

OCT 10 1997

IN THE MATTER OF THE INTEREST ARBITRATION

WISCONSIN EMPLOYMENT
RELATIONS BOARD

PROCEEDINGS BETWEEN

CITY OF MARSHFIELD,

Employer,

and

ARBITRATOR'S AWARD

Case 123 No. 54239

MIA-2073

Decision No. 29027-A

MARSHFIELD FIRE FIGHTERS LOCAL 1021,
INTERNATIONAL ASSOCIATION OF FIRE
FIGHTERS, AFL-CIO, CLC,

Union.

Arbitrator: Jay E. Grenig

Appearances:

For the Employer: Dean R. Dietrich, Esq.
Ruder, Ware & Michler

For the Union: John B. Kiel, Esq.
Shneidman Myers Dowling Blumenfield
Ehlke Hawks & Domer

I. BACKGROUND

This is a matter of final and binding interest arbitration pursuant to Section 111.77(3) of the Wisconsin Municipal Employment Relations Act for the purpose of resolving a bargaining impasse between the Marshfield Fire Fighters and the City of Marshfield. The City of Marshfield ("City" or "Employer") is a municipal employer. The Marshfield Fire Fighters Local 1021 ("Union") is the exclusive collective bargaining representative of the fire fighters employed by the Employer.

On June 26, 1996, the Employer filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to initiate final and binding arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act. The petition alleged that an impasse existed between the parties with respect to wages, hours and conditions of employment of fire fighting personnel for the years 1996 and 1997.

Following an investigation by the WERC, it was determined that an impasse within the meaning of Section 111.77(3) existed between the union and the Employer. The parties thereafter submitted their final offers.

On March 6, 1997, the WERC issued an order appointing the undersigned as the arbitrator in this matter. The matter was brought for hearing before the Arbitrator on June 5, 1997, in Marshfield, Wisconsin. The parties were given full opportunity to present all relevant evidence and arguments. Upon receipt of the parties' briefs, the hearing was declared closed on September 4, 1997.

Although the parties were not able to agree upon wages and paramedic certificate pay, they did reach agreement on a large number of significant issues. They agreed to non-economic language changes to Article XXI—Jury Duty Pay, Article X—Emergency Leave, and Article XIV—Holidays. The parties agreed to revise the closing and introductory pages of the contract to reflect a two-year contract beginning January 1, 1996 and ending December 31, 1997. They also agreed to changes to Article XIII—Retirement, reflecting current contribution practice, and they agreed to increase the clothing allowance under Article XVII.

II. SUMMARY OF FINAL OFFERS

A. The Employer

1. Wages

The City's final offer provides for a three percent wage increase for the calendar year 1996 and a three percent wage increase for the calendar year 1997.

2. Paramedic License Pay

The City's final offer provides for an annual payment of \$900 to any fire fighter who has a paramedic license, regardless of rank or classification. It's offer would be effective July 15, 1996.

3. Paramedic Duty Pay

The City proposes to pay \$10 per day for each employee assigned to the first ambulance crew who also is a licensed paramedic. The City proposes that the payment be effective July 15, 1996.

4. Overtime Pay

The City proposes that the language on overtime payments be revised to provide that employees will be compensated at the overtime rate for all hours worked outside the employee's regularly scheduled work day. This would eliminate payments at the straight time rate for employees who are required to work a complete 24-hour work shift outside their regular work shift.

B. The Union

1. Wages

The Union proposes a two percent wage increase effective January 1, 1996, a two percent wage increase effective July 1, 1996, a two percent increase effective January 1, 1997, and a two percent increase effective July 1, 1997.

2. Paramedic License Pay

The Union's final offer provides for payment equal to three percent of the top step of the fire fighter base rate. Its offer would be effective July 15, 1996.

3. Paramedic Duty Pay

The Union proposes \$10 per day for each employee assigned to the first ambulance crew who is assigned the responsibility of paramedic.

4. Overtime Pay

The Union proposed that the language on overtime payments be revised to provide that employees will be compensated at the overtime rate for all hours worked outside the employee's regularly scheduled work day. This would eliminate payments at the straight time rate for employees who are required to work a complete 24-hour work shift outside their regular work shift. The City has agreed to this language.

III. STATUTORY CRITERIA

111.77. **Settlement of disputes in collective bargaining units composed of law enforcement personnel and fire fighters**

In fire departments and city and county law enforcement agencies municipal employers and employes have the duty to bargain collectively in good faith including the duty to refrain from strikes or lockouts and to comply with the procedures set forth below:

....

(3) Where the parties have no procedures for disposition of a dispute and an impasse has been reached, either party may petition the commission to initiate compulsory, final and binding arbitration of the dispute. If in determining whether an impasse has been reached the commission finds that any of the procedures set forth in sub. (1) have not been complied with and that compliance would tend to result in a settlement, it may require such compliance as a prerequisite to ordering arbitration. If after such procedures have been complied with or the commission has determined that compliance would not be productive of a settlement and the commission determines that an impasse has been reached, it shall issue an order requiring arbitration. *The commission shall in connection with the order for arbitration submit a panel of 5 arbitrators from which the parties may alternately strike names until a single name is left, who shall be appointed by the commission as arbitrator, whose expenses shall be shared equally between the parties. Arbitration proceedings under this section shall not be interrupted or terminated by reason of any prohibited practice charge filed by either party at any time.*

(4) There shall be 2 alternative forms of arbitration:

(a) Form 1. The arbitrator shall have the power to determine all issues in dispute involving wages, hours and conditions of employment.

(b) Form 2. The commission shall appoint an investigator to determine the nature of the impasse. The commission's investigator shall advise the commission in writing, transmitting copies of such advice to the parties of each issue which is known to be in dispute. Such advice shall also set forth the final offer of each party as it is known to the investigator at the time that the investigation is closed. Neither party may amend its final offer thereafter, except with the written

agreement of the other party. The arbitrator shall select the final offer of one of the parties and shall issue an award incorporating that offer without modification.

