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In the Matter of Interest Arbitration VOLUNTARY IMPASSE PROCEDURE  
Between

CITY OF CUDAHY

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DEC 07 1990  
CASE NO. 42425  
MIA-1439  
WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

and

WISCONSIN PROFESSIONAL  
POLICE ASSOCIATION  
(L.E.E.R.)

Gil Vernon, Arbitrator

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**APPEARANCES:**

**On Behalf of the City:** Robert W. Mulcahy, Attorney--Mulcahy and Wherry, S.C.

**On Behalf of the Association:** Richard T. Little, Bargaining Consultant

**I. BACKGROUND**

On June 28, 1990, the Parties advised the undersigned that he had been selected as Arbitrator under a voluntary impasse procedure executed by the Parties pursuant to Wis. Stats. 111.707. Under the agreed-upon procedure, the Arbitrator is to select one final offer or the other by applying the criteria set forth in Wis. Stats. 111.77(6).

A hearing was held October 11, 1989, during which the Parties submitted evidence and written briefs.

**II. FINAL OFFERS AND ISSUES**

Both Parties propose (1) a two-year contract effective January 1, 1989, through December 31, 1990, and (2) that all the terms and conditions of the

1987-88 agreement remain in effect. The only disputed issue is the amount by which to increase the 1988 wage rates.

The Employer proposes a 4% across-the-board increase effective January 1, 1989, and another 4% increase effective January 1, 1990. The Association proposes a 4% across-the-board increase effective January 1, 1989, and another 4.5% increase January 1, 1990. Thus, the Parties are separated by only 1/2% over the course of the two-year agreement.

### III. STATUTORY CRITERIA

111.77(6) In reaching a decision, the arbitrator shall give weight to the following factors:

- (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.

Comparison of the 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 price 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.

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**IV. ARGUMENTS OF THE PARTIES (SUMMARY)**

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**A. The Association**

The Association presents its argument by moving through the statutory criteria. First with respect to criteria (a) they note that no arguments have been raised by either Party during negotiations contending that the Employer does not have the authority to lawfully meet the Association's final offer. Additionally, there are no stipulations of the parties; therefore, they suggest Wis. Stats. 111.77(6)(b) does not apply.

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Regarding the next criteria, it is argued that the interests and welfare of the public would best be served by an award in favor of the Association. Acceptance of the Association's offer would serve the public by recognizing the need to maintain the morale of its officers and to retain the best and most highly qualified officers. High morale is needed in a difficult job and is enhanced by good salary and working conditions. Presently morale is affected negatively because as recently at 1985 the base rate for a top Patrol Officer was approximately \$4 below the average of the comparable departments. In the years following, the top Patrol rate for Cudahy steadily fell further below the average.

Next the Association addresses the Employer's financial ability. It is their position that the Employer has the financial ability to meet the costs of the Association's final offer. They draw attention to the fact that at no time during negotiations did the Employer allege that it does not have the economic resources to fund either of the final offers submitted by the Parties. Thus, the Association asserts that inability to pay is not a factor.

The bulk of the Association's argument relates to criteria (d). First they believe their comparable group is appropriate for comparison purposes. It compares with past arbitration decisions including a recent decision within the City of Cudahy. They note that in City of Cudahy (Fire Fighters) Decision No. 25961-A (1-90), Arbitrator Joseph B. Kerkman stated that the appropriate comparables were Franklin, Greenfield, Oak Creek, St. Francis, South Milwaukee, and West Milwaukee.

Looking at these comparables, it is clear to the Association that the top patrol rate for Cudahy has fallen below the average of the comparable departments. The Association's offer will move the officers slightly closer to

the point of average under the Association's final offer, while the adoption of the Employer's offer will continue the downward spiral. Accordingly, in their opinion, the Association's offer must be deemed more reasonable. Nor is their offer extravagant nor out of line with economic conditions since, based on appropriate costing methods, including roll-up costs, the Association's offer is only .46% high than that of the Employer offer.

The Association also submits that the Cudahy's officers' substandard wage is not mitigated or offset by an advantageous overall compensation package. They point out that the level of benefits enjoyed by the members of the Cudahy Police Department are, in each case, at or near average.

