
In re the Arbitration between

BMS File No. 07-PN-0505

City of St. Paul, Minnesota,

Employer,

and

INTEREST ARBITRATION

St. Paul Police Federation,

Union.

Pursuant to **Minnesota Statutes Chapter 179A** the parties have brought the above captioned matter to Arbitration.

By letter dated January 16, 2007 the Commissioner of the Bureau of Mediation Services certified the following issue to arbitration:

1. Wage – Amount of Adjustment – Article 23

The parties selected James A. Lundberg as the neutral arbitrator from a list of arbitrators provided by the Minnesota Bureau of Mediation Services.

A hearing was conducted on June 20, 2007 and June 21, 2007 at the offices of the Bureau of Mediation Services, St. Paul, MN. The record remained open until July 6, 2007 for the purpose of resolving a dispute regarding City Exhibit #28. Upon resolution of the dispute regarding City Exhibit #28 the parties agreed to submit post hearing briefs to be postmarked no later than July 20, 2007.

APPEARANCES:

FOR THE CITY

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FOR THE FEDERATION

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UNION'S POSITION:

The Union proposes the following wage adjustments to wages for the period
January 1, 2007 to December 31, 2007:

**Effective the first day of the sixth pay period, rate increases for all non sworn
classifications as follows:**

Step A	2.50%
Step B	3.25%
Step C	3.25%
Step D	3.25%
Step E	3.25%
10 Year	3.25%
15 Year	3.00%
10 Year	2.75%

**Effective the first day of the sixth pay period, rate increases for all sworn
classifications as follows:**

Step A	2.50%
Step B	3.25%
Step C	3.25%
Step D	3.25%
7 Year	3.25%
10 Year	3.25%
15 Year	3.00%
10 Year	2.75%

Summary of Federation's Argument:

While bargaining over the 2004-2005 wage increases, the City of St. Paul and the Federation acknowledged that compensation for the City's police officers ranked 14th in comparison with the City of Minneapolis and suburbs with populations over 25, 000. If

suburbs with populations under 25,000 were added to the comparison group, the compensation of St. Paul police officers dropped to a ranking of 17th.

The parties were in agreement that the relative wage ranking of the City's police officers needed to improve. The rationale for improving the wage ranking of the City's police officers was the fact that the St. Paul Police Department ranks among the top one or two police departments in the State of Minnesota in "virtually every statistical measure, including population, size of department, violent crime, calls for service and compensation of police chief." By deferring the effective date of wage increases in 2004, 2005 and 2006, making a number of concessions including elimination of employers contributions toward retiree insurance, a reduction of sick leave accrual, reduction of off-duty incapacitation benefits and elimination of the narcotics officer premium, the wage ranking of the City's police officers rose to 11th when compared with the City of Minneapolis and suburbs over 25,000 and the rank of 11th was maintained through the 2006 contract.

The Federation's proposal is intended to maintain the ranking of #11 within the comparison group that includes the City of Minneapolis and suburbs over 25,000. In contrast the City's proposal allows the wage ranking of the City's police officers within the comparison group to drop to #14.

The Union contends that prior concessions it made for the purpose of mirroring other metro area police contracts establish a basis for including other metro police settlements as a factor to be considered in 2007. In fact, the Union believes that the determinative factor in this wage dispute should be the relative wage ranking of the City's police officers within the comparison group of the City of Minneapolis and

suburbs with populations greater than 25,000. The Union argues that its wage proposal will result in a relative wage ranking for St. Paul police officers of #11 within the comparison group. Hence, the arbitrator should adopt the Union's proposal.

The recent bargaining history of the parties is ignored by the City proposal. The parties have negotiated wages for police officers by comparing the career earnings of St. Paul police officers rather than by comparing total compensation packages. The agreed upon standard of comparison has been career earnings. The City proposal is based upon total package comparison, not a comparison of career earnings. The standard of comparison used by the parties to move the wages of St. Paul police officers to the rank of #11 within the comparison group was career earnings. The City attempts to use a total package comparison which amounts to a repudiation of the bargaining history of the parties which allowed police officer wages to move to a ranking of #11 within the comparison group. By changing the agreed upon comparison standard to total package rather than career earnings, the City attempts to justify loss of relative position within the comparison group.

