



IN THE MATTER OF INTEREST ARBITRATION BETWEEN:

The City of Madison)	
)	
and)	Arbitrator's Award and
)	Opinion
Policemen's Benevolent)	
Committee)	
_____)	

Illinois State Labor Relations Board No. S-MA-92-169.

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Following collective bargaining and failure to reach a contract, this matter was brought to interest arbitration pursuant to the provisions of the Illinois Public Labor Relations Act, Sec. 14, et. seq. (1984 as amended). Notice of appointment was received by the Arbitrator October 13, 1992. Initial arrangements were handled via conference call with all parties present on the telephone. The parties waived the three member arbitration panel and submitted the dispute to the neutral arbitrator for resolution.

The initial date for the first meeting was arranged for November 5, 1992. This was postponed to November 17, 1992. The arbitrator met with the parties on November 17 to determine the scope and extent of the proceedings and to probe the remaining issues outstanding. At that time, two of the three issues outstanding were tentatively agreed upon and contractual language for these issues was initialed by both sides. Thereafter the hearing date, initially set for November 24, 1992 was reset by mutual agreement for December 17, 1992.

Following a subsequent continuance because of an emergency by Counsel, hearing on the remaining single issue of wage rates was held on December 29, 1992 in the City Council Chambers of the City of Madison, Illinois. Both sides had full opportunity to provide the arbitrator with documents prior to the hearing, to present documents and testimony, to cross examine witnesses, and to make argument with respect to their positions. At the close of the hearing, the Arbitrator certified the only issue remaining was the economic issue of wages.

The hearing was recorded by a court reporter. The transcript was timely submitted on or before January 18, 1992, as set at the hearing. The parties agreed to

have their last best final offer and accompanying briefs and arguments to the arbitrator no later than February 22, 1993.

The Union submitted a Motion to Supplement the record with attached Affidavit from Lt. Bargiel dated February 17, 1993. The City responded with a response to the Motion that accepted the proffered materials and offered, in addition, three more affidavits with attachments. The City also submitted its Final Offer and accompanying Brief at that time. All affidavits and accompanying materials were discussed with all sides and following discussion were accepted without objection into the record by all, including the arbitrator, for whatever they are worth, if anything. The Union requested and was granted an extension of time within which to submit its Final Offer and Brief, having delayed responding until after a ruling was made on its motion. The Union's Final Offer and Brief were received on March 18, 1993, the date due. The record was finally closed as of that date.

FINAL OFFERS

City of Madison:

"[T]o freeze the police officers wages at the current levels through December 31, 1993."

Policemen's Benevolent Labor Committee:

"[A] 4% retroactive rate increase beginning December 1, 1991, and a 4% wage increase commencing December 1, 1992 through the expiration of the Contract."

DISCUSSION AND OPINION OF THE ARBITRATOR

The statute sets forth seven basic criteria upon which the decision of the arbitrator must be based. Accordingly, the discussion will cover these factors in reviewing the respective final offers.

Stipulations

The parties agreed that the Employer has the authority to bargain and contract with the Union in this instance. They also are not in disagreement over that the cost of living according to the Consumer Price Index rose approximately 3% in the ten months immediately preceding October 31, 1992.

The prior Collective Bargaining Agreement between the parties was submitted as well. It expired December 31, 1991. The result of this arbitration will be to effect an agreement, all other provisions of which have been agreed upon, which will extend from January 1,

1992 through December 31, 1993. Beyond these factors, the parties did not submit any stipulations.

Overall Compensation

The Police Department of the City of Madison has eleven officers, with one Chief. Ten officers, including one Lieutenant, are in the bargaining unit. At the time of the hearing one of the officers on the list had been let go for failure to pass the police qualifying examination. However, another person was in process of being brought on board at that time. The salary of the new probationary patrol officer was to be the same as that of the terminated probationary patrol officer, so the wage package under discussion would not change with the shift in personnel.

