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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN
ARBITRATION AWARD

: In the Matter of the Arbitration between :
: :
: VILLAGE OF WEST SALEM (POLICE DEPARTMENT) :
: and :
: Re: WERC Case 7 :
: No. 44999 :
: MIA-1567 :
: Decision No. 26975-A :
: WISCONSIN PROFESSIONAL POLICE ASSOCIATION/LEEF :
: DIVISION (WEST SALEM POLICE ASSOCIATION) :

APPEARANCES: For the Village of West Salem: Special Labor Counsel, Klos, Flynn & Popenfuss - Chartered, by Jerome Klos, Esq., 800 Lynne Tower Building, 318 Main Street, P.O. Box 427, La Crosse, Wisconsin 54602-0487.

For the West Salem Police Association: Richard T. Little, Bargaining Consultant, Wisconsin Professional Police Association/LEEF Division, 9730 West Bluemound Road, Wauwatosa, Wisconsin 53226.

The arbitrator was appointed by letter dated August 28, 1991, from A. Henry Hempe, Chair, Wisconsin Employment Relations Commission. The labor agreement of the parties had expired by its terms on December 31, 1990. After failing to reach agreement on a new contract during the autumn of 1990 the West Salem Police Association, hereinafter called the Union, filed a petition on December 18, 1990, to initiate final and binding arbitration pursuant to Section 111.77(2) of the Municipal Employment Relations Act. After an informal investigation by James W. Engmann, a member of the Commission's staff, the parties presented to him their final offers and he advised the Commission on August 9, 1991 that the parties were at impasse. On August 14, 1991 the Commission certified that the conditions precedent to the initiation of compulsory final and binding arbitration had been met pursuant to Sec. 111.77 of the Municipal Employment Relations Act.

The undersigned conducted a hearing in West Salem on December 12, 1991. The parties were given an opportunity to present evidence to support their respective positions and to examine and cross examine the presenters. There was no formal record made other than the arbitrator's handwritten notes. At the conclusion of the hearing the parties agreed to send letter briefs to the arbitrator for him to exchange. The exchange was made on January 21, 1992, and the proceeding is considered closed as of that date.

THE ISSUE TO BE DECIDED

The statute directs the arbitrator to choose one or the other entire final offer of the parties. In this case the parties have agreed on all issues but

two: wage rates for 1991 and 1992, and the amount of each employee's monthly contribution to the health insurance premium. They propose a two year agreement.

The Union's final offer is to increase wages 3 per cent effective January 1, 1991, 3 per cent effective July 1, 1991, 3 per cent effective January 1, 1992, and 2 per cent effective July 1, 1992. On the issue of health insurance the Union proposes that the Village pay the entire cost of the single plan and that each married employee should pay 10 per cent of the premium for the family plan.

The final offer of the Village (sometimes called the Employer herein) is to increase wages 5 per cent effective January 1, 1991, and 4.5 per cent effective January 1, 1992. On the issue of health insurance the Village proposes that employees should pay \$20 monthly for the single plan and \$50 monthly for the family plan.

The Union final offer is attached hereto as Addendum A. The Village final offer is attached hereto as Addendum B.

THE POSITIONS OF THE PARTIES

Both parties supported their positions primarily with conditions in what they considered to be comparable jurisdictions.

For its wage comparisons the Union used the cities of La Crosse, Onalaska, Black River Falls, Tomah, Sparta, the village of Holmen, and La Crosse County. Four of the seven had not settled for 1992 and there were insufficient comparisons for that year to be useful. In the 1991 comparisons both final offers for West Salem came about in the middle, with rates at La Crosse, La Crosse County, Onalaska, and Holmen being higher, and Tomah, Black River Falls, and Sparta being lower.

For its health insurance comparisons the Union used the cities of Viroqua, Sparta, Tomah, La Crosse, Onalaska, Black River Falls, the village of Holmen, and La Crosse County. According to these comparisons only Viroqua (in arbitration and not yet settled) had employee contributions (in both final offers) higher than those proposed by the Union for West Salem. For the jurisdictions the Union proposes as comparables the employee contributions under the family plan for 1991 were as follows: Sparta, \$31.88; Holmen, \$26.43; Tomah, \$20.00; La Crosse County, \$18.68; La Crosse, \$8.00 in the most expensive of multiple plans; and Onalaska, \$7.12, in the most expensive of multiple plans. Black River Falls did not require any employee contribution.