The Federation has a long history of negotiating wage agreements that are not the same as wage agreements reached by other bargaining units within the City. The past two wage settlements did not include across the board increases effective on the first day of the year. The wage increase in 2004 was effective July 1, 2004. The 2004 wage package created new wage steps and increases at targeted steps. In 2006 the increase was effective May 1, 2006 and included a 2.5% increase for starting wages and steps 10 years, 15 years and 20 years. The 3 year, 5 year and 7 year steps received a 5.0% increase.

The City has departed from a bargaining pattern in its negotiations with the firefighters. The City did not negotiate a 2.5% across the board wage increase for firefighters in 2007. The firefighters negotiated a 2.4% increase effective July 1, 2007 with a new 7 year step at 2.65% over the 5 year step, a 3% increase on the 15 year step and a new 20 year step at 4.5% over the 15 year step.

The Federation position meets the statutory criteria found at **Minn. Stat. Section 471.993** upon which public employee's compensation must be based. In summary the statute mandates that "compensation for public employees be compared and reasonably related to comparable internal and external positions." The Federation's proposal reflects the relative external market position arrived at through the most recent negotiations and is internally consistent. The total cost of the Federation's proposal is close to, actually \$7,000.00 less than, the cost of packages agreed to by other St. Paul bargaining units, exclusive of the firefighters.

The Federation's wage proposal maintains an equitable internal wage relationship, when evaluated using the City's pay equity analysis. Seven of the eight unit job titles in the City's most recent report are compensated below expected compensation. The Sergeant position is the only position paid above the expected compensation rate.

The Federation reasonably reflects cost of living changes. The overall purchasing power of St. Paul police officers has declined, since 1990. However, the Federation proposal would preserve the improvement in purchasing power that resulted from the 2004- 2005 wage settlement.

The productivity of St. Paul police officers is not in question. The City's productivity data demonstrates a marked increase in productivity by bargaining unit

members, despite a rapidly growing demand for police services and increases in violent crime.

The Federation's proposal is affordable. The actual cost of the proposal in 2007 is less than the City's proposal. The City determined the cost of the Federation proposal to be \$7,677 less than the City proposal. The Federation's calculations indicate that the proposal was \$6,025 less than the City proposal. The "tails cost" of the Federation proposal is negligible. The City's calculations show a difference in tails cost between the two proposals to be \$281,251 and the Federation's calculations show a difference in tails cost between the two proposals of \$231,021. The City's budget for 2007 is over \$80 million and \$68 million of the budgeted funds come from the general fund. The "tails cost" will amount to less than three tenths of one percent of the Department's annual budget.

The bargaining unit consists of police officers and Emergency Call Center employees. The Call Center employee wages lead the comparison group. The Federation explains the fact that ECC employee wages have out paced wages of other call centers by the fact that ECC employees dispatch for both police and fire emergencies. The Federation proposes the same increases for ECC employees as for sworn police for two reasons. First, ECC employees, who do perform both police and fire dispatch, should continue to receive higher wages than other call center employees in the comparison group. Second, the wage proposal is internally consistent in that it mirrors the proposed increase for police officers.

The Emergency Call Center will merge with the Ramsay County Call Center with a resulting savings to the City of \$2 million. While local government aid was not

increased, the City will not lose its local government aid nor will it lose its AAA bond rating if it absorbs the additional tails cost of the Federation proposal. In fact, the City has not raised its property tax levy in twelve (12) years. The City has the ability to pay for the Federation proposal, it does not want to pay for the proposal.

The Federation's proposal should be adopted because it represents the wage agreement that the parties would have arrived at voluntarily. The historical relationship of the parties, the bargaining cycle and the information available to the parties during bargaining all suggest that the Federation's proposal would have been adopted had bargaining continued. Compelling the Federation to accept a wage proposal that other unions settled for without considering unique aspects of the bargaining relationship between the Federation and the City, including recent negotiations that focused heavily on improving the market position of police officers, eliminates the right to collective bargaining. Based upon the recent bargaining history, the Federation proposal represents the wage agreement that the parties should have reached through voluntary bargaining.

EMPLOYER'S POSITION:

The Employer proposes the following wage adjustments to wages for the period January 1, 2007 to December 31, 2007:

Effective January 1, 2007 (or closest pay period) a 2.50% rate increase for all classifications.

