

OCT 30 1986

WISCONSIN EMPLOYMENT
RELATIONS COMMISSIONWISCONSIN EMPLOYMENT RELATIONS COMMISSION
BEFORE THE ARBITRATOR

In the Matter of the Arbitration :
of a Dispute Between :
: :
CITY OF NEW LONDON :
: :
and : AWARD AND OPINION
: :
NEW LONDON POLICE ASSOCIATION : Decision No. 23674-A
: :

Case No. 36483 MIA-1098
Hearing Date August 12, 1986
Appearances:
For the Employer MR. EARL J. LUADERS,
Attorney at Law
For the Union McKay, Mohr & Beinlich, S.C.,
Attorneys at Law, by
MR. FREDERICK J. MOHR
Arbitrator MR. ROBERT J. MUELLER
Date of Award October 29, 1986

BACKGROUND

The City of New London, hereinafter referred to as the "City" and the New London Police Association, hereinafter referred to as the "Association," reached an impasse in negotiation on the successor agreement for the calendar year 1986. A petition was filed with the Wisconsin Employment Relations Commission initiating final and binding arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act by the City on February 4, 1986. Said petition was thereafter processed to arbitration before the undersigned in conformance with the statutory procedures.

The arbitrator is charged with applying the criteria expressed in Section 111.77(6) of the Wisconsin Statutes to the final offers of each party and to determine which of the two final offers is most supported by the application of the statutory criteria and select the final offer that is so favored to be incorporated into the parties' 1986 Collective Bargaining Agreement. Each of the parties submitted final offers that were addressed to the single issue of wages that remained unresolved between the parties. Said final offers were as follows:

FINAL OFFERSCity Offer

\$850.00 per wage category increase per year.

Association Offer

No increase at starting salary - 5% across the board for all other steps.

POSITIONS OF THE PARTIES AND DISCUSSION

Both parties presented wage data of other law enforcement employees performing similar services in other communities.

The Association selected five communities to be used for external comparison purposes on the basis of proximity and population. One of their exhibits set forth the following comparative data.

New London is a city located in Waupaca County with a population of 6,210. Within 20 miles of New London there are four communities with populations between 5,000 and 15,000. They are Kaukauna 11,310; Kimberly, 5,881; Little Chute, 7,907 and Menasha 14,728. The county seat of Waupaca County is the City of Waupaca with a population of 4,472.

The Association drew the following comparison of what they contended were comparative hourly wages for the year 1986 between the City's final offer and the Association's final offer in comparison to the five indicated comparables. Such hourly rate comparison as submitted by the Association indicated as follows:

<u>New London</u>	<u>Kimberly</u>	<u>Kaukauna</u>	<u>Menasha</u>	<u>Little Chute</u>	<u>Waupaca</u>
City - \$10.78	\$11.23	\$11.23	\$12.88	\$11.62	\$10.27
Assn. - \$10.88					

The Association also presented and computed the percentage increases and the dollar increases represented by the settlements at the listed comparables as compared to the yield offered under the City and Association final offers as follows:

<u>New London</u>	<u>Kimberly</u>	<u>Kaukauna</u>	<u>Menasha</u>	<u>Little Chute</u>	<u>Waupaca</u>
City - 4%*	4.8%	5.0%	4.5%	8.7%**	4.7%
(\$850.00)	(\$1,060.80)	(\$1,112.19)	(\$1,100.28)		(\$950.00)
Assn. - 5%				(\$1,934.40)	
(\$1,057.35)***					

* The Association computed the City's offer as constituting a 4% average increase.

** Includes 50¢/hour premium paid to "First Responders."

*** Represents the patrolman after two years' rate increase.

The City presented into evidence the following data with respect to other comparable cities:

C. Comparable cities.

1. Clintonville wages for 1986 range from \$1,564.24 per month (\$8.93 per hour) to \$1,893.55 per month (\$10.81 per hour) the wage increase from 1985 to 1986 was 40¢ representing a 4½% increase over 1985 wages
2. Average salaries as contained in survey compiled by Demographic Services Center, Wisconsin Department of Administration as of June 1, 1985:

New London	\$20,964 per year	\$10.07 per hour
Ripon	\$16,131-\$19,971	
Seymour	\$18,540-\$19,332	
Shawano	\$16,440-\$20,172	
Waupaca	\$16,776-\$20,172	
Waupun		\$8.68-\$10.25

The Association argued that the rates of Clintonville can reasonably be expected to be lower than the rates at New London. The population of Clintonville is 4,567 people, which is smaller than New London. Further, it is approximately 30 miles from the metropolitan area of Appleton, whereas New London is located only 18 miles from such major metropolitan area. Finally, Clintonville is a more rural area than is New London.

The evidence was that of the 11 employees in the bargaining unit, 9 employees are presently situated in the pay scale at the patrolman after two years level. The arbitrator will therefore extract the comparable rate from the exhibits.