For its wage comparisons the Village used the cities of Hillsboro, Whitehall, Darlington, Mauston, Westby, Prairie du Chien, Alma, Caledonia and La Crescent (both the latter in Minnesota), the village of Holmen, and Crawford and Vernon Counties. Data for the cities of Darlington and Mauston were for 1990 and were not useful. Since there was no testimony describing the two Minnesota cities, the data for them was not used. It was difficult to make comparisons between the rates in the other cities and the rates in the West Salem final offers because the Village's exhibits did not specify whether these jurisdictions had several classifications of patrolman, as in the Village (see Addendum B), or whether the low and high rates shown were for only one classification. Also, in several jurisdictions there was no explanation concerning the fact that only one rate was shown. If we can assume that the

Village was showing the rates for patrolmen equivalent to the tenured certified patrolman employed by the Village, then in 1991 the Village of Holmen was the only jurisdiction in the comparisons that carried a top rate for patrolmen higher than the tenured certified patrolman top rate for Village of West Salem patrolmen. (But see my comment below on the Village's manner of computing the monthly rate for West Salem.)

In the comparisons of employee contributions to the health insurance premiums only the cities of Hillsboro (\$23.56) and Westby (\$34.30) had contributions for the single plan that were higher than the \$20.00 per month proposed by the Village of West Salem. The other six jurisdictions in the comparisons did not require an employee contribution for the single plan premium. As to the family plan premiums, the cities of Hillsboro (\$67.76); Mauston (\$83.96); and Westby (\$87.80); and Vernon County (\$102.07) required larger employee contributions than the employee contribution proposed by the Village, while the cities of Whitehall and Prairie du Chien, and Crawford County required no employee contribution, and the Village of Holmen (\$28.08 according to the Employer) required an employee contribution smaller than the \$50 per month proposed by the Village in this proceeding. Data for the City of Alma was said to be not available.

The Union presented Consumer Price Index figures for 1991 for All Urban Consumers and Urban Wage Earners and Clerical Workers for U. S. Cities Average and for Nonmetro Urban Areas North Central States. All these data indicated that the rate of increase on the four series was between 4.2 and 4.7 per cent on an annual basis for the first nine months of 1991. The Employer, on its part, introduced CPI figures for Nonmetro Areas purporting to show that the annual increase for 1991 had been about 4 per cent at the time of the hearing.

The Union argues that its comparables are appropriate for the reason that they include all the municipalities in La Crosse County that are covered by the arbitration statute (that is, populations of over 2,500) as well as La Crosse County itself, which is the other employer of law enforcement officers in the vicinity, and the municipalities in the surrounding counties that are covered by the arbitration statute.

The Employer argues that its comparables are more appropriate than the Union's. La Crosse (50,000) and La Crosse County (90,000) are so populous as to be poor comparisons. La Crosse has a police force of 86 individuals and La Crosse County has 45 law enforcement employees compared to the 3 law enforcement employees of the Village of West Salem, only 2 of whom are in the unit. Jurisdictions chosen by the Employer are more nearly like West Salem in population and other pertinent characteristics.

The Union points out that the total cost of its final offer differs from the Village's final offer by only \$202.84 or .36 per cent in 1991 and by only \$586.70 or 1.00 per cent in 1992. The Employer responds that the Village has already put in effect conditions for its other employees for 1991 and 1992. It argues that to provide disparate conditions for the police department would lead to inequities among its employees that should be avoided.

The Employer also provided a substantial amount of data concerning employment conditions in the private sector in the City of La Crosse and the history of several negotiations that have lead to settlements that are lower than either the Union's or the Employer's offers in this proceeding.

