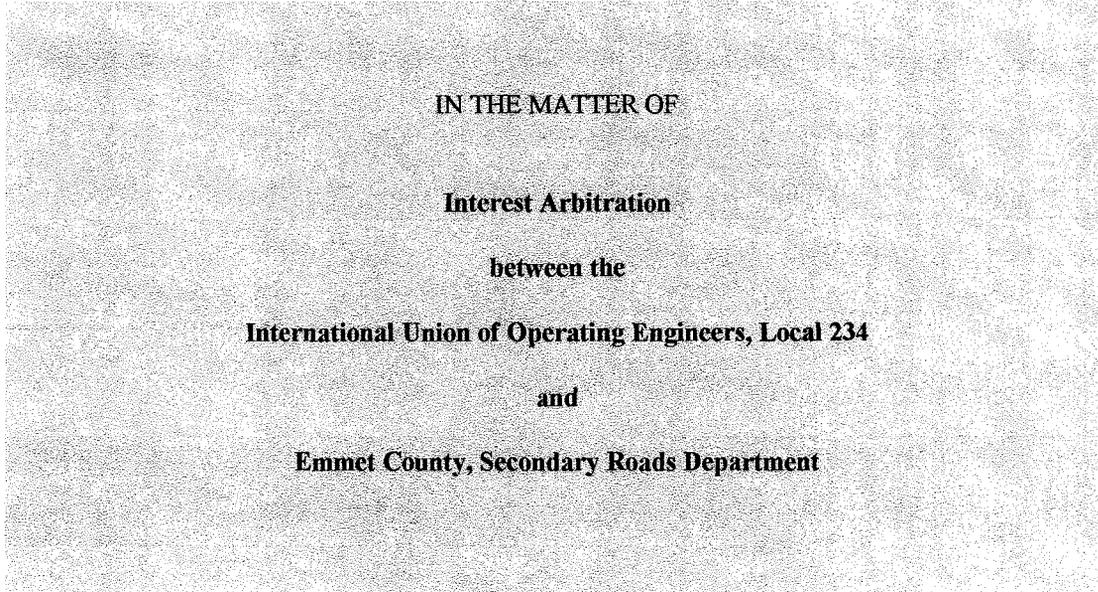


**DECISION OF THE
ARBITRATOR**

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PUBLIC EMPLOYMENT
RELATIONS BOARD



IN THE MATTER OF

Interest Arbitration

between the

International Union of Operating Engineers, Local 234

and

Emmet County, Secondary Roads Department

IOWA PERB CASE NO. CEO 1140/1

REPRESENTATIVES:

Local 234: Mac Donald Smith, Attorney and Spokesperson

County: Michael Galloway, Attorney and Spokesperson

DATE OF DECISION:

June 14, 2013

DATE OF HEARING:

May 20, 2013

EXHIBITS:

- Local 234 Exhibits: Note Book of Exhibits, Nos. 1 through 7.
- County Exhibits: Note Book of Exhibits, Nos. A-1 through H-9.

ARBITRATOR'S AUTHORITY:

By E-Mail dated April 9, 2013, the Iowa Public Employment Board (PERB) notified Peter Obermeyer of his selection by the parties to hear and decide PERB Case No. CEO 1140/1. The parties to the dispute were identified as the International Union of Operating Engineers, Local 234 (Local 234) or (Union) and the County of Emmet, Secondary Roads Department (County). The bargaining unit involved was maintenance employees of the Secondary Roads Department (Department).

On Monday, May 20, 2013, at 11:00 A.M., a hearing was held in the Conference Room of the Emmet County Court House, Estherville, Iowa. At the hearing both parties were provided the opportunity to present exhibits and testimony which were relevant to the impasse item in dispute.

Based on the record developed at the hearing of May 20, 2013, the Arbitrator was obligated to select one party's "final offer" on the issue at impasse. Iowa Code establishes the following criteria, along with other "relevant factors", as the basis for selecting Local 234's or the County's position, on the impasse item in dispute, as the "most reasonable". The criteria to be used by the Arbitrator are:

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 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.¹

The decision in this case was based on the record of the hearing and the criteria of Iowa Code, Section 20.22 (7).

The representatives of Local 234 and the County agreed that the Arbitrator's decision, postmarked no later than Monday, June 17, 2013 would be accepted as timely by the parties.

INTRODUCTION:

1. Background. The County is governed by a Board of Supervisors, which is responsible for conducting collective bargaining for all employees represented by a labor union. The County bargains with two groups of employees, the Local 234 Roads Department unit, and a Sheriff's Department unit of Dispatchers represented by AFSCME, Iowa Council 61, Local 1639.

