

BEFORE THE ARBITRATOR

In the Matter of Interest Arbitration Between

THE CITY OF CARTER LAKE, IOWA,

Employer,

and

Iowa PERB CEO 0109, BU 1212

CARTER LAKE PEACE OFFICERS ASSOCIATION,

Union.

Appearances:

For City of Carter Lake:

Michael J. O'Bradovich
City Attorney for the City of Carter Lake

For Carter Lake Peace Officers Association:

Nate Willems
Rush and Nicholson, PLC

Arbitrator:

Susan J.M. Bauman

Pursuant to Iowa Code, Chapter 20, the City of Carter Lake, Iowa, hereinafter City or Employer, and the Carter Lake Peace Officers Association, hereinafter Union, a public safety unit, reached impasse in their collective bargaining negotiations for the parties' successor collective bargaining agreement for the period July 1, 2023 through June 30, 2026. The undersigned was jointly selected from a panel of arbitrators provided by Iowa PERB and was advised on February 28, 2023, that she had been selected to serve as the Impartial Arbitrator to hear evidence and arguments concerning the outstanding issues and to render an Award. A virtual hearing was held on March 10, 2023. The hearing was recorded via Zoom.¹ At the close of evidence, both parties had the opportunity to make closing arguments, where upon the record was closed. Based upon all the evidence presented and arguments made, the Arbitrator renders this Opinion and Award.

ISSUE

The parties agreed that the only issue to be decided by the undersigned was the wages and wage matrix for 2023.

¹ The Zoom recording, copies of the Exhibits submitted, and this Award were forwarded to Iowa PERB on the day this Award was issued.

CHAPTER 20 STANDARDS

Chapter 20, at Section 20.22 Binding Arbitration, subsection 7 provides:

For an arbitration involving a bargaining unit that has at least thirty percent of members who are public safety employees, the arbitrator shall consider and specifically address in the arbitrator's determination, in addition to any other relevant factors, the following factors:

- a. Past collective bargaining contracts between the parties including the bargaining that led up to said contracts.
- b. 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 classification involved.
- c. 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.

FINAL OFFERS

The City of Carter Lake proposes a 12% wage increase.

The Union proposes a 12% wage increase and modification of the wage matrix including three additional steps on the wage matrix with increases of 4.5% each year.

POSITIONS OF THE PARTIES

The Union argues that the collective bargaining process is important and that the bargaining representatives, appointed by their respective parties, take tentative agreements back to their principal for ratification. There was a Tentative Agreement, resolution at the bargaining table. The parties shook hands. The Union ratified it. After that, the City did the calculations and became dissatisfied with the numbers. However, the agreement is not less reasonable because the city does not like it.

With the Union's proposal, Carter Lake wages are the second of five in the comparison group. If the City of Windsor Heights is the most comparable, there is no question that the Union must prevail as Carter Lake wages would continue to be below that of Windsor Heights. Wages will increase significantly under either proposal, but what the Union proposed does not make Carter Lake wages an outlier.

The Union does not contend that the Carter Lake wages should be the same as Council Bluffs, but the wages should be in line with the comparables and the labor market. The Union proposal is the most reasonable and was the deal struck at the bargaining table.

The City points out that Iowa statutes require the City Council to vote and agree to a proposal. This did not happen. At issue is what is fair and reasonable under the circumstances? The December meeting of the City Council was the first time that the steps came into play. The Clerk did the calculations resulting in both the negotiating team and the City Council being hesitant to ratify the proposal.

Windsor Heights is physically affected by Des Moines as Carter Lake is affected by its proximity to Council Bluffs and Omaha. This is the most comparable of the communities proposed by the Union.

There was no tentative agreement and the City’s proposal is the most fair and reasonable.

BACKGROUND

Carter Lake is the only community in Iowa that is west of the Missouri River, lying in close proximity to both Council Bluffs, Iowa and Omaha, Nebraska. According to the 2020 census, its population was 3,248 people. The 2023 population is estimated to be 3,794². The City operates a police department which consists of a Chief of Police, a Captain, two (2) Sergeants, and eight (8) police officers. The Union represents all but the Chief of Police for purposes of collective bargaining.

