

**IN THE MATTER OF THE ARBITRATION BETWEEN**

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**LAW ENFORCEMENT LABOR  
SERVICES, INC., LOCAL 112,**

**INTEREST ARBITRATION  
BMS CASE NO. 10-PN-0748**

**- and -**

**THE CITY OF ROSEVILLE, MINNESOTA,**

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**ARBITRATOR**

William E. Martin

**APPEARANCES**

On behalf of Law Enforcement Labor Services, Inc.  
Business Agent: Jack Chambers

On behalf of the City of Roseville  
City Attorney, Mark F. Gaughan

**JURISDICTION**

The interest dispute here was certified to arbitration by the Bureau of Mediation Services, State of Minnesota on September 14, 2010. The arbitrator was selected by the parties and the hearing herein was set by the parties for January 25, 2011 at 9:30 a.m. at Roseville City Hall, 2660 Civic Center Drive, Roseville, Minnesota, 55113. The parties and the arbitrator set February 8, 2011 as the date for submission of written briefs. By order of the Commissioner of the Bureau of Mediation Services the time for rendering this decision was extended until April 25, 2011.

## **ISSUES FOR IMPASSE RESOLUTION**

The Bureau of Mediation Services certified the following issues which the parties had determined to be at impasse, for resolution at this arbitration.

1. Duration - what length should the new agreement be? (Article 37)
2. Wages - what amount should base wages be for each year covered under the Labor Agreement? (Article 24)
3. Longevity and Educational Incentive - what amount should longevity be for each year of the Labor Agreement? (Article 24)
4. Longevity and Educational Incentive - should educational incentives continue under the new labor agreement, and, if so, what should the new language state? (Article 24)

### **I. DURATION**

#### **A. Proposals**

The Union proposes that the next collective bargaining agreement be for one year, from January 1, 2010 to December 31, 2010. The City proposed that the agreement be for two years running until December 31, 2011.

#### **B. Supporting Arguments**

The Union's position was supported by the fact that six of the last eight agreements were for one year. The union also referenced the fragile state of the economy implying that the situation could improve permitting successful negotiation for a second year.

The City, on the other hand, presented evidence that its budget for 2011 is already solidified and, especially because we are already into 2011, argued it would be inappropriate to force the parties immediately back into negotiations. This is especially true because it would impose budget uncertainty on top of the economic burdens created by the weak economy. Finally, the City argues that contrary to the Union's case, the history of the parties shows

numerous two years agreements at regular intervals.

C. Discussion and Conclusion

Normally it is better for the parties to negotiate their own agreement than to have one imposed in interest arbitration. For that reason, interest arbitrators are sometimes reluctant to impose multiple year CBA's. However, in a case such as this, where a one year agreement would plunge the parties back into negotiation already too late to agree to a timely 2011 CBA, or might indeed see the parties soon before another arbitrator, it is indeed the practical, realistic decision to find for the City and award a two year agreement.

II. WAGES

A. Proposals

The Union's final position on wages is a 1% increase over the 2009 wage rates for 2010 and if awarded for 2011 a 1% increase of the 2010 rate, for 2011.

The Employers final position was 0% for 2010 and 0% for 2011.

B. Supporting Arguments

1. Standard for Evaluation

Both parties contend, and the arbitrator agrees, that interest arbitration decisions should be based upon the four recognized factors for wage comparisons: 1) external market comparisons, 2) internal equity (3) the employer's economic situation (ability to pay), and 4) other circumstances such as consumer price indexing, and employee turn over or retention rates.

2. External Comparisons

The necessary standard for a meaningful external comparison is a relevant group of employers. The parties here have agreed in prior negotiations to the following group for

external comparisons. Apple Valley, Brooklyn Center,<sup>1</sup> Cottage Grove, Edina, Inver Grove Heights, Maplewood, Minnetonka, Richfield, Shakopee and St. Louis Park.

