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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN
ARBITRATION AWARD

: :
In the Matter of the Arbitration between :
: :
CITY OF BARABOO (POLICE DEPARTMENT) :
: :
and : Re: City of Baraboo
: (Police Department)
: Case 14 No. 45304
TEAMSTERS UNION LOCAL NO. 695 : MIA-1601
: Decision No. 27096-A

APPEARANCES: For the Employer, City of Baraboo: Godfrey & Kahn, S.C., by Kirk D. Strang, Esq., 131 West Wilson Street, Suite 202, P.O. Box 1110, Madison, Wisconsin 53701-1110. Mr. Strang was accompanied at the hearing by Ms. Suzanne Dishaw-Britz, same address.

For the Union, Teamsters Union Local No. 695: Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., by Marianne Goldstein Robbins, Esq., 1555 North RiverCenter Drive, Suite 202, Milwaukee, Wisconsin 53212. Ms. Robbins was accompanied at the hearing by Mr. Joseph Ashworth, Business Agent, Teamsters Union Local No. 695, 1314 North Stoughton Road, Madison, Wisconsin 53714-1293.

The Union represents a collective bargaining unit of City of Baraboo Police Department employees below the rank of sergeant who have the power of arrest. Their labor agreement expired by its terms on December 31, 1990. On February 15, 1991, the parties filed a stipulation with the Wisconsin Employment Relations Commission requesting final and binding arbitration pursuant to Sec. 111.77(3) of the Municipal Employment Relations Act. Following an investigation by Commission staff the Commission certified that conditions precedent to the initiation of arbitration pursuant to the statute had been met. Subsequently the parties were ordered to select an arbitrator and the undersigned was informed of his selection by letter from the Commission dated January 27, 1992.

A hearing was held in Baraboo on April 13, 1992. The parties presented evidence from witnesses and in documentary form. They were given an opportunity to cross examine the witnesses and to ask for further information about the materials in the documents as well as to raise questions about its accuracy. No record was kept other than the arbitrator's handwritten notes. At the conclusion of the hearing the parties agreed to exchange written briefs and to

decide later whether to file reply briefs. The briefs were exchanged late in May and reply briefs were mailed on June 11. The hearing record is considered closed as of that date.

THE ISSUE TO BE DECIDED

At the hearing the parties agreed that there is only one issue. The Union would increase the wage rate for employees covered by their proposed two year labor agreement by four per cent effective January 1, 1991, two per cent effective July 1, 1991, four per cent effective January 1, 1992, and two per cent effective July 1, 1992. The Employer would increase the rates by five per cent effective January 1, 1991, and by five per cent effective January 1, 1992.

TESTIMONY AND ARGUMENTS OF THE PARTIES

The statute sets forth eight criteria for the arbitrator to consider in making a decision. There appeared to be no particular difference between the parties on application of the first three criteria: lawful authority of the employer, stipulation of the parties, and interests and welfare of the public-financial ability of the employer to meet the costs of the settlement. Nor were there any significant arguments or testimony concerning the last two criteria: changes in the foregoing circumstances during the pendency of the proceedings and "other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages. . ."

The testimony and arguments related almost exclusively to subparagraphs d., e., and f., which cover generally: comparability, cost of living, and overall compensation.

On the issue of comparability both parties agree that, since this proceeding involves uniformed law enforcement officers, comparisons in private employment are not relevant. As to comparisons in public employment in comparable communities, there were some differences. The Union proposed to compare Baraboo employment conditions for policemen with those of Lake Delton, Reedsburg, Sauk City and Prairie du Sac (which have a combined force and are hereinafter referred to as Sauk-Prairie), and Wisconsin Dells. The Employer agrees on comparisons with Reedsburg, Sauk-Prairie, and Wisconsin Dells and would add Mauston, Portage, and the Sauk County Sheriff Department but would not include Lake Delton.