The parties are signatory to a collective bargaining agreement for the period July 1, 2020 through June 30, 2023. In September 2022, they entered into negotiations for a successor agreement for the period July 1, 2023 through June 30, 2026. At the first meeting, the Union made a comprehensive proposal which was received by the City. At the close of the meeting, the parties agreed to meet again the following month. At a subsequent meeting in October, the City made a counterproposal in which it offered a 12% wage increase over the term of the agreement, to be taken however the Union wanted.³ Again, at the close of the meeting the parties agreed to meet again. They met again on November 7, 2022, and the Union proposed 12% across the board for 2023-2024 and revision of the wage matrix including the addition of 3 steps at 4.5% to Step 5, Step 6 and Step 7. It also proposed no increase in 2024-2025 and a 4% across the board increase in 2025-2026. After discussions about this and other proposals, the parties agreed to meet again in December.

On December 8, 2022, the Union made the following wage proposal:

	Step1 Start	Step 2 1 Year	Step 3 2 Years	Step 4 3 Years	Step 5 4 Years	Step 6 5 Years	Step 7 6 Years	Step 8 7 Years
Monthly								
Yearly								
Hourly	27.60	29.03	31.28	32.77	34.28	35.82	37.43	39.11
Overtime								
Sergeant	41.07	42.92						
Overtime								
Captain	45.07	47.10						
Overtime								

Union Chief Negotiator Sam Christiansen testified that during the course of the December meeting the City requested that the Union drop its longevity proposal and the wage increase in the third year of the proposed agreement. The Union did not drop its longevity proposal but did drop the proposed increase for 2025-2026. Mayor Rob Cumberledge then asked the two council members that were present as part

² Population information was obtained from the internet.
³ The parties discussed other matters which were resolved by them and are not repeated herein.

of the City's bargaining team if they were "OK" with the proposal. Mr. Christiansen testified that each said "Yes." The bargaining teams then stood up and shook hands, and did not discuss another meeting.

The Union believed that a tentative agreement between the City of Carter Lake and the Carter Lake Peace Officers Association had been reached and held a ratification meeting that night. The Tentative Agreement was ratified by the Union.

Mayor Cumberledge does not agree that a tentative agreement was reached. He agrees that a new date for bargaining was not set at the end of the December meeting, but instead he said that he advised the Union that he would move the proposal forward "up the chain". The City Clerk costed out the two proposals sometime after the December bargaining session. The Mayor was not available to attend the January Council meeting, but a special meeting was held in February. The record is silent as to whether the Council ever voted on the proposed agreement. Another bargaining session was held on February 14, 2023, and this interest arbitration ensued.

DISCUSSION

Interest arbitration is available to public safety bargaining units in Iowa which do not have the right to strike. It is axiomatic that an interest arbitration award must be decided in a manner that, to the extent possible, reflects a settlement the parties would have reached to resolve (or avoid) a strike. Accordingly, if the parties had reached a tentative agreement, the terms of such an Agreement would provide strong support for awarding the terms of that agreement into the successor collective bargaining agreement. Here, the Union thought it had reached a tentative agreement with the City and, in fact, held a ratification vote based on that presumed agreement. At the end of the December bargaining session, the Mayor asked the other members of the City's bargaining team if they were okay with the Union's proposal, and they answered in the affirmative. The City did not indicate that there was a need to schedule another bargaining session, as would be the case if agreement had not been reached. The parties shook hands at the end of the session, in a manner consistent with having reached a tentative agreement.

Although the Union had made its wage matrix proposal as early as the November 7, 2022 bargaining session, the City did not study its implications. Prior to the December bargaining session, the City had not costed the Union's proposal. When the City Clerk did the costing, sometime between that December meeting and February 1, 2023, the City realized that some individuals would receive increases of more than 30% if the Union's proposal were to be implemented.⁴ Members of the City Council did not feel that was appropriate and the parties returned to the bargaining table on February 14, 2023. That day was the first time the costing was shared with the Union. The City made no new proposals, other than the 12% increase it had offered early in the bargaining process.

The totality of the circumstances at the bargaining table in December, 2022, lead the undersigned to the conclusion that a tentative agreement was reached between the parties. The City agreed to the new wage matrix without knowing its cost or realizing the percentage increases some officers would receive, but the members of the bargaining team, consisting of the Mayor and two (2) council members, were bound to

⁴ Interestingly, the costing which was submitted into evidence as Joint Exhibit 3, includes the cost of the Chief of Police. It appears to the undersigned that since the Chief is not a member of the bargaining unit, he would not necessarily receive the increases that are proposed by the Union. Similarly, the wage matrix submitted by the Union does not include Steps 3 through 8 for Sergeants or Captains. Presumably, therefore, the costing is incorrect as these individuals would only receive the 12% increase that the City proposed.

recommend adoption of the tentative agreement to the entire City Council, consisting of five (5) members. The Council, apparently, did not vote to approve the tentative agreement, though the record is silent as to whether the Council voted at all.