Both the City and the Union listed the existing Police salaries by hourly rates, without identification of the additional costs per employee which a city would usually include when calculating the total costs for an employee. For purposes of this arbitration, reference to compensation packages will follow the limitations posed by the manner in which both sides chose to pose present their compensation figures.¹ Using the City's

1. The total dollar figures used in this discussion are rough calculations made by the arbitrator based on the information provided by the parties. They are labeled and are approximations only. They are expressed here for purposes of showing the arbitrator's reasoning. Actual figures and/or calculations may

hourly figures (2080 hrs/yr for the Lieutenant and 2184 hrs/yr for the rest of the officers in the bargaining unit) from City Exhibit 12, the annual salary expenditure as of the end of the prior contract is approximately \$274,355. (The Union used the 2080 hourly figure for all members of the bargaining unit in its calculation of comparable police salaries in other communities. Neither the City nor the Union gave any estimate of overtime hours worked per year or the estimated annual expenses for such overtime.)

Pursuant to the provisions of the expired collective bargaining agreement, the City continued to pay for the health insurance premiums of the officers. At the joint session of November 17, 1992, it was agreed that the new contract would contain a cap on health premium increases so that any health insurance premium increases after November 17, 1992 would be borne by the individual officers, not the City.² Using

differ slightly from the figures provided here. To the extent these differences are based on the calculations not the approach taken, however, they are considered inconsequential and not injurious to the rationale or conclusions reached herein.

2. The agreed to wording of the provision included the dollar amounts of the cap:

Article XI shall include the following first sentence in lieu of the one in the prior agreement:

Employees and their families shall be provided health insurance through a self insured plan or under group insurance policy of policies selected by the Employer, and shall receive the same insurance benefits at

the health insurance premiums which the City was paying for the various officers as of the date they are capped, the total City expenditure for the bargaining unit is currently approximately \$285,384, or approximately 4.02% higher than it was at the expiration of the prior contract.

Because the primary issue is the City's ability to pay, it is important to look at the wage rates in terms of total dollar outlays which each side's offer would require of the City. The Union's final offer does not appear to take the health insurance premium increase into account. Without looking at the insurance

the same premium levels as any other city employee provided that the city shall not be required to pay premiums in excess of premiums being paid by the city on November 17, 1992 (individual employee \$183.84 per month; \$439.82 for spouse per month; \$609.57 per family per month).

In addition, the City and the Union agree to a side agreement:

The parties agree to form a joint insurance committee consisting of at least the city's three member negotiating committee and at least two members of the bargaining unit. The Committee shall invite the Teamsters representatives bargaining unit to designate up to two individuals to serve on the joint committee and invite at least two non-union representative city employees who are covered by the insurance to serve on the committee. The joint committee shall seek other alternatives to the existing health plan and or carrier. The Joint committee shall meet and begin actively seeking such alternatives no later than January 2, 1993 so that the City Council can act upon any recommendations by March 31, 1993.

premiums, a 4% increase of the total hourly compensation rates of members of the bargaining unit at the expiration of the prior agreement, ye. as of December 1, 1991, would total approximately \$10,974, bringing the total outlay in salaries for December 1, 1991 through November 30, 1992 to approximately \$285,329. An additional 4% increase effective on December 1, 1992 would require the City to expend approximately another \$11,413 on police salaries through December 31, 1993, the date of expiration of the anticipated contractual agreement. The City offers no increase beyond absorbing the health insurance premium rate increase as of October 31, 1992 which it had already agreed to accept. As set forth above, this means an outlay of approximately \$285,384 per year. The question posed here, therefore, is whether the City has the ability to pay the approximate additional \$22,387 for all of 1993 and \$10,974 back pay for 1992, beyond the 4% increase in insurance premiums which it has already agreed to pay over the amounts set forth in the prior collective bargaining agreement, which would be required by the Union's final offer. This is the only question here at issue.

