

BEFORE THE ARBITRATOR

In the Matter of the Interest Arbitration Between

ANTIGO FIREFIGHTERS' UNION, LOCAL 1000

and

CITY OF ANTIGO

Case ID: 12.0001

Case Type: MIA

WERC Decision 40706-B

Appearances:

MacGillis Law Group, LLC, by Mr. Christopher J. MacGillis, 12700 West Bluemound Road, Suite 200, Elm Grove, Wisconsin 53112, appearing on behalf of the Union.
Von Briesen & Roper, S.C., Attorneys at Law, by Mr. Kyle J. Gulya, 10 East Doty Street, Suite 900, Madison, Wisconsin 53703-3390, appearing on behalf of the City.

ARBITRATION AWARD

This is a final and binding interest arbitration proceeding pursuant to the Municipal Employment Relations Act, Wis. Stats. §111.77. In accordance with Wis. Stats. §111.77(4)(b), the parties submitted their final offers. The Arbitrator shall select the final offer of one of the parties and shall issue an award incorporating that offer without modification.

Per the statute, the Arbitrator has the task of picking either the Union's offer or the City's offer and nothing more.

FACTS:

The City of Antigo and the Antigo Firefighters' Local 1000 have been parties to collective bargaining agreements dating back many years. Their latest agreement expired at the end of 2022. The parties bargained for a successor agreement but were unsuccessful in reaching an agreement. They were able to agree upon the terms for years 2023 and 2024, but not 2025. The only issues in

dispute for 2025 are whether the city of Rice Lake should be added as an appropriate external comparable, and the wage increase.

POSITIONS OF THE PARTIES:

The parties filed excellent, extensive, and well-thought-out briefs in support of their positions. The Arbitrator has attempted to set forth the parties' arguments in summary, but, still, it's 38 pages long. The parties' briefs totaled 152 pages. In the opinion of the Arbitrator, the reader of the Award should be fully aware of the arguments made by the parties, although lengthy,

Union's Position

After examining both offers and applying the law to the facts present, the relevant statutory factors favor the Union's offer. The statutory factor to be given greater weight, the City's economic conditions, weighs in favor the Union's offer along with the statutory criteria relating to the interests and welfare of the public; comparisons to employees performing similar services; comparisons to public employment in comparable communities; the cost of living; changes during the pendency of this proceeding; and other factors including low retention rates and morale. The remaining statutory criteria, the City's lawful authority; the overall compensation; and the stipulations of the parties do not favor either party in this dispute.

During the hearing, the City focused primarily on internal parity,¹ and the financial health of the City. As explained further below, internal parity does not exist, and to the extent it does, the City has consistently broken parity in favor of the Police Department, without ever "making it

¹ The City's focus on parity is not credible. As discussed below, the City argued parity did not exist between the Police and Fire Departments in its last arbitration with the Fire Department.

up” to the Firefighters Union. As explained at length during the hearing, the City is in excellent financial health, and the City conceded that it has the ability to pay the raise due to the over large unassigned general fund balance, and the unique cost sharing deal where surrounding municipalities contribute half of the budget for the EMS services (under which the firefighters are budgeted).

The Union’s final offer is more reasonable, and it should be selected because the relevant statutory factors weight in its favor. Accordingly, the Union respectfully requests the Arbitrator to incorporate the Union’s offer into the parties’ final collective bargaining agreement.

Facts

The parties present two issues for the Arbitrator to resolve: (1) wages, and (2) if Rice Lake should be added as an external comparable.

I. Wage Increases.

Both the Union and the City offer propose the same wage increase for 2023 (3%) and 2024 (2% effective January 1, 2024, and 1% effective July 1, 2024). The only remaining issue is the wage increase for 2025. The Union proposes a \$1.00 increase effective January 1, 2025, and a 3% increase effective July 1, 2025, (Union Exh. 1). The City proposes a 1% increase effective January 1, 2025, and 2% effective July 1, 2025, (Union Exh. 2). The cost difference between the two offers is \$46,183, (Tr. p. 77, 22-23). Because of the cost-sharing arrangement where nearby municipalities pay half of the firefighters’ cost, the actual cost of selecting the Union’s offer is approximately \$23,000. ²

² The Lieutenants position is not subject to the cost-sharing. And the three lieutenants’ positions are funded solely by the City. The rest of the Union’s members are covered under the cost-sharing provision.

In recent times, the Union has significantly fallen behind its established external comparables. Despite historically ranking fourth or fifth in recent times (and even as high as second), the Union has now fallen to the bottom of its comparables. The gap between the Union's annual wages and the next ranked external comparable is steadily increasing. The Union's proposed wage increase not only allows the Union to close the gap and return to its historic ranking of fifth but also serves to remedy the historic "bad deals" that the Union accepted with the understanding the City would "pay it back" in the future. Chief Corey Smith ("Chief Smith") testified that during his decade long tenure as Union president, the Union took deals below market rate with the understanding the City would "take care of" the Union later, (Tr. p. 177, 1-8). The City continued to offer below market rate deals, with the Union taking 17.9% less than the average of their comparables since 2008, (Union Exh. 30). Not one year has the Union matched or exceeded that average comparable increase, (*Id.*). The City promised to make things right over a decade ago, and it is time for the City to honor that promise. Only the Union's offer addresses that issue.

The City has the capacity to pay the Union's requested wage increase for 2025. Despite the City talking at length about the finances of the City and how the roads are not being repaired, the City conceded that it has the capacity to pay the Union's wage increase. In fact, the City conceded that it has the ability to pay the full \$46,000 increase, not just the \$23,000 increase it would actually cost. ("Q. You would agree, the City has the ability to pay the \$46,000 for the raises? A. Yes.", (Tr. p. 115, 13-15)).

Compensation has a significant impact on morale, retention, and hiring. Testimony from Chief Smith and Union President Ron Pizl shed light on the firsthand struggles the Department faces: lack of retention and candidates for hiring, low staffing, and the number of new hires that

leave after completing training. The Union's wage offer combats these issues with higher wages and a return to the historic ranking of fifth in the comparable group (moving up from the bottom). Chief Smith and Ron Pizl both testified that Union members are primarily concerned with wages. The Union's offer for 2025 allow for the Antigo Fire Department to be a more desirable place to work for potential candidates and allows members to once again enjoy serving the City of Antigo.

II. Established External Comparables.

The last issue in dispute is whether Rice Lake is an external comparable or not. For two reasons Rice Lake is not a comparable: (1) Arbitrator Malamud specifically chose to exclude Rice Lake as a comparable in the parties' only arbitration decision, and (2) both parties agree that there has been no discussion on adding Rice Lake as a comparable since that decision.

The City postures that Rice Lake was always a comparable, and the Union should have known that. However, that does not comport with the facts. In the only arbitration decision between the parties, Arbitrator Malamud specifically said that "in this case, Rice Lake does not serve as a viable comparable. . . . The Arbitrator does not make a final determination as the appropriateness of Rice Lake serving as a comparable." (Union Exh. 44). It is common sense that when a comparable has not been affirmatively selected, that comparable must be agreed upon by both parties, or an Arbitrator, to be included as a new comparable. The City attempts to shift the burden onto the Union to disprove Rice Lake as a comparable. In fact, the City has the burden to prove that Rice Lake was established as an additional comparable, and the City failed to meet that burden.

It is clear that Arbitrator Malamud's 2001 decision did not include Rice Lake as a comparable. It is undisputed that the parties did not have any discussions about adding Rice Lake as a comparable. The City now attempts to add in Rice Lake without any notice, and despite a

clear an unambiguous decision to the contrary. In sum, the City failed to meet its burden to establish Rice Lake as a new comparable.

Argument

As discussed above, all relevant statutory criteria articulated in Wis. Stats. §111.77 support selection of the Union's final offer as more reasonable than that of the City's.

I. The City's Economic Conditions Must be Given the Greater Weight and They Favor the Union's Offer.

Wis. Stats. §111.77(6)(am) requires the Arbitrator to "give greater weight to the economic conditions in the jurisdiction of the municipal employer" than to the other factors under §111.77(6)(bm). The City's economic conditions support the Union's offer. Financial exhibits and testimony from the City's Financial Director/Treasurer show the City's healthy financial position and that selection of the Union's offer does not adversely impact its economic conditions.

A. The City has the Capacity to Pay the Union's Wage Proposal for 2025.

The City has the capacity to pay the Union's wage increase for 2025. The City's Finance Director conceded this fact without hesitation. Further, the City conceded that it has the ability to pay the full \$46,000 increase, not just the \$23,000 increase it would actually cost. ("Q. You would agree, the City has the ability to pay the \$46,000 for the raises? A. Yes." (Trans. p. 115, 13-15). Any analysis into the City's ability to pay should end there. However, assuming *arguendo*, that the City argues it does not have the ability to pay, the testimony and evidence at hearing does not support that claim.