(5) The proceedings shall be pursuant to form 2 unless the parties shall agree prior to the hearing that form 1 shall control.

(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.

(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 the 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 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.

IV. POSITIONS OF THE PARTIES

A. THE EMPLOYER

1. Wages

The City argues that the Union's proposed wage increase would result in a compounded increase (i.e. lift) of eight percent for the bargaining unit employees over the two-year period of the collective bargaining agreement. The City argues that its proposed wage increase, providing a lift of six percent over the two-year period, is a more reasonable and better supported by the statutory criteria than the Union's proposal.

According to the City, consideration of internal settlements is an important factor in selecting final offers. The City contends that it has had a longstanding practice of uniformity in wage settlements which should not be interrupted.

It is the City's position that its final offer reflects the likely voluntary settlement that would have been reached between the parties. The City submits that the internal settlements more accurately reflect what the parties would have agreed to if they had reached a voluntary settlement.

The City claims that no reason exists to justify a deviation from the internal settlement pattern. The City argues that arbitrators generally will not adopt a "catch-up" wage offer without evidence of a need for the catch-up. According to the City, its wage offer will maintain the fire fighters' historical wage ranking. The City contends that under either party's proposal the ranking of the City would remain the same.

The City asserts that its wage offer is consistent with the external wage settlements in comparable communities. It also claims that its final offer coincides with the settlement pattern for the surrounding counties. The City points out that there is a history of the City following the settlement pattern from the surrounding cities and communities. The City also contends that its final offer more closely matches private sector settlements in the City.

The City urges that the "generous fringe benefit package provided the bargaining unit employees" should be considered in selecting the appropriate final offer. According to the City, the fringe benefit package received by City fire fighters is very competitive.

According to the City, a comparison of the economic conditions in the comparable communities shows that the City's final offer is in the best inter-

ests of the City. The City says that the statistical data show that the City has the least attractive economic environment of the comparable communities.

With respect to a 1996 interest arbitration award involving the City and the police union arbitration, the City says that reliance upon this award is not supported by the record. The City contends that the wage rates of the City fire fighters are not significantly below the wage rates of fire fighters in comparable cities.

2. Paramedic License Pay

The City argues that its final offer on paramedic pay is reasonable and consistent with the manner of providing compensation to all other city employees. The City says that it provides additional compensation to other City employees on a "per dollar basis." It notes that fire fighters are compensated for additional activities on a flat dollar basis.

Claiming that its method of compensating for paramedic licenses is more equitable and in the public interest, the City contends that its offer provides stability in the amount of compensation paid for this additional license which allows the City to budget effectively for this annual payment. The City contends that if the Union's final offer is accepted, paramedic costs will double in five years. The City argues that the automatic escalation in pay that results from the Union's final offer is not in the best interest and welfare of the public.

3. Paramedic Duty Pay

The City points out that it proposed the payment of \$10 per day for a person holding a paramedic license when working the first ambulance crew. It stresses that this is consistent with the manner in which the City has compensated fire fighters for other assignments in the Department.

4. Overtime Pay

The offers of the City and the Union are identical with respect to this issue. The City claims that its concession on the overtime language was a significant concession by the City and will result in additional compensation for members of the bargaining unit.

5. Conclusion

The City says that the interest and welfare of the public support selection of the City's final offer. According to the City, its offer represents a com-

petitive wage increase for fire fighters consistent with other City settlements and settlements in comparable communities. It asks the Arbitrator to select its final offer.

B. THE UNION

1. Wages

The Union argues that a comparison of total compensation paid to City fire fighters with that paid to firefighters in the three comparable cities supports its final wage offer. Noting the impact of the higher health insurance contribution made by City fire fighters, the Union says that a comparison the total compensation shows the Union's wage offer is the more appropriate.

According to the Union, the total compensation received by bargaining unit members in 1995 was significantly below the comparable group mean and median demonstrating a need for a wage "catch-up." The Union says that its 1997 wage offer preserves the modest "catch-up" the Union has attempted to achieve while the City's offer again expands the total compensation inequity that exists between the City fire fighters and their comparables.

The Union claims that the City's wage offer is inappropriate because, even if one looks exclusively at base plus longevity wages, it is evident that in each year the City's offer moves the bargaining unit away from the comparable group median and mean.

It is the Union's position that the City has failed to explain why the actual dollar increases of City fire fighters should be less than the comparable group mean and median.

The Union asserts that the rationale of Arbitrator Zeidler in *City of Marshfield (Police Dept.)*, Dec. No. 28674-A (Zeidler 1996), supports the Union's offer here. In that case the arbitrator held that the police officers had demonstrated their entitlement to a compensation "catch-up," noting that the police officers were at the bottom of the primary comparable pool.

According to the Union, the internal comparison criterion supports the reasonability of the Union's wage offer. The Union claims that the City's wage offer is unreasonable because it destroys the historical wage relationship between City fire fighters and City police officers.

The Union asserts that the wage increase awarded non-bargaining unit fire department employees supports its offer.

It is the Union's position that the base pay of City fire fighters is and will remain significantly less per hour than that of any other group of City employees. The Union says this provides further support for its offer.

2. Paramedic License Pay

The Union contends that its paramedic certification pay proposal is the more reasonable. According to the Union, its proposal is more reasonable because its offer enjoys external comparable support.

3. Paramedic Duty Pay

The parties' offers on this issue are identical.

4. Overtime Pay

The offers of the City and the Union are identical with respect to this issue. The Union points out that employees in other City bargaining units also receive time and one-half for overtime.

5. Conclusion

The Union says that the fact the City's fire department budget demands have decreased while its revenues have increased is a factor in support of its offer. On the whole, the Union concludes that its proposal is the most reasonable final offer.

