

SEP 28 1987

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

IN THE MATTER OF BINDING ARBITRATION) INTEREST ARBITRATION)
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 between))
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 Barron County Sheriff's Organization,) Case 66 No. 37995)
 Northwest United Educators) MIA-1163)
) Decision No. 24420-A)
 -and-))
))
 Barron County (Sheriff's Department)) September 25, 1987)
)))))))

APPEARANCES

For Barron County Sheriff's Organization, Northwest United Educators

Michael J. Burke, Exective Director, Rice Lake, Wisconsin
 John Wagenbach, Deputy Sheriff
 David Strohmeier, Deputy Sheriff
 Richard A. Olson, Deputy Sheriff
 Mary E. Dexter, Deputy Sheriff

For Barron County (Sheriff's Department)

Kathryn J. Prens, Attorney, Mulcahy & Wherry, Eau Claire, Wisconsin
 Arnold G. Eliison, Member, Salary and Personnel Committee
 Robert C. Rowe, Sr., Member, Salary and Personnel Committee
 Robert H. Ebner, Member, Salary and Personnel Committee

JURISDICTION OF ARBITRATOR

On November 6, 1986, representatives of the Barron County (Sheriff's Department) (hereinafter referred to as the "County" or "Employer") and the Barron County Sheriff's Organization, Northwest United Educators (hereinafter referred to as "NUE") exchanged proposals to initiate negotiations on a 1987 contract to replace their existing agreement which expired on December 31, 1986. Thereafter, the Parties met on several occasions in an unsuccessful attempt to negotiate a successor agreement.

Unable to reach a voluntary settlement, NUE, on December 17, 1986, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to initiate final and binding arbitration pursuant to Sec. 111.77(3) of the Municipal Employment Relations Act, with regard to an impasse existing between the Parties with respect to wages, hours and conditions of employment of law enforcement personnel for calendar year 1987; that an informal investigation was conducted on February 24, 1987, by Lionel L. Crowley, a member of the Commission's staff; and that said Investigator having advised the Commission on April 10, 1987, that the Parties were at impasse on the existing issues as outlined in their final offers transmitted along with said Advice and that said Investigator had closed the investigation on that basis.

The Parties have not established mutually agreed upon procedures for the final resolution of disputes arising in collective bargaining, and further, that the Parties have not mutually agreed that the arbitration should not be limited to the last and final offers of each of the Parties.

The Commission having, on April 16, 1987, issued an Order that compulsory final offer arbitration be initiated for the purpose of issuing a final and binding award to resolve an impasse arising in collective bargaining between the Parties on matters affecting

wages, hours and conditions of employment of non-supervisory law enforcement personnel in the employ of the County; and on the same date the Commission having furnished the Parties a panel of arbitrators from which they could select a sole arbitrator to issue a final and binding award in the matter; and the Parties advised the Commission that they had chosen Richard John Miller, New Hope, Minnesota, as the arbitrator.

A hearing in the matter convened on July 13, 1987, at 10:00 a.m. in the Barron County Courthouse, Barron, Wisconsin. The Parties were afforded full opportunity to present evidence and argument in support of their respective positions. The Parties filed post hearing briefs which were exchanged through the arbitrator's office on August 31, 1987. The Parties elected to submit reply briefs which were received by the arbitrator on September 14, 1987.

POSITIONS OF THE PARTIES

The sole issue to be decided by the arbitrator involves the 1987 salary schedule. Both Parties' final offers (NUE Exhibits #2, #3; County Exhibits #3, #4) are for a one-year contract, January 1, 1987, through December 31, 1987.

NUE's final offer represents a 3% wage increase after two years of service. In addition, for those employees with five or more years of service, NUE's final offer creates an additional step on the salary schedule. In 1987, employees on the five-year step will receive a 5% wage increase over their 1986 year-end wage rates. The County's final offer represents a 2% wage increase at the two-year step on the salary schedule. The County's final offer does not contain a new five-year step. Thus, the arbitrator is charged with the responsibility of deciding the appropriate wage increase at the two-year step of the salary schedule (2% versus 3%). In addition, as a result of NUE's proposal to create an additional step on the salary schedule, the arbitrator must decide the appropriate wage increase for employees with five or more years of service (2% versus 5%).