Chris Lake ("Director Lake") testified on behalf of the Union. He is the Director of Collective Bargaining for the International Association of Firefighters ("IAFF"). The IAFF completed a municipal financial analysis of the City of Antigo. As part of that analysis the IAFF

uses the Government Accounting Standards Board's ("GASB") general accounting practice for public sector reporting. Then looking at the liability ratios, general fund balances and historic financial data to determine the health of the City. *Id.* An asset to liability ratio of below "1" is when concern over the financial health begins any ratio "1" or above indicates strong financial health. *Id.*

The City's Financial Director agreed with Director Lake's analysis. In fact, she specifically agreed that the City is in a good financial position and did not disagree with anything Director Lake said. *Id.*, p. 115; 1-9. Further, the City Financial Director agreed with Director Lake that the general standard for an unassigned fund balance is 16.67%. *Id.*, p. 130; 1-25, p. 131; 1-23. That percentage is the recognized industry standard. *Id.* The City set a self-imposed ratio of 25-30%. *Id.*, p. 131; 1-2. The City prioritizes having an unassigned fund balance ratio roughly 10% higher than the industry standard. A prudent measure to ensure the City is in a stronger position than is recognized as normal. The City conceded that paying out the full \$46,000 difference in wages would not change the unassigned fund balance percentage, and the City would certainly stay within their self-imposed limit. *Id.*, p. 132; 16-25.

As previously noted, the City has conceded that it has the ability to pay the full Union wage increase, without considering the cost-sharing funds the City would receive as well. Further evidence of this ability to pay is that the City received \$812,960.66 in ARPA funds in 2021, during the duration of the previous contract, (Trans. p. 124; 1-14). The City's Financial Director testified that the ARPA funds were distributed largely because of the work that first responders were doing with COVID. *Id.*, p. 126; 3-7. Yet the City decided not to allocate 17% of the ARPA funds to wages, instead spending the entire ARPA fund on a street project. *Id.*, 8-20.

The cost difference for the Union's offer is \$46,000, and with the cost-sharing program the City only has to pay half of that total, roughly \$23,000. The City has received a windfall of \$40,000 due to having an assistant chief position budgeted for, but not filled, in 2025. That windfall alone covers the cost for the Union's offer. Any argument that the Union's offer will cause cuts, or difficulties with the current budget is without merit.

B. The City's Cost-Sharing Program Covers Half of the Cost of the Department.

The City of Antigo has a unique method of funding the Fire Department. The City has a cost-sharing program where nearby municipalities and towns contribute to Antigo's budget. That is because the Antigo Fire Department services those municipalities and functions as their Fire Department. As part of this cost-sharing agreement, Antigo pays 50% of the EMS budget, and the surrounding municipalities contribute the other 50%. *Id.* Effectively, due to this arrangement, Antigo only bears 50% of the financial burden to run its Fire Department.

Antigo negotiates the rate of pay the surrounding municipalities contribute to the cost-sharing program, (Trans. p. 118; 15-18). Yet despite knowing that Antigo was in contract negotiations, and this Arbitrator might select the Union's proposal, the City failed to account for that possibility in the budget. The City also failed to account for that possibility in the cost-sharing formula. The City Financial Director was unable to state a reason why the cost-sharing couldn't have included the possibility to cover the Union's proposed increase.

C. Other Indicator of the City's Capacity to Pay.

The City has a proven record of being financially healthy as seen through the increase in the City's bond rating in 2018. The City increased its bond rating from A+ to AA- in 2018, (City Exh. 5-J). The City's financial director testified that the bond rating increased mainly because of

the “steady financial situation. Further, the increase in the bond rating actually saves the City money on the interest rates it pays.

While the City Council prioritizes maintaining that bond rating, the City’s Financial Director conceded that paying out the full \$46,000 increase (without taking into account the additional cost-sharing funds the City would receive) would have no impact on the City’s financial health. The unassigned fund balance would not change even a single percent based on paying the full raise.

The City has the ability to pay the raise, as the City has conceded. The City’s financial health is favorable, and this factor weighs in favor of the Union’s offer.

II. Other Applicable Factors Favor the Union’s Offer (§111.77(6)(bm)).

While the economic conditions in the jurisdiction of the Municipal Employer is the factor statutorily given greater weight, the other applicable factors under Wis. Stats. §111.77(6)(bm) also favor the Union’s offer.

While each of the relevant statutory criteria weighs in favor of the Union’s offer, there is some overlap in how the remaining criteria apply to the parties’ final offers.

A. The Interests and Welfare of the Public and the City’s Financial Ability to Meet the Costs are Best Served by the Union’s Offer (§111.77(6)(bm)(3)).

While some of the analysis for this factor overlaps with the preceding section, the interests and welfare of the public and the financial ability of the City both strongly favor the Union’s offer. The City concedes that it has the ability to pay the full Union increase, before the cost-sharing revenue. The issue is not that the City has the inability to pay, but that it is unwilling to do so.

In addition to the City's ability to pay, the interest of the public supports the Union's offer. The Antigo Fire Department serves both the residents of Antigo and the surrounding communities. Those communities deserve to have competent, well-trained, and experienced firefighters. Unfortunately, the Antigo Fire Department has struggled with both recruitment and retention. Both President Pizl and Chief Smith testified that retention is an issue, and many firefighters come to the Department for a year or two to be trained and leave for surrounding communities that pay higher wages.

Even more concerning to the public interest is that due to low retention and recruitment, the Chief had to lower the education requirements of new hires, (Trans. p. 183; 4-16). That leads to new hires being less skilled than ever, requiring more intensive training, and hiring recruits who would not have been considered previously. *Id.*, p. 184; 9-14. The public is now relying on first responders who have less education, less experience, lower standards, and less licensures than ever. The public interest weighs in favor of the Union's offer. Chief Smith admits that pay is a factor in the inability to recruit. *Id.*, p. 183; 17-20. Only the Union's offer addresses this issue. Based upon the foregoing, the interests of public welfare support the Union's offer.

B. The Comparison of the Wages, Hours and Conditions of Employment of the Employees with Those of Other Employees Performing Similar Services with Other Employers Favor the Union's Offer (§111.77(6)(bm)(4)).

At the outset, as discussed above, Arbitrator Malamud established the external comparables in the 2001 decision, City of Antigo (Fire), Dec. No. 29980-A.

Arbitrator Malamud addressed the City's proposed inclusion of Rice Lake as a comparable.

In this case, Rice Lake does not serve as a viable comparable because the firefighters have not settled for calendar years 2000 and 2001. The Arbitrator does not make a final determination as to the appropriateness of Rice Lake serving as a

comparable. It is located approximately 163 miles from Antigo. It does not meet the geographic proximity factor.
Id.

As analyzed above, the City failed to meet its burden to establish that Rice Lake was ever agreed upon by the parties to be used as a comparable. There were no discussions on the matter, and the only arbitration decision between the parties specifically excluded Rice Lake as a comparable. The five affirmatively established comparables are (1) Merrill, (2) Rhineland, (3) Marinette, (4) Oconto, and (5) Ashland.

C. Internal Wage Comparisons Favor the Union's Offer (§111.77(6)(bm)(4)).

The Union's final offer is favored by internal wage comparisons due to the fact that there has not been an established parity relationship between police and fire wage rates. In fact, in the past six (6) contracts, three of those contracts have had non-parity wages, all in favor of the Police Department.

In the 2001 arbitration, the City argued that there was no historic wage relationship between the police and fire groups. Not the City argues that there has always been historic wage relationship between groups. The internal parity relationship does not exist, and to the extent it does exist, it has been consistently broken in favor the police. And the Union's offer is the only one that addresses and corrects that issue.

During the 2001 arbitration, the Union attempted to establish a relationship between the wage rates of firefighters and police officers. City of Antigo, Dec. No. 29980-A. The City countered that argument, noting that "there has been no historic relationship established between wage rates of Police Officers and the Police Lieutenant and Firefighters and the fire Lieutenant in

Antigo.” *Id.* Further saying: “there is no parity relationship between the top firefighter and Police Officer.” *Id.*

Indeed, Arbitrator Malamud confirmed that the parity relationship does not exist and was not established by the Union. “The parties have not established that relationship. The Arbitrator will not establish that relationship in this proceeding.” *Id.* Further proof that parity did not exist is the Arbitrator’s comment on establishing parity. “Interest arbitration is not a substitute for collective bargaining in which relationships of one bargaining unit to another are established by the parties over time.” *Id.* It is clear that the framework of internal comparables after the 2001 arbitration is that internal parity did not exist and only establishing it over time during bargaining would serve as proof.

Turing next to the following contracts post Arbitrator Malamud’s decision establishing no internal parity. Out of the past six (6) contracts, half have not had parity wage increases. And all of those have been in favor of the Police.

The burden is to overcome Arbitrator Malamud’s determination that parity does not exist. Having half of the contracts being non-parity does not meet that burden. The parity relationship has not been established.

To the extent that this Arbitrator determines a parity relationship exists, the need for a “catch-up” overcomes any internal parity weight. As Arbitrator Malamud summed up in 2001, “where catch-up is established [cost of living, internal comparability, and settlements of other public employers] are given little weight.” *Id.* Thus, when a catch-up need is established, the other factors are given less weight.

In 2001, Arbitrator Malamud ended up selecting the City’s final offer. In doing so, he noted that the “wage demand in the Union’s final offer for Lieutenants in both years of the

agreement [are] so out of line that he selects the City's final offer, even though the Union has established a need for catch-up among the fourteen Firefighters in the unit." *Id.* Further explaining that [h]opefully, these remarks may be of assistance to the parties when they sit down to negotiate the successor..." *Id.* Thus, in 2001 a need for catch-up already established. And any weight given to internal comparables is lessened. Subsequent to that 2001 decision, the firefighters have only continued to lose ground, thereby making the catch-up need even greater, and any weight placed on maintaining "parity" lesser.

