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STATE OF WISCONSIN

Before the Interest Arbitrator

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Petition)
)
 of) Case 73
)
 Wisconsin Professional Police) No. 52067 MIA-1958
 Association, Law Enforcement) Decision No. 28347-A
 Employee Relations Division)
)
 For Final and Binding)
 Arbitration Involving Law)
 Enforcement Personnel in the)
 Employ of)
)
 City of Rhinelander)
 (Police Department))
)

APPEARANCES

For the Association:

Richard D. Little, Bargaining Consultant
Gary Wisbrocker, Business Representative

For the City:

Phillip Parkinson, City Attorney

PROCEEDINGS

On April 13, 1995 the undersigned was appointed Arbitrator by the Wisconsin Employment Relations Commission pursuant to Section 111.77 (4)(b) of the Municipal Employment Relations Act, to resolve an impasse existing between WPPA/LEER, hereinafter

referred to as the Association, and the City of Rhinelander Police Department, hereinafter referred to as the Employer.

The hearing was held on July 5, 1995 in Rhinelander, Wisconsin. The Parties did not request mediation services and the hearing proceeded. At this hearing the Parties were afforded an opportunity to present oral and written evidence, to examine and cross-examine witnesses and to make such arguments as were deemed pertinent. The Parties stipulated that all provisions of the applicable statutes had been complied with and that the matter was properly before the Arbitrator. Briefs were filed in this case and the record was closed on August 7, 1995 subsequent to receiving the final briefs.

ISSUES

The issues of this case are as follows:

<u>Association</u>	<u>City</u>
Wages - Across the Board	Wages - Across the Board
01/01/95 - 2%	01/01/95 - 3.75%
07/01/95 - 2%	01/01/96 - 3.75%
12/31/95 - 1%	
01/01/96 - 4%	

All tentative agreements that were reached and dated February 20, 1995. All other terms and conditions would be renewed except for the applicable date changes.

The issue then remains - should the Arbitrator select the final offer of the Association or the final offer of the City as final and binding on the Parties.

ASSOCIATION POSITION

The following represents the arguments and contentions made on behalf of the Association:

The criteria that the Arbitrator should consider is set forth in the statute. The Association believes it can establish that the Association's final offer is more reasonable than the Employer's and, therefore, should be incorporated into the Parties' successor Collective Bargaining Agreement. No argument has been raised by either party that the Employer does not have the authority to lawfully meet the Association's final offer. There are no exhibits or testimony provided to indicate that any legal deficiencies exist. Accordingly, this criterion should have no effect on the Arbitrator's decision.

Agreement has been reached on seven items for the new contract. Six of those seven changes have little or no monetary value. The seventh agreement involves a clothing allowance which has been raised from \$350 to \$400 per year. The monetary impact has been recognized and fully addressed in the package and costing exhibits supplied by the Association. Neither party has attached a specific cost or savings to the remaining issues that have been agreed upon, therefore, they should have little or no weight on the outstanding issue acceptability.

When considering the final offer, the Arbitrator must give weight to the interest and welfare of the public. It is the Association's position that its final offer best serves the citizens of Rhineland by recognizing the need to maintain the morale of its officers and to retain the best and most qualified officers. The law enforcement officers of Rhineland work side by side on a daily basis with officers of other departments. One of the most important comparables is Oneida County. While they received adjustments in excess of 8% for 1995 and 1996, the members of this association were expected to accept 7.5% for the same period. While these differences may seem slight, the existing disparity between wage levels of the comparable departments will become magnified.

The Employer has the financial ability to meet the costs of the Association's final offer. At no time does the Employer

allege that it does not have the economic resources to fund either of the final offers submitted by the Parties. Thus, inability to pay is not a factor and need not be addressed further.

With respect to the comparables, the Parties have agreed as to which external law enforcement departments the Parties consider appropriate. The historical relationship between the City of Rhinelander Police Officers in comparable departments shows that the wages paid to association members remained relatively stable in the years 1987 through 1990, i.e. approximately \$100 per month below the average of the comparable departments. The contract year of 1991 brought a loss of ranking of one position and wage rates which now approximate \$120 a month below the average. It is this deficit and progressive downward trend that the Association final offer is attempting to address. Under the Association final offer, the wages will rise to \$107.90 below the average of comparables. If the Employer's final offer is accepted, the Rhinelander Police Officers will be compensated at an unprecedented \$137.90 below the average of comparable departments. Never in the history of these comparable departments has this previously occurred. Although the reduced number of 1996 settlements makes comparison difficult, the pattern of settlements suggests the declination will continue.

The Association admits that its final offer will provide a lift of 1.31% above the average lift of comparable departments over the life of the agreement; yet, by the disbursement of the effective dates of the applied wage increases, the Association offer will closely follow the average in-pocket increases for comparable departments. Compared to the in-pocket dollars produced by the Employer's offer, the Association's wage offer is approximately .75% lower in 1995 and 1.25% above the Employer's offer in 1996, or an aggregate of 1/2 of 1% difference in cost over the term of the Agreement. Therefore, it is the Association final offer that must be viewed as most reasonable with respect to this criteria.

