
 In the Matter of Impasse Arbitration)
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 between)
)
 CITY OF NORTH LIBERTY, IOWA)
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 and)
)

 PPME LOCAL #2003 POLICE)

Opinion and Award
 by
 Arbitrator
 Curtiss K. Behrens
 dated
 March 6, 2012

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 PUBLIC EMPLOYMENT
 RELATIONS BOARD

I. APPEARANCES

For the Union:

Joe Rasmussen, PPME Business Representative and Spokesperson
 Mitch Seymour, Police Officer and Witness

For the City:

Ryan Sawyer, Attorney at Law and Spokesperson
 Wilford Stone, Attorney at Law and Spokesperson
 Gary Ray, Ray and Associates and Spokesperson
 Michelle Barnes, Legal Assistant, Lynch Dallas
 Holly Grieder, Law Clerk, Lynch Dallas
 Deb Hilton, H.R. Director and Witness
 Ryan Heiar, City Administrator and Witness

II. INTRODUCTION

The undersigned was selected by mutual agreement of the parties to conduct an impasse arbitration hearing under the statutory impasse procedures of the Iowa Public Employment Relations Act, Sections 20.19 and 20.22. The hearing was held Wednesday, February 22, 2012 at the North Liberty Community Center, North Liberty, Iowa. The hearing was formally opened at 1:50 p.m. and closed at 5:50 p.m. after both parties' presentation of evidence and oral argument. The parties agreed that this report should be mailed within fifteen days from the close of the hearing (postmarked no later than Thursday, March 8, 2012).

III. BACKGROUND

The City of North Liberty (hereafter also referred to as "City" or "Employer") is located in eastern Iowa between the Cedar Rapids and Iowa City metropolitan areas, has a total 2010 population of approximately 13,374 and has a geographical area of approximately 6.8 square miles. The City's police department consists of nine (9) regular full-time police officers and one (1) investigator represented by PPME Local #2003 (hereafter also referred to as "Union" or "Association"). PPME was certified by PERB to represent the police officers on November 24, 2009. The parties' first and current contract was predominately the result of an impasse arbitration before Lon Moeller dated March 23, 2011 (hereafter cited as Moeller Arbitration Award, 2011) and the contract is for one year (July 1, 2011 – June 30, 2012).

The parties agreed that there are seven impasse subject categories presented to the arbitrator: wages, hours of work, overtime, leaves of absence, holidays, job classification and shift differential. The parties agree that the arbitrator's authority is limited to

selecting from one or the other final offers, by impasse subject category, and it is the statutory duty of the arbitrator to select the more reasonable final offers.

Section 22, Paragraph 9 of the Iowa Public Employment Relations Act directs that the arbitrator shall consider, in addition to any other relevant factors, the following:

1. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
2. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
3. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
4. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

The undersigned arbitrator has taken into consideration the above criteria in arriving at this award.

IV. ANALYSIS AND OPINION OF ARBITRATOR

Arbitrator Moeller established an external comparability group of six surrounding law enforcement bargaining units: Iowa City Police, Marion Police, Coralville Police, Hiawatha Police, Mount Vernon Police and Johnson County Sheriff. The City does not dispute the inclusion of Marion, Coralville and Hiawatha in the comparison group.

However, the City argues that Iowa City, Johnson County and Mount Vernon should be excluded from the 2012 comparison group, or at the very least, be considered as secondary comparators. The City also proposes to add the City of Waukee to the comparison group because it is the fastest growing city in Iowa and North Liberty is the second fastest growing city in Iowa. Waukee is not located in close proximity to North

Liberty, something Arbitrator Moeller emphasized.¹ The undersigned arbitrator is unwilling to disrupt Arbitrator Moeller's comparability determination on this record at this time. No comparability group is "perfect." Its purpose is to provide guidance for the parties to bargain more intelligently and to discuss strengths and weaknesses of their respective positions.

Wages

Arbitrator Moeller awarded the Union's final offer on wages last year, an approximate eleven point eight percent (11.8%) increase. The Union's final offer last year proposed creating a salary schedule (first-time contract) and "slotting" each bargaining unit employee into a specific step, not necessarily based on number of years of seniority. Had the employees been placed on the new salary schedule based on number of years of seniority, the first-time contract wages increase would have been much larger.