The continual loss in wages is show in Union Exhibit 30.

If the City's offer is accepted, the firefighters will now be earning less annually than the police, despite working an additional 832 hours (equivalent to 34.66 full days). Firefighters will then be earning \$597.25 less than Police. That is an untenable position. Under the Union's offer, the Firefighters will earn \$3,596.60 more than the Police, equivalent to a pay rate of \$4.43 for each additional hour the firefighters are required to work.

Arbitrator Malamud made it clear there is no parity relationship established, and the subsequent contracts have not clearly established that relationship. Further, the established need for catch-up that existed in 2001 has not been addressed. The City's offer continues to ignore the issues and only serves to worsen the pre-existing problems. Only selection of the Union's offer addresses a need that arose over twenty-four years ago. This factor weighs in favor of the Union.

D. The External Comparables Favor the Union's Offer.

The Union's wage offer is supported by its external comparables. As the data shows, and testimony confirmed, the Union has suffered a steady eroding of its historic ranking in comparables. That erosion has led to a critical staffing shortage, an erosion of education and skills of new hires, and a very high turnover rate. Under the Union offer, the City will finally be forced

to address the long-established catch-up need and satisfy the City's promise to pay back the Union for taking substandard deals in the past.

Chief Smith testified that during his decade-long tenure as Union President, the Union experienced a steady erosion of ranking in the comparables. Historically, during Chief Smith's tenure as Union President, the Union was ranked fifth (5th) in the comparables. Further, Chief Smith confirmed that during his tenure as Union President, the Union took below-average wage increases every year compared to the external comparables. Both Chief Smith and Ron Pizl confirmed that those below-average deals were taken with the understanding that the City would "take care of" the Union in the future. *Id.*, p. 177; 1-8, p. 48; 11-25. To date, as evidenced by the continued decline in the rankings, and further loss in wages to the externals, the City has not come good on that promise. Only the Union's offer addresses that issue; the City's offer continues to exacerbate the issue.

The raw data in Union Exhibit 30 shows the steady decline that the Union has been experiencing.

Notable highlights in this data include the steady decline in the rankings, the alarming increase in the gap to the top comparable, and how far behind the Union has fallen from the second-last comparable.

Addressing the historic rankings, the Union has had a ranking hovering right around fifth place (or second from the bottom) since 2011. That ranking was consistent throughout three new contracts, 2011-2013, 2014-2016, and 2017-2019. It was only this prior deal, 2020-2022 that dropped the Union to last in the rankings. As shown in the chart, the City's offer continues to keep the Union in sixth place, dead last. The Union's offer restores the Union to its historic ranking of

fifth (albeit only by earning \$145.60 more annually than the last placed comparable). Union Exhibit 30 shows the historic ranking and the decline caused by the 2020-2022 contract.

It is noteworthy that the City never provided the Common Council with any of the data related to the external comparables. The City's Finance Director testified that "[she] doesn't put as much weight on that as some people." *Id.* Further saying that the City didn't look at the external data, and instead looked at "what the City can afford." *Id.* Given the City Finance Director's testimony that the City has the ability to pay the Union's requested increase, the claim that the Common Council only looked at what the City can afford is without merit. The Common Council was not provided with the relevant data and approved the final offer without having any information about external comparables. The City's offer was made with incomplete or inaccurate information.

It is clear the Union's offer is more reasonable than the City's. Based upon the foregoing, the internal and external comparables strongly favor the Union's offer.

E. The Average Consumer Prices for Goods and Services, Commonly Known as the Cost of Living, Favor the Union's Offer (§111.77(6)(bm)(5)).

Historic increases in the cost of living support the Union's offer. The Union has historically taken wages at a rate far below the CPI, further showing the need for the Union's offer to be selected. From 2011, when the Union started its historic ranking of fifth, through 2022, the Union has taken wage increases 12% below the total CPI, (Union Exh. 30).

The CPI data for the duration of the previous three-year contract, the CPI rose 14.9% and the Union wage increases were 6.5%. The CPI data for the current 2023-2025 contract is 9.71% and Union wage increases totaling 9%.

While the CPI for the current contract is instructive, it is the historic CPI data from the lifetime of the previous contract that should be given the greater weight. The Union points out that as this Arbitrator noted in City of South Milwaukee, Dec. No. 39428-B, “the recent [CPI] increases form the basis for going forward in negotiating the successor to the instant collective bargaining agreement.” *Id.*, p. 43. Functionally when negotiating a bargaining agreement, the parties are negotiating for future years, where the CPI is uncertain. Thus, it is the CPI from the prior contract that becomes the framework for the current negotiations.

The City calculated the aggregate wage lifts for the offers. The City’s wage increase is an aggregate of 9.3%, and the Union offer is an aggregate lift of 14.2% - 15.3%, (City Exhibit 1). The CPI for the duration of the prior contract was 14.9%, (Union Exh. 31). The Union offer more closely approximates the increase in CPI. As such, this factor supports selection of the Union’s offer.

The Union’s wage increases significantly lag behind CPI during this timeframe and justify the increase in the Union’s final wage proposal for 2025.

As outlined in the previous section, the voluntary settlements of the Union’s comparables in relation to the CPI increase favor the Union’s offer.

F. The Overall Compensation Presently Received by the Employees, 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 Favors Neither Party’s Offer (§111.77(6)(bm)(6)).

Both final offers maintain the status quo and this factor favors neither group. A review of the overall compensation packages shows that while the City’s compensation package is favorable in some areas, it ranks lower in other areas. The overall compensation package received by members is competitive and consistent with others in the comparable group.

G. A Change in Circumstances – Specifically the City’s Budgeting for an Assistant Chief in 2025 Which Remains Unfilled, Favors the Union’s Offer (§111.77(6)(bm)(7)).

The City has already set its budget for 2025. As part of that budget an Assistant Chief’s position remains open. The budget for that open position is \$80,000, (Trans. p. 180; 1-25, p. 181; 1-22). Chief Smith agreed that because the position remains open, and will be unfilled through July 1, 2025, the City is receiving a windfall of \$40,000, (Trans, p. 182, 2-7).

The cost difference for the Union’s offer is \$46,000, and with the cost-sharing program the City’s financial impact is half of that total, roughly \$23,000. The City has received a windfall of \$40,000 due to having an assistant chief position budgeted for, but not filled, in 2025, (Trans. p. 182; 2-12). That windfall alone covers the cost for the Union’s offer. As such, this change in circumstance supports the Union’s offer.

H. Other Factors not Confined to the Foregoing – Specifically Low Retention Rates and Suffering Morale of Union Members as a Result of Inadequate Compensation – 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, Favor the Union’s Offer (§111.77(6)(bm)(8)).

This factor favors the Union’s offer as the increase proposed by the Union is necessary to improve morale and fairness. Some members have taken second jobs to support their families, and low wages have been identified as a primary factor for leaving the Department. The current wage levels in Antigo are reported to be affecting the morale of Department members.

Ron Pizl is a second-generation firefighter for the City of Antigo. Despite him dedicating his life to public service, like his father did, Ron was forced to work a second job to “make ends meet.”

Ron Pizl has worked with the Antigo Fire Department since 1999. In that time he has seen an unprecedented rate of turnover in the Department. Specifically, since 2010 there has been 36 members leaving the Department. That is a 15% turnover rate. That is in excess of the 11% turnover rate the Department had leading up to the parties' 2001 arbitration, which Arbitrator Malamud noted was "very high" and "suggests the existence of a problem" and "provides strong support to a final offer that attempts to achieve catch-up to improve the wage levels of employees in the unit," Antigo, Dec. No. 29980-A.

Further evidence of this problem, and the need for catch-up is evidenced by members leaving for other departments specifically for higher pay. Ron Pizl has spoken with members who left that state; specifically, they left for higher wages. Some recent examples include four members to Wausau, three to Merrill, and two to Rhinelander. These members are leaving to departments that pay \$15,000 - \$20,000 more per year for the same job. *Id.*

Even Chief Smith testified that he would "love to pay [the Union] more," (Trans. p. 178; 10-16). During his decade-long tenure as Union President the biggest thing that members brought up was the poor wages compared to the external comparables. *Id.*, p. 171; 15-25. Despite that concern being in place for over a decade, Chief Smith during his time as Union President took below-average wage increases for every year he was part of the Union. *Id.*, p. 175; 17-24. This led to a steady erosion of the external comparables ranking. *Id.*, p. 175; 5-12. Chief Smith testified that the below market rate deals were accepted with the understanding that the City would "take care of" the Union later on. *Id.*, p. 177; 1-8. That catch-up has not occurred. Considering this, now is the time for the Union to make up for lost ground. The City is in a good financial situation and will be able to not only afford, but also comfortably plan for the Union's wage proposal. As such, the Union's offer is the more reasonable one and should be selected.

Conclusion

For the foregoing reasons, the Union's offer is the more reasonable offer. Thus, the Union respectfully requests the Arbitrator select the Union's offer for inclusion in the parties' final collective bargaining agreement.