V. FINDINGS OF FACT

A. Introduction

The City of Marshfield is located in central Wisconsin. It straddles the boundary between Wood and Marathon counties. In 1995 the City had a population of 19,889. The City's tax rate in 1995-96 was \$31.48 per \$1,000 equalized value.

The City provides fire and emergency medical services for its residents through a combination of full-time and paid on-call fire fighters. The City also provides fire protection services to one village and six townships. The City provides ambulance service to a slightly larger area. In 1995 the City had 29 full-time employees in its Fire Department, 26 of whom were members of the bargaining unit represented by the Union. In 1996 the City Fire Department had a full-time staff of 30, 27 of whom were members of the bargaining unit. Engineers and fire fighters in the City Fire Department have an average of nearly ten years of service. The Department's 1996 budget

dropped by \$15,518 to \$2,366,291. Its revenues from fire and rescue increased by \$248,272 to \$634,715.

B. Final Offers

1. Wages

a. The Lawful Authority of the Employer

There is no contention that the City lacks the lawful authority to implement either offer.

b. Stipulations of the Parties

While the parties were in agreement on a number of matters, there were no stipulations with respect to this issue.

c. The Interests and Welfare of the Public and the Financial Ability of the Unit of Government to Meet these Costs.

This criterion requires an arbitrator to consider both the employer's ability to pay either of the offers and the interests and welfare of the public. The interests and welfare of the public include both the financial burden on the taxpayers and the provision of appropriate municipal services.

There is no contention that the City lacks the financial ability to pay either offer.

The public has an interest in keeping the City in a competitive position to recruit new employees, to attract competent experienced employees, and to retain valuable employees now serving the City. Presumably the public is interested in having employees who by objective standard and by their own evaluation are treated fairly. What constitutes fair treatment is reflected in the other statutory criteria.

d. Comparison of Wages, Hours and Conditions of Employment

The purpose in comparing wages, hours, and other conditions of employment in comparable employers is to obtain guidance in determining the pattern of settlements among the comparables as well as the wage rates paid by these comparable employers for similar work by persons with similar education and experience. The parties were unable to agree on the appropriate external comparables. The Union relies on Wisconsin Rapids, Stevens Point and Wausau as comparables. It also introduced evidence of statewide compa-

rables on the issue of paramedic certification pay, relying on the statewide regulation of paramedic qualifications.

The City also uses Wisconsin Rapids, Stevens Point, and Wausau. The City proposes including Antigo, Merrill, Rhinelander, Wood County, Marathon County, and Portage County in the pool of comparables.

In 1978 Arbitrator Mueller was presented with the question of which cities were the appropriate comparables. He concluded:

The arbitrator, after reviewing the arguments and contentions of the parties, is of the opinion that the more appropriate areas with which to make comparisons in this case is that of Wausau, Wisconsin Rapids and Stevens Point. Such three cities have been and are generally recognized as comprising the major municipalities in the central Wisconsin area, they share to a great extent in a common labor and commercial market, and are most comparable as to population, average family income and tax base. For purposes of evaluating the relevant comparison factors in this case, the arbitrator will utilize as the major point of consideration, a comparison with such three communities.

City of Marshfield (Fire Dept.), Dec. No. 15930-A (Mueller 1978).

Eight years later, Arbitrator Mueller's 1978 determination of the appropriate comparables was reaffirmed in *City of Marshfield (Fire Dept.)*, Dec. No. 23732-A (Miller 1986). In that case the union proposed adding Antigo, Rhinelander and Merrill to the comparables. Arbitrator Miller rejected this proposal, stating:

The above evidence proves that there is no substantive evidence to support the Association's inclusion of Antigo, Merrill and Rhinelander in the appropriate comparability group. The Association has failed to provide sufficient data to justify the expansion of the comparables beyond that of Stevens Point, Wausau, and Wisconsin Rapids. Prior dicta by Arbitrator Robert J. Mueller in *City of Marshfield (Fire Department)*, Case XX, No. 22-75, MIA-327, Dec. No. 15930-A (3/78), further supports the arbitrator's conclusion. Based on the foregoing analysis and prior arbitral dicta, the best comparables for this case are the cities of Stevens Point, Wausau and Wisconsin Rapids.

A year later, Arbitrator Reynolds observed that the parties were in general agreement that the Marshfield fire fighters are comparable to fire fighters in the cities of Wausau, Wisconsin Rapids, and Stevens Point. *City of Marshfield (Fire Dept.)*, Dec. No. 24575-A (Reynolds 1987). More recently,

in 1992, Arbitrator Krinsky relied on a comparison to Stevens Point, Wausau and Wisconsin Rapids in deciding a dispute between the parties. *City of Marshfield (Fire Dept.)*, Dec. No. 27039-A (Krinsky 1992).

In order to provide stability and predictability in the collective bargaining process, arbitrators generally avoid altering a previously established comparability group. *Kenosha Unified School Dist.*, Dec. No. 19916-A (Kerkman 1983). The use of different comparison groups from contract to contract encourages the parties to go comparables shopping. See, e.g., *Sheboygan County (Highway Dept.)*, Dec. No. 27719-A (Malamud 1994). Changes in comparables also can tend to undermine the stability and predictability of bargaining. *Janesville School Dist.*, Dec. No. 22823-A (Grenig 1986).

Absent significant changes in a particular comparability group previously adopted by an arbitrator in an interest arbitration proceeding and assuming the prior arbitrator did not make a serious error, the arbitrator in a later interest arbitration between the same parties should be extremely reluctant to construct a new group of comparables. See *Luxemburg-Casco Educ. Ass'n*, Dec. No. 27168-A (Briggs 1992).

