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STATE OF WISCONSIN
INTEREST ARBITRATION

EMPLOYMENT
RELATIONS COMMISSION

In the Matter of Arbitration

between

CITY OF WAUSAU

and

WAUSAU PROFESSIONAL POLICE
ASSOCIATION

Case 41
No. 36674
MIA-118

Decision No. 23554-A

Hearing Held

January 16, 1987
City Hall
Wausau, WI

Appearances

For the Employer:

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P.O. Box 1004
Wausau, WI 54402-1004

Arbitrator

Steven Briggs
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Milwaukee, WI 53211

For the Association:

Richard T. Little
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Wauwatosa, WI 53226

BACKGROUND

The undersigned was notified by a June 16, 1986, letter from the Wisconsin Employment Relations Commission of his selection as Arbitrator in an interest dispute between the City of Wausau (hereinafter Employer) and the Wausau Professional Police Association (hereinafter Association). The dispute stems from a reopener clause in the parties' 1985-1986 Labor Agreement, and concerns wages and retirement fund contribution language.

Pursuant to responsibilities under Sec. 111.77 of the Wisconsin Statutes, an arbitration hearing was conducted on January 16, 1987, during which time both parties were afforded full opportunity to present evidence and argument in support of their respective positions on the issues. The hearing was not transcribed. The parties agreed at the hearing that Posthearing Briefs would be exchanged through the undersigned, and

according to the Arbitrator's notes, postmarked by February 27, 1987. The Employer's Posthearing Brief was postmarked by that date; the Association's was postmarked March 27, 1987. In an April 5, 1987, letter to the parties, the Arbitrator asked that the Employer raise in writing within ten calendar days any objection it might have to acceptance of the Association's Brief as timely.

The undersigned received an April 7, 1987, letter from the Employer, quoted in pertinent part below:

We received a copy of the Union's Brief in the above referenced matter on April 7, 1987. It was our understanding that Briefs were to be exchanged simultaneously through the Arbitrator postmarked no later than February 27, 1987. Apparently, there was a misunderstanding. My notes clearly reflect that the agreement reached at the hearing was that any clarification Exhibits would be submitted to you by January 26 and that the Briefs were due postmarked by January 27, 1987 (sic).

The Association was apparently under the impression that Posthearing Briefs were to be postmarked by March 27, 1987. In the interest of compiling a complete record in this matter, and since the Employer's April 7, 1987, letter does not specifically object to acceptance of the Association's Brief into the record, the Arbitrator considers the Association's Brief to have been timely filed.

The record was declared closed on March 27, 1987. Based upon a detailed study of the record, and relying upon the criteria set forth in Section 111.77, Wisconsin Statutes, the Arbitrator has formulated this Award.

THE PARTIES' OFFERS

Employer Offer

The Employer's offer is quoted below:

"APPENDIX A", revise to provide as follows:

Monthly Wages

Effective 1/1/86

POLICE OFFICER*

\$1,827

* The Safety Officer shall receive Twenty-Five Dollars (\$25.00) per month above a Police Officer's salary. The Juvenile Officer shall receive Eighty-Two Dollars (\$82.00) per month above the Police Officer's salary.

Any person beginning employment with the Wausau Police Department shall start at eighty-five percent (85%) of the job rate in the classification for which he has been hired. Upon successful completion of six (6) months of service he shall receive ninety percent (90%) of the job rate and upon the completion of one (1) year of service he shall receive ninety-five percent (95%) of the job rate and after two (2) years of service he shall receive the full job rate for his classification. Early advancement under the above procedure must receive the prior written approval of the City Personnel and Labor Relations Committee.

ARTICLE 12 - RETIREMENT FUND

Add the following:

If, at any time, any City of Wausau or Marathon County employee is voluntarily granted an employer pickup of the additional one percent (1%) of the employee's share, the employees of this bargaining unit shall also be granted the one percent (1%) pickup.

Association Offer

The Association's final offer is quoted as follows:

WAGES

a. Effective January 1, 1986 - 2%.

b. Effective July 1, 1986 - 2% - based on the rates in effect at the beginning of the year. In other words, we are seeking a new 4% lift on wages at a cost of 3% to the City for the calendar year 1986.