The County is located in North Central Iowa on the Minnesota border, 15 miles east of Lake Okoboji, a major recreational area. The Department provides year around road maintenance for the County's secondary road system, through a staff of 15 maintenance employees, with a main shop in Estherville and five satellite shops.

¹ Iowa Code, Section 20.22 Subdivision 7 (2010).

2. The Iowa Arbitration Process. Iowa's interest arbitration system requires the Arbitrator to select the "final offer" of the issue in disagreement as submitted by either Local 234 or the County. In this case one issue - hourly wage rates is in dispute. As is true in other arbitration cases, the Arbitrator here may have reached a decision which would have varied from either Local 234's or the County's "final offer", if he had such flexibility.

ISSUE AT IMPASSE:

The parties have had a generally constructive labor-management relationship since Local 234 became the exclusive representative of the Department's road maintenance employees in 2005. Negotiations to renew a two year contract, which expires June 30, 2013, stalled over an appropriate hourly wage rate increase (Article XI). This is the single issue in this Arbitration.

At the hearing the representatives of the parties stipulated that the single issue at impasse was:

"Article XI, Wages"

Both parties "final offer" increased the job classifications Sign Maintenance/Laborer, Equipment Operator/Laborer, and Mechanic/Laborer by a percentage amount. Local 234 proposed a three % increase to the hourly wage rates and the County offered two %.

Local 234 costed the difference between the two "final offers" of the parties at \$6,013.86², the County costed the difference at \$6,344.08³. Not a significant difference in outcomes, costing methods, or procedures which concerned the Arbitrator or the parties.

POSITION OF THE PARTIES:

1. Local 234 Final Position. Local 234's "final position" focused on the

² Union Exhibit 7.

³ County Exhibit C-1.

comparability of bargaining unit job classifications wage rate settlements with five surrounding and four adjacent Iowa counties; internal wage rate settlements; and a historical comparison of wage rate increase of the County's two unionized bargaining units. In conclusion, the Union cautioned that the use of all state-wide settlements effective June 30, 2013, is inappropriate. The comparability standard should be focused on a "neighboring" pool of counties.

The external comparability pool, put forth by Local 234 totaled nine, eight of which were settled and one at impasse⁴. Of the eight settlements for the job classification equipment operator (top wage rate) the average cents per hour increase was \$.49 and the average percentage increase was 2.3%⁵. The impact of the settlements increased the average top wage rate for equipment operators from \$18.94 to \$19.43 per hour, with hourly increase range from \$.30 to \$.53⁶. Local 234's costing of the County's comparability pool yielded an average percentage increase of 2.8 % and a cents per hour increase of \$.53⁷.

Local 234 summarized their internal comparability by identifying the following three groups of County employees and the across-the-board increases they received as of July 1, 2013:

- Non-organized employees - 2%
- Compensation Board recommendation for elected officials - 3%
- Sheriff's Department Dispatchers - 2% plus \$.50 inequity adjustment⁸

The Union placed particular emphasis on the July 1, 2013, increase of Dispatchers and the Compensation Board's recommendation.

In concluding, the Union developed a historical comparison of the wage rate increases negotiated for secondary road employees and Dispatchers. The settlements

⁴ Local 234 noted that their Exhibit 6, p. 1, should be amended to reflect Hancock County as settled with a 2.75% wage rate increase.

⁵ Union Exhibit No. 6, p. 1.

⁶ *Ibid.*, Humboldt and Kossuth at \$.53 and Pocahontas at \$.30.

⁷ Union Exhibit No. 6, p. 2.

⁸ First year of a three agreement which also provides for a two percent increase in the wage rate on July 1, 2014 and 2015.

since July 1, 2007, demonstrates little consistency in settlement amounts or effective dates between the groups. However, as of June 30, 2013, secondary road personnel received \$2.07 in increases and dispatchers received \$2.10 over the five year period⁹. The \$.81 increase on July 1, 2013, for dispatchers will effectively distort the historical wage rate relationship between secondary road personnel and Dispatchers, argued Local 234.