Comparisons with Other Employees

The Union contends that comparisons with other employee wage rates, either in public or private sectors is not relevant because the City's position is one of inability to pay, not that the Union's request is either unreasonable or unwarranted according to those of others in the community or surrounding areas or comparable areas. This position misinterprets the law which requires the arbitrator to consider these effects when choosing between the two offers. In fact, in this instance, the wide split between the parties' last final offers emphasizes the need for such a comparison.

Both the City and the Union supplied some information about comparative wage rates for police in comparable communities. There is no agreement as to which communities provide appropriate comparisons for the City of Madison.

The City of Madison has a little over 4,600 citizens. It is thus much smaller than Collinsville, Edwardsville or Granite City (three possible comparables proposed by the Union) and much larger than South Roxana, Hartford and Maryville (three possible comparables proposed by the City). The City argues that its total tax receipts from retailer's occupation

taxes are much smaller than those of what appear to be comparable communities, using the third quarter of 1992 as if it was in some way representative. The 1% tax receipts for any given quarter without considerably more information are not indicative of anything. However, both the City and Union proposed comparisons with Paton Beach, East Alton, Bethalto, and Glen Carbon, so the argument of size is not one it is necessary to get into here. Contrary to the City's assertion made on the basis of size, it is appropriate that the salary levels be compared with the County of Madison Sheriff's Department since the two patrol forces will, of necessity, work in the same areas with each other in many instances.

The Union presented copies of the collective bargaining agreements for as many of the comparable communities as it was able to obtain. I have reviewed the wage provisions and other elements of compensation in all of the contracts submitted but with particular attention to those communities identified above which I have deemed comparable.

Although both the City and Union provided comparison charts, the information for the communities listed was not presented in a way which made them readily comparable. (See, City Ex. 13 and Union Ex.

10, 11 and 12.)³ None of the salary information presented in the respective comparison charts indicated whether they included longevity pay, shift differentials, signing bonuses, educational or EMT certification bonuses or increments, premium pay or holiday equivalency pay or any of the many other types of additional pay (not including the ranges of different leave and overtime pay) found to be paid out in addition to straight salary rates in the various different police unit/city collective bargaining agreements from surrounding and/or comparable communities. Similarly, information on other areas usually included in compensation packages, particularly health insurance costs, are not dealt with in either chart at all. (Both the City and the Union have separate informational charts regarding health costs but these relate only to the city of Madison and are not comparisons with other communities.)

3. Neither party provided explanation of the sources or calculations from which it derived its figures. The Union figures appeared generally higher on an hourly basis than the City figures. This may be because the Union used 2080 hours per year for its calculations for all levels. The City asserted that all levels of employees except for Lieutenant worked 2184 hours per year and only the Lieutenant worked 2080 hours per year. If it used the greater (2184) hour total, the City's figures are more understandable. They still do not totally explain the discrepancies. Some the City explained in a footnote in its brief. Other cities use 2080 hours according to references in their collective bargaining agreements.

Reviewing the information in these agreements, it appears that 4% per contract year requested by the Union is not totally out of line with the kinds of increases comparable communities provided their police forces from contract year 1989 through contract year 1993 as the City's charts would imply. However, neither are the city of Madison's police salaries drastically below those of comparable surrounding communities as the Union's chart would have it appear. In fact, whichever hourly totals are used for the calculation, Madison seems to come out squarely in the middle of the range of comparable salaries as of the end of calendar 1991.

Although neither party believed that private salaries were of use for comparison purposes in the instant context, the City did provide a list of salaries of street department employees (City Exhibit 8) which it mentioned in a comparative reference in its brief. The only figures provided in this regard are the straight time/ hourly dollar rates for street department employees. No information is included with respect to the total compensation packages of these workers. No information is given as to the nature of the jobs or classification levels or requirements of the various employees. No information is listed

regarding their organizational status, contractual provisions (if any) or any of the additional types of factors which would normally be taken into consideration to determine the value of such a comparison. For these reasons, the usefulness of this sheet for comparative purposes is limited at best.

