

IN THE MATTER OF ARBITRATION

OPINION & AWARD

-between-

TEAMSTERS UNION, LOCAL 320

Interest Arbitration

B.M.S. Case No. 11-PN-587

-and-

CITY OF PRIOR LAKE MINNESOTA

**Before: Jay C. Fogelberg
Neutral Arbitrator**

Representation-

For the Union: Halla Y. Elrashidi, Counsel/Business Agent

For the City: Mark J. Girouard, Attorney

Statement of Jurisdiction-

In accordance with the Minnesota Public Employment Relations Act ("Act"), the Commissioner of the Bureau of Mediation Services for the State of Minnesota ("Bureau"), certified a single issue at impasse in connection with the parties' 2009-11 Collective Bargaining Agreement, on March 25, 2011. The certification followed a declaration of impasse, and an agreement by the parties to submit the outstanding issue to binding arbitration pursuant to the provisions of M.S. 179A.16, subd. 2. Subsequently, the undersigned was notified by Commissioner Tilsen of the

selection as the Arbitrator to hear evidence and arguments concerning the outstanding issue, and to thereafter render an award. A hearing was convened on August 11, 2001, at City Hall in Prior Lake. Following receipt of position statements, testimony and supportive documentation, the parties indicated a preference for submitting written summary briefs. They were received on or before August 29, 2011, at which time the hearing was deemed closed.

Preliminary Statement-

The Teamsters Union, Local 320 (hereafter "Union," or "Local") represents the bargaining unit which is currently comprised of three full time police sergeants working in Prior Lake's Police Department ("Employer," "Department" or "Administration"). The parties have negotiated a three year agreement covering the calendar years 2009-2011, which included a designated dollar cap for the Employer's contribution to health insurance premiums for the first two years. However, in light of the volatility of the health insurance industry, it was mutually determined that the contract should include a "re-opener" addressing the contribution level for the final year. Subsequently, it was learned that the premium for health insurance would increase an

inordinate amount in 2011 – by 19% under the existing Blue Cross Blue Shield Triple Gold Plan.¹ In response, a health insurance task force was established by the City to examine possible alternatives that would be more palatable for both sides. However, when that proved to be unsuccessful in terms of obtaining adequate relief, the parties reached an impasse on the issue which was eventually submitted to binding arbitration.

The Issue-

The lone (certified) issue concerns the level of monthly contribution by the City toward the bargaining unit members' health insurance premiums.

Positions of the Parties-

The **UNION** takes the position that for calendar year 2011, the City's monthly contribution should be \$875 plus 50% of any premium increase for that year for all members of the bargaining unit who are eligible to receive the benefit.

¹ There are two types of plans in effect from Blue Cross Blue Shield. The first is call "Triple Gold" and is a traditional 80/20 co-pay plan with a \$700 deductible for family coverage. The other is called the "VEBA Plan" which carries a higher deductible.

The **CITY'S** position, on the other hand, calls for a contribution toward premiums for group health insurance for dependent and individual coverage not to exceed \$940 per month.

Analysis of the Evidence-

Pared to its essentials, the Union argues that the Employer can readily fund what they deem to be a quite reasonable request, while the Administration maintains that current economic conditions coupled with the settlement negotiated with the AFSCME bargaining unit, and the amount contributed to the City's unrepresented personnel, support a dollar cap of \$ 940 per month.

As I have previously noted in *Teamsters Union, Local 320 and the Metropolitan Council Transit Police Department*, BMS Case No. 09-PN-833, the existing recessionary economic climate that has been experienced both locally and world-wide over the past few years, and which continues today, heightens consideration of the statutory mandate in this state for public employers to "...efficiently manage and conduct their operations within the legal limitations surrounding the financing of (their) operations." *Minn. Stat 179A.16, Subd. 17.*

The argument advanced here by the City is one heard throughout

Minnesota from public employers who have continuously been dealing with a shrinking revenue stream through declining state and federal aids, in the face of increased expenses. Here the Administration has also cited reductions in building permit applications, and continuing pressure to hold the line on property tax levies as support for their position. The Employer presented a number of exhibits demonstrating their continuing efforts they have undertaken over the past three years to stay within their budgetary constraints (City Exhibits 24-30). This has included the elimination of a number of FTE positions in what had been associated with prior periods of economic growth.

