

IN THE MATTER OF THE INTEREST ARBITRATION BETWEEN

City of St. James

Employer

and

BMS Case No. 08-PN-0187

Law Enforcement Labor Services

Union

NAME OF ARBITRATOR:

George Latimer
Assistant Faith Latimer

DATE AND PLACE OF HEARING:

May 5, 2008
St. James, Minnesota

BRIEFS RECEIVED:

May 27, 2008

DATE OF AWARD:

June 16, 2008

APPEARANCES

FOR THE UNION:

Dan Vannelli, Business Agent
Law Enforcement Labor Services
Hoyt Peterson, Union Steward
Lenny Sargent, Union Steward

FOR THE EMPLOYER:

Joe McCabe, City Manager St. James, MN
Steve Sunde, City Attorney St. James, MN

INTRODUCTION

This is an interest arbitration arising under Minnesota's Public Employment Labor Relations Act (PELRA), Minn. Stat. 179A.01-30. Law Enforcement Labor Services, Inc (Union) is the exclusive representative for the Police Officers employed by the City of St. James (Employer or City).

Members of this bargaining unit are essential employees under PELRA and as such do not have the right to strike, but do have the right to submit unresolved bargaining issues to binding arbitration before a neutral arbitrator selected by the parties. (Minn. Stat. 179A.16)

The prior collective bargaining agreement between the parties expired on December 31, 2007. The parties negotiated for a successor agreement and agreed to some but not all provisions. On October 30, 2007 the Bureau of Mediation Services certified the following issues for interest arbitration:

- 1. Wages-Wage Rate For 2008-Appendix A**
- 2. Wages-Wage Rate For 2009-Appendix A**
- 3. Comp Time-Max Accrual Amount-Art. 12.7**
- 4. Field Training Officer Pay-Amount of FTO Pay-NEW**
- 5. Vacation-Vacation Accrual Earned-Art. 22.1**
- 6. Health Insurance-City Contribution 2008-Art. 24**
- 7. Health Insurance-City Contribution 2009-Art. 24**
- 8. Sick Leave-How Sick Leave Is Used-NEW**

Prior to Arbitration, the parties resolved issues number 4 & 5. The remaining issues were submitted to the Arbitrator. Hearing was held May 5, 2008. Both parties had full opportunity to submit documents

and examine witnesses. Written closing briefs were received by the Arbitrator on May 27, 2008, and the record was closed.

FINAL POSITIONS OF THE EMPLOYER

ISSUES #1 & #2

A.1 The following wage schedule will be in effect from January 1, 2008 through December 31, 2008:

<u><i>Years of Continuous Service</i></u>	<u><i>Hourly Base Pay Rate Effective 1/1/08</i></u>
<i>Start</i>	<i>\$17.46</i>
<i>After 1 year</i>	<i>\$18.46</i>
<i>After 2 years</i>	<i>\$19.44</i>
<i>After 3 years</i>	<i>\$20.57</i>
<i>After 4 years</i>	<i>\$21.70</i>

A.2 The following wage schedule will be in effect from January 1, 2009 through December 31, 2009:

<u><i>Years of Continuous Service</i></u>	<u><i>Hourly Base Pay Rate Effective 1/1/08</i></u>
<i>Start</i>	<i>\$18.14</i>
<i>After 1 year</i>	<i>\$19.14</i>
<i>After 2 years</i>	<i>\$20.12</i>
<i>After 3 years</i>	<i>\$21.25</i>
<i>After 4 years</i>	<i>\$22.38</i>

ISSUE #3 Article 12 Comp Time

No change in contract language.

ISSUE #6 & #7 Article 24 Insurance

24.1 No change in contract language.

24.2 *The Employer shall pay \$849.10 of the premium cost of the family coverage for regular full-time employees enrolled in the City's 300 CMM (\$300 deductible) group health insurance program for 2008. The Employer shall pay \$967.12 of the premium cost of the family coverage for regular full-time employees enrolled in the City's 300 CMM (\$300 deductible) group health insurance program for 2009.*

ISSUE # 8 Article 18 Sick Leave

New language

18.7 An Employee requesting sick leave for immediate family shall be required to use the sick leave to attend to or be with the immediate family members.