Even if both the police and street workers enjoyed total compensation packages that were precisely equivalent with the exception of the wage rates, however, the comparison would be questionable. The street department workers are not required to exhibit the levels of professional expertise nor to perform under the same kinds of potentially hazardous and onerous conditions which are required of police officers. Theoretically, the wage differentials between police and other city workers reflect these professional competency and working conditions differences.

The City of Madison, in fact, has a high level competency requirement for its police officers in that it requires them to complete and pass the state police qualifying examinations to become a full time police officer in the City police department. In addition, it requires its officers to work long shifts, in rotation, thus limiting their family time on a regular basis. It

also expects officers to work holidays and at times other workers are able to enjoy celebrating and to be available and in condition to be called upon in an emergency almost at any time. These requirements are not regularly and routinely placed on other city workers. The compensation of police usually is higher to reflect these more onerous working conditions, work pressures and expertise requirements. It is usually considered in the best interests of the public to recognize these factors when determining the appropriateness of a wage offer.

From the information in the record before me, I find that the salaries of the city of Madison police bargaining unit members as of January 1, 1992 were within the mid-range of those of comparable communities. I further find that 4% per year increase is of the general rate of increase which other departments have been receiving according to the various collective bargaining agreements of police units in comparable communities, and is therefore reasonable in so far as it does not go excessively beyond the kind of percentage rate increases being granted.

Ability to Pay

The question, therefore, is whether city of Madison has the ability to pay the requested amounts. The Union describes the issue as one of requisite proof by the City: "Did the City demonstrate that it cannot pay a reasonable increase to its police officers?" It asserts that the burden is on the City to show that it cannot meet the Union's demands for the City's final offer to be upheld. The City does not claim this to be a question of burden of proof. However, the information which it proffered appears to reflect an assumption that the burden of proof in favor of any wage increase is on the Union. The City is thus operating on the opposite assumption: if the City offers little direct evidence of either its inability or ability to pay it will, by force of such burden, succeed.

The statutory language does not support either interpretation. It merely requires the arbitrator to support her decision on the basis of the listed criteria. It is therefore not a question of burden of proof. Each side must prove the advisability of its position to the best of its ability. The one that is most supportive of its own position therefore has the greatest chance of being successful.

I have made a major effort to carefully review all of the material submitted to assure that self-serving gaps in submissions by the Employer do not accrue to the undue detriment of the Union. Unless definitely shown, lack of informational clarity will not be presumed to constitute intentional refusal to provide relevant information. This is not the forum to raise a contention of bad faith bargaining except in the form of a request for additional information. Such a request was not made in this instance. The Union was in full possession of all of the materials and submissions of the City at the time it made its final argument and offer. Its argument and submissions are taken therefore to focus not on whether the City proved it could not pay but whether the information it proffered was sufficient to show there was a serious problem.

For the past two years, the city has spent less than it estimated it would in its annual budgets. The Union points to this as indicative that the City does recognize it has additional possible monetary resources. The City denies such non-identified resources, saying instead that the budget is actually meaningless. This was the testimony of the City's auditor on redirect examination. (Tr. 40). Perhaps it is not a good indicator of actual expenditures from an

auditing standpoint. It does, however, give general parameters for spending and act as a maximum expenditure approval limitation, at least. It also would appear to represent an allocation of expected expenses according to the best information available to the City Council as to the income anticipated in a given year. To this extent, a budget shows what the City believes it will have to spend in a given year and how it believes these monies should be spent. (The City auditor indicated that it was common practice for budget allocations to be in excess of anticipated spending so that it was not necessary to go back constantly for reauthorization. This is only true if budget allocations are not used as means to control expenditures and maintain fiscal responsibility, two of the primary functions of annual budgets.)

