consistent to presumably justifiable wage rates, the change should be gradual rather than abrupt. Therefore, the Employer has made a final offer of 2.5% to this employee group, which is more than other unionized employees have received and much more than the increase in the C.P.I. for this period. The Employer contends that for matters of comparability the Counties of Dunn, Pepin, Pierce, and St. Croix, along with the cities of Hudson, Menomonie and New Richmond are the representative groups. The 1986 wage rate data from these comparables show the average rate for a top Police Officer to be \$11.23/hr. The River Falls top Police Officer rate for 1985 is \$12.27/hr. or \$1.04/hr more than the comparable communities are currently paying. The Employer maintains that this wage rate is unreasonable and the employer should not be compelled to pay in perpetuity an unjustifiable wage because it has done so in the past. The Employer maintains the Union's benefits are comparable with other employee groups both internally and externally and thus

cannot serve as the basis for the higher than average wage increase sought by the Union. The employer contends that its Unionized Police Officers are overpaid and its stated intent is to reduce the presumed disparity of their wages against other comparables over time. Thus, the Employer maintains its 2.5% final offer wage increase should prevail.

#### V. DISCUSSION

The parties, in their contentions, have established some parameters for deciding which final offer is acceptable. There are several mandates of Section 111.77(6) which are not at issue. Foremost, is that no other issue besides the 1986 wage increase stands between the parties. There is no argument on the part of the Employer on ability to pay the final offer. The rank position of this bargaining unit among its external comparables will not change regardless of which final offer is accepted and the Employee group will remain above the average in pay.

The Union's argument for sustaining its 3.5% wage increase is that this bargaining unit has historically been either the highest paid law enforcement officers or a very close second in pay for comparables for a period of at least six years. While the Union concedes its current final offer positioning erodes the Union's proximity to the highest paid law enforcement officers in the area, the Union maintains it is less corrosive on wages than the Employer's final offer. The Employer, by stated intent desires to hold down the level of wage increase for this bargaining unit. The Employer does not believe any wage increase is justified at this time and the final offer is made to comply with the presumption of Wisconsin arbitral precedent. An examination of the data provided by both parties show that both positions are accurate.

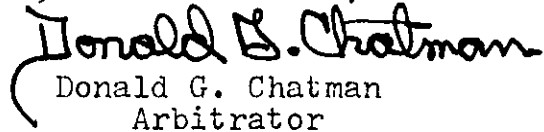
The Union's final offer erodes its relative comparable position and the Union provides no data as to why they have adopted this position, since it is below the average paid to other comparables in 1986. The Employer's stated intent to reduce the so called unjustifiable wage of this unit fails to answer two questions. First, if the wage is unjustified, how did it get that way since the greatest increases were negotiated through voluntary settlement rather than mediation/arbitration? Second, if the rationale of the Employer is based on the CPI for this period why were not previous offers in other years based on the CPI. This Arbitrator does not find either argument compelling enough for disposition on these issues. Both positions lack consistency. The Union's argument that it should be compared to the other law enforcement officers (Sergeants) where a 4.0% wage increase was granted by the Employer (Union Exhibit, 14) appears to have some merit. Both units are in the same community, would appear to have the same working conditions and have frequent interaction. The Employer argues that these two units should not be compared, because the organized Patrolmen are paid overtime, severance pay, and longevity pay which the non-organized sergeants are not paid. These arguments are not very impressive. Overtime is a commonly accepted method for providing a product or service without some concomitant indirect labor costs, and at a reduction in direct human resource costs. Thus, overtime may be construed to be a management benefit. Severance pay is also a circumscribed benefit which is not bestowed until the employee satisfactorily terminates their employment. It is possible that no severance pay benefit might exist at the time of employment termination. The Employer argues that the 1986 wage increase ought to be zero based on the CPI. The Employer's data (Employer Exhibit, CPI) shows the Minneapolis/St Paul December 1984 to December 1985 CPI to be increased by 3.8%. The Employer's final offer is below this All Urban Consumer CPI. However, this metropolitan CPI was not demonstrated to have a relationship with the Employer or the Union. Neither party produced any data or negotiations history showing that wage settlements have followed the CPI. Which incidently, has averaged 6.0% annually since 1981. The meritorious part of the Employer's argument is "the City's position in this case should be a zero change in wages rather than a 2.5% increase. ... The degree to which this employee group is overpaid must be