City's Position

Antigo is a small, rural city in northern Wisconsin with a declining population, limited ability to attract new businesses, and significant budgetary constraints. But the City works hard to ensure it remains an attractive place to work for all its employees, and Antigo treats its employees fairly. The City of Antigo has a long history of fairness and consistency when it comes to its relationships with both its represented and non-represented employees. All City departments are important, and all City employees are important. This philosophy of fairness and consistency is a cornerstone of collective bargaining in the City of Antigo and is longstanding, necessary, and generates stability for the City's workplace culture and for budgeting in consideration of the City's significant economic constraints and limited ability to grow revenues. Greater care for that workplace stability is necessary in light of the City's need to draw from its general fund and cuts in services, programs and personnel in recent years.

The City's final offer respects these ideals, concerns, and need for stability by mirroring the 2023-2025 voluntary settlement reached with the Police Union. While the Fire Union apparently shares that view for 2023 and 2024, the Fire Union's final offer then adds a massive unbudgeted extra wage boost for 2025 undermining that stability without any compelling reason and without any good meaningful, let alone any, *quid pro quo* to support their extraordinary demand of aggregate wage increases ranging from 7.8% - 8.5% in 2025 alone. The unreasonableness of the Union's final offer for 2025 is astonishing. While Fire Department wage

rates alone are not to ranked as compared to the external comparables, members of Antigo's Fire Union receive competitive leave and other benefits, to-notch health insurance coverage, and annual salaries that significantly exceed those of the City's other Union, the Police Union. Not only does the Fire Union's offer deviate from the established and uniform internal settlement pattern, it also deviates from the settlement pattern that has been established among the external comparables for 2025.

The Union claims it has accepted "below market" wage increases resulting in bargaining unit members leaving the City to work for external comparable communities. However, in the past 10 years, only two firefighters have left to work for an external comparable. Of those two, one left to work for his hometown Fire Department and the other moved because he was not in compliance with Antigo's residency requirement, which the parties are mutually agreeing to adjust as part of this contract settlement.

Competing with the external comparables is not a problem. The fact is, Antigo's Fire Department is highly respected across Wisconsin, particularly for its vigorous training program. Antigo has attracted personnel from all over the State of Wisconsin to serve here. While some of these new hires do leave this small remote City after a few years to work elsewhere, the vast majority do not leave to work for any external comparables; they leave to work in fire departments across the State for many different reasons unrelated to wages.

The reasonable final offer before the Arbitrator is the City's final offer. This City offer respects the City's longstanding historical internal comparability pattern and the current 2023-2025 settlement with the City's other Union, preserves internal employee morale amongst all of the City's employees, not just the Firefighters, maintains the City's position as compared to the external comparables, and promotes employee equity, fiscal stability and caution in the face of the

City's budgeting and financial constraints. When applying the relevant statutory factors, the only reasonable offer before this Arbitrator is the City's Final Offer.

I. ISSUES IN DISPUTE.

Both parties' final offers are in agreement on all items except the appropriate wage increase to be provided to the City's Firefighters in 2025, (City Exh. 1).

The City's final offer is consistent with the wage increases voluntarily agreed to by the City's Police Union for 2023, 2024 and 2025. It is also consistent with the wage increases received by the City's non-represented employees for 2023, 2024 and 2025. The City's final offer provides an aggregate wage lift of 9.3% over the three years of the contract.

Union's Final Offer. The Union's final offer also proposes a 3-year contract covering the years 2023-2025 and implements the same wage increases proposed by the City for the first two years, as noted above. In the third year, however, the Union's final offer demands a \$1.00 per hour increase effective January 1, 2025, followed by an additional 3% increase effective July 1, 2025.

The Union truly bears the burden of justifying its final offer because it is the Union who seeks to break the historical internal comparability pattern and it is the Union who seeks to obtain, through arbitration rather than voluntary settlement, an excessive wage increase in the third year of its final offer without offering any compelling evidence or even a *quid pro quo*.

II. THE CITY'S PROPOSED EXTERNAL COMPARABLE POOL PROVIDES THE MORE APPROPRIATE EXTERNAL COMPARABLES TO BE USED BY THE ARBITRATOR IN DECIDING THIS DISPUTE.

The City proposes the following six cities as external comparables: Ashland, Marinette, Merrill, Oconto, Rhinelander, Rice Lake. The Union agrees to the comparables except it excludes Rice Lake from the list.

A thorough review of Malamud's arbitration decision reveals Arbitrator Malamud never "struck" Rice Lake as a comparable as claimed by the Union. To the contrary, Arbitrator Malamud very clearly specified he was not making a final determination as to Rice Lake's comparability for the sole reason that Rice Lake was not settled for either of the two years in dispute in that arbitration. In City Exhibit 8, the City presented evidence on commonly-accepted standards of comparability used in Wisconsin interest arbitrations, including population, income, equalized value, property tax rates, residential share of property taxes, and geographic proximity. A review of these comparability standards confirms that Rice Lake constitutes an appropriate external comparable.

While the above-referenced comparability standards are useful in determining external comparability, an additional factor, the size and structure of comparable fire departments, is of particular importance. Antigo's Fire Department is a combination department made up of regular full-time employees as well as paid on-call volunteers, (City Exh. 10.A.). Rice Lake also has a combination department. The only other comparable with a combination department is Oconto.

In his 2001 decision, Arbitrator Malamud recognized the importance of identifying communities with "similarly organized fire departments" when determining the appropriate comparable pool. (Union EX.44, p.5). As a combination, Rice Lake clearly meets the comparability standard. In addition to similarity in composition of career and non-career fire personnel, Rice Lake is also similarly a sized fire department.

At the hearing, Union witness Pizl stated that the City never brought up using Rice Lake as a comparable or asked to include Rice Lake as a comparable, either during this bargain or any prior negotiations, (Tr. p. 41). But the fact is, the parties never specifically discussed or identified an external comparable pool during bargaining at all. Thus, it is not accurate for the Union to characterize the parties as ever agreeing during bargaining that Rice Lake was not an appropriate comparable. The parties never formally agreed on external comparables on way or another. There is no evidence either party ever referenced a particular list of comparables across the bargaining table, nor is there any evidence either party ever asked the other to provide such a list.

What is clear is that the City of Rice Lake has used Antigo as an external comparable for its Fire Department negotiations for decades, as established by arbitration awards dating as far back as 1973.

There is no evidence the parties ever discussed or agreed to a particular external comparable pool; thus, the decision of which external comparables are appropriate is clearly for this Arbitrator's determination.

III. THE CITY'S FINAL OFFER MAINTAINS LONGSTANDING INTERNAL FAIRNESS AND EQUITY AND SHOULD BE SELECTED ON THAT BASIS ALONE.

Internal comparability and internal fairness across the City weigh heavily in this case. Wis. Stats. §111.77(7)(bm)(8) requires the Arbitrator to consider "such other factors . . . normally or traditionally taken into consideration" between the parties (i.e., the internal comparables). The City presented testimony from two different witnesses confirming the City's longstanding practice of internal pattern bargaining. That testimony is substantiated by City Exhibit 7.A., which shows that the City's internal wage settlements display an extraordinary longstanding pattern of internal consistency among both the City's represented employees and non-represented employees.

Indeed, all of the City's employee groups have maintained a strong pattern of internal consistency when it comes to both wage increases and general common benefit levels.

a. The City's internal wage settlements show an exceptionally longstanding pattern of internal consistency.

The City of Antigo currently has three employee groups. Two are unionized (Firefighters and Police) and the third is the City's non-represented employees, (City Exh. 7.A., p. 2). Prior to the passage of Act 10, the City had four unionized employee groups: Firefighters, Police, Clericals, and DPW (public works), (City Exh. 7.A., p. 1). Historically, all four of these groups negotiated on the exact same contract cycles. After Act 10, the last two groups transitioned to non-union status, but the Fire and Police Union continued the practice of negotiating on the same contract cycles and they continue to do so.

City Finance Director Matucheski has been employed with the City since 1997 and sits on the bargaining team on behalf of the City, (Tr. p. 81). She testified that during her tenure, the City's approach to wages and benefits has always been to be fair and consistent with all City employees. *Id.* These goals of fairness and consistency emanate from the City's Common Council and the Mayor, and, in Matucheski's experience, they mean that "for each employee within the City, whether they're union or non-represented, receive as close to the same offers as possible, and not – we don't favor one union or non-represented over another," (Tr. pp. 81-82). In terms of wage increases, the City starts with the unionized Fire and Police employees, and "then the non-represented employees, they try to give us the same raise as they have in the union," (Tr. p. 82). According to Matucheski, the Council has not deviated from this goal, other than "some differences because of things that happen on the bargaining table. But every budget is tarted out with being consistent and fair," (Tr. p. 84).

b. The historical internal settlement pattern between the Fire and Police Unions is particularly consistent.

Internal consistency in wage increases for all City employees has been a City priority, and the City has maintained a longstanding history of internal comparability among all of its employee groups, but especially among its two represented Unions. Those two groups, Fire and Police, have a particularly consistent historical settlement pattern. The City's final offer to the Fire Union continues that pattern. The Union's final offer, conversely, provides an enormous wage boost for 2025 with no corresponding concessions or *quid pro quos*, and would destroy not only the historical pattern of internal consistency between the Fire and Police Unions, but also the existing good relationships between the two groups and the City's other employee groups.