The problem is, budgets usually control maximum expenditures, not income. They are based on estimated income at best. If that income is not there or if they have inappropriately estimated revenues, the budget cannot be used as a vehicle to produce more income as it can to reduce spending.

The City indicated at the December 29, 1992 hearing that it was laying off a number of employees on the street department as of January 1, 1993. It

asserted it was doing this because it was in financial extremis and had to cut back on expenditures in order to remain in the black. No basis for the decision or information supporting the necessity for the number of layoffs, the positions eliminated or the amount of monies which would be saved in this way and the expected uses of that money was provided. The effect of this change in personnel on the City's budgetary expectations was a change in conditions which occurred since the arbitration hearing, however, it was apparently not significant enough to warrant additional evidentially submissions.

The City Comptroller testified that on the basis of the income which she had been receiving, using the size and frequency of expenditures which occurred in the past year as if they were constant, she anticipated that the City would be soon be operating in the red.⁴ However, there were only the monthly expense records

4. The City Auditor insisted on using accounting terms and definitions for those terms throughout the hearing. He identifies a deficit as a situation where expenditures exceed revenues whether or not there is an excess of revenues that can easily cover expenditures without any negative implications. For purposes of determining whether the City can afford to make a given expenditure, such as a back pay award, deficit used in this way becomes a term of obfuscation not one of clarity. As a result, I have here refrained from using the word deficit to mean not having sufficient funds to pay bills and have used instead the vernacular references "red" as negative and "black" as positive when referring to the financial status of the city.

from which to estimate the accuracy of this information.

The Auditor testified that he had told the City Council that he estimated that the expenditures were too high and needed to be severely reduced for the City to stay in the black by the end of the fiscal year. He also testified, however, that this was his first year actually looking at the books on a regular basis and advising the City in this way. Although he had worked for the City for the past four years, he had only done the annual audits at the end of the fiscal year until this time.

In fact, there do appear to be some additional sources of income for the City in the new fiscal year. As of June, the City will begin having access to special police protection funds it is collecting. These monies should cover the cost of some of the police services in the future. They will be too little and come into availability too late for these funds to have much impact on the existing collective bargaining agreement, however. Moreover, they appear to be slightly less than the anticipated shortfall from lack of the state income tax surcharge funds. I have treated this income as if it effectively cancels out the reduction in state funds.

The auditor said that he was operating without a financial statement from prior years to work from. In conjunction with the value he placed on budgets, this meant he had nothing from prior years in terms of rate of expenditures and revenue collection or any way to identify extraordinary non-recurring situations which could influence his estimate of the City's financial status at the end of the fiscal year.

In addition, despite 10 to 15 requests of the City Attorney (Tr. 19), the auditor testified he has not received a statement as to the status of law suits and other possible liabilities or windfalls from legal encumbrances. For this reason, he has not been able to finally close the books and complete the audit of the City for the fiscal year ending April 30, 1992.

There is one law suit of particular interest. It involves the availability of tax monies from some portions of land annexed by the City. The monies are currently being placed into an escrow account. The suit will determine whether the monies will accrue to the City or whether other local governments will have them because it is determining the validity of the City's annexation actions. The status of the lawsuit was inquired about often during the course of the arbitration. It appeared to be uncertain and of

possible long duration. In fact, even the amount accrued in the escrow account was apparently unknown.⁵ Whatever the amount, it appears that the suit will take sufficient time so that it will not be available for any retroactive awards or for its assistance to the City's revenue during the pendency of the current contract term, ~~we~~. through December 31, 1993. Perhaps in future negotiations contingency plans could be included in a contractual provision that would only become binding when or if the City was successful in its bid to retain the escrowed taxes.