Even where there is only a small number of established comparables with settled contracts, it is preferable to give the settlements in the agreed upon comparables whatever weight is appropriate rather than to interject new "comparables" into the parties' collective bargaining. See *Winneconne Community School Dist.*, Dec. No. 23202-A (Miller 1986); *Rosendale-Brandon School Dist.*, Dec. No. 23261-A (Vernon 1986). If the selection of comparables were dependent upon the status of bargaining in other governmental units, a party might be encouraged to manipulate the bargaining process in order to be able to utilize the "comparables" that best support its position.

For these reasons, it is concluded that the appropriate comparable employers for use in this proceeding are Wisconsin Rapids, Stevens Point, and Wausau.

External Comparables. Wisconsin Rapids settled with its fire fighters for a three percent wage increase in 1996 and in 1997. Stevens Point settled with its fire fighters for a 3.5 percent wage increase in 1996 and a three percent wage increase in 1997. Wausau settled with its fire fighters for a three percent wage increase in 1996. Wausau has not yet settled with its fire fighters with respect to 1997.

Fire Fighters with Five Years' Seniority. In 1995 a City fire fighter with five years' seniority, EMT-D certification, an associate degree, and family plan health insurance received total compensation of \$39,917. Of the

three comparable districts, The total compensation of Wisconsin Rapids was \$40,393; of Wausau, \$38,507; and Stevens Point, \$39,965. The City ranked third, above Wausau, when compared with these three cities.

The total compensation paid these fire fighters by the City in 1995 was \$1,705 less than the average total compensation paid by the external comparables (\$39,622). It was \$2,048 less than the median total compensation of the three external comparables (\$39,965).

The Union's offer would provide a total annual compensation of \$39,531 for 1996 at this benchmark; the City's offer would result in total compensation of \$39,200. During 1996 the total compensation for fire fighters with five years' seniority in Stevens Point was \$41,767, in Wisconsin Rapids it was \$41,359, and in Wausau it was \$39,645. The average of the external comparables was \$40,924 and the median was \$41,359.

The Union's 1996 offer would drop the City fire fighters from third to last place among the comparables. It would result in 1996 total compensation \$1,393 below the average and \$1,828 below the median.

The City's 1996 offer would drop the total compensation of City fire fighters from third to last place among the comparables. It would result in 1996 total compensation at this benchmark \$1,723 below the average and \$2,159 below the median.

The Union's 1997 offer would provide a total annual compensation of \$41,173 at this benchmark; the City's 1997 offer would result in total compensation of \$40,488. The 1997 total compensation for fire fighters with five years' seniority in Stevens Point is \$43,449, in Wisconsin Rapids it is \$42,396, and in Wausau it is \$41,217. (Because Wausau is involved in interest arbitration at this time, the 1997 salary figure is based on the City of Wausau's final offer—the lower of the two offers.) The average of the external comparables is \$42,354 and the median is \$42,396.

The Union's offer would result in 1997 total compensation \$1,181 below the 1997 average and \$1,223 below the 1997 median. The City's offer would result in 1997 total compensation at this benchmark \$1,866 below the average and \$1,908 below the median.

Fire Fighters with Ten Years' Seniority. With respect to City fire fighters with ten years' seniority, EMT-D certification, an associate degree, and family plan health insurance, these fire fighters received total compensation of \$38,049 in 1995. The City ranked last when compared with the comparables. The total compensation paid these fire fighters by the City in 1995 was

\$1,613 less than the average total compensation paid by the external comparables (\$39,662). It was \$2,036 less than the median total compensation of the three external comparables (\$40,085).

The Union's offer would provide a total annual compensation of \$39,664 for 1996 at this benchmark. The City's offer would result in total compensation of \$39,333. During 1996 the total compensation for fire fighters at this benchmark in Stevens Point was \$41,887, in Wisconsin Rapids it was \$41,359, and in Wausau it was \$39,765. The average of the external comparables was \$41,004 and the median was \$41,359.

The Union's offer would result in 1996 total compensation \$1,340 below the average and \$1,696 below the median. The City's offer would result in a 1996 total compensation package at this benchmark \$1,671 below the average and \$2,027 below the median.

The Union's offer would provide a total annual compensation of \$41,305 for 1997 at this benchmark. The City's offer would result in total compensation of \$40,620. During 1997 the total compensation for fire fighters at this benchmark in Stevens Point is \$43,569, in Wisconsin Rapids it is \$42,396, and in Wausau it is \$41,317. The average of the external comparables is \$42,427 and the median is \$42,396.

The Union's offer would result in 1997 total compensation \$1,122 below the average and \$1,091 below the median. The City's offer would result in a 1997 total compensation \$1,807 below the average and \$2,027 below the median.

Engineers (Motor Pump Operators) with Ten Years' Seniority. In 1995 the City ranked last among the comparables with respect to total compensation paid engineers (Acting Motor Pump Operators) with ten years' seniority, EMT-D certification, an associate degree, and family plan health insurance. The 1995 City's total compensation of \$39,933 at this benchmark was \$1,455 below the average (\$40,788) and \$1,731 below the median (\$41,064).

The Union's 1996 offer would provide a total annual compensation of \$40,306 at this benchmark; the City's offer would result in total compensation of \$39,975 in 1996. During 1996 the total compensation for fire fighters at this benchmark in Stevens Point was \$43,168, in Wisconsin Rapids it was \$42,203, and in Wausau it was \$41,155. In 1996 the average total compensation of the external comparables at this benchmark was \$42,176 and the median was \$42,176.

The Union's offer would result in 1996 total compensation \$1,870 below the average and \$1,898 below the median. The City's offer would result in 1996 total compensation at this benchmark \$2,201 below the average and \$2,229 below the median.