ANALYSIS OF THE EVIDENCE

The arbitrator evaluated the final offers of the Parties in light of the criteria set forth in Wis. Stats. 111.70(6) which includes:

- A. The lawful authority of the employer.
- B. Stipulations of the parties.
- C. The interests and welfare of the public and the financial ability of the unit of government to meet these costs.
- D. Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceeding 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.
- E. The average consumer prices for goods and services, commonly known as the cost-of-living.

- F. The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- G. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- H. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

A. The lawful authority of the employer.

This factor is not an issue in the instant proceeding. The lawful authority of the Employer permits the retention of rights and responsibilities to operate the County so as to carry out the statutory mandate and goals assigned to it consistent with the provisions of the collective bargaining agreement.

B. Stipulations of the parties.

Except for the one issue at impasse, the Parties have agreed to all other contract items for inclusion in the successor contract. The tentative agreements are contained in Employer Exhibit #2 and, accordingly, shall be included as part of the final award in this matter.

C. The interests and welfare of the public and the financial ability of the unit of government to meet these costs.

Sixty-nine percent of the land comprising Barron County is used for farming which is one of the highest percentages of land in farms in adjacent counties. (Employer Exhibit #25). Furthermore, Barron County has the second highest percentage of persons employed in farming. (Employer Exhibit #26). In addition, 73.4% of Barron County's population is rural. (Employer Exhibit #24). The County encompasses 1,890 farms with 296,170 acres being used for crops, 1,207 dairy herds and 48,700 milk cows. (Employer Exhibit #32).

Barron County has more Grade A dairy farms than any other Wisconsin county. The County is also second highest among neighboring counties in dairy production. When one considers that the average price per CWT of milk has declined 11.9% from 1981 to May, 1987 (Employer Exhibit #28), the decline in income has been a financial burden on Barron County farmers and farmers elsewhere.

Similar declines have occurred with other commodities such as corn, milk cows, steers, and slaughter cows and calves. (Employer Exhibit #27). Price declines have a negative impact on farm income. These reductions, for all practical purposes, result in less money being made by the farmers in Barron County and elsewhere throughout the nation.

The economic outlook does not suggest that 1987 will bring a major upturn in the farm economy. (Employer Exhibit #41). In addition, Barron County was hit with the region's worst drought

since the 1930's, requiring Governor Tommy Thompson to declare a drought emergency in ten Northern Wisconsin counties so that federal emergency loans could be requested to help farmers. Barron County was one of the ten counties listed. The drought has stunted the production of pasture hay, which is vital food for dairy herds during the winter months. Some farmers will have 50% or less of the hay their dairy cattle will need through the next winter, forcing some farmers to leave farming and seek work elsewhere. (Employer Exhibits #33-#35).

Declining land values have reduced Barron County's property tax base. This is a common phenomenon in farming communities throughout Wisconsin. Farm income has fallen by 26% and the property tax burden has increased by 45% since 1979. (Employer Exhibit #36). As a result, Barron County has a high per capita property tax levy, property tax rate and full value tax rate among neighboring communities. (Employer Exhibits #47, #48).

Because of a loss of federal revenue and a decline in property values, County taxes have increased. In an effort to make up for lost revenues, Barron County has implemented a one-half percent sales tax, a measure not adopted by the majority of neighboring counties. (Employer Exhibit #45).

In terms of costing the 1987 wage proposals, the Parties are \$10,973 apart. The total package cost difference between the final offers is \$15,024. (Employer Exhibit #8). Under the County's final offer an employee would receive a total package increase of 3.1% or an average increase of \$893 compared to a 5.9% increase or an average increase of \$1,683 if NUE's position is sustained.

Despite the fact that Barron County taxpayers/farmers are faced with declining land values, decreasing farm commodity prices, drought, etc., the County never alleged that it did not have the economic resources to fund either of the Parties' final offers. Therefore, the Employer has the necessary funds available to fund NUE's final offer which is more costly to the County than its own final offer. The fact that the Parties' final offers are only \$15,024 apart for 1987 will not cause a fatal economic blow to the County if the arbitrator finds for NUE. In fact, the interests and welfare of the public and the financial ability of the County to meet the costs of either Parties' final offer will not be adversely impacted by whatsoever should prevail in this proceeding.

D. Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public employment in comparable communities and in private employment in comparable communities.

Section 111.77(6)(d) of the Wisconsin Statutes requires the arbitrator to make a comparison between the Parties' final offers to the wages and fringe benefits of employees who perform similar services in comparable communities.

The appropriate comparability group is in dispute between the Parties. In a nutshell, NUE argues that the counties of Chippewa, Dunn, Polk and St. Croix should comprise the comparability pool. The County, on the other hand, argues that there is an eight county comparable pool. Thus, the County adds Burnett, Rusk, Sawyer and Washburn Counties to NUE's comparable pool of Chippewa, Dunn, Polk and St. Croix Counties.

As a basis for its selection of a comparable pool, NUE cites an old Barron County Sheriff's Department decision by Arbitrator Sharon Imes, Dec. No. 18437, (07/81). In that decision, Arbitrator Imes stated that Chippewa, Dunn, Polk and St. Croix Counties were primary comparables and Burnett, Rusk, Sawyer and Washburn Counties are secondary comparables. Arbitrator Imes further stated however, that all eight contiguous counties should be looked at as comparables. (NUE Exhibit #4, page 3).

The support for the County's proposed comparability group of the eight contiguous counties stems from four decisions, three of which are more recent than the decision rendered by Arbitrator Imes. Arbitrator Joe Kerkman in Barron County Public Health Agency, Dec. No. 17479-A, (03/80), Arbitrator Sharon Imes in Barron County Highway Department, Dec. No. 18597-A, (02/82), Arbitrator Ed Krinsky in Barron County Public Health Agency, Dec. No. 20826-A, (01/84) and Arbitrator Zel Rice in Barron County Public Health Agency, Dec. No. 22466-A, (07/85), affirmed all eight contiguous counties as the appropriate comparability group. Clearly, the most recent arbitral dicta clearly supports use of all eight contiguous counties and should be given more weight than the older arbitration decision rendered by Arbitrator Imes which involved the same Parties as in the instant matter.

Furthermore, in three of the above decisions (Dec. Nos. 17479-A, 20826-A, 22466-A), the same bargaining agent as in this instant proceeding, NUE, argued that all eight contiguous counties should be afforded equal weight. If all eight counties are appropriate comparables for the County's Highway employees and the Public Health employees represented by NUE, they must also be deemed the most appropriate set of comparables for the County's Law Enforcement employees. The need for stability in the bargaining relationship between the Law Enforcement employees represented by NUE and the County mandates that the comparable pool remain consistent and that the comparability group not be modified for the convenience and comfort of only one of the bargaining units in the County.

The evidence reveals that Barron County is closely aligned with Chippewa, Dunn, Polk and St. Croix Counties in terms of 1983 adjusted gross income. (NUE Exhibit #6). In terms of 1984 population, Barron County would be the third largest county in NUE's proposed comparability pool and this rank would in fact remain the same when all eight contiguous counties are considered. (NUE Exhibit #5). Barron County, however, falls very close to the average population of the eight contiguous counties, using either the 1980 or 1984 census. (NUE Exhibit #5; Employer Exhibit #22).

NUE Exhibits #7-#12 establish that Chippewa, Dunn, Polk and St. Croix Counties are similar to Barron County in terms of total highway mileage, population rank within the State of Wisconsin, value of agricultural products sold, manufacturing employment and total area (square miles). Barron County, on the other hand, is close to the average of the eight contiguous counties with respect to full value gross rate (Employer Exhibit #23) and median income (Employer Exhibit #50).

Due to the similarities of Barron County to the other counties, the fact that Sharon Imes in her 1981 decision recognized a primary pool and a secondary pool and gave both consideration, and the weight of the more recent Barron County arbitration decisions which involved NUE, compels the arbitrator to view with equal weight all eight contiguous comparables.