Both parties are proposing to freeze the current hourly wage rates for one year. The City's wages offer is to leave the employees in their initially "slotted" steps and to allow for pay increases due to step movement on the anniversary of their hire. No employees are "topped out," meaning that every employee would move one step during FY2012-2013. The Union's wages offer is to this year re-slot all officers onto the salary schedule based on their actual years of service as of July 1, 2012. This would cause several officers to receive additional step increases beyond the one-step movement on the anniversary of their hire.

¹ "The cities of Boone, Eldridge, Grinnell, Marshalltown and Newton are located too far away from North Liberty to be properly considered part of its labor market for law enforcement officers." Moeller Arbitration Award, 2011, p. 3.

City Ex. p. 137 provides detailed costing information for both proposals. This exhibit includes dollar increase for each officer, percentage increase for each officer as well as total costs including FICA, IPERS and insurance. The City stresses that insurance costs will be increasing twenty five percent (25%) for the City and that this is an important consideration for the arbitrator. The City's wages offer is reported to result in individual percentage increases ranging from 21.69% to 0.37% with an average wage percentage increase for the unit of 5.15%. The Union's wages offer is reported to result in individual percentage increases ranging from 21.69% to 3.12% with an average wage percentage increase for the unit of 12.08%. The total package cost increase (including FICA, IPERS and insurance) for the City's wages offer is reported as a 6.78% increase and the Union's wages offer is reported as a 12.13% total package cost increase.²

The arbitrator is not persuaded by the Union's argument that "re-slotting" the officers again this year is merely a continuation of what Arbitrator Moeller awarded last year. Two double-digit wage increases, back-to-back, is not the more reasonable offer on this record. As such, the City's wages final offer is awarded and there is no need to further discuss the Union's proposed wages language change involving Section 11.02 concerning pay period and pay day.

Hours of Work

Arbitrator Moeller awarded the hours of work impasse issue to the City last year. That language, however, could be read as providing greater benefits to part-time

² The Union did not cost its proposal beyond the cost of re-slotting all full-time officers onto the salary schedule based on their actual years of service as of July 1, 2012. Both parties' proposals are for regular step increases during fiscal year 2013, so the cost is the same for step movement. By itself, the Union's proposal to re-slot full-time officers is reported to be a seven point eight percent (7.80%) increase. (Union Ex. #12).

employees working twenty (20) to twenty-nine (29) hours per week than benefits to part-time employees working thirty (30) to thirty-nine (39) hours per week. The Union wants to correct this error by increasing the benefits provided to part-time employees working thirty (30) to thirty-nine (39) hours per week. The City wants to correct this error by decreasing the benefits provided to part-time employees working twenty (20) to twenty-nine (29) hours per week.

There is little comparability support for the Union's proposal regarding benefits for part-time employees. (Union Ex. #6, Employer Ex. #115-1). As such, the City's final offer on hours of work is awarded and there is no need to further discuss the Union's proposed hours language change involving "pay period." Both parties agreed to identical proposals involving the Investigator job classification hours of work.

Overtime

Arbitrator Moeller awarded the Union's proposal that employees be given the option of selecting cash payment in lieu of taking earned compensatory time. Arbitrator Moeller selected the Union's position on compensatory time, noting in his award that "no testimony or evidence was offered at the interest arbitration hearing to suggest the Union's proposal would be a burdensome requirement for the Police Department." (Moeller Arbitration Award, 2011, p.10). Since that arbitration, the City has been advised by the City's Auditor that this language permitting employees to be paid for accumulated compensatory time is problematic. Specifically, problems arise when employees earn compensatory time during one physical *sic* year (i.e. June 2012) and elect to be paid for the compensatory time during the next physical *sic* year (i.e. July 2012). (City Ex. #119).

There is no comparability support for the current provision allowing employees to be paid for accumulated compensatory time over two different fiscal years. (Union Ex. #7 and City Ex. # 120). The auditor concerns justify removal of this provision. In addition, the arbitrator notes that the Union did not demonstrate that any employee would experience hardship if this compensatory time payment option is removed. The City asserts that since July 1, 2011, no employee has elected to receive cash payment in lieu of comp time. (City Ex. #120). The City's final offer on overtime is awarded.

Leaves of Absence

Arbitrator Moeller awarded the City's leaves of absence proposal last year and the City proposes to leave this article unchanged. The Union is proposing two changes to this article, the more significant change being to add a new section for workers compensation leave and supplement.