Summary of Employer's Argument:

The City has made a wage proposal that is financially prudent and consistent with the Public Employment Labor Relations Act (PELRA), which requires arbitrators in interest arbitration proceedings to consider the "obligations of public employers to

efficiently manage and conduct their operations within the legal limitations surrounding the financing of these operations.” **Minn. Stat. Section 179A.16, subd. 7.**

The financial condition of the State of Minnesota has had a dramatic and negative impact upon the operation of local government units, including the City of St. Paul. Since 2003, the City of St. Paul has lost \$88, 421, 236 in Local Government Aid (LGA) and the 2007 loss included in the sum was \$16, 168,664. The lost of LGA is likely to continue into 2008 and the City anticipates an additional loss of \$18,365, 149 in funding. In response to the loss of LGA funding from the State of Minnesota, the City has reorganized departments, imposed hiring freezes on departments, laid off employees and accessed the City’s General Fund Balance. In order to maintain the City’s AAA bond rating, which allows the City to borrow at low interest rates, the City needs to maintain a 15% reserve in the General Fund. The City argues that it is now perilously close to dropping below the 15% reserve amount needed to maintain its excellent bond rating.

The Federation suggested that the City could fund the future cost difference between its proposal and the City’s proposal by drawing upon interest earned by the General Fund balance. However, General Fund earnings are already factored into the City budget.

Another source for additional funding identified by the Federation was the five million dollar savings the City will experience due to the ECC merger with Ramsey County. However, the City will not save five million dollars after the merger is completed. The City will be required to purchase ECC services from Ramsey County and has several other financial obligations as a consequence of the merger.

The City's pattern of 2.5% wage increases is a significant component of the long-term plan for putting the City budget into "structural balance". It is true that the Federation proposal will save the City about \$7,600 in 2007 but the new wage structure will cost an additional \$288,000 in 2008.

The Employer argues that it has negotiated a consistent pattern with all of its unions and the pattern should be upheld in this arbitration. Eleven of the twelve contract settlements arrived at between the City and non-trades bargaining groups resulted in across the board wage increases of 2.5%. The only settlement that did not result in an across the board 2.5% increase was the one with Firefighters Local 21, which included a reduction of 2 sick days and a reduction in Retiree Health Insurance for new hires from \$300 per month to \$100 per month. Firefighters Local 21 gave up something in order to gain a greater wage increase. The City contends that the overall cost of the Firefighters contract did not increase at a higher rate than other bargaining units.

The internal consistency of wage adjustments is important to both the budgetary process of the City and to internal labor relations. If an award provides a greater wage adjustment than the internal pattern of wage settlement, future voluntary wage settlements will be more difficult to reach with the recipient of the award as well as other bargaining units. The City contends that it has consistently negotiated a uniform pattern of wage settlements, since at least 1990. The 2007 wage adjustment for the Federation should be the same as the overall pattern of settlements.

The market adjustments to police officer wages made by the City in 2004 and 2005 were in response to a survey conducted by the Federation of police officer wages in 41 jurisdictions and a survey conducted by the City in 70 jurisdictions. The surveys

determined that police officers wage increases needed to be upwardly adjusted from the City's settlement pattern, the Federation benefits package was substantially better than the package available in other jurisdictions and the City's ECC classifications were well compensated. In order to raise the relative wages of St. Paul police in 2004 and 2005 the Federation gave up Retirement Health Insurance for new employees effective July 1, 2005. The Federation also gave up three sick days from annual accrual rate together with two steps from the wage schedule and a 1.5% premium assignment. In simple terms there was a *quid pro quo* for the wage increase above the normal wage settlement pattern. The recent Firefighter wage settlement for more than the normal wage settlement pattern was also arrived at because the Firefighters gave up something in return. Similarly, the Federation made additional concessions in 2006 to maintain its market position. The Federation never negotiated a guaranteed market rank and the City and Federation have never agreed to a specific market comparison group.

The Employer does not believe that market comparisons should be the controlling consideration in this situation. The comparison market has never been agreed upon by the parties. The Federation argues that Stanton Group 5 should be used as a comparison group but St. Paul is actually part of Stanton Group 3 along with Minneapolis, Hennepin County and Ramsey County. In fact, the Federation's comparison group is a moving target. Some of the cities that constitute the 46 jurisdictions used by the Federation for comparison come from Stanton Group 5, some from Stanton Group 6, one comes from Stanton Group 3 and two are within Stanton Group 1.

The City used a group of 75 jurisdictions for comparison and St. Paul police officers career pay ranks #15, well within the top quartile of the sampled jurisdictions.