ARTICLE 12 - RETIREMENT FUND

The City would pay an additional 1% towards the employees' share of the retirement fund to cover the recent increase.

THE PARTIES' POSITIONS

Employer Position

The Employer's position may be summarized as follows:

1. Marathon County and the City of Wausau should be viewed as a single employing entity, due to their longstanding interrelationship. The City and County since 1974 have maintained a single personnel office, and have established a policy of consistency with respect to wages increases and fringe benefits. A Joint City-County Personnel Committee meets during the collective bargaining process to pursue common goals.
2. A settlement pattern on the issues raised herein has been established among 16 bargaining units across the City of Wausau and Marathon County, and considerable arbitral authority in Wisconsin has evolved on the appropriate weight to be given to internal comparables.
3. The pattern set by joint City-County efforts has been a 4% wage increase for 1986, with no change in the Employer contribution to the retirement fund. The Employer's offer in this dispute maintains that pattern, and is therefore the more reasonable.
4. The Association's final offer would have a detrimental effect on the close historical wage relationship created among protective service employees in the City of Wausau and Marathon Counties (i.e., City Police, City Firefighters, County Deputy Sheriffs). Moreover, nearly all of the settlements composing that historical pattern have been achieved voluntarily. Therefore, since the Employer's final offer consistently maintains this settlement pattern as well as the historical relationship, it should be adopted.
5. The Association has offered no credible evidence to support its demand for a split increase fashioned solely to support a retirement benefit superior to that enjoyed by other City and County employees.
6. It is well-established in interest arbitration that a consistent fringe benefit pattern should be maintained among employee groups of an employer, and the Employer's offer in the instant case maintains a distinct pattern. Analysis of the retirement payment provisions in all City of Wausau and Marathon County collective bargaining agreements and ordinances/resolutions for non-represented employees as well reveals that all City and County employees are covered by language identical to that contained in the Employer's offer here..

7. The Association's final offer to "fund" the higher retirement contribution by splitting the wage increase is nothing short of financial slight of hand and an abuse of the interest arbitration process. The Arbitrator should not grant the last unit to settle the opportunity to gain through arbitration what could not be attained voluntarily by any other City and County bargaining unit.

8. Economic circumstances have not changed or improved in the City to allow a departure from the wage and benefit pattern established in 1985 and early 1986.

9. Given the foregoing arguments, external comparables should be afforded little or no weight. If the Arbitrator does choose to consider external comparables, the appropriate communities in the comparables pool are Antigo, Rhinelander, Merrill, Marshfield, Stevens Point and Wisconsin Rapids. These communities were selected on the basis of geographic proximity, population, unemployment, average wage rates and household income.

10. The Employer's final offer retains the historical relationship between wages and benefits of Wausau Police Officers and those of the external comparables.

11. The Employer's offer exceeds increases in the cost of living.

Association Position

The Association's arguments in support of its final offer may be summarized as follows:

1. The Association's final offer serves the public interest in that it recognizes the need to maintain police officer morale and to retain the best and most highly qualified officers. These needs are met by maintaining the longstanding relationship between members of the bargaining unit and law enforcement officers in surrounding communities.

2. The external comparables proposed by the Association are identical to those employed by Arbitrator Richard J. Miller in the arbitration decision affecting the parties' 1985-1986 Labor Agreement. Those comparables supported the Employer's final offer during that proceeding, yet the Employer has chosen to fashion a different external comparables pool for the instant case.

3. There is no question that there is a historical relationship between Marathon County and City of Wausau bargaining units. However, strict adherence to a settlement pattern among those units effectively precludes employee groups which have not yet settled from ever obtaining a wage settlement other than that agreed upon voluntarily by other units. The Employer's rigid position on internal comparables essentially forces the Association to "agree or arbitrate," thereby frustrating the collective bargaining process to the point of non-existence.

4. The Employer's data on internal wage comparables are provided in a factual vacuum, with no indication of similarities between the differing classes of employees. For example, the Employer did not provide information on settlements since 1979 as to fringe benefits.

