

Briefs were submitted by e-mail transmission on February 1, 2016.

The Employer challenged a submission made by the Union contemporaneous with its' final brief and the record was reopened to allow additional submissions by February 11, 2016.

The record was closed on February 11, 2016 upon receipt of final submissions.

APPEARANCES:

FOR THE EMPLOYER

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FOR THE UNION

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OVERVIEW:

The parties in the above matter were unable to arrive at an acceptable wage increase for the Ramsey County Sheriff's Commanders for the years 2015, 2016 and 2017. While there are nine certified issues, the Union is proposing an increase in total compensation for Sheriff's Commanders over the next three years of 12.1% and the Employer is proposing an increase in total compensation for Sheriff's Commanders over the next three years of 7.1%. The position stated at hearing and argued by the Union differs from the issues submitted for certification. In essence, the Union is asking for a general wage increase or alternatively a wage increase plus compensation under either/or the "POST License premium" provision of the contract or the "Market Adjustment" provision of the contract that will result in an increase in compensation equivalent to the Union's proposed general wage increase.

The final positions submitted by the Union to the Bureau of Mediation

Services are:

1. General wage increase for 2015 at 3%.
2. General wage increase for 2016 at 4%.
3. General wage increase for 2017 at 5.1%.
4. Annual POST License premium 2015 increase from \$124.63 to \$1,000.00.
5. Annual POST License premium 2016 increase from \$124.63 to \$1,000.00.
6. Annual POST License premium 2017 increase from \$124.63 to \$1,000.00.
7. Market Adjustment for 2015 should be 5% effective 1/1/15, or an equivalent amount of 5% spread out over the three year duration of the contract.
8. Market Adjustment for 2016 should be 5% effective 1/1/15, or an equivalent amount of 5% spread out over the three year duration of the contract.
9. Market Adjustment for 2017 should be 5% effective 1/1/15, or an equivalent amount of 5% spread out over the three year duration of the contract.

The final positions submitted to the Bureau of Mediation Services by the Employer are:

- General Wage increase for 2015 at 2%.
- General Wage increase for 2016 at 2.5%.
- General Wage increase for 2017 at 2.6%.
- Annual Post License premium 2015 should not be changed.
- Annual Post License premium 2016 should not be changed.
- Annual Post License premium 2017 should not be changed.
- Market Adjustment for 2015 should not be awarded.
- Market Adjustment for 2016 should not be awarded.
- Market Adjustment for 2017 should not be awarded.

SUMMARY OF UNION’S ARGUMENT:

The Union argues that the following four factors normally relied upon by interest arbitrators support its’ position:

- The Employer has the ability to pay the proposed award.
- The Union’s proposed award would not take the Employer out of compliance.
- The internal settlement pattern is not a true indicator of prospective wages for Ramsey County Commanders and should be ignored in this case.
- The Union’s proposed award is supported by the external comparisons, which demonstrate that Ramsey County Commanders are paid far below similarly situated employees in comparable communities.

The financial condition of Ramsey County is excellent. The County has a AAA bond rating from Standard and Poor’s and a Aaa rating from Moody’s. The credit ratings are the highest possible assigned to a bond issuer by rating agencies. The County’s General Fund in 2014 grew by \$25,354, 460 more than expected and the investment earnings of the County for 2014 were \$3,342,301. Additionally, the unemployment rate for the County (2016-2017) is at 3.9%, which is below the State and National averages. The arbitrator should consider the strong financial condition and find that the County has the ability to pay the proposed award.

The Employer is currently in compliance with the Pay Equity Act. In order to be in compliance Ramsey County must have an underpayment ratio of 80.0 or more. The compliance report shows that Ramsey County has an underpayment ratio of 90.41. According to the compliance report the Deputy Sheriff’s Commander unit is a male dominated group that is currently \$255.64 per month below predicted pay. An

Award of the Union's wage proposal will not move Ramsey County out of Pay Equity compliance.

The internal settlement pattern should not be followed in this case. Negotiations and settlement agreements that strictly follow an internal settlement pattern and do not consider other factors may result in the type of situation described by Arbitrator Bard in *City of Duluth, Minnesota v. Duluth Police Union, BMS 07-PN-0383, 2007, p. 10*. "Carried to its logical conclusion it effectively eliminates collective bargaining and locks every Union in a city to the pay raise negotiated by the first Union to settle. If followed rigidly, it would encourage public employers to always settle first with its smallest and weakest union and then claim a binding precedent had been set for wages for the remaining groups. It also has the effect of completely eliminating consideration of market factors and differing demands of differing jobs."

The Union observes that the Ramsey County Sheriff Commanders, together with Deputy Sheriffs, Deputy-Sheriff-Sergeant and Probation bargaining units, all essential employees, have not settled. The groups are not willing to settle for the same percentage wage increase as the County's other bargaining units. This bargaining units' unwillingness to settle is due to a significant disparity in wages between Ramsey County Sheriff's Commanders and comparable positions in other comparable communities.