The Appendix A salary schedule of the 1985 Collective Bargaining Agreement was as follows:

PATROLMAN

STARTING	HOUR RATE
\$19,329	\$9.52
AFTER SIX MONTHS	
\$19,641	\$9.68
AFTER 1 YEAR	
\$20,724	\$10.21
AFTER 2 YEARS	
\$21,147	\$10.42
PATROL OFFICER 11	
\$21,418	\$10.55
PATROL OFFICER 111, INVESTIGATOR 1 and TRAINING OFC. 1	
\$21,648	\$10.67
PATROL OFFICER 1V, INVESTIGATOR 11 and TRAINING OFC. 11	
\$21,952	\$10.82

If one divides the annual salary by the indicated hourly rate, one finds that such hourly rate is based on 2,030 hours per year ($\$21,147 \div 2030 = \10.42).

The City's offer would add \$850 to \$21,147 for a 1986 annual salary of \$21,997. The hourly rate based on 2,030 hours per year would then be ($21,997 \div 2030 =$) \$10.84 per hour.

The Association's final offer of 5% would yield \$1,057.35

It is not possible to determine the hourly rate from the record exhibits for the municipalities of Waupaca and Menasha. No hourly rates are shown and because the annual work hours are also not shown, an hourly rate computation cannot be made.

If one would then further limit the comparison to those closest in population to New London, the comparison would eliminate Kaukauna because it is almost twice the size of New London. That leaves Kimberly, Little Chute and Clintonville as the most comparable based on size. If one then makes comparison without the first response premium, one gets the following data:

New London - City offer	\$10.84
Assn. offer	\$10.94
Kimberly	\$10.70
Little Chute (10.62 - 50=)	\$11.12
Clintonville	\$10.81

It would appear from such figures that the offer of both parties would be higher than two of the comparables and lower than one. One cannot justify choosing one over the other on the hourly rate basis.

Another comparative method applied in this type case is that of comparing the percentage or dollar increase granted by the comparables.

The City's offer of \$850 at the patrolman after two years level is 4%. The parties presented evidence showing the following percentage increases for 1986.

Kimberly	4.75%
Clintonville	4.5%
Kaukauna	5.0%
Little Chute	8.7% (includes 50¢/per hour first response premium)
Menasha	4.5%
Waupaca	4.7%
New London	
City	4.0%
Assn.	5.0%

If one makes a straight arithmetical comparison, it would indicate an average increase closest to the Association's final offer.

The second major area addressed by the parties involved a comparison of the levels of settlement referred to by the parties as "internal comparisons."

The City of New London has two groups of employees who are represented by a labor organization, the police unit and a street department or department of public works unit. The rest of the City employees are unrepresented.

The record exhibits revealed the following:

Unrepresented employees received a 4% wage increase.
Municipal employees represented unit received a 5% wage increase.

The City contended the 5% increase generated a wage increase equaling \$832 per unit employee based on an average wage of

\$8.55 per hour. The \$850 per employee therefore offered police employees, they argue is comparable and reasonable.

The Association presented evidence showing the level of settlements in percentages for the years 1984, 1985 and 1986 as follows:

<u>Year</u>	<u>Municipal Employees (II)</u>		<u>Police Association</u>	
	<u>rate</u>	<u>% increase</u>	<u>rate</u>	<u>% increase</u>
1984	7.5%	7.57	10.16	4.5%
1985	6.0%	8.02	10.36	2.0%
1986	5.0%	8.42	10.78	4.0%
			(City)	
			10.88	
			(Union)	

Three year totals:

Municipal Employees: 18.5%
 Union offer: 11.5%
 City offer: 10.5%

The Association argued at page 7 of their brief that,

...Even if the Union's offer is accepted, their increase over the same term is only 11.5% even accepting the Association's proposal. The Association has lost relative strength in the amount of 7% over the past three years. To accept the City's offer would make this gap even larger and, all things considered, this seems totally unfair. In the City's discussion of its Municipal Employees Union, they indicate that the wage increase for the municipal employees would equal \$832.00 per year which is slightly less than the police association's offered raise of \$850.00 per year. What is of significance however, is that the Municipal Employees Union is predominantly unskilled workers or semi-skilled workers with an average wage of only \$8.55 per hour. The police department employs skilled officers whose hourly rate is substantially higher. In the general economics of the labor field, you would expect a skilled worker to be paid at a higher rate than an unskilled worker. To argue that the skilled worker should receive a dollar equivalent raise seems to defy logic. To do so over time would cause the skilled worker to lose relative strength in terms of wages as compared to the unskilled worker. The reason for computations on a percentage basis is to keep the relative gap between skilled and unskilled workers equal. Under the Association's offer, this is accomplished but under the City's offer, it is not.

The third major area addressed by the parties involved the wages paid and levels of settlement involving private employers in the New London area.

The City presented wage data evidence of three private employers in the New London area. Simons Juvenile Products is shown to have an average wage of \$7.76 per hour. The 1986 contract settlement is shown to have been a lump sum settlement of \$610.00. It is also indicated that the parties have settled for 1987 for no increase.