5. The Association's final offer will do nothing more than maintain its relative position in comparison with law enforcement officers in surrounding communities. Moreover, in terms of year end rates, the parties' wage offers are identical.

6. Both in terms of the average wage rate and the top patrol pay classification, the wages paid to City of Wausau law enforcement officers are showing a progressive downward trend when compared to those paid to officers in surrounding communities.

7. Employer payment of the full cost of employee retirement contribution is the status quo. Thus, when that amount increased by statute on January 1, 1986, the status quo adjusted along with it. The City proposes to change that status quo, making employer payment of the employee retirement contribution a discretionary benefit. The City therefore bears the burden of proving that such a change is appropriate.

8. The "me too" clause in the Employer's retirement offer gave the Association no avenue besides interest arbitration to settle this dispute. It would grant the extra 1% employer contribution to Wausu Police Officers only in the event of a "voluntary" settlement in another City or County unit, and the Employer is obviously unwilling to agree to such a contribution voluntarily.

9. Settlements within the comparable area have consistently exceeded the Consumer Price Index.

10. Overall compensation should not be a factor, as the parties were restricted under the reopener from revising any issues except wages and one other.

DISCUSSION

Wages

The parties' wage offers ultimately result in essentially the same rate for members of the bargaining unit. Moreover, all of the language in the Employer's offer with respect to Safety Officers, Juvenile Officers, and reduced rates for new Police Department employees is contained in the 1985-1986 Labor Agreement. Such language is implicitly incorporated into the Association's final wage offer as well, since it specified only its desired wage increases on a percentage basis and did not seek deletion of any language items in the wage article.

Thus, the only real difference between the parties' wage offers is in the Association's split increase --- with a 2% raise on January 1, 1986, and another 2% on July 1, 1986. The Employer's offer equates to a straight 4% increase on January 1, 1986, and therefore represents a greater dollar increase over calendar 1986 than does the Association's.

Furthermore, the internal comparable evidence supporting a 4% increase is overwhelming, and it would be inappropriate for Wausau Police Officers to receive any less if wages were the only issue in this arbitration.

Retirement Fund

The focal issue here is really the Employer's contribution on behalf of bargaining unit employees to the Wisconsin Retirement Fund. The Retirement Fund language from the parties' 1985-1986 Labor Agreement is quoted below:

All eligible officers shall be included under the Wisconsin Retirement Fund or the old Police Pension Fund (Section 62.13(9), Wisconsin Statutes. The City shall pay on behalf of each officer to either of these funds at a rate not to exceed 4 per cent for officers in the old Police Pension Fund and not to exceed 6 per cent for the employees covered by the Wisconsin Retirement Fund. All such payment of contributions made by the City shall be reported to the Wisconsin Retirement Fund in the same manner as though deducted from the earnings of participating employees. These payments of contributions made by the City shall be available for all retirement fund benefit purposes to the same extent as normal contributions which were deducted from the earnings of the participating officers, it being understood that such payments made by the City shall not be considered

municipality contributions. The employee shall pay any additional retirement costs required by law.

As indicated above, the status quo with respect to the Employer contribution to the Wisconsin Retirement Fund is "not to exceed 6%." The parties' intent with regard to additional retirement costs is mirrored in the last sentence of the above clause: "The employee shall pay ...". Thus, the Arbitrator rejects the Association's argument that "full payment" by the Employer of the employee retirement contribution is the status quo. If that were indeed the case, it is reasonable to conclude that the parties would have negotiated language to that effect.

It is clear from the record that both the City and County operate as a single employer. They have established a joint human resources department to handle all human resource functions, including labor relations. The director of the department obtains guidance from both the City's Personnel and Labor Relations Committee and the County's Human Resources Committee and is responsible for implementing and administering the employment policies established by them. And all City and County labor agreements except for the one under consideration here contain the "me too" clause proposed by the Employer in the instant case (Employer Exhibit 10a). Thus, the undersigned has concluded that Marathon County bargaining units are properly considered internal comparables, along with City of Wausau bargaining units.