Having found that a tentative agreement was reached, if that agreement fits within the statutory criteria to be considered by interest arbitrators under the Iowa code, it should be considered and be given significant weight. In fact, the burden is upon the party rejecting the tentative agreement, here the City of Carter Lake, to persuade the undersigned as to why the agreement should be set aside.⁵

As noted above, the criteria to be considered are:

- a. Past collective bargaining contracts between the parties including the bargaining that led up to said contracts.
- b. 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 classification involved.
- c. 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.

The record is silent with respect to the bargaining that led to past collective bargaining agreements between the parties. It appears that the City and the Union have had a good relationship and have reached agreements without resort to third-party intervention in the past. They were able to reach agreement on numerous issues in this contract negotiation but have been unable to resolve the final issue with regard to modification of the wage matrix and the additional steps.

Inasmuch as the parties have not gone to interest arbitration prior to this time, they do not have an agreed-upon set of comparable communities. The Union provided maps of the State of Iowa and identified four (4) communities of populations similar to that of Carter Lake which are suburbs of larger metropolitan areas. These include Eldridge, population 6600, a suburb of Davenport; Mount Vernon, population 4500, a suburb of Cedar Rapids; Polk City, population 5400, a suburb of Des Moines; and Windsor Heights, population 5200, another suburb of Des Moines. The Employer did not offer any cities as comparables. The Employer questioned whether the Union had considered the physical size of the cities in question, the number of police officers employed by the cities, or the percentage of the city budget expended on police services. Sam Christiansen, Union representative, was clear that he looked only at the populations and proximity to large urban areas to determine comparables. The Union also provided wage data from the local labor market, including Council Bluffs, Omaha, and Douglas County, but did not argue that these were comparable communities, only that they were part of the same labor market as Carter Lake.

Although the Employer appeared to question the bases on which the Union chose the cities it considers to be comparables, and implied that Windsor Heights was the closest comparable to Carter Lake, the Employer did not object to consideration of any of the four (4) cities proposed by the Union and the undersigned accepts them as the communities to consider in determining this Award.

⁵ See *Des Moines Metropolitan Transit Authority and Amalgamed Transit Union, Division 441*, March 14, 1989 (Perry), at page 5.

A review of the wages for these communities shows that if the City proposal is accepted, the wages of Police Officers in Carter Lake would be below those of Eldridge until four (4) years of service. Wages of Sergeants would be above that of Eldridge Sergeants until one (1) year of service, after which the Carter Lake wage would be lower. With respect to Mount Vernon, wages of police officers and sergeants in Carter Lake would be below that of officers and sergeants through 20 years of service. Compared to Polk City, the City's proposal would make wages of police officers in Carter Lake below that of officers in Polk City except during the period of one (1) to three (3) years of service. Finally, the wages of police officers in Carter Lake would be below that of officers in Windsor Heights for their entire tenure under the City's offer.

When compared to the Union's proposal, Carter Lake police officers would be below that of officers in Windsor Heights throughout their tenure. They would be below that of officers in Eldridge for the first 2 years, but Carter Lake officers would be paid more than Eldridge officers thereafter, and Carter Lake Sergeants would be paid more than Eldridge sergeants from the start. Compared to Mount Vernon, the Union's proposal pays more to both police officers and sergeants except for police officers with one (1) to three (3) years of service. The Union's proposal would pay police officers more than officers in Polk City throughout their employment.

In addition to looking at the comparison of the actual wages paid, it is important to note that the longevity steps in Eldridge occur at 1 year, 3 years, 5 years, 7 years, and 10 years. In Mount Vernon, they occur at 1 year, 3 years, 5 years, 10 years, 15 years and 20 years. In Polk City, they occur at 1 year, 3 years, 4 years, 5 years, 7 years, 10 years, 15 years, and 20 years. Finally, longevity steps in Windsor Heights occur at 1 year, 3 years, 4 years, 5 years, and 7 years.

The Union proposal herein provides for steps at 1 year, 2 years, 3 years, 4 years, 5 years, 6 years and 7 years. The City proposal is the status quo, with longevity steps start, 3 years, 4-6 years of service, 7-9 years of service and 10-12 years of service.⁶ This means that the highest wage an officer could obtain would be after 10 years of service rather than the 7 years the Union proposes.