DISCUSSION

Paragraph 6 of Section 111.77 specifies several factors that an arbitrator is expected to consider when making a decision concerning which final offer to accept in this kind of a proceeding. In this case neither party raised any substantial issue concerning the first three factors: the lawful authority of the employer, stipulations of the parties, or the interests and welfare of the public and the financial ability of the unit of government to meet these costs. Nor did either party present any data related to comparable jurisdictions that would enable making a judgment concerning factor (f), overall compensation, nor (g), changes in the foregoing circumstances during the pendency of the proceedings.

The other factors are (d) comparables, (e) cost of living, and (h) other factors normally or traditionally taken into consideration.

The data presented by the parties as to cost of living showed the measurement of the increase in the CPI for nonmetropolitan areas to be in the vicinity of 4.0 to 4.3 per cent for the first nine months of 1991. Neither final offer is unreasonable when viewed in comparison with the trend in the cost of living. This leaves the factors of comparables and other factors normally or traditionally taken into consideration. Let us treat those in order.

Whenever the parties present two greatly different sets of comparable jurisdictions in a proceeding like this, the arbitrator is presented with a problem about which ones to accept. Factor (d) states the following:

(d) 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.

Subparagraph (d) raises the classical questions of which of the jurisdictions used by the parties are comparable communities as well as what is meant by the term "similar services." Three of the more important factors in comparing communities are the populations, the sizes of the respective work forces, and distance away from West Salem. On these factors the City of La Crosse and La Crosse County are dissimilar communities. Although they are in the same geographical community and in the same labor market, their populations and work force magnitudes make them so different that I will exclude them as comparables in this proceeding. Some of the other jurisdictions used by the

Union are larger than West Salem and some of the other jurisdictions used by the Village are smaller than West Salem. One question that might be raised about some of those used by the Village is distance from West Salem. Both Mauston and Alma are about fifty miles away. Mauston can be excluded because the data presented for it are for 1990. Alma can be excluded because the data for health insurance were not available. I have used all the other comparable jurisdictions presented by both parties.

The exclusion of the City of La Crosse and La Crosse County does not completely exclude use of the data presented by the Employer concerning private employment there, since La Crosse is in the same labor market, and what happens to employment and employment conditions there has an effect on the economic well-being of the citizens of West Salem. I am not convinced, however, that it is useful to compare employment conditions of law enforcement officers with employment conditions in the industrial sector except in the most general terms. No useful testimony was introduced by either party concerning private employment in what I have decided are comparable communities among employees who are providing "similar services."

With those preliminary decisions out of the way I have made the following wage comparisons, using data from Union Exhibit 15, Village Exhibit 5 (and, as explained below, from Union 27). Since there were not sufficient data available for 1992, all data here are for 1991. The Union presented wage data in its exhibit on an hourly basis, the Village on a monthly basis. This created a problem in the analysis of the data. The wages in the expired agreement are expressed in hourly rates. The Employer multiplied these rates by 173.3, the figure routinely used for monthly hours where there is a 40 hour week. But Article IX - WORK PERIOD - OVERTIME states that "The work period shall be twenty-eight (28) consecutive days on a schedule of six (6) consecutive work days followed by three (3) consecutive days off, with no minimum hours per year." This calculates to 1947 hours per year or 162.25 hours per month. Furthermore, in reconstructing the Union's calculations for Union Exhibit 27, its estimate of the dollar costs of the two final offers for 1991, I determined that the work hour figure used was 1947 hours per year or 162.25 hours per month.

I have no way of knowing whether in its Exhibit 5 the Employer converted hourly rates for its comparables using 173.3 or whether it obtained monthly rates for the comparable jurisdictions and only calculated its own rates using 173.3. If 173.3 was used to convert hourly to monthly rates for other jurisdictions, then those rates may also be inflated, since most police departments work on a 6 days on and three days off 8 hour per day schedule, which produces a figure of 162.25 hours per month. I have used the monthly figures provided by the employer in the table below, but I have multiplied the hourly figures presented by the Union in its Exhibit 15 by 162.25. I also show in parenthesis the Village of West Salem and Holmen figures when the rates are

multiplied by 162.25 rather than 173.3

COMPARISON OF 1991 MONTHLY RATES, PATROLMAN/TOP DEPUTY

Onalaska	\$1,970
Holmen	1,911 (\$1,856) *
West Salem (Union offer)	1,911 * (1,790) *
West Salem (Village offer)	1,892 (1,772)
Vernon County	1,853
Prairie du Chien	1,825
Tomah	1,764 **
Black River Falls	1,730
Whitehall	1,728
Crawford County	1,720 #
Sparta	1,679
Westby	1,666
Hillsboro	1,583 #
Average	\$1,766 ##

* These represent split wage increases. In the West Salem case the figure represents what the rate would be after July 1. The average monthly rate for the entire year is \$1,764 under the Union's final offer.