FINAL POSITIONS OF THE UNION

ISSUE #1 Wage Rates

Effective January 1, 2008, a general increase of 7.0% over the 2007 wage rates.

ISSUE #2 Wage Rates

Effective January 1, 2009, a general increase of 4.0% over the 2008 wage rates.

ISSUE #3 Article 12 Comp Time

12.7 Employees may be paid for overtime worked in accordance with Section 12.1 or be allowed to accumulate compensatory time in accordance with Section 12.1 at the discretion of the EMPLOYER. Accrual and use of compensatory time off shall be subject to the prior approval of the EMPLOYER and accrual shall not exceed ~~fifty (50)~~ eighty (80) hours.

ISSUE #6 & #7 Article 24 Insurance

No change to the existing language.

ISSUE #8 Article 18 Sick Leave
No change to the existing language.
ARBITRATOR DISCUSSION

ISSUE #1 & #2

The first question before the Arbitrator concerning wage increases is whether to adopt an across the board percentage increase as the Union proposes, or a set dollar amount as proposed by the Employer (.66 in 2008, .67 in 2009). The Union points out the City's method results in a compression of the wage levels between steps, since employees at the bottom of the wage schedule would receive higher percentage increases. At hearing the City did not articulate a problem created by using the more traditional percentage formula, nor any urgency to its desire to change that system. In its brief, the City did not emphasize this aspect of its final proposal, instead stating "The City of St. James has offered three (3%) percent."

Under these circumstances, the Arbitrator agrees with the Union argument: awarding a straight dollar figure increase is a change which is not justified by any strong arguments from the Employer, therefore a percentage formula will be awarded.

With respect to market comparisons, the Union presented one comparison group of 32 jurisdictions, and two other smaller comparison groups. All the groups were based on both geographic proximity, and similar population, to St. James, with unionized police departments. The City presented one comparison group. It also used criteria of geographic proximity and population, with an additional criteria of number of police officers employed in that jurisdiction. All but one of the jurisdictions on the

City's comparison list, also appears on the Union's list of 32. (Union notebook pp 99-129, Employer notebook tab 3, and briefs)

The difference in criteria used by the two parties is not dramatic, and they are valid criteria. The largest of the Union comparison groups is slightly more persuasive, since the group favored by the City is less useful because of its size. With only six other jurisdictions in the group, the individual circumstances of bargaining in any one could greatly affect the average wage or average increase for the group. The same problem pertains to the smallest of the Union comparison groups.

The Union argues that of the 32 jurisdictions, St. James ranks seventh in population and third in BCA compiled crime statistics. In 2007 it ranks 22nd in top pay for police officers. The data provided by the Union indicates of the 19 jurisdictions for which 2008 wage data was available, its proposed increase of 7% would bring St. James to 8th in rank, out of 19.

The Employer provided data on 2008 wage increases for four of its comparison cities, all of which had increases of 3%. It argues this supports its proposed increase of .66 per hour. 66 cents equates to a range of 3.1 % to 3.9 % increase for each employee. The data also shows St. James 2007 top pay is the lowest of the City's comparison group. The top monthly 2007 wage for St. James is \$3,647. The top rates in the City's comparison group range from \$3,680 to \$4,228. (Union notebook p.102 and brief, Employer notebook tab 4) Therefore the facts found in the data do not conflict. Both sets of data show this unit to have relatively low pay rank, compared to comparable jurisdictions.

With respect to internal comparisons, there appears to be no dispute between the parties that both the AFSCME unit and non-unionized City employees are receiving a wage increase of about 4% for 2008. The

AFSCME agreement calls for 4% again in 2009, while 2009 wages for non-unionized employees are not yet set. (Union brief, Employer tab 4)

While the City does not argue it is unable to pay the Union's wage proposal, there is dispute between the parties regarding the City's financial health. The Union points to audited financial reports for 2005 and 2006 which indicate the City's general fund assts increased both years. (Union notebook pp 36-43-4)

The City argues that its debt levy increased significantly in 2008, with anticipated debt levy increases in 2009, as a result of construction projects. It also submitted data that its total budget was projected to increase approximately 12.5%, and argued its police department budget increased 13%. (City brief)

Having reviewed all the information submitted by the parties regarding City finances, the Arbitrator concludes that ability to pay is not truly in dispute. St. James has managed its debt structure adequately, and affordability is not a decisive issue in this case.