The internal comparables submitted by the Employer should not be considered primary comparables in these proceedings. The Employer will contend an internal settlement pattern has been established for represented and non-represented employees and that these settlements will provide justifications for acceptance of the Employer final offer. The Association does recognize that arbitrators have given weight to internal comparables, however, the factual basis of the issue dictates that in these proceedings internal comparables should be given limited weight. Appropriate citations were provided by the Association. Therefore, unless the Employer can point to strong reasons for urging uniform wage increases, the Arbitrator should not select the Employer's offer.

With respect to the cost of living criterion, the Association agrees with Arbitrator Kirkman in that voluntary settlements create a reasonable barometer as to the weight of cost of living increases. The Association is aware of the current economic climate and comparable settlements. Coupled with the fact that wage levels are way behind law enforcement comparables, it has framed its final offer in a fair and equitable manner.

The overall compensation is another criterion required for the Arbitrator's consideration. Both Parties have provided limited exhibits regarding overall compensation. The benefit levels of the Police Officers in the City of Rhinelander compare to their law enforcement counterparts, however, no benefit elevates the members of this Association to any position giving cause to find that the Association's final offer is unreasonable. Therefore, this should be given little or no weight.

Finally, there are no changes in the foregoing circumstances and, therefore, this criterion should not be considered by the Arbitrator in making his decision. The Association has applied the specific statutory criteria. The foregoing analysis has shown that the Association's final offer must be considered more reasonable and, therefore, be adopted by the Arbitrator.

CITY POSITION

The following represents the arguments and contentions made on behalf of the City:

The Parties reached seven tentative agreements during bargaining for the new contract. Only item #5 has any cost impact, that being the increase in the clothing allowance by \$50 per year to a total of \$400 per year. The impact of this increase should be considered by the Arbitrator in computing which final offer is more reasonable.

With respect to the statutory criterion, neither side contends that the lawful authority criterion would be applicable to this case. Regarding the interest and welfare of the public, the City does not argue that it is financially unable to meet the costs of either of the final offers presented. The Association's final offer amounts to an ultimate cost impact approximately \$14,500 per year greater than the impact of the City's final offer. The City has an operating budget of approximately \$6 million. The City is allowed to increase its operating expenses for 1995 by no more than \$236,000. At the time of the writing of this brief, the tax disparity percentages have not been set for 1996. However, the numbers that have been proposed are close to

the 3.0% level, which would allow the City to increase expenditures by only approximately \$180,000. Therefore, the \$14,500 greater cost impact of the Association's final offer will have a negative effect on the City. Some other part of the City's operating budget will have to be cut in order to keep the City's expenditures within the limits mandated by state law.

It is also in the best interest of the citizens that all City employees be treated fairly and uniformly so that no one bargaining unit is treated more favorably than any other bargaining unit or group of employees. It is for this reason that the City presented settlements with other units within the City. Non-union employees received a 3.5% wage increase for 1995. Public Works received increases amounting to 3.75% for the two years of their contract. The Clerical Unit received increases of 3.75% for 1995 and 1996. Some employees did receive increases through reclassification in order to provide a more equitable payment system in the City. Firefighters settled for a 3.75% increase in both 1995 and 1996. This pattern should be maintained unless the Association is able to justify exceeding the internal settlement.

At the heart of any interest arbitration involves a comparison of employee units from one municipality to another. The City and the Association have historically compared themselves with 11 other municipalities and with the Oneida

Deputy Sheriffs. The City continues to use the same 12 comparables used in the past which coincide with the comparables used by the Association. Historically, an arbitrator has settled the 1992-93 labor contract. In 1994 the City and the Association reached a voluntary settlement and this arbitration concerns wages for 1995 and 1996. The City's position is that there is no need to go back prior to 1993 in that an Arbitrator has already considered those comparables in rendering the last arbitration decision.

If the Association's offer is accepted, the City, which is in position 10 behind Antigo, will leapfrog in front of Antigo and move into position #9. It is the City's position that this is an inappropriate wage increase and contrary to public policy. For whatever the reason, the Association has not included the 1996 settlement of Antigo in its exhibits. The City's proposed 3.75% wage increase is above average as compared with the other 12 comparables with respect to percentage lift. The Association's request for a 5.8% wage increase is substantially above the 3.51% average that other bargaining units received and is the highest of any of the groups have settled for 1995. With respect to 1996, the City's offer is slightly higher than the group average of 3.67%. The Association's request for a 4.0% is that much higher than average. The City's offer is very fair and competitive, slightly above average for both years. The Association's request is much higher than average and results in

the City of Rhinelander moving in front of Antigo creating a leapfrog situation. It is appropriate for the City of Rhinelander's Police Officers to be paid slightly less than the City of Antigo's Police Officers. Antigo is a larger city having approximately 1,000 more in population. Antigo is located south of Rhinelander. The larger the city and the further south, the higher the base wages are. Comparing the City's final offer to the Association's final offer with respect to other comparable communities, the City's offer is more reasonable. The City will not make any comparisons with private employment.

