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WISCONSIN EMPLOYMENT RELATIONS COMMISSION
BEFORE THE ARBITRATOR

In the Matter of the Arbitration Between)	MIA-2063
TEAMSTERS UNION LOCAL NO. 695)	Case 61
and)	No. 53998
GRANT COUNTY (SHERIFF'S DEPARTMENT))	Decision No. 29015-A
	OPINION and AWARD

Appearances: For the Union, Attorneys Scott D. Soldon and Frederick C. Miner, Milwaukee.
For the County, Attorney Jon E. Anderson, Madison.

When Teamsters Union Local No. 695 (referred to as the Union) and the Grant County (Sheriff's Department) (referred to as the County) were unable to resolve a negotiations impasse for a successor to their expired collective bargaining agreement, the Union filed a petition on April 3, 1996 requesting that the Wisconsin Employment Relations Commission (WERC) initiate arbitration pursuant to section 111.77 of the Municipal Employment Relations Act (MERA). On February 26, 1997, the WERC determined that an impasse existed and that arbitration should be initiated. The parties notified the WERC that the undersigned had been selected from a list supplied to the parties by the WERC and the WERC appointed her as arbitrator to resolve the impasse in an order dated April 10, 1997.

By agreement of the parties, a hearing was held in Lancaster, Wisconsin, on June 18, 1997. The parties were given a full opportunity to present witnesses, documentary evidence, and arguments. The parties submitted and exchanged post-hearing briefs.

ISSUES AT IMPASSE

As a result of negotiations between the parties, five issues remain unresolved. They relate to: 1) wages for 1996 and 1997, 2) health insurance for retirees, 3) changes to the contractual sick leave provisions for new hires, 4) some job posting changes, and 5) probation period modifications. For the Union's final offer, see Exhibit A. For the County's final offer, see Exhibit B.

STATUTORY FACTORS

Section 111.77(6) states that 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 o government to meet these costs.

(d) Comparison of the wages, hours and conditions of employment of the employes involved in the arbitration proceeding with the wages, hours and conditions of employment of other employes performing similar services and with other employes 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 employes, 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 and 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.

POSITIONS OF THE PARTIES

The Union

1996 and 1997 Wage Increases:

On this issue, the Union argues the most significant statutory factor is external comparability and points to Wisconsin arbitral authority to support this argument. The Union contends that, in addition to the contiguous counties of Crawford, Richland, Iowa, and Lafayette (which the Union and County agree are comparables), Sauk, Columbia, and Green Counties are appropriate comparables since each has a county population, total highway mileage and county land area, per capita operating expenses, and an annual budget which are close to Grant County's. In contrast, the Union emphasizes that there are many significant differences between Grant County and its four contiguous county neighbors. The Union further includes the wages of law enforcement employees of the "county seats" of Lancaster, Portage, Prairie du Chien, Monroe, Dodgeville, Darlington, Richland Center, and Baraboo in its external comparability analysis.

The Union concludes that this bargaining unit "is in critical need of substantial raises to remain competitive with comparable communities," noting that even the Union's final offer fails to eliminate many wage disparities while the County's final

wage offer exacerbates existing wage disparities into the foreseeable future. The Union notes that this is true for the classifications of Dispatchers, Jailers, and Clerk/Secretary as well as for the majority in the bargaining unit covered by the Deputy classification. Citing arbitral authority for the importance of appropriate external comparability data, the Union concludes that its offer is more reasonable because it addresses existing wage disparities by providing a modest degree of "catch-up."

County's Proposals to Modify Retiree Participation in Health Insurance and Employee Participation in Sick Leave Accrual:

Turning to the two additional issues at impasse contained in the County's final offer, the Union stresses that the party seeking modification of the status quo bears a heavy burden to justify the proposed changes and generally is required to offer a quid pro quo to support its proposed alteration. As for the limitations proposed by the County placing additional limits on its current program permitting retirees to continue to participate provided they pay the full cost of the premiums, the Union points out that there are no comparables which include the restrictions the County seeks.

The Union also believes that the County has failed to demonstrate any compelling need for its proposal limiting the accrual of sick leave. Further, the Union submits that the County has failed to provide any quid pro quo for limiting this valuable existing contractual benefit and has failed to provide any justification for its proposal based upon external comparables. For all these reasons, it opposes these provisions in the County's final offer.

Union's Proposals Relating to the Probationary Period for certain Employees and Job Posting Changes:

The Union points to external support for its proposal to change the exiting contractual mandate that the probationary period for new employees still in recruit school after one year of service be extended to a system which gives management discretionary authority to make that decision on an individualized basis.