The Employer presented Consumer Price Index data purporting to show that although in 1989 and 1990 the CPI had advanced somewhat more rapidly than the increase in wages for these employees (in 1989 a 3.97 percentage wage increase and a 4.22 percentage CPI increase, in 1990 a 4.45 percentage increase in wages and a 5.90 percentage increase in the CPI), the 1991 increase of 2.7 percentage increase in the CPI was substantially less than the percentage proposal of either party and that so far in 1992 the CPI annualized percentage increase was even less. The Union argues that the relevant figures are those for 1989 and 1990 and cites several sources of authority for its position. On the question of overall compensation the Employer presented fairly elaborate estimates of its own overall labor costs and those of its proposed comparable communities.

Since this is the first arbitration proceeding of this kind between these two parties, there is no precedent in the matter of comparable communities. The Employer presented data for its proposed comparable employers relating to population, adjusted gross income per capita, tax rates, and property values. These measurements were asserted by the Employer to be of the same order of magnitude as those of the City of Baraboo. It also cited many previous arbitration opinions concerning the use of comparable communities and which emphasized measures such as those used by the Employer in this proceeding. It objected to the use of Lake Delton by the Union on grounds that its population of 1,470 was smaller than any of the others.

The Union did not present any similar data to support its choice of comparables. It defended its use of Lake Delton on grounds that it had a five member force, not substantially smaller than some of the others and, because of its proximity, has law enforcement problems that are similar to those of Wisconsin Dells. It objected to the use of Mauston because of its distance from Baraboo (about 30 miles), to Portage because it is in another county and also because it has a 6-3 work cycle and annual hours of only 1950. It objected to Sauk County on grounds that it is a different kind of employer with much broader law enforcement responsibilities than the Baraboo police force.

The other significant difference between the parties was in the rates they said were in effect in some of the comparable police forces. The Union showed rates for the non-union police force at Sauk-Prairie that at the maximum of the range for the patrolman classification were 87 cents per hour lower for both 1991 and 1992 than the rates presented by the Employer. The Union disputed the rates presented by the Employer for Portage, arguing that the Employer had calculated the hourly rate by dividing the annual salary for the classification of patrolman by 2080 whereas the Portage police force works on a 6-3 work cycle, which adds up to only 1950 hours per year, the figure that should have been used. Neither the Employer nor the Union, which represents patrolmen at Portage, introduced a copy of the Portage labor agreement, which would have allowed the arbitrator to check the manner in which this Employer had calculated the hourly rate. The Union also pointed out that the Employer had miscalculated its own hourly rates, a mistake that the Employer rectified in its brief.

In their arguments the parties disagreed about the importance of internal comparisons. The Employer showed data purporting to indicate that this unit and the Department of Public Works unit have had the same percentage settlements since 1986 and that adopting the Union proposal would mark the first departure from this pattern, since the Employer has already settled for five per cent in 1991 and 1992 with this Union as representative of the DPW employees. Both units have accepted a change in health insurance from Employer payment of ninety-three per cent of the premium to one hundred per cent with a provision for a deductible feature.

The Union bases its proposal of a total six per cent lift partly on larger percentage increases that have been granted to supervisory personnel in the police department. Although the Union acknowledges that a private firm consultant had recommended increasing the differentials between patrolmen and supervisory personnel in 1991, it asserts that the report found sergeants to be

appropriately compensated. Nevertheless, the Employer has increased their salaries by percentages that are higher than those proposed either by the Employer or the Union in this proceeding.

On its part the Employer introduced a section of the consultant's report that included the following quote:

Our review indicates that there is currently a great deal of wage compression between bargaining unit gross earnings and the W-2 wages of first line supervisors . . . This wage compression needs to be corrected if the City hopes to recruit and retain qualified supervisors. . .