** 1991 not yet settled. The figure reported by the Union assumes that an arbitrator will accept a lift of \$.67.

Single rate shown. No progression.

Excludes both Employer and Union West Salem figures. Uses figure presented by the Employer for Holmen. If figure presented by the Union is used, the average is \$1,762.

If I assume that \$1,790 (the Union final split figure offer for 1991) and \$1,772 (the Employer final offer for 1991) are the correct calculations to put these rates on a monthly basis, then both offers would make monthly salaries for 1991 lower than four of the comparables (Onalaska, Holmen, Vernon County, and Prairie du Chien) and higher than the other seven (Tomah, Black River Falls, Whitehall, Crawford County, Sparta, Westby, and Hillsboro). Both offers are slightly higher than the average for the twelve comparables (although the actual average monthly wage under the Union's split increase is \$2.00 per month lower).

My judgment as a result of these calculations would tilt the decision slightly in favor of the Employer's final offer on the wage issue. The 1992 offers would also be considered, but they are so fragmentary as not to be useful.

The table below shows the employee contributions for health insurance for the comparable jurisdictions in 1991.

COMPARATIVE EMPLOYEE HEALTH INSURANCE CONTRIBUTIONS

	Single Plan	Family Plan	
Vernon County	None	\$102.07	
Westby	\$34.30	87.80	
Hillsboro	23.56	67.76	
West Salem (Village offer)	20.00	50.00	
West Salem (Union offer)	None	32.63	
Sparta	None	31.88	
Holmen	None	26.43 *	\$28.08 **
Tomah	20.00	20.00	
Onclaska	4.24 #	7.12 #	
Black River Falls	None	None	
Crawford County	None	None	
Whitchall	None	None	
Prairie du Chien	None	None	
Alma (Not available)			

* As reported by the Union.

** As reported by the Village.

Multiple plans. Some have no employee contribution.

The value of these data for making any judgment is questionable. Different plans have different benefits, and it is possible that some of the plans that require no employee contribution provide less insurance coverage than those where there is an employee contribution. And most important, the parties did not provide any information about the deductible features of any of the comparable plans, although there was testimony from the Village at the hearing that the deductible feature of its health insurance had not increased. Although there are three plans among these comparables that require substantially higher employee contributions than either final offer, there are two that require only slightly less than the Union's final offer. This leaves six of the eleven that require a significantly smaller contribution or no contribution by employees.

This examination of the comparables indicates that on the insurance issue the decision leans in favor of the Union's final offer. It may be of some significance, however, that the terms of the expired labor agreement provided for equal sharing, employer and employee, of increases in the health insurance premium beyond a certain level. As a result, both of these offers would actually reduce the employee contribution from what it was at the end of the expired labor agreement, albeit the Union offer would reduce it more.

This brings me to consideration of factor (h), which reads as follows:

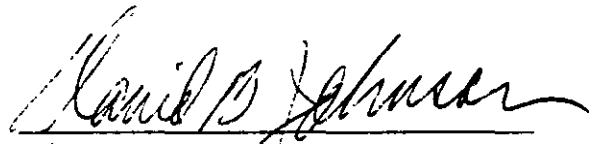
(h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the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