The Union believes its proposal to permit the consideration of a broader pool of candidates for job openings is justified since it codifies the County's past practice and promotes fairness and loyalty and, lastly, that the Union's salary proposal protecting employees who successfully bid into a higher classification and complete the trial period is justified because it promotes wage equity.

For all the above reasons, the Union believes that its final offer is more reasonable and should be selected.

The County

1996 and 1997 Wage Increases:

The County primarily relies upon its internal settlement pattern to justify its final wage offer and emphasizes the County's need for internal consistency among all of its bargaining units. It notes that with the exception of one unit, all other 1996 wage adjustments for County employees have either been a 2%/2% split year wage adjustment or an increase of 3%. For 1997, it points to the sole "settlement" so far which covers non-represented employees. The amount is 3%, the same percentage contained in the County's final offer in this proceeding.

The County next emphasizes that the terms of its October 1996 tentative settlement with the Union (subsequently rejected by Union membership) are significant in this proceeding. It believes that the parties' tentative settlement demonstrates that at one time Union leadership viewed the settlement's provisions as fair and reasonable. That tentative settlement included not only the two additional demands sought by the County in this proceeding (see below) but a split year wage adjustment for 1996 (\$.25/\$.25 equal to 3%) and a 3% wage adjustment for 1997% nearly identical to the County's current final wage offer. The County specifically faults the Union for now asking for a greater wage increase than the Union leadership was willing to agree as part of the October 1996 tentative settlement.

The County cites arbitral authority to support its emphasis on internal consistency as controlling or determinative. It further notes that the Union in this proceeding also represented another County bargaining unit and that unit reached a settlement with the County along the lines of the County's 1996 wage offer.

The County finally argues that the appropriate external comparables also support its wage offers. It believes that the four counties immediately contiguous to Grant County (Crawford, Iowa, Lafayette, and Richland) are the only proper comparables. It completely rejects the Union's comparables which extend beyond these four adjacent counties to include more distant counties as well as the seven "county seats." The County forcefully argues that these additional comparables are not appropriate due to major dissimilarities in gross income data (for the additional counties), distinctions relating to size and responsibilities for law enforcement between the appropriate county comparables and the Union's "county seat" comparables, and the Union's inclusion of some non-represented municipal police employees (particularly the City of Lancaster).

For these reasons, the County concludes that its wage proposals are more reasonable than the Union's wage proposals.

County's Proposals to Modify Retiree Participation in Health Insurance and Employee Participation in Sick Leave Accrual:

The County again points to consistent internal comparisons to support its proposals to "update" qualifying language for retiree health insurance and to modify the existing contractual language relating to sick leave accruals. It particularly expresses concern for its mounting financial liability for unlimited sick leave and notes that its proposed cap for sick leave accumulations applies to new hires only.

Other Relevant Statutory Factors:

In conclusion, the County argues that the statutory factor relating to the "interests and welfare of the public" supports its final offer since the County's offer more accurately reflects the reality of the County's local current economy than does the Union's offer. It specifically points to continuing low per capita income data for the County, the very small increase in its property values in recent years, and high unemployment rates in the County - in contrast to state-wide and other data relating to its four contiguous counties - to support its total final offer. In addition, the County also points to national CPI data as justification of the reasonableness of its "moderate" final offer.

For all these reasons, the County characterizes the Union's offer as "far too much" and as lacking statutory justification. Accordingly, the County urges that the arbitrator reject the Union's final offer.

DISCUSSION

The record makes clear that both parties consider the determinative issue to be wages. In contrast to the overriding issue of wages, the four additional issues, while not ignored completely by the parties in their testimony, exhibits, and briefs, have been presented as secondary issues. Thus, the undersigned believes that it is appropriate to turn directly to the wage impasse.

1996 and 1997 Wage Increases:

The County emphasizes that internal settlement patterns should control the outcome of this arbitration unless the Union is able to demonstrate strong support for its external comparability analysis. While the County is able to point out that its final wage offer for 1996 is based upon an internal settlement pattern, there is no such pattern for Grant County represented employees for 1997. In fact, the sole "settled" 1997 Grant County wage increase at the time of this arbitration hearing was the County's unilateral decision to implement a 3% raise for its non-represented employees. Thus external

comparability data become key in any 1997 wage analysis and are also important to determine whether the County's internal 1996 wage settlement is also appropriate for this unit - or whether the Union's argument pointing to the need for "catch-up" is justified.