The Union cites Consumer Price Index data indicating the inflation rate for smaller Midwest cities has averaged 4.9% in the early months of 2008, which supports its proposal for a higher increase than offered by the City. (Union brief and notebook pp 109-127)

The four commonly used measure for interest arbitrations are internal equity, market comparisons, employer ability to pay, and cost of living factors. The Arbitrator has examined the information in the record regarding these measures. He also strives to come as close as possible to a conclusion which the parties themselves would reach in the course of bargaining. In that aim, a compromise is required. Internal equity would seem to dictate a wage increase of 4%. On the other hand the data shows this bargaining unit has

relatively low standing among surrounding communities, and the high inflation rate would indicate a need for a more generous increase. In an effort to find balance between these factors, a wage increase is awarded of 5% the first year of the contract, 4% the second year.

ISSUE #3 Comp Time

The Union argues police officers need to be able to accumulate or ‘bank’ more compensatory time than current contract language allows (50 hours). It argues the unusual scheduling needed for law enforcement makes the ability to bank comp time important, and that officers need more comp time for family events which occur in the evening or weekends. The City argues in its brief that officers are routinely permitted to attend family events while on duty. It also asserts that data on comp time use indicates the current accumulation limit is adequate.

Neither party offered direct testimony supporting its contentions about the current practice, demonstrating need or lack thereof for a change in the contract language. While the Union makes some reasonable arguments regarding the comp time issue, it has not persuaded the Arbitrator that the current language is creating significant problems for the members. Arbitrators are generally reluctant to grant changes in contract language through interest arbitration, unless a compelling case has been made for such a change. This issue would be better resolved between the parties in future bargaining. The Arbitrator finds for the Employer on Issue #3.

ISSUE #6 AND #7 Health Insurance

With respect to health insurance, the Employer’s proposal is to change the formula for its contribution to the cost of family health insurance. The

current formula obligates the City to pay 70% of the total premium cost for family coverage. The City's proposal is to change to a set dollar contribution (\$849.10 in 2008, \$967.12 in 2009), rather than a percentage of the premium cost.

Both parties recognize the hazard presented by rapidly rising health insurance costs. This is why the City is proposing a change which will cost more in the short run, and why the Union wishes to maintain its current percentage guarantee. The City's concerns about this unpredictable future obligation are valid. However the employee responsibility of 30% of the cost is also significant. One would expect this shared burden will motivate the parties to cooperate in efforts to control these costs. At present, the City's proposal represents a significant change in benefits to the unit's members.

No data was presented to indicate the current contract language is exceptional, compared to other law enforcement contracts and jurisdictions. More significant is the fact that the City's other bargaining unit has maintained the same 70% formula found in this contract. The Arbitrator believes that with regard to health insurance benefits, internal comparison data is significant.

Lacking compelling evidence of hardship for the City in continuing the current contract language, and given that the AFSCME contract continues the existing formula, the Arbitrator declines to award the change sought by the City, and finds for the Union on Issues 6 and 7.

ISSUE #8 Sick Leave

The City seeks new language in Article 18 Sick Leave, specifying that sick leave used for a sick family member be used "to attend to or be with"

the family member. This proposal arose from an individual employee, not in this bargaining unit, who the City believes abused sick leave by using such leave to tend to a family business rather than caring for the ill family member. (Employer oral argument) This problem was acknowledged to be a one time event. In addition the problem would seem to be a question of enforcement, rather than inadequate contract language. There appears to be understanding between the parties as to the intent of the current language. Therefore for the same reasons outlined above, the Arbitrator believes this issue is best resolved by the parties themselves, and declines to award the new language sought by the City.

AWARD

ISSUE #1 WAGE RATES FOR 2008

Effective January 1, 2008, a general increase of 5.0% over the 2007 wage rates.

ISSUE #2 WAGE RATES FOR 2009

Effective January 1, 2009, a general increase of 4.0% over the 2008 wage rates.

ISSUE #3 Article 12 Comp Time

No change to the existing contract language.

ISSUE #6 AND #7 Article 24 Insurance

No change to the existing contract language.

ISSUE #8 Sick Leave

No change to the existing contract language.

George Latimer
George Latimer, Arbitrator

June 16, 2008
Dated