Currently, the contract has no provision regarding the payment of wages while on workers compensation leave. The City argues that the Union's proposed language is not needed in the collective bargaining contract because, under existing City policy, employees may supplement workers compensation payments with accumulated compensatory, holiday, personal or vacation leave. This policy is consistent with statutes provided at Chapter 85 of the Code of Iowa. (City Ex. #124). The Union's proposed language would allow employees to use accumulated sick leave as well to supplement workers compensation payments.

There is not sufficient comparability support to award the Union's proposal. The Union's proposal that an employee receiving a workers compensation check who elects to supplement his/her pay would endorse that check over to the City, and in exchange,

receive his/her regular pay from the City has no comparability support. (City Ex. #125).

As such, the City's final offer on leaves of absence is awarded.

Holidays

Arbitrator Moeller awarded the City's holiday proposal last year and the City proposes no changes to this language. The Union is proposing the creation of a "holiday bank" to be credited with ten days (120 hours) on July 1 of each year. There is not sufficient comparability support to award the Union's proposed holiday bank at this time. The complexity of administering such a bank needs further bargaining between the parties. The City's final offer on holidays is awarded.

Job Classification

The Union's proposal regarding job classification language last year, before Arbitrator Moeller, contained a second paragraph not contained in this current proposal. Arbitrator Moeller found insufficient comparability support for the second paragraph last year and awarded the City's position that there be no job classification section in the current contract. Now that the second paragraph has been removed from the Union's proposal, the undersigned arbitrator awards the Union's final offer on job classification language. The language is consistent with the designated wage rates in Exhibit A of the current contract. The City acknowledged at Arbitrator Moeller's hearing that wage rates for newly-created job classifications must be negotiated. (Moeller Arbitration Award, 2011, p. 20).

Shift Differential

Arbitrator Moeller awarded the Union's shift differential language last year partly on the basis that the Union's proposal used specified starting and ending times for the shifts rather than general references to "Mid shift" and "Night shift" as used in the City's proposed language. (Moeller Arbitration Award, 2011, p.21). The City is proposing no change to the current language while the Union is proposing to change the specified starting and ending times for the shifts to better correspond to changes the City made to work schedules. The current language was for eight (8) to ten (10) hour shift lengths with one afternoon shift (second shift) starting around 4:00 p.m. and ending around midnight with thirty cents (\$0.30) per hour as the shift differential, and a night shift (third shift) starting at 7:00 p.m. or later at night with forty cents (\$0.40) per hour as the shift differential. At the time, the City was still contracting with the Johnson County Sheriff's Office for partial coverage. Since that time, the City has gone to full 24/7 coverage of its own and has changed to twelve hour shifts. Currently, there are three shifts: 6:00 a.m. – 6:00 p.m., 3:00 p.m. – 3:00 a.m. and 6:00 p.m. to 6:00 a.m. The parties agree on the amount of the shift differentials and last year the City proposed referring to them as "Mid shift" and "Night shift."

The arbitrator is persuaded that it was Arbitrator Moeller's intent to have specified starting and ending times that correspond to current shifts. As such, the undersigned arbitrator awards the Union's shift differential proposal.

V. AWARD

For the reasons set forth above, the undersigned arbitrator hereby selects the following final offers on the seven (7) impasse items at issue in this case:

Wages:	City Offer
Hours of Work:	City Offer
Overtime:	City Offer
Leaves of Absence:	City Offer
Holidays	City Offer
Job Classification:	Union Offer
Shift Differential:	Union Offer

Dated this 6th day of March
2012, Sycamore, Illinois.

Respectfully submitted,



Curtiss K. Behrens
Arbitrator

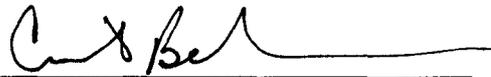
CERTIFICATE OF SERVICE

I certify that on the 6th day of March, 2012, I served the foregoing Opinion and Award by Arbitrator upon each of the parties to this matter by mailing a copy to them at their respective addresses as shown below:

Joe Rasmussen
PPME Business Representative
P.O. Box 219
Solon, Iowa 52333

Wilford H. Stone
Lynch Dallas, P.C.
526 Second Avenue S.E.
P.O. Box 2457
Cedar Rapids, Iowa 52406

I further certify that on the 6th day of March, 2012, I submitted this Opinion and Award for filing by mailing it to the Iowa Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, Iowa 50319.



Curtiss K, Behrens, Arbitrator