reduced over time". If this is the Employer's total position it is viable. However, the Employer has given a base 4.0% raise to the sergeants, while arguing that the sergeants group gave up longevity pay. The data indicates the Employer actually increased the amount of money paid to sergeants, 4.0% plus money over the amount formerly received in longevity payments for 1986 contractual year. From 1981 to 1985 there was approximately a 10% difference in the monthly wages of top patrolmen and sergeants. In the 1986 final offers this difference is increased to 11.2%. This indicates to this Arbitrator that the Employer only desires to decrease the wages of some law enforcement officers. Since no explanation was provided for this unique selection, the arbitrator deems that the offer of the Union most closely preserves the previous wage relationship between law enforcement officers in the City of River Falls and is the most acceptable.

#### VI. AWARD

The 1986 Agreement between the LABOR ASSOCIATION OF WISCONSIN, INC. and the CITY OF RIVER FALLS ( Police Department) shall contain all the stipulations of the parties and the final offer of the Labor Association of Wisconsin, Inc. (Union) in its entirety.

Dated this 13th day of November 1986 at Menomonie, Wisconsin.

  
Donald G. Chatman  
Arbitrator

CITY OF RIVER FALLS

FINAL OFFER

March 13, 1986

The following represents the final offer of the City of River Falls for an Agreement between the River Falls Police Association and the City of River Falls:

1. ARTICLE XXI - WAGES

Amend the 1985 rates to provide for a two and one-half percent (2-1/2%) increase across-the-board effective January 1, 1986.

2. ARTICLE XXII - RETIREMENT

Increase the two listed percentages in Section 22.1 by one percent (1%). Accordingly, the last sentence of this Section would read:

"The said employee's share of the retirement contribution shall be equal to seven (7) percent of the protective occupation employee's gross earnings and six (6) percent of the other participants."

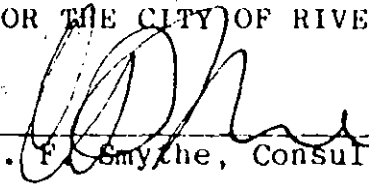
3. ARTICLE XXVII - DURATION

Amend the dates in Section 27.1 to reflect a one year (1986) Agreement effective from January 1, 1986 through December 31, 1986.

4. Incorporate into the 1986 Agreement items agreed to during negotiations.

5. All other provisions of the 1985 Agreement to be continued in the 1986 Agreement.

FOR THE CITY OF RIVER FALLS:

  
C. F. Smythe, Consultant

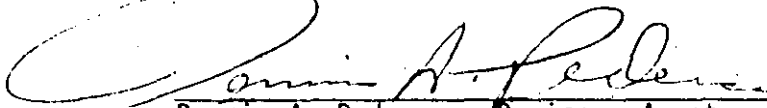
Dated: March 13, 1986

FINAL OFFER

The following represents the final offer of the River Falls Police Department Employees' Association for a successor Agreement to the 1985 Agreement between said Association and the City of River Falls.

1. Article XXI - Wages: Amend the 1985 rates to provide for a 3% (3.5%) increase, across the board, effective 1/1/86.
2. Article XXII - Retirement: Increase the two listed percentages in Section 22.1 by 1%. Accordingly, the last sentence of this Section would, pursuant to this amendment, read: "The said employee's share of the retirement contribution shall be equal to seven (7) percent of the protective occupation employee's gross earnings and six (6) percent of the other participants."
3. Article XXVII - Duration: Amend the dates in Section 27.1 to reflect a one year (1986) Agreement effective from 1/1/86 through 12/31/86.
4. Incorporate into the 1986 Agreement any other amendments previously agreed upon during negotiations.
5. All other provisions of the 1985 Agreement to be continued, without change, in the 1986 Agreement.

For the Association:

  
Dennis A. Pedersen, Business Agent  
The Labor Association of Wisconsin, Inc.

Dated: March 12, 1986