

IN THE MATTER OF THE INTEREST ARBITRATION  
BEFORE MICHAEL E. de GRASSE, ARBITRATOR

CITY OF ALBANY, )  
 )  
Employer, )  
 ) DECISION OF ARBITRATOR  
and ) (Opinion, Findings and Award)  
 )  
TEAMSTERS LOCAL 223/Albany )  
Police Association, )  
 )  
Union. )

NATURE OF PROCEEDINGS

This interest arbitration concerns the only unresolved subject of the negotiations between the parties for a successor collective bargaining agreement. The case has been conducted in accordance with ORS 243.746.

The Union is represented by Anil S. Karia of the Tedesco Law Group, Portland, The Employer is represented by Adam S. Collier of Bullard Smith Jernstedt Wilson, Portland.

A hearing was held in Albany on August 9, 2012. Testimony was taken under oath or affirmation and exhibits were received. The parties agreed that the case is properly before this arbitrator and that all procedural prerequisites to a decision pursuant to statutory criteria have been satisfied or waived.

At the close of the hearing on August 9th, the parties agreed to review certain exhibits and correct them if necessary. Revised exhibits were received,

followed by briefs submitted in lieu of oral closing argument. In compliance with the parties' schedule, this case was deemed submitted for the arbitrator's decision on October 15, 2012.

#### ISSUE PRESENTED

The only issue is wages. Thus, the arbitrator must award either the Employer's "last best offer" (LBO) of wages, or the Union's.

#### STATUTORY CRITERIA

The criteria that govern the arbitrator's decision in this case are set forth in ORS 243.746(4):

Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, unresolved mandatory subjects submitted to the arbitrator in the parties' last best offer packages shall be decided by the arbitrator. Arbitrators shall base their findings and opinions on these criteria giving first priority to paragraph (a) of this subsection and secondary priority to paragraphs (b) to (h) of this subsection as follows:

- (a) The interest and welfare of the public.
- (b) The reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies, which does not include funds in contemplation of settlement of the labor dispute, shall not be considered as available toward a settlement.
- (c) The ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided.
- (d) The overall compensation presently received by the employees, including direct wage compensation,

vacations, holidays and other paid excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.

(e) Comparison of the overall compensation of other employees performing similar services with the same or other employees in comparable communities. As used in this paragraph, "comparable" is limited to communities of the same or nearest population range within Oregon. Notwithstanding the provisions of this paragraph, the following additional definitions of "comparable" apply in the situations described as follows:

(A) For any city with a population of more than 325,000, "comparable" includes comparison to out-of-state cities of the same or similar size;

(B) For counties with a population of more than 400,000, "comparable" includes comparison to out-of-state counties of the same or similar size; and

(C) For the State of Oregon, "comparable" includes comparison to other states.

(f) The CPI-All Cities Index, commonly known as the cost of living.

(g) The stipulations of the parties.

(h) Such other factors, consistent with paragraphs (a) to (g) of this subsection as are traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of employment. However, the arbitrator shall not use such other factors if in the judgment of the arbitrator, the factors in paragraphs (a) to (g) of this subsection provide sufficient evidence for an award.

#### RATIONALE

Both parties' LBOs are supported by fact and logic. The Employer proposes a wage freeze for the first year of the three-year contract (FY 2011-12), and a 2% wage increase for each of the next two years, effective July 1st of 2012

and 2013. The Union proposes a 1% wage increase for the second half only of the first contract year (January-June 2012). This increase would be followed by raises effective July 1, 2012 and July 1, 2013, equal to the percent increase in the National CPI-W from March to March, with a minimum of 1% and a maximum of 4%. The increase for the second year is now known to be 2.9%.

Neither party's proposal is contrary to the interest and welfare of the public. Both the Union and the Employer seek in good faith to continue to provide high quality police services within reasonable budgetary constraints. Thus, resort to criteria of secondary priority must be had. Three are pertinent: ability to pay; overall compensation received; and comparability.

With respect to ability to pay, the Employer has the sounder approach. Times are hard economically and the outlook is unpromising. Conceptually, the Union fails to acknowledge real costs by contending that only the difference between the cost of the Union's proposal and that of the Employer's proposal should be considered in determining the Employer's ability to pay. Similarly, by failing to recognize the compounding effect of successive percentage increases, the Union understates actual costs. Both factually and logically, the Employer's proposal should be favored.

With respect to overall compensation, the Union's approach does not give sufficient consideration to health care benefits, which all agree are generous. Thus, the Employer has the edge with respect to this criterion.

With respect to comparability, the Employer's selection meets the statutory criterion, and the Union's does not. The statute clearly requires comparable cities to be those "nearest" in population to Albany. The Union's choice of four cities next in order of greater population and four cities next in order of lesser population does not satisfy this statutory criterion.

#### FINDINGS

1. The LBO of the Employer and the LBO of the Union are designed to promote the interest and welfare of the public.
2. The LBO of the Employer better satisfies secondary criteria mandated by statute.

#### AWARD

In accordance with the governing statute, the Employer's LBO is awarded and shall be the wage provision of the collective bargaining agreement that is the subject of this arbitration.

Dated this 26th day of October, 2012.

  
Michael E. de Grasse  
Arbitrator