The Union's offer would provide a total annual compensation of \$41,305 for 1997 at this benchmark; the City's 1997 offer would result in total compensation of \$40,620. During 1997 the total compensation for fire fighters at this benchmark in Stevens Point is \$44,888, in Wisconsin Rapids it is \$43,420, and in Wausau it is \$42,749. (Because Wausau is involved in interest arbitration at this time, the 1997 salary figures are based on the City of Wausau's final offer—the lower of the two offers.) The average of the external comparables at this benchmark is \$43,686 and the median is \$43,420.

The Union's offer would result in 1997 total compensation \$2,381 below the average and \$2,115 below the median. The City's offer would result in 1997 total compensation at this benchmark \$3,066 below the average and \$2,800 below the median.

Lieutenants. Lieutenants in the City Fire Department with 15 years of seniority, EMT-D certification, and associate degree received \$41,343 in total compensation in 1995. During that year, lieutenants in Wausau received \$42,211 in total compensation, while those in Wisconsin Rapids received \$42,697. The total compensation of lieutenants employed by the City was below that paid lieutenants in both Wausau and Wisconsin Rapids. The average of these two cities was \$42,454. (With only two comparables at this benchmark, the median would be the same as the average.) The City's total compensation at this benchmark was \$1,111 below the average.

In 1995, the positions of lieutenant and captain in Stevens Point were renamed "company officer." This combining of the two positions could distort the analysis of the wages since the captains received higher wages than the lieutenants and the combining of the positions resulted in lieutenants receiving higher pay and performing some or all of the duties previously performed by captains. Because including the Stevens Point officers in the comparison could distort the data, it is appropriate to disregard the Stevens Point positions.

The Union's offer would provide a total annual compensation of \$43,085 for 1996 at this benchmark; the City's offer would result in total compensation of \$42,722. During 1996 the total compensation for fire fighters at this benchmark in Wisconsin Rapids was \$43,729 and in Wausau it was \$43,452. The average of the external comparables was \$43,590.

The Union's offer would result in 1996 total compensation \$505 below the 1996 average. The City's offer would result in 1996 total compensation package at this benchmark \$868 below the average.

The Union's 1997 offer would provide a total annual compensation of \$44,837 at this benchmark. The City's offer would result in total compensation of \$42,722. During 1997 the total compensation for fire fighters at this benchmark in Wisconsin Rapids is \$44,836 and in Wausau it was \$44,990. (Because Wausau is involved in interest arbitration at this time, the 1997 salary figures are based on the City of Wausau's final offer—the lower of the two offers.) The average of the external comparables in 1997 was \$44,913.

The Union's 1997 offer would result in total compensation \$53 below the 1997 average. The City's 1997 offer would result in total compensation at this benchmark \$807 below the 1997 average.

Internal Comparables.

The City has reached agreements for 1996 and 1997 with its represented employees in the Department of Public Works, City Hall, Ordinance Enforcement/Dispatchers, and Wastewater bargaining units. All of these bargaining units voluntarily agreed to the same wage increase as the City has proposed for the fire fighters here. (Non-union employees received a 2.75 percent increase in 1996 and 1997.)

The City's Fire Chief received a 2.75 percent increase in 1996 and a five percent increase in 1997 for a total lift of 7.75 percent. The Deputy Fire Chiefs received increases of five percent and 6.3 percent in 1996 and five percent and 4.24 percent in 1997 for a total lift of ten percent and 10.54 percent respectively. However, wage increases of management employees is of relatively little significance in interest arbitration given the different duties, working conditions, lack of overtime opportunities, and different job markets.

In an interest arbitration involving the City's police union, the arbitrator concluded that the wage rates for police officers in the City were significantly below the wage rates for other comparable cities. The wage rate for police officers was the lowest of the comparable communities.

A comparison of City fire fighters and police officers with ten years' seniority and longevity provides some indication of the historical relationship between their salaries. In 1989, fire fighters at this benchmark earned \$344 more than police officers at the same benchmark; in 1990, \$358 more than the police officers; in 1991, \$120 more than the police officers; in 1992, \$142 less than the police officers; in 1993, \$150 less than the police officers; in

1994, \$158 less than the police officers; and in 1995, \$166 less than police officers. If the Employer's offer were chosen, in 1996 fire fighters would receive \$504 less than the City police officers at this benchmark and in 1997 \$866 less than City police officers. If the Union's offer were chosen fire fighters would receive \$173 less than City police officers in 1996 and \$18 less than City police officers in 1997.

The Union's offer does more to restore the historical correspondence between City police officers salaries and fire fighter salaries. While "parity" between police officer and fire fighter compensation is certainly not required, the comparison between police officer and fire fighter compensation is of considerable importance given that, among other things, the duties of police officers and fire fighters is more alike than the work of other public employees. See *City of Kaukauna*, Dec. No. 26060-A (Petrie 1990) (parity has become notable for its absence from the interest arbitration process in recent years). More importantly, through 1991, fire fighter compensation was slightly greater than police officer compensation. Since 1989 there has been a continual erosion in fire fighter compensation in relation to the compensation of police officers. In 1992 fire fighter compensation at this benchmark was less than that of police officers. The City offer would greatly increase this difference while the Union's offer would reduce this difference.

While it may be that the hourly wage of City fire fighters is lower than that of other represented City employees, this comparison is of questionable assistance here. While a comparison of percentage increases is appropriate, the work schedules and duties of fire fighters are so unique when compared with those of the other employees that a comparison of the hourly wage rates is of questionable validity.