One measure of salary comparison is that of rank. Employer Exhibits #10 and #13 compare the Traffic Officer, Investigator, Process Server, and Dispatch/Jailer positions in Barron County with those same positions in the eight contiguous counties for 1986 and

1987. It is evident from these exhibits that the County's final offer improves rank from 1986 to 1987 at three positions (Investigator, Process Server and Dispatch/Jailer) and maintains rank at one (Traffic Officer). NUE's final offer increases the rank in all four surveyed positions.

Another important salary comparison is that of average minimum and maximum wage rates. The County's final offer is closer to the comparable counties' minimum wage rate average at the Traffic Officer, Investigator, Process Server, and Dispatch/Jailer positions. In fact, it exceeds the average at all positions by \$145 to \$194. At the maximum wage rates, the County's final offer exceeds the average at three of the four positions. While both Parties' final offers are below the average for the Process Server position (County -\$210, NUE -\$160), the County's offer at least improves its rank.

NUE's final offer seeks to add an additional step on the salary schedule with employees with five or more years of service with the County receiving a 5% wage increase over their 1986 year-end wage rates. This portion of NUE's final offer is a significant cost item since 15 of the 19 employees will fall under the "after five years of service" rate for all of 1987 while four of the 19 employees will fall under this rate for at least part of 1987. The net effect of adding the additional step is to grant to all employees a wage increase of 5% over their 1986 year-end wage rates sometime during 1987. Consequently, NUE's final offer of a 3% wage increase at the two-year step on the salary schedule has no real impact on the outcome of this case.

The 1987 settlement pattern among the eight contiguous counties indicates that the County's offer of 2% (costed off 1986 year-end rate) is slightly below the average of the comparable counties. NUE's final offer of 5% over 1986 year-end rates is excessively high and represents a substantial increase over the settlement pattern of the comparables.

On the surface it may appear that the County's final offer of 2% (costed off 1986 year-end rate) is lower than the settled comparables; however, in actuality, each employee will receive a 3% lift (costed off 1986 actual rate) in terms of percentage increase moving from his/her base salary (excluding longevity and shift differential). (Employer Exhibit #14). Employees' increases under NUE's final offer would vary from 5% to 6.1%. Under this analysis, NUE's final offer emerges as excessive and cannot be justified.

Neither rank, average minimum/maximum rates, nor the 1987 settlement trend supports a 5% wage increase. There clearly is no need for any "catch up" wage increase of Barron County Law Enforcement employees to their compatriots in the comparable counties. NUE's position fails to establish either that a legitimate problem exists with the wage schedule or that the NUE proposal would reasonably address the alleged but unproven need for an additional five-year step with employees receiving a 5% wage increase over their 1986 year-end wage rates.

The arbitrator is required by this statutory criterion to also consider the wages of the employees involved in the arbitration with the wages received by other public sector employees in the same community and in comparable communities. The 1987 wage increase received by police officers for the City of Barron, a bargaining unit represented by NUE, is a 2% increase effective 1-1-87 with an additional 1% effective 7-1-87. Clearly, the County's final offer of 2% is more closely aligned than NUE's final offer of 5%. The arbitrator recognizes that there are differences in the job responsibilities between city and county law enforcement officers. However, the City of Barron police settlement represents a NUE settlement trend which is reflective of the local economic conditions.

The County's final offer is more in line with internal settlements for 1987. Three units in Barron County received a 3% wage adjustment but the increase was not effective until March 1, 1987. (Employer Exhibit #56). The delayed implementation costs out at a 2.5% wage increase. In that all employees will fall under the NUE's proposed 5% wage increase after five years of service at some time during 1987, the internal settlement pattern is more closely maintained by finding for the County.

Private sector settlements also support acceptance of the County's final offer. The majority of the wage increases received by employees of private businesses located within Barron County are in the 3% and under range. (Employer Exhibit #54). The one business that settled for 5% in 1987 had not given a raise for the past four years.

In conclusion, the above evidence has clearly and convincingly established that the County's final offer is more reasonable under Section 111.77(6)(d) of the Wisconsin Statutes.