The Union counters that the implementation of their proposal relative to this issue for the members of this bargaining unit is minimal, and would have little effect on the City's overall budget. The Local estimates the additional cost to be a meager amount; approximating \$1,881 more than the Administration's final position which translates to a paltry bite out of the Employer's unrestricted net assets amounting to .00089% for the year. The Union also cites the City's Annual Financial Report for fiscal year ending December 31, 2010 (Local's Ex. 14) which reveals an unreserved fund balance of \$7,075,367 or approximately 58% of the budgeted expenditures and transfers for the current year. This, they point out,

exceeds the range recommended by the State Auditor of 35 – 50% of operating revenues (Union Ex. 15). Indeed, the City's financial health is anything but anemic according to the Local. They point out that the City's Mayor, Mike Myser, has suggested refunding monies from the surplus back to the residents of Prior Lake in the form of a rebate (Local 's Ex. 16).

The Employer does not deny that they maintain an adequate reserve, due in no small measure to their prudent managerial practices, and that their current economic health is relatively good.² They are quick to add however, that the state of the City's finances has allowed them to provide benefits to this bargaining unit and other City personnel – both organized and non-organized – in spite of the dire economic climate that continues today - that are not enjoyed by the vast majority of public employees. In particular, they point to a cumulative 5½% cost of living adjustment to the wages received by members of this bargaining unit from 2009 to 2011. This amount, they argue, exceeds the adjustments given to the AFSCME unit and those not represented by a union who work for the City.³

² Prior Lake was assigned a positive bond rating of "Aa2" by Moody's in April of last year (City's Ex. 31).

³ AFSCME represents all public employees working for the City of Prior Lake, excluding

There is no dispute but that the City's financial ware withal would allow for the implementation of the Union's final position without putting any serious strain on their budget. No inability to pay argument has been made here. An employer's finances however, is but one of a number of factors which an arbitrator is usually obligated to consider in an interest dispute such as this. Another is internal settlements. What the balance of the work force in any given governmental entity receives, is normally examined as well. This is particularly so when the issue being reviewed is health insurance benefits.

The Union has accurately observed that in other interest arbitration disputes I have stated that a demonstrated pattern of internal settlements alone should not dictate the outcome of any arbitration. In *Teamsters Union Local 320 and the County of Rice, Faribault, Minnesota*, (BMS Case No. 10-PN-141, I offered that a singular reliance on such a pattern could well have "...a chilling effect on negotiations as well as the impasse resolution process itself." In that same decision however, it was also noted that if a consistent voluntary settlement pattern is demonstrated, it cannot be altogether ignored (*id.*, at p. 8).

The evidence demonstrates that there are three recognized

supervisory, confidential and essential employees, the majority of whom occupy clerical positions (Employer's Ex. 19).

bargaining units representing employees in Prior Lake, the largest of which is the AFSCME unit. Local 3884, with approximately thirty-two benefits eligible members, has settled their contract with the Employer and agreed to the same \$940 monthly contribution formula for family coverage being offered to the Sergeants unit by the Administration (City's Ex. 19).⁴ The third bargaining unit is comprised of the City's non-supervisory police officers who are represented by Law Enforcement Labor Services, Inc. Five peace officers comprise that unit. Like the Sergeants, they have not settled their contract or agreed to the City's final position in health insurance premium contributions for the current year either.

The Local has observed that the undisputed facts in this case demonstrate that only one bargaining unit out of three has settled for the City's final position on this issue. Consequently, they maintain, there is no evidence of an internal pattern present here. While accurate, the Union's argument ignores a significant fact. The record demonstrates that since the turn of the century, there has been a steady and consistent pattern of "flat-dollar" caps on the Employer's contribution level to health insurance (City's Exs. 3, 7, 10, and 13). In each of the ten past years, all of

⁴ The City's non-represented personnel also receive the same contribution levels for 2011.

the organized employee groups (and non-represented personnel as well) have received the same maximum premium contribution levels from the Administration (*id.*). Such a lengthy and consistent precedent cannot be ignored.

I remain unconvinced by the argument that a pattern of internal settlements alone should dictate the outcome of any interest arbitration involving another bargaining unit. Nevertheless, the history of a consistent benefit level over a protracted period of time within the City of Prior Lake, cannot be overlooked.

As the arbitrator recently noted in *LELS and the City of Coon Rapids*, BMS Case No. 10-PN-861, in relation to insurance benefit items, arbitrators give considerable weight to internal equity out of deference to the significant difficulties public sector employers normally encounter when faced with administering diverse health insurance plans, "...due to the inherent difficulty of validly comparing benefits between widely different insurance plans being offered in other communities to the plan in the subject community" (Arb. Flagler, at p. 4, 10).