Both parties' final offers are identical for the first two years of the contract. It is the third year of the contract where the parties' offers drastically diverge. The City offers the same wage increases voluntarily accepted by the Police for 2025: 1.00% on January 1 and 2.00% on July 1, for a final aggregate wage lift of 9.3% over the three years of the contract. The Union, on the other hand, demands a massive \$1.00/hour wage increase on January 1 followed by an additional increase of 3.00% on July 1, resulting in aggregate wage increases ranging from 7.8% - 8.5% in 2025 alone, and a total aggregate wage lift over the three years of the contract ranging from 14.2% - 15.3%. There is no justification for wage increases of this magnitude in light of the increases received by the Police for 2023-2025 and the fact that the Firefighters offered absolutely no concessions or *quid pro quos* in exchange for its higher wage demand.

There have been two deviations. The first actual deviation between Fire and Police wage increases occurred in 2010. Both the Fire and Police Unions agreed to general wage freezes, but

the Police negotiated 10¢ and 15¢ exceptions for the 5-year and 10-year Patrol steps, while holding the remainder of wage rates frozen.

The second deviation in wage increases between the Fire and Police Unions occurred in the 2017-2019 contract. In 2017 and 2018, both Unions agreed to the same 1.00% and 2.00% increases, with the Fire Union's 1.00% applied as a .50% increase for all employees and an additional .50% for the new CCP classification. But for 2019, the Fire Union received .50% less (1.50% increase vs. the Police Union's 2.00%). As noted previously, however, in negotiations for the 2017-2019 contract, the Fire Union prioritized the creation of the CCP classification. Several bargaining unit members had obtained the CCP level of licensure and the Union wanted to recognize those employees with a higher pay classification, (Tr. pp. 141-43). Ultimately the parties agreed to create this new CCP in exchange for lower wage increases for the remaining bargaining unit members over the course of the 2017-2019 contract, (Tr. p. 143; City Exh. 7.A., p. 2). Clearly, there is an exceedingly strong and historical wage settlement pattern amongst the City's Fire and Police Unions.

The Union's final offer contains absolutely no *quid pro quo* for its higher wage demand in 2025, nor did the Union offer any *quid pro quo* during negotiations.

The City's final offer maintains the longstanding pattern of equity with the Police Union and maintains bargaining stability and continued positive relationships amongst all of the City's employees, but especially its represented groups. This pattern must be honored because the Union has failed to prove any compelling reason to deviate.

- c. **The benefit levels among the City's various employee groups are also evidence of internal consistency, which reinforces the principle of internal comparability as a determinative factor in this proceeding.**

The has strived for internal consistency not only with respect to wage increases, but also with respect to other benefit levels. When the unique aspects of the Fire Union's work schedule and annual hours are taken into consideration, the benefit levels among the City's employee groups are identical or very similar.

d. The stipulations of the parties demonstrate clear respect for the importance of internal comparability.

City Exhibit 1 sets forth seven items that are found in both parties' final offers. Three are specific to the Firefighters contract (addition of A-EMT classification to the pay scale and clarifications to seniority list and job posting language). The remaining four items were all agreed to by the Police Union as well. They include a contract duration of 2023-2025 modifying the sick leave language to allow for use during the probationary period, adding "aunt and uncle" to immediate family under the funeral leave language,³ and revising the residency requirement from 15 to 30 miles.

This is further evidence that both parties have looked to the City's internal patterns, particularly the pattern with the Police Union, to determine appropriate wage and benefit levels, as well as contract language, for the Fire agreement. The statutory factor which directs the Arbitrator to consider the stipulations of the parties favors the City's final offer.

IV. THE UNION'S WAGE OFFER IS AN UNREASONABLE SOLUTION TO ALLEGED, BUT NON-EXISTENT, PROBLEMS.

³ Note the Police contract already included "aunt and uncle" for purposes of immediate family under the funeral leave, but in 2023-2025 the Police added "niece and nephew" to match the Fire contract, which already included "niece and nephew." The end result of these revisions is that the aunt/uncle and niece/nephew categories are now consistent in both the Fire and Police contracts.

a. The City's Firefighter wage rates do not constitute a "problem" in need of the Union's proposed "solution" of an enormous wage boost for 2025.

The statutory criteria which the Arbitrator is required to apply in this matter includes Wis. Stats. §111.77(6)(bm)(4)(a), which directs the Arbitrator to consider the wages, hours and conditions of employment of other public sector employees performing similar services in comparable communities (i.e., the external comparables). At the hearing, the City presented evidence as to various compensation items such as holidays, leaves and health insurance among the external comparables. Both parties presented evidence as to wage rates and wage increases among the external comparables. As a prefatory matter, however, the City would note that the Union's data excludes the City of Rice Lake, which the City has shown is an appropriate external comparable and which the City includes in all of its external comparison data. The Union's external comparison charts show historical data dating back to 2008 for which the Union provides absolutely no supporting background documentation for purposes of verification.

Because the Union has failed to provide verifying background documentation for the historical external comparison data it presents for 2008 through 2018, any conclusions that might otherwise be drawn with respect to their exhibits showing rankings and comparisons to the comparables' average for those years must be entirely disregarded.

The City's exhibits present the more consistent, reliable and verifiable set of comparables data to be utilized in deciding this dispute. The City's exhibits also provide comprehensive comparative data to assess total compensation for these employees.

Turning to external comparables' wage data, it is clear the City is plainly not a wage leader when examining wage rates in a vacuum, not have the City's wages ever approached the middle or average of the comparables. As City Exhibits 10.C.2-3 show, on the basis of annual salaries, the City's maximum salaries for the Firefighter A-EMT and Firefighter Paramedic classifications

have historically ranked at the bottom of the comparables. These rankings will continue under both parties' offers for 2023-2025. Annual salaries for the Firefighter-EMT classification, which encompasses 38% of the bargaining unit, compare slightly more favorably, with both parties' offers for 2023-2025 continuing historical rankings of second from the bottom, (City Exhs. 4.C and 10.C.1).

But simply ranking at or near the bottom of the comparables does not, in and of itself, constitute a "problem" requiring adjustment through an Arbitrator's award. Wages are only one element of total compensation. Total compensation here demonstrates the City is competitive both as to benefits offered and the City's ability to be an attractive employer for new Firefighters.

The Union bears the burden of proving any need for catch-up vis-à-vis the external comparables. Arbitrators are in widespread agreement that the party proposing catch-up bears the burden of justifying that its catch-up proposal is so compelling that it must be awarded through arbitration.

The Union argues the disparity between the comparables' average and the City's wage rates has "gotten worse," to use Arbitrator Dichter's terminology. Union witness Pizl testified that the Union has "just not kept up." But the data, the evidence, reveals the City's offer actually maintains a closer relationship to the external comparables' average salary increases it would appear.

The Union's final offer dismisses the Police settlement and imposes an unrealistic outcome in 2025 via the Union's demand for a \$1.00/hour boost to annual salaries effective January 1 followed by an additional 3.00% across-the-board increase effective July 1, equating to aggregate wage increases ranging from 7.8% to 8.5%, without any *quid pro quo* and without the Union addressing total compensation at all and instead laser focusing solely on the narrow issue of wages. It strains credulity to believe the parties would have reached voluntary settlement on such terms

when: 1) it would obliterate the Fire Union's recognition of, and adherence to, the City's longstanding historical pattern of consistent wage increases amongst all City employees, particularly the Police Union; 2) the Fire Union offers no trade, no *quid pro quo*; 3) the City's offer maintains the City's pre-existing relationships to the comparables' average salaries; and 4) the City's overall compensation package provides Fire employees with an extraordinarily valuable health insurance benefit and WRS benefit as well as more generous training premium payments than any other external comparable receives. There is simply no "problem" in need of the Union's proposed "solution" of an enormous and costly wage increase for 2025.

b. The Union's higher wage demand will not solve any alleged recruitment or retention issues.

Contrary to the Union's assertions, the City is not experiencing inordinate problems with recruitment. As Chief Smith testified, recruitment challenges were a statewide problem and also caused in large part by the fact that the City's applicant pools were smaller due to previously required a minimum qualifications level of paramedic certification for new hires wherein there simply were not a lot of already paramedic-certified applicants. After his promotion to Chief in 2023, Smith changed the minimum certification requirement to EMT. This created a larger and more competitive pool of applicants.

Turning to the issue of retention, the Union claims the City's low wage rates have led to people leaving the Department to work for other Fire Departments. But the Union failed to present a single former bargaining unit member to testify that they left the Department due to wages.

The City's retention exhibit lists data going back 10 years and shows that during that 10-year period there was only one employee who left Antigo to work for Merrill and one other who left to work at one of the comparables.

There is no hard evidence that Fire Union employees are leaving because of wage rates, and they certainly are not leaving *en masse* to work for the other external comparables whom the Union touts as paying so much more than Antigo without considering any other elements of compensation and benefits. In the last 10 years only two employees left to work for external comparables, and they did so for other reasons other than wages. The City's final offer provides wage increases that are consistent with the wage increase pattern among the external comparables, while the Union's final offer for 2025 greatly exceeds that pattern. The City's final offer also provides salaries that continue the Fire Union's relative positioning as measured against the external comparables' average and that far exceed the pay received by many residents in Langlade County, (City Exh. 5.o.). The City's final offer reflects the offer the parties would have agreed to.