The Employer introduced a page of the report listing W-2 earnings for 1989. These data indicated that two patrolmen had annual earnings lower than the earnings of the Chief but higher than any captain, lieutenant or sergeant and that a total of four of the nine patrolmen had annual wages in 1989 that were higher than the lowest paid first line supervisor.

The Union pointed out in its brief that these high W-2 earnings are the result of overtime work at time and one-half. Some of this overtime is voluntary and some is not. In either case it has negative aspects in that it takes the individual away from his family. It is therefore unfair to withhold equitable increases from the patrolmen on a theory that their total income is somehow sufficient because they have received overtime premium. In addition the Union points out that, although they are not part of the bargaining unit, sergeants are also paid overtime premium.

The Union argues that there are several errors in the Employer's total package comparisons, but the total of the alleged errors did not appear to reduce the Employer's own total compensation figure enough to bring it close to the lower average of the comparables as calculated by the Employer. The Union did not introduce any total compensation figures of its own.

OPINION

In these proceedings the parties propose the comparables. Although the arbitrator might prefer a different set, there is little he can do other than to accept one set or the other or some combination of the two sets. In this case the cities of Reedsburg, Sauk-Prairie, and Wisconsin Dells are proposed by both parties. The data used in the Employer exhibits on comparisons of their population, tax rates, adjusted gross income per capita, and property values indicate that they are proper comparables. The same can be said for Mauston. Although it is smaller than five others, it is larger than Wisconsin Dells. Thirty miles does not make it too distant from Baraboo. Portage has about the same population as Baraboo. The fact that it is in another county has no particular relevance. Part of Wisconsin Dells is outside Sauk County. Sauk County is also an appropriate choice. Although it has a larger force, its employees perform similar work and are headquartered in Baraboo. There is not a great variation in per capita income nor in tax rates among the Employer's comparables. I see no reason not to accept the Employer's set of comparables. And since Lake Delton, while smaller in population, is practically a twin of

Wisconsin Dells and probably has very similar police problems, it should be accepted also. The accepted comparables, therefore, are Lake Delton, Mauston, Portage, Reedsburg, Sauk-Prairie, Sauk County, and Wisconsin Dells.

The next problem is how to deal with the different rates that the parties have presented. In my opinion this obstacle can be handled by converting all the hourly rates to annual rates, using what the Employer has stated are the number of hours worked at straight time during the year. In some cases annual rates can be taken from the labor agreements. Such a comparison looks like this:

	<u>TABLE I</u>		
	<u>1990</u>	<u>1991</u>	<u>1992</u>
Lake Delton *	\$23,513	\$24,961	\$27,209
Mauston (2080 hours)	21,986	22,859	23,754
Portage (1950 hours) +	24,107	25,314	Not settled
Reedsburg (2040 hours)	21,216	24,480	25,459
Sauk-Prairie (1947 hours) ++	25,292	26,538	27,608
Sauk County (2030 hours)	22,513	23,629	NS
Wisconsin Dells *	22,260	24,072	26,028
Averages	22,984	24,550	26,012
Baraboo	23,760		
	Employer proposal	24,948	26,195
	Union proposal	25,205	26,737

* These figures are are calculated by multiplying monthly rates in the labor agreements by 12.

+ These figures are multiples of the hourly rates presented by the Employer for Portage and 2080. The Employer appears to have obtained its figures by dividing an annual figure by 2080.

++ These figures are multiples of the hourly rates presented by the Employer for Sauk-Prairie and 1747 hours. They are roughly equal to the figures presented by the Union times 2080 hours.

In the event that the annual hours listed in Employer Exhibit #24 are incorrect, I have calculated the figures in the following table from hourly rates provided by the parties, all multiplied by 2080 hours so as to obtain annual rates. As noted in the previous table the rates for Lake Delton and Wisconsin Dells are taken from the labor agreements.