The composition of the appropriate external comparables pool is a little more difficult to identify. The Employer argues that the appropriate group consists of Antigo, Marshfield, Merrill, Rhinelander, Stevens Point, and Wisconsin Rapids. The Association maintains that the appropriate group is Stevens Point, Marshfield, Wisconsin Rapids, Weston, Rothschild, Schofield, Marathon County, Wood County and Portage County. As noted in the preceding paragraph, the undersigned has already concluded that Marathon County bargaining units are properly considered as internal comparables in this case. With that exception, the remainder of the Association's external comparable group seems appropriate. All employers included are geographically proximate to Wausau, and generally speaking their 1985 populations are within the population range of external comparables proposed by the Employer. The exceptions are the Village of Rothschild and City of Schofield, both of which are so close geographically to Wausau that they obviously operate in the same labor market.

The undersigned also notes that the external comparables group proposed by the Association here was embraced by another arbitrator in the most recent interest arbitration between these same parties. Bargaining stability is thus served by maintaining virtually the same group as the appropriate

external comparison pool here. Moreover, the Employer's suggested external comparables group does not seem to be based upon a consistent rationale. For example, while claiming to give credence to population, the Employer included Rhinelander (1985 pop. 7,871) but excluded Weston (1985 pop. 10,798). Both of those jurisdictions have smaller populations than does Wausau. The Employer also reportedly relied upon geographical proximity to Wausau in selecting its external comparables, and Weston is closer to Wausau than is Rhinelander. For all of these reasons, the undersigned has adopted the Association's external comparables group (with the exception of Marathon County, as discussed) as the appropriate external comparables pool.

Turning to the employer retirement contributions made across the external comparables pool, it is clear from the record that if external comparability were the only standard, the Association's offer here would be the more reasonable. That is, each employer in that group assumed the additional 1% cost effective January 1, 1986.

On the other hand, it is clear from the record that the internal comparables pool is overwhelmingly supportive of the Employer's final offer. All of the labor agreements for bargaining units in that group contain parallel language on the retirement contribution issue, and all provide that the employer shall pay a maximum of 6% for employees covered by the Wisconsin Retirement Fund.

The apex of the retirement contribution question is therefore the respective weights to be attached to the internal vs. external comparables. Under the circumstances of this case, the record has convinced the Arbitrator that the internal comparables pool is the more relevant comparison. The benefit package enjoyed by employees in all City of Wausau and Marathon County bargaining units is essentially identical (Employer Exhibit 10), and has been for several years (Employer Exhibit 9). And the Arbitrator is not convinced by the Association's arguments that a special need to break such a consistent settlement pattern exists with regard to the Police unit.

Nor is the Arbitrator persuaded by the Association's argument that giving controlling weight to the internal comparison factor in this case is repugnant to the collective bargaining process. A pattern of wages and benefits in City of Wausau and Marathon County bargaining units has developed as a result of long and presumably difficult negotiations. That pattern was developed through free collective bargaining, presumably by labor relations professionals, and it is reasonable to conclude that they were well-acquainted with the equities involved. Moreover, since this particular case represents the last outstanding interest dispute among all of the internal


comparables, a decision which overturns the pattern already set would undoubtedly make future negotiations across those bargaining units more difficult than they might otherwise be. Finally, a departure from the internal pattern so consistently established might discourage prompt voluntarily settlement in the future by waving in front of the bargainers the possibility of gaining more through interest arbitration than that achieved for other City and County bargaining units on a voluntary basis.

In addition, nothing in the record supports the Association's claim that its final offer is more alligned with the public interest than is the Employer's final offer. The ultimate cost of the parties' offers is essentially the same (Association Exhibit 32), and the Arbitrator is not convinced that adoption of the Employer's offer would have a damaging effect on police department morale.

AWARD

After detailed study of the record, including all of the evidence and argument presented by both parties, and in consideration of all relevant statutory criteria, the Arbitrator has concluded that the Employer's final offer shall be incorporated into the parties' 1985-1986 Labor Agreement.

Signed by me at Milwaukee, Wisconsin, this 19th day of May, 1987.


Steven Briggs