A number of other miscellaneous funds were discussed during the course of the arbitration. A tax levy had been passed to pay for a prior judicial judgment against the City. As the tax levy was expiring, the City was paying off the judgment. The possibility of continuing the tax levy for other purposes was raised as an option by the Union. Money apparently is shifted from special funds to the General Fund at various times but the rules governing such shifts were left nebulous. No one testifying for the

5. The Controller testified she did not know the amounts going into the escrow fund. The Auditor testified that this was the information he needed to finish up the fiscal year audit. It was supposed to come from the City Attorney. The Auditor did not have authority to get the account information from the bank since the matter was out of the City's control in the escrow and the amount in it was unknown.

City would entertain this as a realistic possibility, however.

The Union bases its argument that the City can in fact pay for the increase it asks on two factors: 1) it has available to it other possible sources of revenue it has yet to tap, and 2) the projected deficit is solely due to a decrease in State income tax surcharge revenue. The possibility of the City raising taxes or floating additional bond issues is always there. This does not, however, indicate they have the requisite ability to pay. If we were dealing with reallocating resources on hand, I could assert they did have the ability to pay. However, there has been no argument that the present allocation of resources, as budgeted, is either unreasonable or unwarranted. Nor has there been an argument which identifies which area of revenue should or even could be the subject of reallocation to pay for police salary increases. Without specific identification and argument where the actual funds are to pay for the proposed increases, I believe I would be remiss if I held the City able to pay.

Lt. Bargiel asserted during the hearing that the City had contracted to add another police officer to patrol the housing project. The source of part of the

money was a federal grant. The Union's assertion is that if the City had the money to do this, meet the grant match requirements, it had the money to pay for the raises. This was contradicted by the Mayor in his testimony. The Union sought to offer additional reiteration to counteract the Mayor's statement via affidavit filed in late February, 1993. Considerable time was spent in the city's brief discussing the problem. My concern is that if the grant came through, the City would be obligated to fulfill its terms and therefore the monies it had at its disposal from the grant for police salaries would be negligible. Further, because it would have to put up matching monies, its actual funds to pay police salaries would go down. However, even taking the Union's late submission as true on its face, this grant does not mean the City has the ability to pay for 4% retroactive raise and 4% raise from December 1, 1992 to the end of the contract term. The \$22,000 at issue in the housing authority argument doesn't cover the amount needed. For this reason, it is unnecessary to get into the validity or speciousness of an argument which appears to be grounded on the question whether the City did or

did not submit a grant application to the federal government on behalf of its Housing Authority.⁶

The question of the projected deficit is harder to pinpoint. The City never specifically denies that the reason it projects a negative balance at the end of the year is the absence of the anticipated amount of State income tax surcharge. This is a Union assertion. The documents do not support the claim, however. On its Exhibit 6, the City shows major revenue decreases in a number of areas in addition to the income tax surcharge. Some of these decreases were explained in terms of a front loaded industrial park lease arrangement which is causing the City to loose revenue as of 1992/1993. The rest were left as bald assertions.

In addition to the testimony claiming inability to pay, the City proffered three Affidavits purporting to contradict the Affidavit of Lt. Bargiel submitted after

6. It appears that the City is arguing that it didn't agree to hire an additional policeman, so any attempt by the Union to point to the grant is irrelevant. This argument is very questionable. If the City applied for the grant, it is assumed to have taken on the responsibility to follow through with the provisions for that grant if the grant is awarded or to turn down the grant. It cannot be both ways. Turning down federal grants without clear change of circumstances allegations can be a risky business in terms of future grant credibility, if nothing else. There is no information before me that this is what in fact happened.

the close of the hearing. The content of these affidavits did not confine themselves to the assertions present in Lt. Bargiel's statement. Moreover, one of the affidavits was from the City's Attorney, C. Nighohossian, a person who did not testify at the hearing. Attached to his statement were documents which purported to have been completed on or about December 22, 1992 or before. They could have and should have been presented at the hearing and subjected to scrutiny and cross examination. I have therefore given them little weight in my consideration.