The Union also notes that internal wage settlements were not used, when the County Board of Commissioners used the external market to formulate its' pay increase. The Board's pay was increased in order to keep pace with labor unions and

salaries in neighboring communities. Similarly, the Sheriff recently received a pay raise of 6.8% in order to bring his salary closer in line with Sheriffs in surrounding communities. The external market should be given consideration in setting wages for this bargaining unit, just as it was considered when the Employer gave pay increases to the County Board and the Sheriff.

The wages paid to similarly situated employees in comparable communities should be given great weight in establishing wages for the Ramsey County Sheriff's Commanders. The County has often relied upon the City of St. Paul and other cities for wage comparisons. Ramsey County has also used other Counties for wage comparisons. Whether wage comparisons are made between St. Paul, Lakeville or other Counties in the region, the Ramsey County Sheriff's Commanders wages are low.

The top wage for City of St. Paul Police Commanders are \$1,403.94 per month are higher than the top wage for Ramsey County Sheriffs' Commanders. In fact, testimony at hearing established that the scope of work performed by Sheriff's Commanders is much broader than St. Paul Police Commanders. If the Employer's proposal is awarded, the pay gap between Ramsey County Sheriff's Commanders and St. Paul Commanders will increase in 2015.

If the wages of Sheriff's Commanders in the seven surrounding Counties are compared with Ramsey County Sheriff Commanders, the Ramsey County Sheriff's Commanders wages are at the bottom of the comparison list. The Employer's proposed wage increase will not allow the bargaining unit to keep pace with similarly situated bargaining units. If the Employer's wage increase is awarded the

gap between the bargaining unit and wages for Sheriff's Commanders in the seven County comparison group will grow.

Given Ramsey County's positive economic situation, the fact that the Union's proposed wage increase would not cause the county to be out of compliance with wage equity, and the downward trend of wages for Ramsey County Commanders compared to similar employees in the seven County comparison group and in several cities that are regularly compared with Ramsey County, the Union's wage proposal should be awarded in 2015, 2016 and 2017.

Alternatively, the Employer's wage proposal should be awarded in 2015, 2016 and 2017 and an additional 5% wage increase should be awarded by either increasing the annual Post license premium in 2015, 2016 and 2017 to \$1,000.00 per year or awarding a market wage adjustment of 5% in 2015 or distributed over the years 2015, 2016 and 2017.

SUMMARY OF EMPLOYER'S POSITION:

The Employer contends that its' wage proposal should be accepted because it most closely resembles what the parties would have agreed to voluntarily. While arbitrators in Minnesota rely on the ability to pay, internal equity, external wage comparisons and other economic and non economic factors, the County asserts that Ramsey County's specific economic circumstances and the well established internal wage pattern should be given the greatest weight by the arbitrator.

Ramsey County currently enjoys good fiscal health. It has triple A bond ratings from Moody's and Standard and Poor's and has held those ratings for five consecutive years. It also has a positive fund balance. However, the good fiscal

health of the County is the result of careful and responsible budget practices. The County has imposed modest tax levy increases and made gradual increases in expenditures. The Union's proposed wage increases would be counter to the moderate fiscal practices that have allowed the County to achieve fiscal health. The County has already levied and budgeted for 2015, 2016 and 2017 and the budget does not include sufficient funds to cover the large wage increases proposed by the Union.

Underlying the Employer's argument for fiscal constraint are demographic and geographic factors. The County in square miles is the smallest in the seven county metropolitan region. A high percentage of the land in the County does not generate tax revenue because the land is dedicated to parks and to public buildings. There is very little land available for commercial development. Consequently, residential property taxes are a primary revenue source. The concentration of poverty in Ramsey County is nearly 30%, compared to the 13.85% concentration average in the seven county metropolitan region. The number of subsidized housing units per 1,000 acres in Ramsey County is also much higher than the number of subsidized housing units per 1,000 acres in the other metropolitan counties. Because Ramsey County is more vulnerable economically than other metropolitan area Counties, it is necessary for the County to increase wages moderately.

The internal wage settlement pattern for Ramsey County mirrors the County's wage proposal. At this time 84% of represented employees have settled for the same wage package that the County has offered to the Sheriff's Commanders. The contracts that have settled include both essential and non-essential employees.

The Union's wage proposal is so many times greater than the wage settlement pattern that it simply can not be justified. The Employer asks the arbitrator to give great weight to the internal wage settlement pattern and County wage proposal.