Private Employment Settlements

Several private employers in the Marshfield area have reached agreements with their employees. The Marshfield Clinic agreed to a 3.5 percent increase in 1996 and three percent in 1997. The Marshfield Nursing and Rehabilitation Center agreed to 3.5 percent increases in 1996 and 1997. St. Joseph's Hospital and Weyerhaeuser each agreed to three percent increases for their respective employees in 1996 and in 1997.

e. Changes in the Cost of Living

The consumer price index (U.S. City Average) increased by 2.5 percent in 1995. The CPI increased by 3.3 percent in 1996. The CPI (Nonmetro Urban Areas—North Central States) increased by 3.3 percent in 1995 and 4.2 percent in 1996.

f. Overall Compensation Presently Received by the Employees

This criterion has been discussed in some detail above. With respect to health insurance, in 1991 and 1992 the City paid more for family plan health insurance than Stevens Point, Wausau, and Wisconsin Rapids. In 1996 and 1997 the City paid less for family plan health insurance than any of the three comparables.

g. Changes During the Pendency of the Arbitration Proceedings

No material changes during the pendency of the arbitration proceedings have been brought to the attention of the Arbitrator.

h. Other Factors

This criterion recognizes that collective bargaining is not isolated from those factors which comprise the economic environment in which bargaining takes place. See, e.g., *Madison Schools*, Dec. No. 19133 (Fleischli 1982). There is no evidence that the City has had to or will have to reduce or eliminate any services, that it will have to engage in long term borrowing, or that it will have to raise taxes substantially if either offer is accepted.

Wisconsin Rapids (38,583) and Stevens Point (24,066) have populations greater than the City's population of 19,889. Wisconsin Rapids (18,690) has a population lower than the City's.

The City's tax rate of \$31.48 is higher than that of Stevens Point (\$31.47) and Wausau (\$30.70). Its tax rate is lower than that of Wisconsin Rapids (\$31.92). The City's has the lowest equalized valuation compared to Wausau, Stevens Point, and Wisconsin Rapids. According to exhibits in evidence, the assessed valuation of property in the City has continued to decrease over the past several years.

In adjusted gross income per tax return, the City, with an average adjusted gross income of \$28,874 per return was higher than the average return for Wausau (\$28,618), Wisconsin Rapids (\$25,122), and Stevens Point (\$23,980).

The City's economy has a heavy emphasis on health care services, food processing and distribution, and manufacturing of wood products. The other three comparables have larger and more diversified manufacturing bases.

2. Paramedic License Pay

The City's offer would result in paramedic pay of \$75 a month for the term of the contract. The Union's offer would result in payment of \$82.77 per month for the first six months of 1996, \$84.44 for the first six months of 1997, and \$86.12 for the last six months of 1997.

The only other comparable city offering fire department paramedic services is Wisconsin Rapids. In 1995 Wisconsin Rapids and its fire fighter Union entered into a letter of agreement providing that licensed paramedics would receive a premium of three percent of their base wage and ambulance duty pay of \$15 per day. The Wisconsin Rapids settlement provides for paramedic pay below that of the state-wide average for paramedic pay.

The City's offer would result in paramedics' receiving \$900 per year and the Union's offer would result in paramedics' receiving three percent of the lower top step fire fighter pay scale. City paramedics will receive \$10 per day in ambulance duty pay, less than the \$14 per day earned by Wisconsin Rapids paramedics. The Union's offer is closer to the compensation paid to paramedics by Wisconsin Rapids.

3. Paramedic Duty Pay

There is no dispute with respect to this issue.

4. Overtime Pay

There is no dispute with respect to this issue.

VI. DISCUSSION

A. INTRODUCTION

While it is frequently stated that interest arbitration attempts to determine what the parties would have settled on had they reached a voluntary settlement (See, e.g., *D.C. Everest Area School Dist. (Paraprofessionals)*, Dec. No. 21941-B (Grenig 1985) and cases cited therein), it is manifest that the parties' are at an impasse because neither party found the other's final offer acceptable. The arbitrator must determine which of the party's final offers is the most reasonable, regardless of whether the parties would have agreed on that offer, by applying the statutory criteria.

B. WAGE OFFERS

One of the most important aids in determining which offer is more reasonable is an analysis of the compensation paid similar employees by other, comparable employers. Arbitrators have also given great weight to settlements between an employer and its other employees. See, e.g., *Rock County (Deputy Sheriffs' Ass'n)*, Dec. No. 20600-A (Grenig 1984). While arbitral authority establishes the principle that internal settlements are to be given "great weight," such internal settlements are not conclusive. It is still necessary to examine the other criteria, including external comparables.

With respect to fire fighters with five years' of seniority, the Union's 1996 offer would drop the City from third to fourth (last) place among the comparables. The Union's offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the average of the comparables by \$312—from a difference of \$1,705 in 1995 to a difference of \$1,393 in 1996. The Union's offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the median of the comparables by \$220—from a difference of \$2,048 in 1995 to a difference of \$1,828 in 1996.

Under the City's 1996 offer, the City would also drop from third to last place among the comparables at this benchmark. The City's offer would increase the dollar difference between the fire fighters' total compensation at this benchmark and the average of the comparables by \$18—from a difference of \$1,705 in 1995 to a difference of \$1,723 in 1996. The City's offer would increase the dollar difference between the fire fighters' total compensation at this benchmark and the median of the comparables by \$111—from a difference of \$2,048 in 1995 to a difference of \$2,159 in 1996.

Both 1996 offers drop the City to last place at this benchmark. The City's offer drops the fire fighters further below the average and median as compared with 1995, while the Union's offer improves the fire fighters' relative standing compared with the median and average total compensation.

With respect to fire fighters with ten years' of seniority, both 1996 offers would maintain the City's 1995 last place ranking among the comparables. The Union's 1996 offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the average of the comparables by \$273—from a difference of \$1,613 in 1995 to a difference of \$1,340 in 1996. The Union's 1996 offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the median of the comparables by \$340—from a difference of \$2,036 in 1995 to a difference of \$1,696 in 1996.

The City's 1996 offer would increase the dollar difference between the fire fighters' total compensation at this benchmark and the average of the comparables by \$58--from a difference of \$1,613 in 1995 to a difference of \$1,671 in 1996. The City's offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the median of the comparables by \$9--from a difference of \$2,036 in 1995 to a difference of \$2,027 in 1996.