Within this peer group the Roseville police unit has traditionally been paid at between 98% and 100% of the average for the group. In 2008, the unit was at 98% but in 2009 they were increased to 100%. According to the City, a 0% increase would leave the unit at 99.3% of the average for 2010 and it is not clear where they would be for 2011 since information in 2011 is incomplete. The City argues that its 2010 external comparison is historically comparable to its normal position in the group. As to 2011, the City argues that although information is incomplete, its knowledge of its own budget position (infra) justifies extending the proposed wage freeze into 2011.

The Union, on the other hand, calls for a comparison of the top wages in its group of comparable top rates of other cities in the group. The group top wage rates for 2009 in Roseville were 2.49% below the group average. But if longevity is factored in the Union admits that the unit is only 1.18% below average. The Union concluded that this supports the fairness of its 1% increase request.

It is apparent that the external comparisons of the parties are very close. It cannot be said that this unit is either greatly over or underpaid according to the current data. Of course, the standard here is a four part standard requiring an aggregate evaluation. At this point, I can only conclude that the external comparisons do not strongly mandate either position. It is worth noting, however, that the Union's request of 1% for one year is modest, and that the Employer

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<sup>1</sup>The Union first erroneously said Brooklyn Park was in the group but later corrected that to agree with the City that Brooklyn Center was the proper comparator.

has requested a two year contract. The second year comparison is indeed difficult due to the lack of information.

3. Internal Comparison

While the external comparisons are consistent, and not dramatically different, the internal comparisons are inconsistent. The evidence shows that the increases for the Roseville maintenance unit for the two relevant years is 0%, while the police sergeants unit has had increases of 2.95% for 2010. The City argues that the lack of an internal pattern results from the fact that the police sergeant's had a three year contract negotiated before the recession began.

The Union does not attempt to make too much of the internal comparisons which of course are inconsistent. The Union is content to argue that there is no internal pattern.<sup>2</sup>

As with external data, the data for internal comparisons is inconclusive. Internal comparisons do not provide a compelling basis to support either position here.

4. The Employer's Ability to Pay

No one can deny that the past two years have been economically difficult in both the private and public sectors. The City primarily bases its 0% proposal, indeed a two year wage freeze, upon these economic conditions. Of course, the test here is not general conditions but rather the specific conditions of the particular employer.

The City presented evidence at the hearing to show that it has not escaped the difficulties of the current slow down. Indeed, the City has lost state aid in very large amounts in 2009 and 2010 and expects to lose more in 2011 (up to \$475,000). A budget review shows that extreme

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<sup>2</sup>The Union does correctly note that there are no Pay Equity Act concerns here and the City raised none.

budget cuts including \$600,000.00 in layoffs and position elimination occurred in the past two years. Finally, the City presented testimony that very large (17%) property tax increases are forecast for each of the next ten years.

In addition to these documented financial problems, Roseville has predicted extreme budget problems in the City as a whole, and in the police department specifically as far as can be seen into the future.

The Union's ability to pay arguments are based not on issues of budget construction for the future, but upon the City's public financial documents. These show, according to the Union, budget surplus and cash reserves clearly sufficient to pay the 1% increases sought by the Union. These wage increases for two years total approximately \$60,000.00 to 66,000.00. The Employer counters the Union's argument by contending that the cash surplus or reserves relied upon are already over committed for the continued operation of the City during the current year.

Weighing the data presented, I conclude that there is truth in both parties contentions. It seems from a literal standpoint that the City does not lack the ability to pay the Union's requests. However, undeniably, such payments would require budget adjustments, including in the police department, that the City would rather not make. Thus, the ability to pay factor neither prevents an award of the Union's proposal, nor, however, does it strongly militate in favor of such an award.

##### 5. Other Factors

The only evidence of other factors submitted by the parties is some data on cost of living increases. The Union's evidence was not complete but did show some current CPI information as follows: CPI-W Midwest Urban, class D with a 1.8% increase; Minneapolis-St. Paul CPI -

Urban Wage Earners and Clerical Workers for the first half of 2010 3.1% increase; the CPI - All Urban Consumers for Minneapolis-St. Paul 2.3% increase for the first half of 2010. This cost of living data does support the Union's 1% requests.