V. THE CITY'S FINAL OFFER IS PREFERABLE UNDER THE GREATER WEIGHT AND INTEREST AND WELFARE OF THE PUBLIC FACTORS.

Under Wis. Stats. §111.77(6)(am), the Arbitrator is required to give "greater weight" to the City's economic conditions than to any of the other statutory criteria. Under Wis. Stats. §111.77(6)(bm)(3), the Arbitrator is required to consider the interests and welfare of the public and the City's financial ability to pay the costs of the parties' respective final offers. Oftentimes these two statutory factors are closely intertwined. That is certainly the case in the instant proceeding. The City's economic conditions in recent years have significantly impacted its financial resources and policy choices. While the City does not assert an absolute inability to pay for the Union's proposal, the City does assert an unwillingness to pay the higher cost of the Union's final offer, and for very good reasons.

The interests of the Antigo community and its economic conditions are evident in data presented by the City.

16.9% of Antigo's population lives below the poverty line and Antigo's equalized property value ranks second from the bottom. And even though the City's taxpayers rank dead last in terms of income and home values, they are taxed at the third highest municipal property tax rate of any of the comparables and shoulder over half (56.8%) of the property tax burden. These statistics are not the hallmarks of a particularly healthy or growing economic environment, especially when the City's population is decreasing more than any other comparable except for Merrill.

Not only are the City's taxpayers faced with financial challenges, but in recent years the City has experienced challenging financial and budgetary constraints as well. In fact, in the last few years, the City has made various cuts to services and personnel.

The Common Council has given City Management a budgetary directive to remain within the City's levy limits and to be cognizant of mill rates and the resulting tax burden upon the City's residents, (Tr. pp. 80-81). The City's total tax levy is only about \$4 million, (City Exh. 5.A.). Since the inception of levy limits, the City has always taxed to its limit and continues to do so, (Tr. p. 81). Under levy limits, inflation is irrelevant, and the CPI is irrelevant. The only thing that is relevant when it comes to the City's ability to increase its tax levy is its percentage of net new construction, which is the statutory mechanism employed by the State of Wisconsin to allow Antigo and other municipalities to increase their tax levies based on the rate of municipal growth. By State law, levy limits are tied to net new construction. And for the City of Antigo, net new construction has been a very challenging constraint. Indeed, the City's tax levy has only increased by a total of 24.5% in the past 17 years combined.

To the extent the interests of the tax-paying public are intertwined between the "greater weight" factor and the interest and welfare of the public factor, both of these factors weigh heavily in favor of the City's final offer. Given the limitations in the City's ability to increase taxes, the

\$46,183 cost of the Union's offer for 2025 is anything but insignificant when compared to the 2025 levy limit increase of \$21,045. The City is operating under severely restrictive levy limits, much ore restrictive than its eternal comparables, whose net new construction growth has greatly surpassed that of Antigo for at least the past seven years. The City's ability to increase the tax levy is seriously constrained and, thus, the City would be shouldering the additional costs associated with the Union's proposal directly. The impact on the Fire Department is also apparent as an important role of the Assistant Chief is to enhance the quality of operations of the Department, and yet that position currently is unfilled due in part to uncertainty from these proceedings. That enhancement in quality of operations is important for morale.

If selected, the Union's offer would almost certainly result in substantially more difficult negotiations with the Police Union for the foreseeable future, would undermine equity for City employees and thus undermine City-wide morale, which, of course, would have a boomerang effect on the City's future negotiations with the Fire Union. All of these negative outcomes, none of which are consistent with the interest and welfare of the public, can all be avoided by selection of the City's proposal. The City believes both the "greater weight" and interest and welfare of the public factors are deserving of great weight in this case, and strongly favor the City's proposal.

VI. THE CITY'S FINAL OFFER PRODUCES COMPENATION INCREASES THAT ARE MORE CLOSELY ALIGNED WITH THE COST OF LIVING THAN THE UNION'S OFFER.

Under Wis. Stats. §111.77(6)(bm)(5), the cost-of-living factor, both parties submitted evidence as to increases in relevant Consumer Price Index (CPI) measures. The parties' final offers on wage increases are identical for 2023 and 2024, so the weight that might otherwise be given to the statutory cost-of-living factor for those two years is absent. For 2025, both parties'

final offers exceeded the increase in the CPI, but the City's final offer is much more closely aligned with it.

Arbitrators have long recognized that the total package of the parties' offers is the most appropriate measure to use in a comparison with inflation indices, since the CPI measures the increase of all goods and services, including insurance costs.

Arbitrators have also recognized that CPI increases during the previous year of the preceding contract are the appropriate increases to analyze when making comparisons to the cost of living.

Therefore, the appropriate measure to utilize in analyzing the cost-of-living factors for 2025 is the CPI increase that was in effect from January – December, 2024. The parties cite slightly different CPI figures for that time period. The City's figures vary from 2.50% to 4.45%, depending on which CPI measure is used, (City Exh. 11). The Union cites a figure of 2.90%, (Union Exh. 30, p. 10). Regardless of which figure is used, the City's offer for 2025 is much more closely aligned with the CPI, as the City's offer provides a total package increase of 5.72% for 2025 versus the Union's total package increase of 9.29%.

On the "cost of living" statutory criterion, then, the City's final offer for 2025 is more closely aligned with the applicable increase in the cost of living and should, therefore, be selected by the Arbitrator.

VII. CONCLUSION.

Morale, equity, fairness, stability, affordability, and working within the constraints of the City's budget challenges matter. Accepting the City's final offer respects all City employees, maintains the longstanding internal wage increase pattern, supports stable and predictable bargaining and budgeting, maintains existing wage rankings among the external comparables,

generates wage rates that continue the City's ranking when measured against the external comparables' average salaries, provides wage increases that are in line with the increases received by the external comparables, maintains the Fire Union's exceedingly overall compensation package including lucrative health insurance and retiree health insurance provisions, and reduces the almost certainty of future cuts to services and personnel should the Union's final offer be selected.

The City's offer in this proceeding is strongly favored. The Union's offer is unsupported by the statutory criteria, arbitral precedent, and the internal and external comparable data. In addition, the absence of any *quid pro quo* for its exceedingly high wage demand is glaring and should be the end of any further consideration. The relevant statutory factors heavily favor the City's offer, and therefore, it should be selected by the Arbitrator.

For all of these reasons, the City requests that Arbitrator Torosian select the City's proposed final offer in this proceeding.

Reply Briefs

The parties filed reply briefs which in most part repeated their arguments in their initial briefs. Each party challenged some of the claims made by the other. They summarized their positions as follows. Although the detailed arguments of the parties are not repeated, the Arbitrator, again, has reviewed the parties' briefs in their entirety.

Union's Summary

The City, through its initial brief, speaks out of both sides of its mouth. It disregards testimony at the hearing, buries bad facts in footnotes, and misses the forest for the trees. It can best be summed up by pointing out that on page 53, the City states "[w]hile the City does not assert

an absolute inability to pay for the Union's proposal, the City does assert an unwillingness to pay. . .," (City, p. 53). The City then devotes the next fifteen (15_) pages to claim poverty. That type of double talk and misdirection is present throughout the City's brief.

The City's brief is largely irrelevant to the actual issues and concessions from the hearing, misrepresents the scope of the testimony, ignores the evidence from the City's own witnesses, and ignores the bargaining history to justify a continued below-market wage increase. In the interest of efficiency, only the most egregious issues in the City's brief will be addressed.

In the introduction section, the City claims that Antigo Firefighters receive "annual salaries that significantly exceed those of the City's other Union, the Police Union," (City, p. 2). That is patently untrue. As shown in Union Exh. 30, in 2022, the firefighters earned \$1,009 more than the police officers. While that amount is not insignificant, when put into context the conclusion is the opposite than the City presents.

Firefighters work 832 hours more than Police Officers in a year. For that additional 832 hours they are compensated merely \$1,009 more than Police. That breaks down to an hourly rate of \$1.21 for each of those additional hours worked. To try to claim that the Firefighters earn "significantly" more than Police ignores the critical context of hours worked in a year, and is not representative of reality.

Further, under the City's offer, Firefighters will now earn less annually than the Police. As explained in the prior brief, Firefighters will earn \$597.25 less than Police under the City's proposal. Despite working 832 hours more a year. Who would choose to enter a career in firefighting when they could work as a Police Officer for more money, and less hours worked. The City's claim is out of touch with the facts. And it is demonstrative of the veracity of the rest of the City's arguments.

Black letter law prevents the City from introducing a new comparable for the first time at arbitration.

The City's argument that Rice Lake is a comparable should be completely disregarded. It is well-settled law that a party cannot bring up a new comparable for the first time at arbitration. And as the City conceded, there were no discussions on establishing Rice Lake as a comparable before arbitration. Further, the City's argument ignores the fact that Arbitrator Malamud specifically declined to establish Rice Lake as a comparable and instead claims that there were not discussions specifically stating Rice Lake was not a comparable. That argument is without merit and does not stand up to any scrutiny.