TABLE II

	<u>1990</u>	<u>1991</u>	<u>1992</u>
Lake Delton *	\$23,513	\$24,961	\$27,209
Mauston	21,986	22,859	23,754
Portage +	24,107	25,314	NS
Reedsburg	21,632	24,960	25,958
Sauk-Prairie **	25,292	26,538	27,608
Sauk County	23,067	24,211	NS
Wisconsin Dells *	22,260	24,072	26,028
Averages	23,122	24,702	26,111
Baraboo	23,760		
	Employer proposal	24,948	26,195
	Union proposal	25,205	26,737

* Monthly rates shown in the labor agreements multiplied by 12.

+ These figures are multiples of the hourly rates presented by the Employer and 2080 hours. The hourly figures presented by the Employer appear to have been calculated by dividing 2080 into the annual rate figure.

** These figures are multiples of the hourly rates presented by the Employer and 1947 hours. They are roughly equal to the figures presented by the Union times 2080 hours.

These comparisons show Baraboo third of eight in 1990. If the annual hours figures in Table I are used and the Employer's proposal adopted, Baraboo is shown as third of eight in 1990, fourth of eight in 1991, and third of six in 1992. If the Union's proposal is chosen, using Table I figures, Baraboo would be third of eight in 1990 and 1991 and third of six in 1992. If the figures in Table II are used, adopting the Employer's proposal would move it to fifth of eight in 1991, but it would be virtually tied for third of eight with Lake Delton and Reedsburg. In 1992 it would be third of six. If the Union's proposal is selected, using the figures in Table II, Baraboo would be third of eight in 1991 and third of six in 1992. In terms of its ranking among the comparables the choice of one or the other would have very little effect. In

terms of the averages the Employer's proposal is favored.

The Employer also presented some comparisons of the rates for its juvenile officer and investigator classifications. The Union commented that these comparisons were not valid for the reason that the comparable employers did not employ the same classifications. I agree.

Although I do not think the internal comparisons should be determinative in this matter, the fact that this same Union has negotiated a wage increase in the DPW unit that is the same as the Employer offer here, is a factor favoring selection of the Employer proposal. The data introduced by the Employer concerning the fact that several members of the unit have had higher annual earnings than some first line police department supervisors is also a factor tending to favor the selection of the Employer's proposal.

Both proposals provide percentage increases well above the percentage increases in the cost of living in 1991 and 1992. And if we accept the Union's argument that the pertinent statistics are the increases in 1989 and 1990, then the Employer proposal is slightly smaller than the increase of a total of 10.12 per cent in the CPI for those two years and the Union proposal is about two percentage points greater than the increase in the CPL. On the matter of increase in the cost of living there is little basis for choice between the two proposals.

I am dubious about the value of comparisons of total compensation. There are many arbitrary judgments that need to be made in pricing benefits. It is difficult, for instance, to make a positive claim that employees are better off with full employer payment of health insurance but with an added deductible feature than they were when employees paid seven per cent of the premium but had no deductible. And comparisons of different vacation and educational incentive policies present similar difficulties. So although the Employer has shown figures that indicate a higher total compensation package for these employees than is paid to the employees of the comparable communities, I am reluctant to give this factor much weight in my decision.

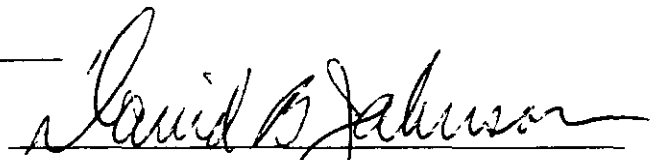
The important factor in this proceeding is the comparison of the level of wage rates among the comparable employers. I depend heavily on this factor in making my judgment that the Employer's proposal is closer to the prevailing compensation practices of the comparable employers than is the Union's.

I have considered and discussed the proposals of these parties with relation to the factors that I am required to consider and make the following

AWARD

The proposal of the Employer is adopted as the decision in this proceeding and will be incorporated in the parties' labor agreement.

Dated June 25, 1992


David B. Johnson, Arbitrator