Both 1996 offers maintain the City's last place position at this benchmark. The City's offer drops the fire fighters further below the average and both offers improve its position with respect to the median.

With respect to Engineers with ten years' seniority, both 1996 offers would continue the City's 1995 last place ranking among the comparables. The Union's 1996 offer would increase the dollar difference between the Engineers' total compensation at this benchmark and the average of the comparables by \$415--from a difference of \$1,455 in 1995 to a difference of \$1,870 in 1996. The Union's 1996 offer would increase the dollar difference between the Engineers' total compensation at this benchmark and the median of the comparables by \$167--from a difference of \$1,731 in 1995 to a difference of \$1,898 in 1996.

The City's 1996 offer would increase the dollar difference between the Engineers' total compensation at this benchmark and the average of the comparables by \$746--from a difference of \$1,455 in 1995 to a difference of \$2,201 in 1996. The City's offer would increase the dollar difference between the Engineers' total compensation at this benchmark and the median of the comparables by \$774--from a difference of \$1,455 in 1995 to a difference of \$2,229 in 1996.

The City's 1996 offer drops the Engineers substantially further below the average and median of the comparables' total compensation. On the other hand, the Union's 1996 offer improves the Engineers' position with respect to the median and average to a lesser degree.

With respect to Lieutenants with 15 years' seniority, both 1996 offers would continue the City's 1995 last place ranking among the comparables. The Union's 1996 offer would reduce the dollar difference between the Lieutenants' total compensation at this benchmark and the average of the comparables by \$682--from a difference of \$1,187 in 1995 to a difference of \$505 in 1996. The City's 1996 offer would reduce the dollar difference between the Lieutenants' total compensation at this benchmark and the average of the comparables by \$319--from a difference of \$1,187 in 1995 to a difference of \$868 in 1996. Both 1996 offers continue the City's last place position at this

benchmark. The City's offer drops the Lieutenants further below the average while the Union's offer improves the Lieutenants' position with respect to the average.

With respect to fire fighters with five years' of seniority, both offers would keep fire fighters in last place among the comparables. The Union's offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the average of the comparables by \$524—from a difference of \$1,705 in 1995 to a difference of \$1,181 in 1997. The Union's offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the median of the comparables by \$1,195—from a difference of \$2,048 in 1995 to a difference of \$1,223 in 1997.

The City's 1997 offer would increase the dollar difference between the fire fighters' total compensation at this benchmark and the average of the comparables by \$161—from a difference of \$1,705 in 1995 to a difference of \$1,866 in 1997. The City's offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the median of the comparables by \$140—from a difference of \$2,048 in 1995 to a difference of \$1,908 in 1997.

With respect to fire fighters with ten years' of seniority, both 1997 offers would maintain the City's 1995 last place ranking among the comparables. The Union's 1997 offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the average of the comparables by \$491—from a difference of \$1,613 in 1995 to a difference of \$1,122 in 1997. The Union's 1997 offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the median of the comparables by \$945—from a difference of \$2,036 in 1995 to a difference of \$1,091 in 1997.

The City's 1997 offer would increase the dollar difference between the fire fighters' total compensation at this benchmark and the average of the comparables by \$194—from a difference of \$1,613 in 1995 to a difference of \$1,807 in 1997. The City's offer would reduce the dollar difference between the fire fighters' total compensation at this benchmark and the median of the comparables by \$260—from a difference of \$2,036 in 1995 to a difference of \$1,776 in 1997.

With respect to Engineers with ten years' seniority, both 1997 offers continue the City's 1995 last place ranking among the comparables. The Union's 1997 offer would increase the dollar difference between the Engineers' total compensation at this benchmark and the average of the comparables by \$926—from a difference of \$1,455 in 1995 to a difference of \$2,381 in 1997.

The Union's 1997 offer would increase the dollar difference between the Engineers' total compensation at this benchmark and the median of the comparables by \$384—from a difference of \$1,731 in 1995 to a difference of \$2,115 in 1997.

The City's 1997 offer would increase the dollar difference between the Engineers' total compensation at this benchmark and the average of the comparables by \$1,611—from a difference of \$1,455 in 1995 to a difference of \$3,066 in 1997. The City's 1977 offer would increase the dollar difference between the Engineers' total compensation at this benchmark and the median of the comparables by \$1,345—from a difference of \$1,455 in 1995 to a difference of \$2,800 in 1997.

With respect to Lieutenants with 15 years' seniority, the City's 1997 offers would continue the City's 1995 last place ranking among the comparables while the Union's would place the City next to last by a slight margin. The Union's 1997 offer would reduce the dollar difference between the Lieutenants' total compensation at this benchmark and the average of the comparables by \$1,134—from a difference of \$1,187 in 1995 to a difference of \$53 in 1997. The City's 1997 offer would reduce the dollar difference between the Lieutenants' total compensation at this benchmark and the average of the comparables by \$380—from a difference of \$1,187 in 1995 to a difference of \$807 in 1997.

The record shows that the City's compensation for fire fighters is the lowest (with the exception of Lieutenants) of the comparables. Acceptance of the City's offer would result in the fire fighters' falling even further behind. Acceptance of the Union's offer would result in a closing of the gap but it would not change the City's relative ranking with respect to the comparables. Although the statutory criteria do not indicate that employees should be paid wages similar to the median or average of the comparables as the Union urges, employees should not see a widening of the gap between their total compensation and those of employees performing similar duties for the comparables—particularly where the employees' total compensation places them at the bottom of all the comparables.