When total compensation is compared,¹ St. Paul police rank #5. St. Paul police are ranked among the top 10 metro cities in career sick leave benefits, career vacation accrual, severance and Retiree Health Insurance. The Federation could have made concessions in any of the other areas of compensation to achieve a wage increase greater than the City wide settlement pattern. Finally, St. Paul police officers can expect multiple opportunities to promote to higher level positions during their careers. Of the top twenty career earnings jurisdictions in the metro area, St. Paul ranks second in promotion ratio to Sergeant and fifth for all promotional positions. A motivated police officer in St. Paul has excellent opportunities for career advancement.

The Federation's request for wage increases for the ECC classification can not be justified using market comparisons. Employees in the ECC classification earn 12.79% to 23.01% more than their counterparts in Ramsey County. Both the Employer and the Union recognize that the ECC classification is well compensated and has never received a market adjustment nor has it made any benefit concessions. The ECC classification should receive the same 2.5% across the board adjustment that other bargaining units have received in settlement with the City.

Police wages in St. Paul closely parallel the Consumer Price Index. Total package increases are nearly identical to CPI increases in the Twin Cities and the Midwest. If the step increases are combined with general wage increases, wage increases received by St. Paul police compare favorably. Nearly 36% of the bargaining unit members will be eligible for step increases as well as general wage increases in 2007. A twenty year employee progressing through the wage schedule will enjoy a 49% earnings advantage over the Twin Cities CPI for the same twenty year period.

¹ Pay, vacation, sick leave, severance and Retiree Health Insurance.

A major concern for wage earners is a significant increase in health care costs. Increased health care costs can jeopardize a wage increase. Federation members have excellent health care benefits at very reasonable premium costs. Employees who select single health insurance may choose from two no-cost, deductible plans of which one includes a post employment health insurance contribution and the other which includes a premium of only \$13.25 per month. Family health coverage is only \$42.40 per month.

The City has had no problem retaining officers or recruiting officers. In fact, Federation turnover rates are actually lower than the City as a whole. The City disputes the Federation's argument regarding workload. Department records show that Part 1 crimes reported to the FBI have decreased, since 2001. The City has budgeted for a record high 602 sworn personnel in 2007.

Neither the City's proposal nor the Federation's proposal will move the City out of compliance with the Minnesota Pay Equity Act. The City is currently in compliance with an underpayment ratio of 87.45 and St. Paul is not scheduled to report compliance status to the State of Minnesota until 2009 based upon 2008 data. It is true that four of the five ECC classifications are female-dominated and are compensated below predicted pay but the City is in compliance with pay equity and no wage adjustment is needed to bring them into compliance. Also, the three sworn classifications (Officer, Sergeant and Commander) are male dominated. Sergeants are over compensated and male dominated classifications should not benefit from the application of the Pay Equity Act.

OPINION:

Minnesota Statutes Section 471.992, subd. 2 requires an arbitrator to consider the standards established in Minnesota Statutes Section 471.993 before issuing an award in interest arbitration. The mandatory considerations are:

1. compensation for position in the classified civil service, unclassified civil service, and management bear reasonable relationship to one another;
2. compensation for positions bear reasonable relationship to similar positions outside of that particular political subdivision's employment; and
3. compensation for position within the employer's work force bear reasonable relationship among related job classes and among various levels within the same occupational group.

Both the City and the Federation argue that the compensation of police and ECC employees bears a reasonable relationship to compensation of other job classes and to compensation of the various levels within the same occupational groups. Neither proposal before the Arbitrator will cause the Employer to be out of compliance with the Minnesota Pay Equity Act. Both proposals before the Arbitrator will result in an wage structure that is reasonably consistent internally.

The recent history of negotiations between the parties has focused on wage comparisons between the St. Paul police and ECC employees and police and ECC employees from other jurisdictions. The comparisons show that St. Paul ECC employees are well compensated relative to similar employees in other jurisdictions, while the wage ranking of St. Paul police within several comparison groups was considered to be too low prior to negotiations over the 2004 and 2005 contract. The

wage ranking of St. Paul police within the same comparison groups was maintained in 2006 and will either fall or be maintained as a result of this decision. Under either proposal before the Arbitrator, the ECC employees will continue to be wage leaders.