2. County of Emmet's Final Position. The County justifies its "final position" with three considerations. First, they argue that the most appropriate external "comparability pool" should be based on counties with a similar population, which results in a "pool" of 14 counties - eight larger and six smaller. Population size varies from Lyon - 11,670 to Greene at 9, 285 and Emmet with 10,104. The average settlement of the "population comparability pool" is 2.81% for the secondary road unit¹⁰. Two of the counties, Calhoun with a 7% wage increase and Guthrie a 4%, both negotiated significant health insurance cost shifts to employees, which must be considered when judging the wage rate increases. To accurately judge the negotiated wage rate increases in the "pool", Calhoun and Guthrie should be removed, resulting in a 2.36% average wage rate increase¹¹. The County costed the Union's eight county "comparability pool" at a 2.78% increase. Local 234, at the hearing, stated that Cherokee County had not settled and the parties were at impasse. Removing Cherokee from the costing would reduce the eight county pool average to a 2.52% increase. In closing this argument, the County noted that the July 1, 2013, wage rate increase of 2% for equipment operators resulted in an hourly rate of \$19.67, a rate which exceeds the average wage of both the County's "comparability pool" (\$19.27) and the Union's "comparability pool" (\$19.35)¹².

Second, the County contended that the 2% "final offer" was reasonable given the increase in the cost-of-living for the Midwest. A Bureau of Labor Statistics News Release, dated April 16, 2013, reported that "...the CPI-U for the Midwest rose 1.4

⁹ Union Exhibit No. 6, p.5.

¹⁰ County Exhibit No. F-3.

¹¹ Ibid.

¹² County Exhibit Nos. F-5 and F-6.

percent from March 2012 to March 2013.”¹³

In conclusion, the County submitted a summary of all negotiated settlements involving Iowa counties and union represented employees which had a July 1, 2013, wage rate increase. Eighteen counties had reached negotiated wage rate settlements with 39 bargaining units. Thirteen bargaining units had health insurance plan design changes or an increase in employee contributions¹⁴. The average of the 39 to date settlements among Iowa counties is 2.26%¹⁵. This average settlement supports the reasonableness of the 2% “final offer”.

DISCUSSION:

This analysis and decision is based on the criteria of the Code of Iowa, Section 20.22, Subdivision 7 (2010) and the hearing record and exhibits submitted to the Arbitrator. The County stated at the hearing that the “ability to pay” was not a factor in this case.

1. History of Collective Bargaining. The parties have entered into three collective bargaining agreements, two negotiated between Local 234 and Emmet County and one resulting from arbitration. This arbitration will establish the wage rate for the period July 1, 2013, through June 30, 2014.

The County also has a collective bargaining relationship with AFSCME, Council 61, Local 1639 covering full-time and part-time Dispatchers of the Sheriff’s Department. The parties have recently entered into a three-year agreement for the period July 1, 2013, through June 30, 2016.

A comparison of the wage rate increases of the two unionized groups since July 1, 2007 suggests little comparability in wage rate percentage increases or effective dates. Only on July 1, 2009, was there a similar 3.5% increase in hourly wage rates¹⁶. During the July 1, 2007, to July 1, 2012, period the equipment operators hourly wage rate increased

¹³ County Exhibit No. F-7.

¹⁴ County Exhibit No. F-8, p.4.

¹⁵ Ibid.

¹⁶ Union Exhibit No. 6, p.5.

\$2.06 and the dispatcher \$2.10. The 2013 Agreement with Council 61 yielded a 2% hourly wage rate increase (\$.31) and a \$.50 “inequity adjustment” based on the Dispatchers comparability with other Iowa counties Dispatchers.

Local 234 is concerned that such an “adjustment” will distort the historical wage rate relationship between equipment operators and Dispatchers. The Arbitrator is more convinced that such “adjustments” result from the criteria of Iowa law which directs the parties and arbitrators to consider the comparability of “... wages, hours and conditions of employment of the involved public employees”¹⁷.

In affect either “final offer” could be defended on the basis of the internal comparability of employee hourly wage rates historically or of current settlements and adjustments.

2. Comparability. Local 234 and the County recognize the usefulness of considering “external comparables” in the collective bargaining process. As was true in the 2010 Behrens Arbitration, the parties differ as to the composition of the “external comparable” pool(s) of counties to consider.

The Union contends that a pool of nine counties, four adjacent (Clay, Dickinson, Kossuth, and Palo Alto) and five surrounding (Cherokee, Hancock, Humboldt, Osceola, and Pocahontas) should comprise the pool of comparable counties.

Emmet County argues that a pool of 14 counties, based on population, should makeup the comparability pool. Six smaller (Humboldt, Calhoun, Howard, Palo Alto, Clarke, and Greene) and eight larger (Sac, Keokuk, Montgomery, Franklin, Mitchell, Winnebago, Guthrie, and Lyon).

Local 234’s “adjacent and surrounding” pool of nine had eight with settled contracts. The Union calculated the average percentage increase of the settled comparable counties as 2.3% and the average top hourly wage rate at \$19.43 effective July 1, 2013¹⁸. The County also calculated the “negotiated” wage increase for the “adjacent and surrounding” comparability pool and concluded the four “adjacent” counties

¹⁷ Code of Iowa, Section 20.22, Subdivision 7(b).