Use of external wage comparison is problematic in this situation. First, the duties of Sheriff's Commanders in Ramsey County do not line up perfectly with command positions in nearby cities and counties. In some instances, the duties of Lieutenants correspond closely with the duties of the Ramsey County Commanders. In other instances, the role of Commander in other jurisdictions is more closely comparable to a Ramsey County Deputy Chief.

The use of external comparisons is often relied upon, when an Employer is having retention and recruitment problems. Neither retention nor recruitment has been an issue with Ramsey Sheriff's County Commanders.

If external comparisons are made, the guidance of arbitrator Harry Crump should be followed. In a decision from April of 2015 Arbitrator Crump asserted that the traditional comparison group for Ramsey County Commanders is Hennepin County Lieutenants. The wage proposal made by the Employer compares favorably with Hennepin County Sheriff Lieutenants wages.

Ramsey County is in compliance with the Minnesota pay Equity Act.

The Employer opposes making a "market adjustment" in part because the proposal made by the Union is vague and because it is a new method of compensation that has not been negotiated. If the system of compensation is going to be modified, the change should be the result of negotiations.

OPINION:

The County has the ability to pay either of the wage increases proposed by the parties. While the Union's wage proposals, as certified by the Bureau of Mediation Services, are somewhat confusing and represent a very substantial departure from the internal wage settlement pattern (5% general wage increase, plus potentially 15% in market adjustments and an \$875 per year increase for Post License premium), the clarified position given at hearing argues alternative wage increase options. The clarified position asks for an award that will result in a wage increase of 5% more than the Employer's proposal over three years.

The arbitrator agrees that the Union's proposed changes certified by the Bureau would not be justified, despite the County's excellent fiscal health. While the County appears to have the ability to pay the large wage increase proposed at hearing by the Union, the high level of poverty within the County, the County's small size, its' high percentage of park land and public buildings and low percentage of space available for development are factors that can negatively impact the County's ability to pay.

The wage proposal made by the Employer is consistent with the internal wage settlements between the Employer and 84% of the organized workforce. The number of settlements and the consistent rate of settlement must be given substantial weight in this case and other factors must be compelling to result in a departure from the internal wage settlement pattern.

In fact, the Ramsey County Sheriff's Commanders wages are lower than all Sheriff Commander and Sheriff Captain wages within the seven (7) county

metropolitan area and they are lower than wages for St. Paul Commanders. Not only are the wages of this bargaining unit the lowest within the comparison group but the Employer's proposed wage increase will not keep pace with wage increases within the comparison group.

It should be noted that the City of St. Paul and Ramsey County share the problems of concentrated poverty, limited land development potential, extensive park land, and a high concentration of public buildings, which impact the ability to generate revenue. Nevertheless Police Commander wages in St. Paul are higher than Ramsey County Sheriff's Commanders.

While neither wage proposal will move the County out of pay equity compliance, the predicted pay report shows that the wages of Sheriffs Commanders are 3.2% below predicted pay. The predicted pay report is an internal wage comparison, which gives added weight to the Union's argument that Sheriffs Commanders wages are too low. Not only are the wages of the bargaining unit lower than all Commanders and Captains within the comparison group but the bargaining unit wages are lower than predicted pay for the position within Ramsey County.

There is compelling evidence that wages of the Sheriffs Commanders bargaining unit are too low. Hence, there is a basis for some departure from the established wage settlement pattern. If the wages for Sheriffs Commanders are brought up to predicted pay within the County, they will also not lose ground within the external comparison group. Consequently, a one-time market adjustment in 2015 to wages of Sheriffs Commanders of 3.2% should be awarded in addition to the wage increases proposed by the Employer.

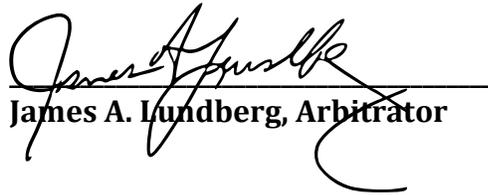
AWARD:

The following is hereby awarded:

1. General wage increase for 2015 of 2% **Wage Appendix**
2. General wage increase for 2016 of 2.5% **Wage Appendix**
3. General wage increase for 2017 of 2.6% **Wage Appendix**
4. Annual POST License premium 2015 shall not be changed. **Article 23**
Wages
5. Annual POST License premium 2016 shall not be changed. **Article 23**
Wages
6. Annual POST License premium 2017 shall not be changed. **Article 23**
Wages
7. Market Adjustment for 2015 of 3.2% shall be added to **Article 23 Wages**.

The following shall be added to **Article 23**: *"In 2015 Sheriffs Commanders shall receive a 3.2% market wage increase in wages effective January 1, 2015."*
8. Market Adjustment 2016 is not awarded. **Article 23 Wages**
9. Market Adjustment 2017 is not awarded. **Article 23 Wages**

Dated: February 20, 2016


James A. Lundberg, Arbitrator