The City argued that the above information was incomplete and did not apply directly to Roseville. Rather, the City argued that the most relevant index, for 2009 showed only a .65% increase.

While the information is not comprehensive, taken as a whole it does support the Union's proposed wage increase of 1% per year for 2010 and 2020.

#### 6. Conclusions and Wage Award

The four factors used to evaluate the wage data here create a very close question. However, the proposals of the parties are quite close. Because the proposals are so modest, already taking the same economic situation into account, I conclude that the Union's proposal is more fair under the circumstances. As to the external comparison, for 2010, the 1% increase keeps the Union at almost exactly the position in its group that it has been targeted to reach and did reach in 2008. As to the internal comparison, though inconsistent, 1% is again within the range. As to other factors, cost of living seems to support the Union in that 1% is less than a reasonable cost of living increase would be. Finally, while it is clear that this award will require budget adjustment, it cannot be concluded that the City currently lacks the ability to pay a 1% increase for 2010.

Without repeating the above, the same reasoning supports a 1% award for 2011. While the evidence is less clear, it must be remembered that it is the City's position that results in a two year contract here. As it would be unfair to base an award in 2010 solely upon the City's need to

make adjustments, it would also be unfair to base a 2011 freeze upon the uncertainty created by the grant of a second year. Clearly, it is more fair to attempt to split the risk between the parties.

Fair risk sharing is likely to result from a 1% increase in 2011.

Based upon the above, I grant herein a 1% increase for unit wage rates for 2010 and a 1% increase for wages in 2011.

### III. **ARTICLE 24-LONGEVITY INCREASES**

The Union's position on Longevity for 2010 and 2011 (if awarded) is a 1% increase for each step for each year. The Employer argues that there should be no increase, consistent with its position on wages.

At the evidentiary hearing, the parties agreed that longevity increases historically have been negotiated to increase commensurate with any wage increases. Human resources manager Bacon testified that she does not recall any time when longevity adjustments were not made in lockstep with base wage adjustments.

As such, in accordance with the consistent practices and understandings of the parts, I determine that this issue should be decided consecutive commensurate with my 1% wage award for 2010 and 2011.

As shown by the Union's evidence, there is little cost to the City's budget. The cost for 2010 is \$1029.84 and if 2011 is awarded an additional cost of \$1124.40 for a 2 year cost factor of \$2154.24. Ability to pay is not a factor and the Union's position is hereby awarded.

### IV **EDUCATIONAL INCENTIVE LANGUAGE**

The Union's position on Educational Incentive is no change to current language in the labor agreement and that the educational credit payment shall increase by 1% in each step for

2010 and 2011 (if awarded).

The Employer proposes a language change which it argues would more accurately reflect the reality of the modern hiring pool.

While the Employer may have reasons to seek a change here, it is a principle of many interest arbitrators that language or policy changes are better negotiated than awarded in an interest arbitration. I therefore decline to award any language changer here. As to the educational incentive pay, as with the longevity pay, I award the Union's position that as an adjunct to the 1% wage rate increase, the Educational Credit amounts should be raised by 1% for 2010 and 1% for 2011.

V. **AWARD**

For the reasons stated above I award herein:

- 1) The Contract shall be for two years, to expire on December 31, 2011.
- 2) The wage rates of the 2009 agreement shall be increased by 1% for 2010 and the 2010 wage rate shall be increased by 1% for 2011.
- 3) The longevity wage amounts for 2010 shall increase by 1% and for 2011 shall increase by 1%.
- 4) The Educational incentive language in article 24 shall not change. The incentive pay amounts shall increase 1% for 2010 and 1% for 2011.

Dated: April 25, 2011

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William E. Martin  
Arbitrator