Although the Village does not make an argument of inability to pay, we all know the effects of the present recession on the budgetary problems of small as well as large units of government. And we all know about the discontent of citizens, especially farmers, about the level of the property tax in Wisconsin and the frustration over promised relief that is considered to be inadequate. In addition, there is no question but that the trend is in the direction of greater contributions by employees to the cost of health insurance plans. Unless effective cost controls for health insurance are legislated, a \$50 fixed contribution by employees in the not too distant future can be expected to be less than a 10 per cent contribution. Although this arbitrator is not generally impressed by arguments that organized units should get no more than the employer has unilaterally determined for unorganized employees, I recognize that while the unorganized employees are already paying the health insurance contribution that is in the Village's final offer, they have been given a 3.5 per cent rather than a 4.5 per cent increase for 1992, which results in better conditions for the employees in the police unit even if the Village's final offer is accepted in this proceeding. Actually there is very little difference between the two final offers. The Village's wage offer is closer to the comparables while the Union's health insurance offer is closer to the comparables. This makes the decision a toss-up for this arbitrator. But in light of all the considerations I have described in this final paragraph, I make the following

AWARD

The Village's final offer is accepted as the decision in this arbitration and the terms and conditions of that final offer will be incorporated in the 1991-1992 labor agreement between the parties.

Dated February 18, 1992


David B. Johnson

ADDENDUM A

FINAL OFFER
OF THE
WISCONSIN PROFESSIONAL POLICE ASSOCIATION
LAW ENFORCEMENT EMPLOYEE RELATIONS DIVISION
TO
THE VILLAGE OF WEST SALEM

June 20, 1991

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RELATIONS COMMISSION
Appendix

The final offer of the WPPA-LEER for a Collective Bargaining Agreement between the WPPA-LEER and The Village of West Salem is as follows:

A. All terms and conditions of the 1990 Agreement shall be continued for a two (2) year term except as otherwise agreed to between the parties in their written stipulations and except as noted below:

B. Revise ARTICLE XIV - INSURANCE - Section 14.01 to read:

14.01 The employer shall provide hospital-medical insurance to all full time employees with the Village paying ninety (90%) percent toward the monthly premium for the family plan and one-hundred (100%) percent of the monthly premium for the single plan. The Village retains the right to substitute other medical-hospital insurance plans or carriers from time to time.

C. Revise APPENDIX "A" - Section "A"1.01 to read:

	Effective Date	
	<u>1/1/91</u>	<u>7/1/91</u>
Starting Patrolman (Uncertified) Probationary	8.74	9.00
Starting Patrolman (Certified) Probationary	8.99	9.26
Tenured Certified Patrolman I (After 1 year of service with this department)	9.59	9.88
Tenured Certified Patrolman II (after five years of service with the department)	10.71	11.03
	Effective Date	
	<u>1/1/92</u>	<u>7/1/92</u>
Starting Patrolman (Uncertified) Probationary	9.27	9.46
Starting Patrolman (Certified) Probationary	9.54	9.73
Tenured Certified Patrolman I (After 1 year of service with this department)	10.18	10.38
Tenured Certified Patrolman II (after five years of service with the department)	11.36	11.59

D. Revise all applicable dates to reflect a duration of two (2) year. (1991-1992)

ADDENDUM B

FINAL OFFER OF

VILLAGE OF WEST SALEM, WISCONSIN

July 10, 1991

Re: West Salem Police Association Contract

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Appendix "A"

1. All terms and conditions of the 1990 Agreement shall be continued for a two-year period except as noted below.

2. Revise 14.01 to read:

"The employer shall provide hospital-medical insurance to all full time employees with the employee paying \$50.00 per month of the premium for family plan coverage or \$20.00 per month of the premium for single plan coverage and the employer paying the balance of the monthly premium. The Village retains the right to substitute other medical-hospital insurance plans or carriers from time to time."

3. Revise Appendix "A", Section 1.01 to read:

The wage schedule shall be as follows:

	Effective Date <u>01/01/91</u>	Effective Date <u>01/01/92</u>
Starting Patrolman (uncertified) Probationary	8.91	9.31
Starting Patrolman (certified) Probationary	9.17	9.58
Tenured Certified Patrolman I (after 1 year of service with this depart.)	9.78	10.22
Tenured Certified Patrolman II (after 5 years of service with the depart.)	10.92	11.41

4. Revise Appendix "A", Section 1.02 to reflect actual current employees and dates of hire.

5. Revise all applicable dates to reflect a duration of two years (1991-92).

VILLAGE OF WEST SALEM, WISCONSIN

B-

Jerome Klos, Village Secretary