City's Summary

Bargaining comes with respect to be given to voluntary settlements and taking responsibility for that bargain. To the dismay of the City, the Fire Union suggests in its Reply Brief that the Union's offer should be selected because the Union previously voluntarily agreed to "bad deals," which coincidentally the Police Union and other unions voluntarily agreed to similar terms and non-represented employees received similar changes to compensation and benefits. The Union then has the boldness to insert facts into the record that the "City promised to make things right over a decade ago," (page 5) and it is now time for this Arbitrator to compel the City to honor some sort of undefined fictitious promise that is unsupported by the record. That approach by the Union lacks any semblance of support from the evidentiary record, any meaningful development of facts for this Arbitrator to rely upon, and frankly it is insulting to the good faith efforts of the City to provide fair, equitable and consistent steady compensation to its employees.

The City of Antigo has a long history of fairness and consistency when it comes to its relationship with both its represented and non-represented employees. This philosophy is a

cornerstone of respectful collective bargaining in the City of Antigo and is longstanding, necessary, and generates stability for the City's workplace culture and for budgeting in consideration of the City's significant economic constraints and limited ability to grow revenues. The City's final offer respects these ideals and stability by mirroring the 2023-2025 voluntary settlement reached with the Police Union. By contrast, the Fire Union's final offer includes a massive unbudgeted extra wage boost for 2025 resulting in aggregate wage increase ranging from 7.8% - 8.5% in 2025 alone, without any compelling reason and without any *quid pro quo*. The Union's final offer is unreasonable, reckless, and undermining of good relations.

The City argues in detail the following appropriate external comparables, evidence that contradicts the Union's claim that there is no established pattern of internal consistency in wage increases, a close examination of the comparables' wages reveals that the City's final offer maintains the City's relative positioning as measured again the external comparables, and the City's final offer is preferable under the greater weight and interest and welfare of the public factors.

DISCUSSION:

There are only two issues in dispute: appropriate comparables and the third-year wage increase.

Appropriate Comparables

There is agreement that Ashland, Marinette, Merrill, Rhineland, and Oconto are appropriate comparables and have been used in the past. The City proposes adding a new comparable, Rice Lake. The City argued extensively that Rice Lake is an appropriate comparable based on the commonly accepted standards of comparability, including population, income,

equalized value, property tax rates, residential share of property taxes, geographic proximity, and the size and structure of comparable Fire Departments.

What the City argues may have merit, but the Arbitrator does not reach the merits of adding Rice Lake to the external appropriate comparables. The reason is simple. The City did not raise its proposed addition in negotiations and first raised it at the arbitration hearing in this matter. The Arbitrator finds this important because the Union had every reason to believe that the comparables the parties were using were the ones accepted in the past. The parties discussed the Malamud decision in their brief, but what is clear from the decision is that Arbitrator Malamud did not add Rice Lake to the existing comparables nor did he outright reject Rice Lake in the future. So again, the Union had every right to presume the existing and previously used comparables were the only comparables. It is totally understandable and reasonable, and the Arbitrator agrees that if the City wanted to change the comparables to include Rice Lake it was incumbent on the City to raise and inform the Union of its position in negotiations. It is reasonable to assume the City at the time knew it was going to raise the issue of Rice Lake in arbitration. This left the Union at a disadvantage. Throughout the bargaining process, the Union was making its proposals and ultimately their final offer based on the previously used comparables. It assumed the City was also. Apparently, the City did not.

Based on the above, the Arbitrator does not find the addition of Rice Lake to the comparables to be appropriate.

Arbitrator Petrie was of the same opinion when he held:

While the Employer is quite correct that it may be appropriate under certain circumstances for an interest arbitrator to approve modification of the intra industry comparisons historically utilized by parties, such a change must normally have been considered and discussed by the parties in their prior negotiations and supported by persuasive evidence and argument advanced by the proponent of change.

Wage Increases

The statutory criteria that need to be discussed in this case given the parties' offers and positions, are the following: economic condition of the employer, interest and welfare of the public and the ability of the City to meet the costs, internal comparables, and external comparables. There is no dispute between the parties with the factors of lawful authority of the Employer, stipulations of the parties, changes in any foregoing circumstances during the pendency of the arbitration proceedings, and other factors normally taken into consideration in determining wages, hours and conditions of employment. The Arbitrator does not find the cost of living and overall compensation factors to be persuasive. Not to say they are not important factors, but in this case it is not significant in deciding which offer is most reasonable. The outcome of the internal and external analysis will decide this case.

The parties are apart in their third-year wage increase. The City's offer is a 1% increase on January 1, 1025, and a 2% increase on July 1, 2025. The Union's offer on the same dates is \$1.00/hour and 3%, respectively.

Based on the parties' offers and arguments in support thereof, it is apparent, as stated above, that this is a case of internal comparables versus external comparables. This is after consideration of the factor of giving "greater weight to the economic conditions of the City." In this regard, the City is unquestionably not a well-to-do community in terms of the average income of its resident and other indices. Also, it has financial issues. However, notwithstanding its condition, the City did agree to the first and second years of the 2023-2025 contract and is only \$46,000 apart in the third year, 2025. In terms of the amount of money alone, this is not a significant amount. The City concedes that it has the ability to pay the amount. The Arbitrator finds this factor favors the

Union in that the City has the ability to pay its offer, but the Arbitration agrees with the City that just because it has the ability to pay does not mean it should, only that it can.

Thus, other statutory criteria must be considered in determining which final offer should be selected.

Internal Comparables

The City's position is that there is a longstanding practice of all units – Police, Fire, and non-represented – settling for the same wage increase. Thus, internal comparables govern. The City's final offer of a wage increase for 2025 is the same increase accepted by all of the other city units.

The Union disagrees that there is a history of consistency or parity in the wage increases within the City units as argued by the City. Specifically, between the Police and the Fire.⁴ Further, the Union argues that there is a compelling need to deviate from the wage increases agreed to with Police.

Further, as argued by the Union, external comparables are more important in this case because of the need for this unit to catch-up with its external comparables.

To begin with, it has long been held by arbitrators, in numerous cases, that internal comparables rule unless there is compelling reason to deviate. Arbitrator Rice stated the importance of internal comparables some years ago as follows:

Forgetting the concept of parity, the mainstream of arbitral opinion is that internal comparables of voluntary settlements should carry heavy weight in arbitration proceedings. The Employer's attempt to offer the same wage increase to all of its bargaining units in the protective services is a significant fact to be considered by

⁴ The Union argues that the City argued in a previous case that there wasn't parity between Police and Fire. However, in that case the City claimed there was no wage parity, not wage increase parity as in this case.

an arbitrator in the absence of a factual situation that would distinguish one bargaining unit from another. The goal of collective bargaining is to have agreements reached by the parties through voluntary settlements as opposed to arbitral awards. Arbitrators should not issue awards that encourage the Employer's various collective bargaining units to seek to resolve their labor disputes through arbitration rather than at the bargaining table. If the Employer is to maintain labor peace with the many bargaining units with which it negotiates, changes in wages and benefits must have a consistent pattern.
(Dec. No. 25223-B, 9/16/88)

The undersigned has similarly held in a number of cases stating, in short, that internal comparables govern unless there is a compelling reason to deviate.⁵

The City claims the comparables are the Police, Fire and the non-represented City employees.

The Arbitrator finds praiseworthy that the City gives the non-represented employees the same wage increase settled with the Fire and Police. However, the non-represented units do not have the bargaining power the represented units have, nor are they entitled to go to arbitration. The City employees have been unrepresented since July 2014 and DPW since the end of 2014. Typically, non-represented employees accept the wage increase that has been bargained for by the represented Unions. Thus, in the opinion of the Arbitrator, the non-represented units' history does not carry the same weight as the represented units. The Arbitrator is aware that both the clericals and DPW employees were represented until 2014 and 2015, respectively, but the important internal comparables still remain Police and Fire.

⁵ City of Milwaukee (Supervisory Law Enforcement), Dec. No. 32859-A (7/20/2010); Polk County (Law Enforcement), Dec. No. 32364-A (9/3/2008); City of Cudahy (Fire), Dec. No. 30434-A (4/17/2003); and Iowa County (Courthouse), Dec. No. 29393-A (2/22/1999).

So, the initial question to be decided is whether there has been internal consistency among the City's comparables, primarily Police and Fire. The Union contends that the Fire and Police have not consistently received the same wage increase.

The Arbitrator has thoroughly reviewed the parties' exhibits and arguments in this regard and finds that the record establishes that there has been a consistent internal pattern of settlements between the Fire and Police units. In so finding, the Arbitrator is aware that over the years not all of the settlements have been exactly the same. However, what is consistent is the overall increase received by both units in 2007, 2009, 2010, 2010-2013, 2016, 2017, and 2018. In 2008, both agreed to 2.5% increase but each also received unique contract improvements: the Fire new 1-year steps and sick leave payment improvement and the Police with additional 20¢ above the previous maximums. In 2015, both received the same general increase of .50% plus each received additions peculiar to their members. In 2019, the Police received a 2% increase and the Fire 1.5%, in a trade off for the creation of a Critical Care Paramedic classification. In 2020, 2021, and 2022. Both received a 2.5%, 2.00%, and 2.00% increase, respectively, but the Fire received improvements in wage schedule and starting rate.

What is apparent from the above is that generally stated, both received the same general increase, but at times each decided to deviate and address their own particular needs. The deviations were almost all, if not all, within the percentage increase for the year. In other words, there is a pattern that exists.