¹⁸ Union Exhibit No. 6, p.1.

to Emmet had a 2.3% increase and an average wage rate of \$19.66 per hour as of July 1, 2013¹⁹. In a separate calculation for the four settled “surrounding” counties an average increase of 2.78% and a wage rate of \$19.35. At the hearing the Union indicated that Cherokee County was not settled, but at impasse. Dropping Cherokee County from the calculation changes the County’s settlement cost for the “adjacent and surrounding” pool of eight from 2.78% to 2.52%.

Emmet County’s “population” driven comparability pool which include 14 counties ranging in population from Lyon with 11,670 residents to Greene with 9,285. Emmet itself has a population of 10,104²⁰. All counties in the “population” pool had negotiated agreements for the secondary road maintenance employees. The County calculated the average percentage increase for their “population” pool at 2.81%²¹, similar to the Union’s costing of 2.8-2.9%²². The hourly wage rate calculated by Local 234 was \$18.91.

The County made a strong argument that the settlements in Calhoun (7.00% increase) and Guthrie (4.00% increase) should be removed from their “pool” because both settlements had a wage rate increase as a “trade-off” for a significant increase in employee contributions to health insurance. This argument has merit given the Behrens decision of 2010. There the Arbitrator found that the “... parties stressed that wages and health insurance must not be considered in isolation, as they both have economic impact”²³. Removing Calhoun and Guthrie from consideration results in an average percentage wage rate increase of 2.36% for the County’s “population” comparability pool²⁴.

The County also submitted state-wide settlement data in the form of Exhibit F-8. This Exhibit summarized public sector settlements negotiated during 2012-2013 that were effective on July 1, 2013. Those settlements, 39 in total, produced an average wage rate

¹⁹ County Exhibit No. F-6.

²⁰ County Exhibit E-1.

²¹ County Exhibit F-3.

²² Union Exhibit 6, p.2.

²³ Union Exhibit No. 4.

²⁴ County Exhibit No. F-3.

increase of 2.26%²⁵. As indicated earlier the Union considered an average of “all employees” state-wide settlements as not particularly instructive or useful.

Of more interest to the Arbitrator was the average hourly wage increase of road maintenance employees across Iowa. There were 12 road maintenance settlements effective July 1, 2013, those settlements provided a 2.40% increase.

3. Other Relevant Factors. The County concluded it’s presentation by contending that it’s “final offer” of 2% was reasonable given the cost-of-living increase in the Midwest. They cited a Bureau of Labor Statistics News Release, dated April 16, 2013, that reported “... the CPI-U for the Midwest rose 1.4 percent from March 2012 to March 2013”²⁶.

DECISION:

The Arbitrator finds that based on the record the County of Emmet’s “final offer” of a 2% wage rate increase is the most reasonable concerning the single issue at impasse. In reaching this conclusion four factors were persuasive:

1. Wage rate increase of the “population pool“ of 14 counties, less Calhoun and Guthrie, because of significant increase in employees health care costs. The average hourly basic wage increase in the 12 remaining counties averaged 2.36%.
2. Wage rate increase of the 4 adjacent counties pool to Emmet averaged 2.38%.
3. State-wide wage increase of 12 settled counties for road maintenance employees averaged 2.40%.
4. Midwest cost-of-living increase for the period March 2012 to March 2013 of 1.4%.

Consideration of the “surrounding counties” pool was not particularly useful because of

²⁵ County Exhibit No. F-8, p.4.

²⁶ County Exhibit No. F-7.

the substantial variance in population and assessed valuation.

Accordingly, the County of Emmet's "final offer" concerning Article XI: Wages is adopted.

Signed this 14th day of June 2013.

A handwritten signature in cursive script, appearing to read "Peter Obermeyer", written over a horizontal line.

Peter E. Obermeyer, Arbitrator

CERTIFICATE OF SERVICE

I certify that on the 14th of June, 2013, the Arbitrator served this Decision on the representatives of the parties by mailing a signed and dated copy to each of them at the following addresses:

MacDonald Smith, Attorney
Smith and McElwain
505 5th Street, Suite 530
Sioux City, Iowa 51102

Mike Galloway, Attorney
Ahlers and Cooney
100 Court Avenue, Suite 600
Des Moines, Iowa 50309

This Decision was also mailed to the Iowa Public Employment Relations Board on the 14th day of June, 2013.



Peter E. Obermeyer

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