In scrutinizing external comparables, the arbitrator is faced with the (not unusual) threshold issue of what communities should be considered appropriate comparables for this particular impasse dispute. The parties agree that the Sheriff's Department bargaining units of the four contiguous counties (Crawford, Iowa, Lafayette, and Richland) are appropriate comparables. In addition, the Union argues for a broader pool of comparables since these four agreed-upon "comparable" counties are less populous¹ and dissimilar in other significant ways from Grant County. The Union believes that Columbia, Green, and Sauk Counties should be part of the pool of comparables due to their more comparable populations, operating budgets, and other relevant features. The County objects to the inclusion of these three additional counties primarily because of the higher income level of the populations residing in these additional counties and their distance from Grant County. In addition, the Union argues that the law enforcement units of the seven "county seats" should be included in the pool of appropriate comparables. The County objects to the inclusion of these municipalities due to their smaller size, differences in law enforcement duties, and the fact that not all of these cities (Lancaster, for example) engage in collective bargaining with their law enforcement employees.

While it is clear that the Sheriff's Departments of the four contiguous counties should be considered as primary comparables for Grant County's Sheriff's Department bargaining unit, the Union has provided insufficient evidence to establish that the law enforcement units of the seven "county seats" should be considered as comparables in this proceeding. As for the three additional counties (Columbia, Green, and Sauk), their distance from Grant County is apparent. It is particularly difficult to accept the characterization of Columbia County as part of "southwestern" Wisconsin. The undersigned believes, therefore, that it is appropriate to consider Green and Sauk Counties - but not Columbia County - as secondary comparables only in this proceeding. Accordingly, the parties' wage offers will first - and primarily - be compared with wage scales for Sheriff's Department employees in Crawford, Iowa, Lafayette, and Richland Counties. Then, the secondary comparables will be examined.

Before commencing external wage comparisons, it should be

¹The parties' population data are not consistent. It is clear, however, that Crawford, Iowa, Lafayette, and Richland Counties have significantly smaller populations than Grant County.

noted that, in contrast to the County's across-the-board percentage proposed wage increases for 1996 and 1997 and the Union's across-the-board percentage proposed wage increase for 1997, the Union's wage offer for 1996 is stated in terms of cents per hour. According to the Union, this 1996 wage increase format was consciously adopted to provide proportionately greater increases for those bargaining unit members at the lower end of the wage scale as well as to provide a greater end-of-year "lift" in contrast to the County's more modest 1996 percentage wage offer. In this regard, the Union's 1996 wage offer follows the pattern contained in the parties' rejected October 1996 settlement which provided for a \$.25/\$.25 split year adjustment for 1996 and a 3% increase for 1997 - although both the specific amounts of the Union's cents-per-hour 1996 final offer (\$.30/\$.30) and its proposed 1997 percentage increase (4%) are greater. With these points noted, the comparables will be examined in some detail to see whether the Union has provided evidence to support its "catch-up" proposal.

Looking at the average minimum hourly wage rates for 1/96, 7/96, and 1/97 for the classifications of Deputy, Dispatcher, Jailer, and Clerk/Secretary² employed in Crawford, Iowa, Lafayette, and Richland Counties, both the Union's final offer and the County's final offer fall consistently - and significantly - under the average for all minimums. Looking at the maximum hourly wage rates for 1/96, 7/96, and 1/97, the picture is different and more complicated. Both parties' final offers produce higher than the average comparable rates for Deputies entitled to the maximum rate of pay and produce lower than the average comparable rates for Jailers entitled to the maximum rate of pay. With one exception, both parties' final offers produce higher than the average rates in the contiguous comparables for Dispatchers entitled to the maximum rate of pay. (The exception is the 1/96 maximum rate of pay for Dispatcher under the County's final offer which is approximately the same as the average.) For all minimum and maximum rates of pay for Clerk/Secretary, both parties' final offers are significantly below the average.³

Considering the number of Grant County Deputies who will receive the minimum rate of pay versus the number of Deputies who qualify for the highest rate of pay, according to the 1997 information supplied by the County there are seven Deputies employed at the starting rate while five Deputies are employed at

²Based upon a County Exhibit, there are 29 members in the Grant County bargaining unit: 16 Deputies, 8 Jailers, 4 Dispatchers, and 1 Clerk/Secretary.