However, the Union also argues that its offer should be selected because it addresses issues of recruitment and retention of Firefighters. It is undisputed that the City had a problem not long ago. In 2023, the Chief changed the minimum certification requirement to EMT which helped the pool of applicants. There, however, are still some challenges in recruiting applicants to Antigo.

Retention of firefighters is disputed by the City. The City admits employees have left, but more for personal reasons and not wages. However, the record establishes there is a retention issue. The parties can argue about the reasons, but Chief Smith admitted in his testimony that they have a problem of firefighters leaving. He said he spoke with other fire chiefs who expressed concerns about retention but didn't know the extent of their problems. Chief Smith said people are coming and going and described it as a "revolving door." Some come and get trained and leave. When asked if higher wages would curtail the loss of people, he said it would never stop a complete flow out. (Tr, See pps. 158-177).

In the end, however, the City's recruitment and retention problem must be weighed against the Union's wage offer that seeks to improve the problem. In the end, in the opinion of the Arbitrator, even with the City's recruitment and problem, the situation is not so serious to warrant the Union's proposal when compared to the internal comparables. The Union's final offer wage increases range from 7.8% - 8.5% in 2025 alone.

Based on the above, the Arbitrator finds the internal comparables criterion - Police and Fire - favors the City. The Union has not established a compelling need to deviate from the internal comparables.

External Comparables

The Union argues that their final offer is more reasonable than the City's based on external comparables.

As discussed earlier, the internal comparables criterion, as held by almost all arbitrators, is more important than external comparables unless there is a compelling need to deviate from the pattern established by internal comparables.

It is the Union's position that based on external comparables, there is a compelling need to deviate from the internal comparables.

The Union argues that its offer is intended to have this Fire unit to "catch-up" with its external comparables. It contends that over the years it has lost its ranking and now is dead last, 6th among the six comparables.

The Arbitrator has reviewed the testimony and various charts of the parties as well as their extensive arguments regarding external comparables. The parties use some of the same wage data in support of their positions.

The Union claims, credibly, that the Antigo Firefighters have lost their ranking among the comparables. Union Exhibit 32 shows that they have steadily lost ranking from fourth for many years (1999-2006), third (2007-2009), and fifth, except for one year, (2010-2020).

The City questions the validity of the Union exhibits for years 2008-2018 because they do not contain the external comparables' collective bargaining agreements for those years. However, the City does not deny its ranking has fallen from fifth to sixth, and at one time was higher. Further, both Union witness Ron Pizl and City witness Chief Corey Smith testified to same. Both are long-time employees of the Fire Department. Pizl is an advanced EMT and Union President since 2022. He has been involved in bargaining since 2002. Chief Smith was Union President from 2012 until he became Chief in 2022. Both in their capacity as Union President and being involved in the negotiations of collective bargaining agreements have a good understanding of the City's standing with external comparables. Their testimony was consistent with and supports the Union's exhibits.

It should be noted, however, and the Union does not deny that the loss in ranking has been through voluntary collective bargaining agreements. The Union explains that for several of the agreements the Union agreed to help the City with the general wage increases with the assurance

that things would be made up in the future. Both Pizl and Chief Smith testified to same. The Finance Director Kay Matucheski who has been with the City since 1997 and sat in negotiations did not address the claim in her testimony. The Arbitrator finds no reason to impugn Pizl and Chief and their testimony. Chief Smith further testified that every year he was Union President the Union took below average wage increases compared to the comparables. The understanding was that the City going forward would make things right. They did not.

The City's approach to wage increases for the Firefighters (presumably the Police also) is entirely based on internal comparability. The City has emphasized throughout the arbitration proceeding and its brief that it has a long history of fairness and consistency when it comes with its represented and non-represented employees. This is the cornerstone of their bargaining. It is also clear that with this philosophy external comparables are not given much consideration, although it is a statutory factor. What governs is the relationship between Police and Fire. Finance Director testified that she didn't know for sure if external comparables were provided to the Common Council in this case, but didn't think so. It is sufficiently clear that statutory criterion of external comparables is pretty much ignored unless their wage increases match up with the City's. This, undoubtedly, led to the Fire losing its ranking with the external comparables.

With respect to external comparables, the City admits the City's wages do not approach the middle or average of the comparables. The City's maximum salaries for the Firefighter A-EMT and Firefighter Paramedic classifications have historically ranked at the bottom of comparables, but the annual salaries for the Firefighter EMT classification which encompasses 38% of the bargaining unit, compare slightly more favorably with both parties' offers.

So, the Union's offer seeks to "catch-up" with the external comparables, while the City's final offer seeks to maintain its relative positioning as measured against the external comparables.

At the very outset, as is in all catch-up cases, the question is always the amount of increase the Union seeks in addressing catch-up pay and is it reasonable. So, what is the additional pay increase the Union is proposing.

The 2025 increase is 7.8% - 8.5% which is substantially higher than Oconto (2%), Merrill (3%), and Marinette (4.0%). Ashland settled for 7%. Rhinelander has not settled, but if we assume 3%, then the Union's offer is 4.85 – 5.50% higher.

The Union's final offer for 2025 is 5.8% – 6.5% more than the Oconto settlement, 4.8% - 5.5% more than the Merrill settlement, 3.8% - 4.5% more than the Marinette settlement, and .89% - 1.5% more than the Ashland settlement.

The Union's lift for the three years is 13.8% - 14.5%⁶ which is 7.8% - 8.5% more than Oconto's lift of 6%, more than 5.8% - 6.5% lift over Merrills 8%, more than 2.3% - 3.0% over Marinette, and less 3.2% - 2.5% of Ashland's 17% lift. If we, again, reasonably assume that Rhinelander will settle for 3%, then the Union's lift will be 6.8% - 7.5% higher.

In evaluating the reasonableness of the Union's catch-up offer, the Arbitrator must determine if there is need for catch-up and then whether its catch-up wage increase offer is reasonable. As stated earlier, the Arbitrator agrees there is some catch-up that is appropriate. The City claims that the wage increases the Fire has received matches the wage increases received by the comparables. However, by giving this unit the same percentage increase the higher paid comparables received, just increases the gap in wages between the two. So, obviously, to attain catch-up the Union must offer more of a wage increase than the comparable or comparables

⁶ 7.8% - 8.5% +3% (2023) and +3% (2024).

received. Without same there would be no catching up. For the same reason, no *quid pro quo* is required.

The problem in this case is not that the Union's wage increase offer is more, but that it is substantially more than the comparables. As discussed above, when compared to the 2025 increases of Oconto, Merrill, Marinette, and Rhinelander (assuming a 3% increase), the Union's offer is respectively 5.8% - 6.5%, 4.8% - 5.5%, 3.8% - 4.5%, and 4.8% - 5.5% higher. The lift is equally high, 13.8% - 14.5%

In the opinion of the Arbitrator, the disparity in the wage increase in just one year, as well as the three-year lift, is simply excessive.

Based on the above, the Arbitrator does not find that the criterion of external comparables prevails. As discussed earlier, there are longstanding case decisions that hold that internal comparables rule unless there is a compelling need to deviate and find that external comparables are more important. The Arbitrator, for reasons discussed above, does not find a need to deviate due to the Union's excessive wage increase compared to its external comparables. Therefore, the criterion of internal comparables prevails.

Based on the above facts and discussion thereon, the Arbitrator concludes as follows regarding the statutory criteria:

The Economic conditions of the City factor favors the Union, notwithstanding the City's economic condition, because the City admittedly has the ability to pay the Union's wage offer difference of \$46,000.

The interest and welfare of the public criterion favors the Union for Fire catch-up. It is in the best interest of the public to have its firefighters paid competitively with its external

comparables. However, because of the Union's excessive wage increase offer for catch-up, the public is best served with the City's wage increase.

The internal and external comparables favor the City's offer.

The cost-of-living factor was not relevant because all of the internal and external comparables had the same cost of living in their negotiations and settlements.

The overall compensation factor was not important in this case. The determinative factor in this case was internal and external comparables relative to the parties' 2025 wage increase final offer.

The parties agreed, or the Arbitrator finds, that the factors of the lawful authority of the Employer, stipulations of the parties, changes in the foregoing circumstances during the pendency of the arbitration proceedings, and such other factors which are normally taken into consideration in bargaining were not in dispute or not important in this case.

The Arbitrator must select the final offer one of the parties. On the issue of the addition of Rice lake as an appropriate external comparable, the Arbitrator, for reasons discussed above, found in favor of the Union and did not add Rice Lake as a comparable. If this were issue by issue interest arbitration, the Arbitrator would select the Union's offer on the appropriate comparable issue and the City's offer on the wage increases. But it is not. The Arbitrator is compelled to select one of the two final offers with no change. Given the two issues, the wage increase issue is much more significant and important than the appropriate comparable issue and, therefore, the City's final offer is selected.

Based on the above facts and discussion thereon, the Arbitrator renders the following

AWARD

Under the statutory criteria at Section 111.77(6), Wis. Stats., and for the reasons discussed above, the Arbitrator selects the final offer of the City of Antigo which, together with the stipulations of the parties, are to be included in the collective bargaining agreement between the City of Antigo and the Antigo Firefighter Union, Local 1000 for the calendar years 2023, 2024, and 2025.

Dated at Madison, Wisconsin, this 1st day of September 2025.

Herman Torosian, Arbitrator