A second employer, Curwood, Inc., is shown to have an average wage of \$10.52 per hour with settlements for 1986 of a 4% wage increase, for 1987 a 4% wage increase, and for 1988 a 3% wage increase.

The third private employer for which data is supplied was that of Hillshire Farms, Inc. The average wage was shown as being \$8.73 per hour and that there was a zero percent wage increase for 1985, 1986 and 1987. The City exhibit containing such data also indicated a wage reduction of 60¢ per hour, health benefits and added deductibles. The exhibit does not indicate, however, whether the reductions serve to further reduce the average wage of \$8.73 per hour or whether that was the settlement which resulted in the rate shown.

The City's position is that the settlements for the year 1986 by private employers is closest to the City's offer of 4%, and it should therefore be preferred.

The Association argues that a comparison between employees of the police department and the private industry jobs identified is not meaningful because they perform completely different functions. For the most part, employees of the three industries mentioned are unskilled or semi-skilled and the jobs therefore represent a lower wage rate because of the level of skills required in the jobs. Additionally, even though unrepresented employees or employees in the municipal employee unit would be more comparable from the level of skills in many of the jobs to the private sector employees, the City nevertheless granted a 4% wage increase to the unrepresented employees and a 5% wage increase to the municipal employees unit. The Association contends that the City has offered no reason for its offer of 4% to the police officers compared to its settlement of 5% for the municipal employees or any explanation for settling on the 5% or offering the 4% to police officers in light of the settlements reached in the private sector by the above private employers.

The last major area addressed by the parties concerned the cost of living factor. The City contended that the Consumer Price Index revealed an increase of 1.6% from May 1985 to May 1986.

The Association argues that the more relevant time period would be the calendar year of 1985 because that percentage increase would have been available to the parties at the time of negotiations and settlement of the contract had it been settled at or about the first of the year. They contend the January publication indicates a Consumer Price Index increase of 3.9% for calendar year 1985.

In summary of the above matters, the arbitrator would point out that the consideration of and evaluation of the two final offers to police officers performing similar duties in comparable municipalities was severely limited because of the record evidence. The data supplied in the City's exhibit involving Ripon, Seymour, Shawano, Waupaca and Waupun is not subject to comparative use because the data lists ranges. One would presume that the rates shown are for calendar year 1985, although there is nothing to so indicate, and one is unable to compute the hourly rate for four of the five shown. Such data likewise gives no information as to what increase, if any, was granted or settled upon for 1986, which is the year in question in this case.

It would appear from an overall analysis of comparisons with the other municipal police departments, that the hourly rate comparison would yield no preference for one final offer over the other. The percentage increases granted police department employees in other comparable communities, however, would seem to favor the Association's 5% offer as being the closest to the average percentage settlement of the comparables.

It further would appear that from a purely mechanical evaluation of the cost of living increase and the level of increases that occurred in the private industry sector, that the City's final offer would be the one that is preferred.

That brings one to the remaining area of consideration, being the level of wage increases granted to other City employees for 1986. The Union presented evidence showing that the municipal employees unit received an increase that was 3% greater than that granted the Association. In 1985 such unit received an increase that was 4% greater than the Association employees. Neither party presented any evidence to explain why such differences took place. The arbitrator can only assume that some basis did exist and that for whatever reason such difference in levels of settlements were put in place for 1984 and 1985.

For 1986, the City has granted the municipal employees unit a 5% increase. The Association has requested the same 5% increase for police officers. There is no evidence in the record to explain why the City changed from a percentage increase for the police department to that of a dollar increase of \$850 added to the annual salary amount. There is no doubt but that a percentage application to a higher rate yields more dollars. In the absence of there being some explanation or evidence to establish a reason for not granting the same percentage increase to the police Association unit where a percentage increase has been applied to both the municipal employee represented unit and unrepresented employees, the arbitrator must find that there is no reason other than one of generating fewer total dollars for proposing an annual dollar increase rather than a percentage increase.

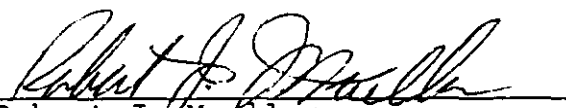
It would seem to the arbitrator that when the City determined that a 5% increase for 1986 was proper for the municipal employee represented group, that it took into consideration the private employer settlements in the area and the cost of living percentage increase and settled on a 5% increase rather than some other higher percentage amount. In the absence of there then being evidence tending to establish a need to structure a dollar increase to the police Association salary structure as opposed to a percentage increase application, the arbitrator would conclude that a percentage increase should be applied.

It therefore follows on the basis of the above facts and discussion thereon, and based upon consideration of and application of the statutory factors to the final offers of the parties, the facts of the case, and the record evidence submitted, that the final offer of the Association is the more supportable. For the reasons above stated, the undersigned issues the following decision and

AWARD

That the final offer of the Association be implemented for the contract year of 1986 between the parties.

Dated this 29th day of October, 1986.


Robert J. Mueller
Arbitrator