³Apparently only Iowa and Richland Counties employ someone with this classification in their Sheriff's Department bargaining unit.

the maximum rate.⁴ As for Dispatchers, in 1997 there is one Dispatcher employed at the starting salary while three Dispatchers are employed at the maximum rate. Thus, during both 1996 and 1997, a majority in this bargaining unit will receive a significantly lower hourly rate than the four county average under either the County's or the Union's final offer; a minority will receive somewhat more than the four county average under both parties' final offers. From this analysis using only the agreed upon primary comparables, it appears that the Union has submitted data to justify "catch-up" for a majority of employees in this bargaining unit. At the maximum 1997 rate,⁵ however, the Union's final offer (as well as the County's final offer) produces an hourly rate which exceeds the maximum rates for Deputies in Iowa, Lafayette, and Richland Counties. It is only when one turns to the secondary comparables that support for the Union's maximum 1997 rate for Deputies is found. The Union's maximum 1997 rate for Deputies is equal to the rate for Green County Deputies and under Sauk County's maximum rate for Deputies. The Union's maximum 1997 rate for Dispatchers is greater than Green County's but less than Sauk County's. Thus, the second comparables' support for the Union's maximum offer is not consistent. This is troublesome. However, these deficiencies cannot overshadow the fact that the Union's offer is more satisfactory in addressing the need for "catch-up" in minimum wage rates.

In addition to its arguments relating to internal and external comparability, the County argues that other considerations recognized by 111.77(6) of MERA, particularly "local economic reality" (specifically a lower per capita income and small increase in property values together with a high unemployment rate for Grant County) and national CPI data support its wage offer which was determined by the County's need for economic moderation and fiscal restraint. The County also emphasizes that its final offer is more in line with the rejected October 1996 tentative settlement than is the Union's final offer. These County arguments are entitled to some weight. However, they do not appear to be completely consistent with the County's wage offer which produces maximum wage rates for Deputies and Dispatchers higher than the rates adopted by the primary comparables.

If this proceeding permitted the arbitrator the discretion to issue an award not limited to one or the other party's final offer whole package, she would be able to "fine-tune" the provisions of her award to increase 1997 minimum wage rates for all Grant County classifications in this unit and to reduce

⁴In addition, there are two Deputies qualified to receive the 1 year rate and two Deputies qualified to receive the 3 year rate in 1997.

⁵Crawford County's 1997 wages have not yet been established.

maximum 1997 pay rates for Grant County Deputies and Dispatchers to better match the primary external comparables. Since she is limited to final offer whole package arbitration, she concludes that the Union's wage offer is preferable because of the manner in which it deals with the majority of bargaining unit employees, particularly those who qualify only for the minimum wage rates, even though the maximum rates contained in the Union's final offer are significantly in excess of the average of the primary comparables. Overall, she believes that the Union's final offer on wages is generally more reasonable under an analysis of statutory factors than is the County's since the latter's wage offer pays insufficient attention to the need for "catch-up" with the minimum wage rates paid to similar employees of the contiguous counties. Moreover, since there were no County 1997 internal collective bargaining settlements or arbitration awards to date, the County's argument based upon internal comparability for 1997 is not a strong one⁶ and its call for economic moderation and fiscal constraint is not consistent with the part of its own final offer to the extent that it provides maximum wage rates in excess of the rates paid by the primary comparables.

As for the four other issues at impasse, the County is silent as to the Union's two proposals amending the provisions in the contract relating to probation and job posting. The Union believes that its proposed changes will benefit both parties and, as to the job posting proposal, codifies the County's past practices. The County supports its two proposals relating to sick leave and health insurance for retirees on the basis that they were part of the tentative (but rejected) October 1996 tentative settlement and are supported by similar provisions found in the primary external comparables' collective bargaining agreements. Since the parties' focus in this proceeding has been on their wage dispute as the primary issue at impasse, the undersigned believes that it is not possible to analyze the remaining issues in depth. In any case, regardless of the merits of these remaining issues, the final outcome is necessarily controlled by the merits of the wage dispute.

Although both parties' wage offers are imperfect, the Union's wage offer has been selected as the more reasonable one because it addresses more realistically the need for "catch-up" for those bargaining unit employees receiving minimum wage rates. The next round of bargaining for a successor agreement should commence soon and should provide both parties with an opportunity to reexamine bargaining unit wage rates, particularly in light of external comparability data.

⁶Only Grant County's nonrepresented employees have had their 1997 wage increase established - by the County - at 3%.

AWARD

Based upon the record submitted in this proceeding, including testimony, exhibits, and briefs, the statutory factors set forth in section 111.77(6) of MERA, and for the reasons discussed above, the arbitrator selects the final offer of the Union and directs that the Union's final offer together with all already agreed upon provisions be incorporated into the parties' successor collective bargaining agreement.

Madison, Wisconsin
September 24, 1997

S/ JUNE MILLER WEISBERGER
June Miller Weisberger
Arbitrator