The wage comparisons show that the police officer members of the bargaining unit would rank fourth of five on wages under the Employer's proposal and second of five under the Union's proposal. Inasmuch as the record is incomplete with respect to the current ranking of Carter Lake police officers compared to the other communities⁷, the undersigned is not in a position to ascertain whether the Union's proposal results in a significant change in circumstances for Union members. Given, however, that the Employer appears to agree that Windsor Heights is the most comparable community and that under both the Union's and the City's proposal, Carter Lake wages are below that of Windsor Heights, it is apparent that the Union proposal is reasonable.

Looking specifically at the modification to the wage matrix proposed by the Union, the proposal mirrors the steps in the Windsor Heights collective bargaining agreement. The Employer proposal, status quo on

⁶ Although the City never presented its proposal in written form, from the testimony regarding starting pay, it is the undersigned's interpretation that the parties agreed to eliminate the new hire and 6 months step included in the 2020-2023 agreement and just have a starting wage, Step 1.

⁷ Union Exhibit 3 consists of parts of the collective bargaining agreements for the comparable communities. The excerpt for Windsor Heights covers the period 2023-2026, so it is not possible to compare 2022 wages to those in Carter Lake. However, one can assume Carter Lake wages are lower than Windsor Heights since they would be lower in 2023 under both the City's and the Union's proposals.

steps, is similar to the Eldridge, Mount Vernon, and Polk City wage grids, except that employees in Mount Vernon and Polk City continue to receive step increases until they reach 20 years of employment. However, with the 12% wage increase proposed by the City and status quo with respect to steps, Carter Lake wages are below that of the comparable communities with the exception of one year in Polk City and after 4 years for police officers and the first year for sergeants in Eldridge.

Looking at the totality of the information gleaned from the wages and wage matrices of the comparable communities, the undersigned finds that the Union proposal is the fairer and more equitable.

Although the Union provided the wage schedules from Omaha, Council Bluffs, and Douglas County, it did not contend that these were comparable communities. Rather, the information was provided due to the proximity of Carter Lake to these jurisdictions and the fact that they compete for starting officers. In addition, Mr. Christiansen testified that Carter Lake has lost officers to these communities, and that retention could be an issue. Mayor Cumberledge acknowledged that Carter Lake lost about one officer a year to other jurisdictions. However, in his opinion, based on exit interviews with these officers, most are leaving because the job at Carter Lake was boring, the individuals in question wanted "to chase bad guys". They did not leave for higher pay, but for more opportunities. There are no detectives in Carter Lake and there is little room for advancement.

The wages and wage matrices of these larger communities cannot be considered as comparable to the expectation of wages in Carter Lake. These collective bargaining agreements are informative and supportive of the Union's position herein, but they are in no way dispositive. As noted above, the information from the four (4) communities identified as comparable, and especially Windsor Heights, lead to the finding that the Union's proposal is more fair and equitable.

The third factor that must be considered is 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." Neither party presented evidence or testimony regarding these matters. Mayor Cumberledge testified that currently the entire police budget comprises 38% of the City of Carter Lake's budget. He provided no information as to what percentage the police department budget would be under the City's or the Union's proposal; he did not indicate that adoption of the Union's proposal would affect the provision of services in Carter Lake, nor that economic adjustments would have to be made if the Union's proposal were to be incorporated into the collective bargaining agreement between the parties. Mayor Cumberledge appeared to be more concerned about the potential public outcry when it was learned that some officers were receiving wage increases in excess of 30%, but he did not raise any concerns about the cost of adopting the proposal.

The Undersigned concludes that there was a tentative agreement between the parties that the City agreed to before determining the cost of the Union proposal. The City reneged on its agreement after determining the cost, especially the percentage increases. Inasmuch as the tentative agreement fits within the statutory requirements to be considered, it has been given significant weight. The City of Carter Lake had the burden to persuade the undersigned as to why it should be set aside. The Employer has failed to do so.

AWARD

Having carefully considered all of the evidence, testimony and arguments of the parties, the Undersigned determines that the Union proposal shall be incorporated into the 2023-2026 collective bargaining agreement between the City of Carter Lake and the Carter Lake Peace Officers Association.

Dated this 21st day of March, 2023 at Madison, Wisconsin.

/s/

Susan J.M. Bauman
Arbitrator