Regarding the cost of living, the consumer price index averaged 3.1%, and an all-city average of 2.6%. Regardless of which offer the Arbitrator chooses, the City's final offer exceeds the CPI.

Regarding overall compensation, the City is unaware of any circumstances which would justify any increase in salary greater than that given to other municipal employees or employees of comparable municipalities. The clothing allowance is close to average. The paid holidays are slightly above average. Contribution for health insurance benefits continues to be zero, while four of the other municipalities now require employees to contribute towards their health insurance. All other public employment benefits are equal from city to city. Stability of employment remains excellent and the City has added police

officers over the last two years. There are no changes which occurred during the proceedings which would impact on the decision of the Arbitrator.

For the foregoing reasons the City asked that the Arbitrator find the Association's request to be excessive. The additional \$14,500 in cost would be negative to the City trying to keep within its tax disparity limits and would be an unjustifiably large wage increase in light of today's cost conscious circumstances. Therefore, the City asked that its offer be found by the Arbitrator to be more reasonable.

DISCUSSION AND OPINION

Many of the statutory criteria normally considered in interest arbitrations do not apply to this case. There is no question the Employer may legally meet the Association's final offer. The Employer has the financial ability to meet the costs of either offer. Both offers exceed the consumer price index data that is available. There were no changes in any of the foregoing circumstances and no other factors that would impact on this decision.

The Arbitrator is then left with making the decision based on the interest and welfare of the public, the internal and

external comparables, and the overall compensation of this unit. With respect to the interest and welfare of the public, the Arbitrator is well cognizant of the difficulties that are faced by public sector employers not only in Wisconsin but across the country. Particularly in Wisconsin there are significant constraints on public employers' ability to raise sufficient taxes to fund the various activities for the interest and welfare of the public. It seems to go without saying that the interest and welfare of the public would be better served in this case by the City's offer, absent any clear showing that the City's offer would result in a significant lowering of morale or its ability to retain or replace competent personnel for the Police Department. The Arbitrator would note that a historical review of the actual salaries paid to the City of Rhinelander Police Officers compared to the external comparables shows that if the City's offer were accepted, the unit would deviate from the average salaries by the largest amount in the history of the bargaining unit. The Arbitrator finds that this is a significant element. However, all in all the interest and welfare of the public would be somewhat better served by the City's offer.

With respect to the comparables, on a percentage basis the internal comparables favor the City's offer with the exception of the certain clerical positions which received higher increases due to re-classifications. All of the settlements have been within the range proposed by the City for this particular unit.

The Arbitrator is aware that this is a separate bargaining unit, and it does deserve the right to negotiate its own agreement. The Arbitrator is also aware that this a Police Unit and not directly comparable to a department of public works or a clerical unit, or even a group of management employees. In the data provided there is no way for this Arbitrator to determine the actual pay of the firefighters' group so that he might make a direct comparison. For these reasons, the Arbitrator does not feel that internal comparables should be a primary factor defined as one that, on its own, would turn an arbitration case. It is a factor that should be considered as one of several factors that should weigh in the decision of the case. Given that, the Arbitrator finds that the internal comparables favor the City's position.

With respect to the external comparables, the City took great pains to argue that on a percentage basis, its offer deserves to be the one that is selected by the Arbitrator and one would find it difficult to argue that, on a percentage basis, that is true. However, employees do not take percentage increases to the store to buy food and other necessities of life. That is done with actual salaries. The City also maintained that the historical inquiry by this Arbitrator should stop at the last interest arbitration. This Arbitrator cannot buy that position at all. The Arbitrator finds that it is not inappropriate to inquire as to this group's relative ranking based on actual

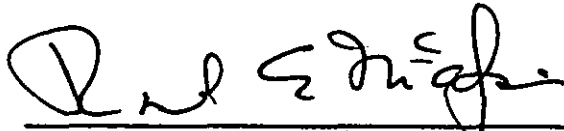
salaries over the past 8 to 10 years, and when reviewing that information, the Arbitrator finds that, while the Association's offer is significantly higher on a percentage basis, it does help the unit maintain a ranking of between \$100 and \$110 below the average for the comparables, whereas the City's offer would put this unit at an all-time low for this bargaining unit. This is not offset by differentials in overall compensation. Therefore, the Arbitrator finds that the external comparables strongly favor the Association's position in this matter.

In summary, the internal comparables and the interest and welfare of the public somewhat favor the City's position and the external comparables strongly favor the Association's position. As is usual, the Arbitrator finds that neither side has made an offer that is 100% appropriate; however, after reviewing all of the facts and evidence presented, it is the Association's proposal that is more reasonable.

AWARD

On the basis of the foregoing and the record as a whole, and after full consideration of each of the statutory criteria, the undersigned has concluded that the final offer of the Association is the more reasonable proposal before the Arbitrator, and directs that it, along with the predecessor agreement, as modified by the stipulations in bargaining, constitutes the 1995-1996 agreement between the Parties.

Signed at Oconomowoc, Wisconsin this 1st. day of September, 1995.

A handwritten signature in cursive script, appearing to read "Raymond E. McAlpin".

Raymond E. McAlpin, Arbitrator