The documents proffered by way of the additional affidavits in fact merely reiterate and underscore the testimony on the record. The Union expressed frustration at receiving continual assertions of deficit without full explanation of why different areas were expected to bring in less monies and why certain anticipated expenditure were expected to increase. It is an understandable concern. However, I cannot go beyond the record before me.

I am faced with a series of sworn to reiterated assertions of belief from the City Controller, Auditor and Mayor that the City does not have sufficient monies to pay any sizeable increase in wage rates to the police. No factual contradictions to these assertions

were provided. No alternative method of calculating or determining how the City could in fact pay for the desired raises was offered the arbitrator either in testimony or argument. Rather than any acceptable method of saying that the City has money and where it is located, I am given information on imminent lay offs of street department personnel who's combined salaries will total over \$100,000 per year. I cannot presume without some proof that the anti-Union animus is so great that the City would terminate the employment of 5+ people and loose the advantages of their public services in order merely to frustrate the request for retroactive raises. None has been offered. On the information I have, therefore, I find that the City is not able to pay the amount required in the Union's final offer.

Discussion

Even presuming good faith bargaining by all, the situation at hand is a fine example of the failure of the last best final offer system for both sides. Prior to the arbitral hearing and final offers, the bargaining postures were more fluid. The City was offering the Union 2.5% with no retroactivity and the Union was asking for between 3.5% to 5% with retroactivity. Both have solidified their positions at

further outer extremes. And both offers actually address the different priorities each side desires the arbitrator to focus on. As a result, the choice is not only between two extreme offers, it is between two very differently couched and directed offers that would not, without more, in other circumstances, be considered equivalent or comparable for purposes of making an either/or choice.

Given the evidence and argument presented here, the best possible package would appear to be a straight cost of living adjustment for both 1991 and 1992. It might even be possible to use the health insurance premium increase to reflect that adjustment for the first ten months of the contract, although that would involve a greater compromise. Such an agreement would appear to take into account the City's financial situation and yet allow the officers not to go backwards in their wage situation either because of the cost of living increases or the health insurance premium increases. It would thus satisfy the need to keep current rates of compensation for those to whom the City entrusts protection for its property and citizenry, without causing undue hardship on the City's budget or too large discrepancies with other City

workers or those of other communities. Unfortunately, this option was not available to me to order.

Last best final offer, as handled under this statute, appears to put a premium on delay tactics and refusal to deal. I am sure it may appear so here although from my point of view it is and must be a question of proof. The only way the statute can be seen as useful for all concerned as an impetus to compromise and settlement prior to arbitral award. However, when the negotiation spirit is lost in the litigation atmosphere perpetrated by the statutory provision, the result will, by necessity, be a harsh one.

The factor of most importance is thus the interest of the public. The Union's brief focuses on whether the City can support a reasonable increase. It assumes its final offer is reasonable without showing that it is. This is what the comparable information is for. This is where the lack of analysis and actual comparables has hurt the Union.

The negotiations for this contract which have ended in this award have been lengthy. Not providing adequate police protection in an atmosphere of increasing drug and gang related crime concerns is a potentially serious problem. The police assert they

are being asked to handle heavier work loads, with greater territory and more dangerous working conditions. They provided ample proof to this effect in the arrest and overall emergency call and crime statistics. The City need to work out a way beyond its regular financial resources to pay for this increased burden on its police officers. It must be addressed in future negotiations with the police officers if the City intends to retain a competent, cohesive, well run police department. It will not be addressed in this contract, however.

Unfortunately, I have no choice in this instance. The statute provides no leeway. Because of the size and extent of the Union's final offer, in view of the record before me regarding the City's current financial condition, I find that the City would be unable to pay the Union's final offer at this time. I therefore adopt the City's offer as final and binding.

AWARD

The City's final offer is adopted.

Signed this 15th day of April, 1993.

(S/AD)

Anne L. Draznin