Last the cost of living is addressed. They believe their offer is most consistent with this factor since the Consumer Price Index covering the contract period has risen 9% for the Milwaukee area. This compares to their offer of 8.5%.

## **B. The City**

The City views the following city/employers as comparable: Greendale, Greenfield, Oak Creek, South Milwaukee, West Milwaukee, Franklin, Hales Corners, and St. Francis. They note the first four were found to be comparable in 1976 by Arbitrator Max Raskin in an interest arbitration between the Parties. Due to changed circumstances in the last 14 years, the addition of the others, it is believed by the City, is justified for a variety of reasons. Franklin is justified because an arbitrator in a case there found Cudahy comparable to Franklin, and in light of Arbitrator Kerkman's decision in Cudahy/Fire Fighters. Hales Corners is a comparable because both Cudahy and Hales Corners have declining populations, economic bases, and negative growth. The City of St. Francis is also justified based on traditional factors of comparability which are reviewed in detail in their brief.

The first statutory criteria address by the City is the interest and welfare of the public: The City must not only be concerned about the concerns of its officers, but also the taxpayers and the other employees. They believe they have appropriately balanced all these competing interests with their offer. They highlight many of the concerns facing the City of Cudahy. They include (1) decreasing equalized value relative to increasing values in the comparables, (2) relative low generation of tax revenues, (3) increasing tax rates, (4) the next to the smallest increase in gross income among the comparables, and (5) erosion of the tax base.

The City also argues that its offer is in line with increases received by other public sector employees. They note the average increase in the comparables in 1989 was 3.69% and 4.13% in 1990. Thus, the City is right on target as it was in 1988 when the average increase was 3.49% and the settlement was 3.5%. They even look to the City of Milwaukee police and county sheriff settlement which were 3.8% and 4.0% respectively.

They also contend that the monthly wages received by the Cudahy Police Officers are already above the average minimum and will increase in 1990. The maximum in 1990 will only be \$20 less per month than the average. The Detective/Juvenile Officers are paid above the average.

The City turns its attention next to the internal comparables. These comparisons, in their opinion, lend compelling support to the City's final offer. The data shows that in 1989 the settlement pattern among the internal units was 4.0%, expressed as either 4.0% or a 3.0%/1.0% split. Currently in 1990, those units that are settled, settled at 4.0%. Consequently, they argue adoption of the Association's offer will create serious internal problems. The Employer also cites a number of cases that support the importance of internal comparisons. They submit to there is no justification for the Association's demand in view of this data. The Association has not only ignored the extra \$20,000-plus that their offer would require the City to fund, but they have ignored the ripple effect on other units.

The CPI favors their offer too; in this regard they take the long view. Over a ten (10) year period (1980-1990), the wages for Police Officers have increased 73.6%, including the 1990 final offers, whereas the national CPI for urban wage earners and clerical workers has only increased 49%. For the position of Detective/Juvenile Officer, the wages have increased 29.3% with the City's offer relative to a 25.6 percent in the national CPI for urban wage earners and clerical workers.

Total compensation, the City contends, is superior in the City of Cudahy. This favors their offer. When longevity and educational incentive is added to wages, the City's offer is \$16.50 per hour compared to an average in the comparable group of \$16.21. When total hourly compensation includes wages, longevity, health insurance, dental insurance, retirement, vacation, holidays, and sick leave is considered, the average comparable hourly compensation is \$24.62. It is \$25.42 under the City's offer.

The last criteria addressed is "changes during the pendency of proceedings." They believe that since the final offers were certified, that the concerns of the taxpayers have heightened. For instance, the City has renovated City Hall and City residents have twice rejected the Cudahy School Board's proposed tax levy.

## V. DISCUSSION AND OPINION

The differences between the Parties are slight in all respects. The Parties agree as to the appropriate increase in 1989 and are only 1/2 of 1 percent apart in 1990. This is roughly 7 cents per hour or \$13 per month for Patrolmen. On a yearly basis, this amounts to a total difference of approximately \$156 in base wages for a Patrolman. The Parties also agree on all the comparables except one--Hales Corner. Thus, this is a very close case, a photo finish. Distinguishing the offers is like separating sugar from sand.