Not only is the Local seeking a unique benefit level for their members in 2011, their final position calls for a significant change in the contribution structure itself – a formula that previously has not been

utilized for at least the past ten years in the City. The Union's final position calls for replacing the long-standing pattern of flat dollar caps with a new formula calling for a 50/50 split between the employees and the City who would be responsible for any increase in premiums over the previous year's capped dollar contribution amount. There can be no doubt but that the 19% increase in premiums for the current year is certainly out of the ordinary and an unpleasant adjustment for the bargaining unit membership. Yet such a significant departure from an established historical practice of flat dollar contribution levels from the Employer, as the Union is seeking here, is thought to be best left to the future bargaining process between the parties. While the increase in premium costs is significant, it is not enough, in my judgment, to warrant such a significant departure from the well-settled approach have taken to this particular benefit level.

While not given the same weight as what the experience within the City has been, I have nevertheless also taken into consideration the arguments advanced by both sides relative to external comparisons. The Union has relied upon the "old Stanton cities" to advance their position, arguing that historically they have been used as means of gauging the reasonableness of either side's position on a given issue. They include the

cities of Anoka, Champlin, Chaska, Forest Lake, Golden Valley, Hastings, Hopkins, Lino Lakes, Mounds View, New Brighton New Hope, Ramsey, Robbinsdale, Rosemount and Stillwater (Union's Ex. 11). Conversely the Employer has relied upon what it considers to be the like-sized cities that offer health insurance plans similar to BCBS's Triple Gold. This grouping consists of Shakopee, Woodbury, Blaine, New Brighton, St. Louis Park, and Hastings (City's Ex. 21).

The Local's data indicates their grouping produces an average family coverage premium of \$1,418 per month which is approximately \$51 less than the Triple Gold family premium offered to Prior Lake employees (*id.*) Yet, the average employer contribution among these fifteen communities, located throughout the Twin Cities Area, approaches \$957 which is well above what the Employer is offering here.

The Administration, on the other hand, maintains that their comparators have been selected based upon its analysis of cities that have low deductible/low co-pay plans similar to the one offered in Prior Lake to its employees. This research, according to the Employer, demonstrates that its position is far more generous than what other employers are offering with similar plans (City's Ex. 21). Most particularly, they contend, the only other city which offers the same plan (BCBS Triple

Gold) is Hastings which contributes significantly less to the monthly premium for family coverage, than Prior Lake (*id.*).

As I have previously indicated, the difficulty is considerable when utilizing external comparisons to analyze health insurance benefits. Divergent coverages, the health histories of those in the plan, the nature of the bargaining units job duties, the particulars of the plans themselves, and the need to offer all employees the same benefit level, diminish, the weight to be accorded such data. The difficulty with this aspect of the analysis is no more clearly demonstrated than in the Union's evidence. Their exhibits indicate quite clearly that the \$1418 average monthly premium for their (larger) grouping when compared to the average employer contribution of \$957, is about 67.5% of the cost. This is nearly the exact same percentage of the premium contribution level the Local seeks the Employer to cover in the instant matter. Assigning half of the premium increase to the City would mean their new monthly contribution of \$992 equates to 67.5% of the new monthly cost for the Triple Gold coverage. At first glance, this data would seem to give strong support for an implementation of the Local's final position. However, when the historical experience of the parties is factored in along with the inability to identify whether the plans utilized in the Union's comparator grouping

are in fact similar, the influence of their argument is diminished.

Finally, I have also made note of the unrefuted fact that the City has experienced no retention issues within this particular bargaining unit. The evidence demonstrates that there has been virtually no turnover within the Sergeant's rank for nearly ten years (Union's Ex. 3). Moreover, it was shown that when a vacancy arose within the Patrol Officer unit this year and was posted, more than 230 applications were submitted (*id.*). Such data would seem to indicate that the overall compensation package offered to its law enforcement personnel, including medical insurance benefits, is both competitive and desirable.

Award-

It is often said that the arbitrator, in an interest arbitration setting such as this, should be committed to producing a contract which the parties themselves might well have negotiated in the absence of the circumstances which led to the exhaustion of their traditional remedies. Based on the foregoing analysis, I conclude that the City's position is most consistent with this standard, is supported by the weight of the evidence, and is therefore to be implemented.

Respectfully submitted this 18th day of September, 2011.

/s/ _____
Jay C. Fogelberg, Arbitrator