Both parties have urged the Arbitrator to arrive at a decision that the parties are likely to have reached, had bargaining continued. They cite Arbitrator Flagler's 1997 discussion in **Dakota County and Law Enforcement Labor Services, Inc., BMS Case No. 96-PN-2190** where he said "the central goal of interest arbitration is to ascertain the agreement that the parties themselves would have reached if they had continued bargaining and concluded a voluntary negotiated settlement."

The evidence and arguments submitted by the parties strongly suggest that an across the board 2.5% wage increase for ECC employees would have been the result of continued bargaining. The wage argument in this arbitration is not over pay equity but over external wage comparisons. Since St. Paul's ECC employees are wage leaders and neither proposal will result in a loss of relative rank, the Employer's proposal should be adopted. The across the board wage increase of 2.5% as of January 1, 2007 will result in an internally consistent wage increase and a wage increase that does not diminish the groups standing as a wage leader among comparison groups.

Police wages is the more contentious issue between the parties and the issue over which it is unclear what the parties would likely have agreed upon had bargaining continued. It is clear that the Employer's major concern is the impact that the Union's proposal will have on future costs, since the Union proposal will actually cost the City less in 2007 than an across the board 2.5% wage increase. The issue is

complicated by the party's disagreement over what is the appropriate comparison group and whether career wages or total package compensation should be used for comparison purposes. Furthermore the Union argues that it gave up enough in prior negotiations for police wages to keep pace with wages in other jurisdictions, while the Employer demands further concessions.

The Employer has demonstrated that the future cost of the Union proposal represents an increase that could jeopardize the City's future ability to borrow. However, the City has not, as many other cities have, increased taxes in response to reductions in LGA. What the City has shown is that the Union proposal will have a greater future impact upon the financial condition of the City than the City is confident it can manage.

What the Union has shown is that recent wage negotiations have focused on improving and maintaining the relative ranking of St. Paul police career wages within both the comparison group proposed by the Union and the comparison group proposed by the City. The Union made concessions in order to improve its wage ranking in 2004 and 2005 and made additional concessions in order to maintain its wage ranking. Both the Federation and the City agreed in 2004 and 2005 that the relative ranking of St. Paul police career wages was lower than acceptable.

The wage award for police should attempt to resolve the wage dispute in a manner that would accomplish the following:

- Recognize the obligation of the City to manage and conduct its operations by not moving the City into a financial predicament that is unmanageable.

- Recognize the recent bargaining history of the parties over wages by not allowing the relative ranking of St. Paul police career wages to fall back to the pre 2004 level.
- Recognize the importance of internal wage consistency and pay equity by not disrupting the equity structure of the City in a manner that is likely to disrupt the City's compliance with the Pay Equity Act.

The greatest portion of the Federation's proposed wage increase falls at Step B through the 10 year step, where it proposes a mid year 3.25% wage increase. The largest number of employees who are represented by the Federation are at Step B through the 10 – year step on the salary schedule. Hence, the proposed 3.25% increase for the largest number of Federation employees has a substantial impact upon the future cost of the wage adjustment. The proposed 3.25% increase from Step B through the 10 year step is the increase that accounts for the greatest future cost to the Employer. Hence it is the proposed increase that is of most concern to the Employer in this arbitration.

According to the pay equity data submitted at hearing, the monthly pay of police officers is \$139.61 per month lower than predicted pay. Officers between Step B and the 10 – year step constitute the group of employees whose wages will most greatly affect the future costs to the City and for whom a small wage increase above the average should not upset the pay equity structure of the City. A wage increase slightly greater than 2.5% to officers between Step B and the 10 -- year step would also mitigate against a return to the pre 2004 career wage ranking within the comparison groups. Police officers at Step B through the 10 year step should receive a 2.5% wage increase as of January 1, 2007 and an additional .5% wage increase as of July 1, 2007 should be awarded to awarded to

Police officers who are at Step B through the 10 -- year step on the salary schedule. The slight mid-year wage increase should mitigate against a return to wage rank that the parties deemed to be unacceptable in 2004. If the balance of the bargaining unit's wages are increased at the rate of 2.5% across the board beginning in the first pay period of January 2007, the wage award should not have an unmanageable future impact on the City budget and the City should not be drawn out of pay equity compliance.

AWARD:

Effective January 1, 2007 all classifications shall receive an across the board wage increase of 2.5%.

Effective July 1, 2007 police officers at Step B, Step C, Step D, 7 year and 10 year shall receive an additional wage increase of .5%.

Dated: August 8, 2007

James A. Lundberg, Arbitrator