E. The average consumer prices for goods and services, commonly known as the cost-of-living.

The Consumer Price Index (CPI) represents the measure of the rate of inflation. Because the CPI measures the increases of all goods and services including fringe benefits, the total package cost of the Parties' final offers is the most appropriate measure to use in comparison with the inflation rate at the time the collective bargaining reopener commences to the month closest to the date the agreement ends for which CPI information is available. The 1986 contract expired on December 31, 1986, and the collective bargaining reopener commenced on January 1, 1987. May, 1987, is the month closest to the date the agreement ends for which CPI information is available. The County's final offer (3.1%) triples the January, 1987 CPI-W rate (1%) and exceeds the relevant increase in the rate of inflation using CPI-W index from January to May, 1987 (2.7%) by .4%. NUE's final offer (5.9%) is approximately six times higher than the January, 1987 CPI-W rate and exceeds the relevant increase in the rate of inflation using CPI-W index from January to May, 1987 by 3.2%. Very similar relationships exist when the Parties' final offers are compared to CPI-U for the same time periods. (Employer Exhibits #8, #51).

Even if the arbitrator limits his consideration of the CPI to wages only, the historical wage levels of Barron County Law Enforcement employees have exceeded the inflation rate as defined by the CPI index. Employer Exhibit #52 compares the wages received by bargaining unit members since 1982 with the concurrent increases in the CPI. This exhibit shows that, from 1982 to 1987, the wage increases granted to Barron County Law Enforcement employees exceeded the overall increase in the CPI. The same result holds true when a comparison is made between the wage increases received by actual bargaining unit members moving from the 1986 salary schedule to the Parties' final offers. (Employer Exhibit #14). This exhibit shows that each employee's salary under the County's final offer will exceed the increase in inflation. However, under NUE's final offer, not only will the wage increase exceed the inflationary increase, it will increase the rate of inflation by two to two and one-half times.

The importance of cost of living has been seriously debated for many years by employee groups and employers. Many arbitrators have concluded that the cost of living is best reflected by internal and external settlements rather than the actual cost of living. Merrill Area Education Association, Dec. No. 17955, (1/81); Tigerton School

District, Dec. No. 23001, (6/86); Two Rivers School District, Dec. No. 37302, (3/87). This concept, of course, should apply when the actual rate of inflation is high or low.

The evidence under this statutory criterion and under Section 111.77(6)(d) of the Wisconsin Statutes demonstrates that regardless of whether the arbitrator uses the actual rate of inflation or uses the concept that the cost of living is reflected by internal and external wage settlement trends, the County's final offer is more reasonable.

F. The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

Since the only impasse issue before the arbitrator involves the appropriate wage rate for the Barron County Law Enforcement employees for calendar year 1987, the arbitrator must conclude the bargaining unit employees are satisfied as to the status of the current benefits, including vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other employee benefits received by them.

Furthermore, Barron County is comparable to the contiguous counties in the number of months it takes for an employee to reach the maximum wage rate. The County is also very comparable in terms of longevity. In fact, the bargaining unit members receive a payment in their tenth year which exceeds any payment received by other law enforcement employees in the comparability group at ten years.

G. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

The Parties agreed that the pendency period would end one week before the submission of post hearing briefs to the arbitrator. The pendency period, therefore, ended on August 21, 1987, with the most recent salary and total package settlements from that date, having been reported and incorporated into the decision of the arbitrator.

H. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

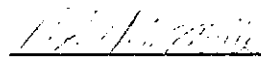
This factor was not given great weight because such other factors normally or traditionally taken into consideration in the determination of the impasse items were already considered in the previous statutory factors.

In summary, the County's final offer is more in line with internal Barron County settlements, private sector settlements and municipal settlements of law enforcement employees in general. When compared to any measure of the cost of living, the County's final

offer is the more reasonable one. NUE has failed to meet the standards which must be met to change the status quo in their final offer to alter the structure of the wage schedule by adding a new five-year step.

AWARD

Based on the above evidence and the entire record, Barron County's final offer best satisfies the factors required to be considered by the arbitrator under the statutory criteria. Therefore, any and all stipulations entered into by the Parties, and the County's final offer shall be incorporated into the 1987 collective bargaining agreement.



Richard John Miller

Dated September 25, 1987, at New Hope, Minnesota.