Nonetheless, a close examination of the evidence relative to the criteria, particularly on the important comparability factor, tends to favor the City's offer.<sup>1</sup> Generally speaking, the Arbitrator considered the following aspects of the evidence: (1) the rate increases for Patrolmen in comparable cities, (2) the internal rate increases, (3) the wage levels in comparable cities, (4) the benefit levels in comparable cities, and (5) the cost of living. A more detailed analysis follows.

The rate increases in the comparables in 1989 ranged from 4.5% in Hales Corners to 3.0% in Franklin. The average was 3.69%. The 1990 settlements, not including the November COLA increase in South Milwaukee and not including Greendale's hybrid settlement, was 4.13%. It ranged from 5% in Hales Corners and 3.9% in St. Francis.<sup>2</sup> Four of the comparables settled at 4%, most on a split basis. Thus, for the two years the average was 7.82%. The Employer offer of 8% over two years exceeds the average increase by slightly less than 1/4%

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<sup>1</sup>The Arbitrator finds both comparable groups reasonable. However, he favors the City's since with the inclusion of Hales Corners the full spectrum of the South Milwaukee County suburbs is represented. There simply is no reason to reject it since it is just as similar to Cudahy as are other cities in the agreed-upon set.

<sup>2</sup>Based on the monthly wage in Hales Corners, it appears that their higher than normal increases are based on the need for "catch-up."

Additionally, many of the increases in the comparables were split increases which had a 4% lift, whereas the Employer's 4% offer was not split. This represents a cash advantage to the Cudahy Officer. For instance, in 1990 Franklin settled at 2% effective January 1 and 2% July 1. While this raises the rates by 4% by year end because of averaging, the officer only has 3% more cash in his/her pocket at the end of the year than he/she was paid the previous year. This 1% amounted to roughly \$326 in Franklin. Thus, the Officer in Cudahy will not only receive a greater rate increase than the average over two years, he/she will have received more cash money in increases than officers in many of the comparables. Accordingly, the comparison of wage rate increases in comparable cities favor the City's offer because it is greater over two years than the average and is structured in a way that is more advantageous to the Officer than the settlements in several other cities.

Upon close review of the record, there doesn't seem to be any justification for the Association's request to have a greater-than-average rate increase. Sometimes arbitrators are willing to accept a rate increase greater than the average because it is needed for "catch-up" to address substandard wage levels. However, the wage levels in Cudahy are within a reasonable range of the pack. The monthly wage for Police Officers in 1989 ranged from \$2,529 to \$2,711. The average was \$2,615. This put the Cudahy Officer only \$23 below the average in 1989. The 1990 Employer offer is only \$20 per month less than the average and the Union's offer is \$140 above the average. When the wage level is so close to the norm, there is no compelling need for an increase greater than the pattern. There is actually a higher-than-average monthly rate for Detective/Juvenile Officers under the City's offer.

This slight disadvantage (\$20 per month) under the Employer's offer is not only not significant, it is not exacerbated by a lower-than-average total compensation/benefit package. The Cudahy longevity plan is quite typical, as is their yearly work days and work hours per year. Their holiday list is typical. While they could use some improvement in vacation benefits for veteran officers of 18-22 years and in shift differential, this is more than offset by an admittedly advantageous educational incentive plan and somewhat more healthy retirement plan. Only two other of the comparables have an education incentive plan and the Cudahy plan pays roughly 20% more than the other two.

The Arbitrator also notes, as pointed out by the City, that the significantly important internal comparisons favor the City too. It is also observed that the Employer's offer is not out of line with the current cost of living. Regarding the welfare of the public, however, the Arbitrator isn't

convinced that the \$20,000 required to favor the Association's offer will break the City or cause the formation of a hanging party at the steps of City Hall by outraged taxpayers. On the other hand, nor is the Arbitrator convinced that, all things considered, that Officer morale will be so negatively affected that the security and safety of Cudahy and its citizens will be at risk by acceptance of the City offer. The Arbitrator is, on a personal basis, empathetic that with a job so difficult that an officer would appreciate the little extra pat on the back that might be symbolized by a higher-than-normal increase. However, the Arbitrator is bound to apply the statutory criteria on an objective basis. The important comparability factor strongly suggests that the Employer's 4.0% is more reasonable.

AWARD

The offer of the Employer is selected.



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Gil Vernon, Arbitrator

Dated this 4<sup>th</sup> day of December, 1990.

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