The increasing gap in total compensation and low ranking with respect to the comparables cannot be explained by the economic conditions of the City. In *City of Marshfield (Police Dept.)*, Dec. No. 28674-A (Zeidler 1996), Arbitrator Zeidler considered the City's argument that it did not have the economic base of the comparable cities. He wrote:

The arbitrator is of the opinion that while Marshfield does not have the industrial and commercial base of other primary comparables, yet

the people of the city reported an average income level that is superior to the other comparables. While therefore the lag in Marshfield behind some of the other primary comparables in hourly wage rate exists, the arbitrator is of the opinion that the interests and welfare of the public are not served if the Police Officers in Marshfield get a rate which is \$0.84 per hour behind comparables. While the Officers may not be ready to seek other employment yet it is likely that they may feel some sense of unjust treatment where such a lag exists. The opinion here is that the interests and welfare of the City of Marshfield are best served as is proposed here under the Association offer.

Well-established internal settlement patterns are very important to the extent that there has been a history of like settlements and adherence to the pattern will not result in an unacceptable external wage relationship. *Village of Germantown (Police Dept.)*, Dec. No. 27803-A (Vernon 1994). See also *Sauk County (Highway Dept.)*, Dec. No. 26359-B (Vernon 1990). See also *City of Marinette*, Dec. No. 27642-A (Michelstetter 1994) (arbitrators have declined to rely on internal comparables where there is a significant disparity between the Union and its externals); *Waushara County (Health Dept.)*, Dec. No. 26111-A (Bellman 1990) (placing a very high value on uniformity subordinates the public policy that justifies separate bargaining units to the desire for simplicity).

In *Rock County (Deputy Sheriffs' Ass'n)*, Dec. No. 20600-A (Grenig 1984), this arbitrator gave great weight to evidence regarding the settlement pattern established by other bargaining units in the county, but also relied on evidence establishing that both offers would establish a top wage rate in excess of the median top wage and on evidence that the county's offer would maintain its ranking at the top wage rate. It was also determined that two other final offers of the union were less reasonable than the employer's.

Here the situation is just the opposite. Adherence to the internal comparables would result in total compensation, not only below the median, but below that of any other comparable (with the exception of Lieutenants). Adherence to the internal comparables would result in a greater gap in total compensation between the City fire fighters and the lowest ranked comparable.

While not establishing a history of parity, the record also shows that less than ten years ago City fire fighters earned more than City police officers. However, that relationship began to change in 1989. By 1992 fire fighters earned \$142 less than police officers. The gap has been increasing ever since and was \$166 in 1995. If the City's offer were implemented, that gap would more than triple in 1996 to \$504 and increase it even further in

1997 to \$866. The Union's offer would increase the gap by \$7 to \$173 in 1996 and increase the gap by \$14 from \$166 to \$180 in 1997.

Although comparisons of settlement patterns of private employers is of some relevance, private salary comparisons are of limited assistance in determining the appropriate compensation of fire fighters. See *Rock County (Deputy Sheriffs' Ass'n)*, Dec. No. 20600-A (Grenig 1984) (conditions of public and private employment are generally too dissimilar to make meaningful comparisons possible). Relatively few fire fighters are employed in the private sector. Nonetheless, the evidence shows that the range of private sector settlements in the City in 1996 and 1997 ranged from three percent per year to 3.5 percent. The parties' offers do not differ significantly from this pattern.

Taking into account the increasing gap between the total compensation paid fire fighters in the City and that paid fire fighters in the comparable communities, the increasing gap between the wages paid City fire fighters and City police officers, it is concluded that the Union's wage offer is more reasonable than the City's.

C. PARAMEDIC LICENSE PAY OFFERS

The paramedic duties are in addition to those regularly required of fire fighters. Fire fighters are just as entitled to fair compensation for performing such extra duties as they are for performing their regular duties. Cf. *Dodge-land School Dist.*, Dec. No. 21983-A (Grenig 1985). The question here is what constitutes fair compensation for the additional duties.

The Employer's offer of a flat annual payment for paramedic licensure fails to take into account longevity and pay grade. On the other hand, the Union's offer does not link paramedic compensation to a fire fighter's base pay but rather ties it to the top step of the fire fighter base rate. If the Union's offer were implemented it could greatly distort paramedic wages in the future. The one comparable that has implemented paramedic compensation ties its compensation to the paramedic's base rate of pay.

While a percentage compensation based on a fire fighter's base rate might be preferable to a percentage based on the top step of the base rate or on a flat rate, the Arbitrator has no power to modify either offer. Because of the future problems that the Union's offer may create as a result of its automatic increases, it is concluded that the Employer's paramedic pay offer is more reasonable than the Union's.

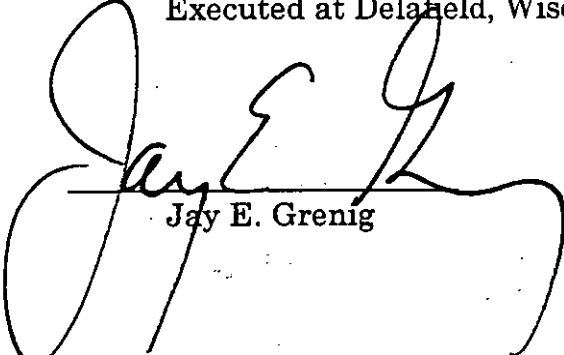
D. CONCLUSION

The Arbitrator has no power to pick and choose between the parties' final offers, but must select one or the other total offer based on the statutory criteria. Whatever problems exist with respect to the Union's paramedic pay offer can be dealt with in future negotiations. However, the growing total compensation gap between the City fire fighters and the City's police officers as well as the external comparables needs to be dealt with now. Accordingly, it is concluded that the Union's final offer is more reasonable than the City's.

VII. AWARD

Having considered all the relevant evidence and the arguments of the parties, it is concluded that the Union's final offer is the more reasonable offer. The parties are directed to incorporate into their 1996-1997 collective bargaining agreement the Union's final offer together with all previously agreed upon items.

Executed at Delafield, Wisconsin, this ninth day of October 1997.



Jay E. Grenig