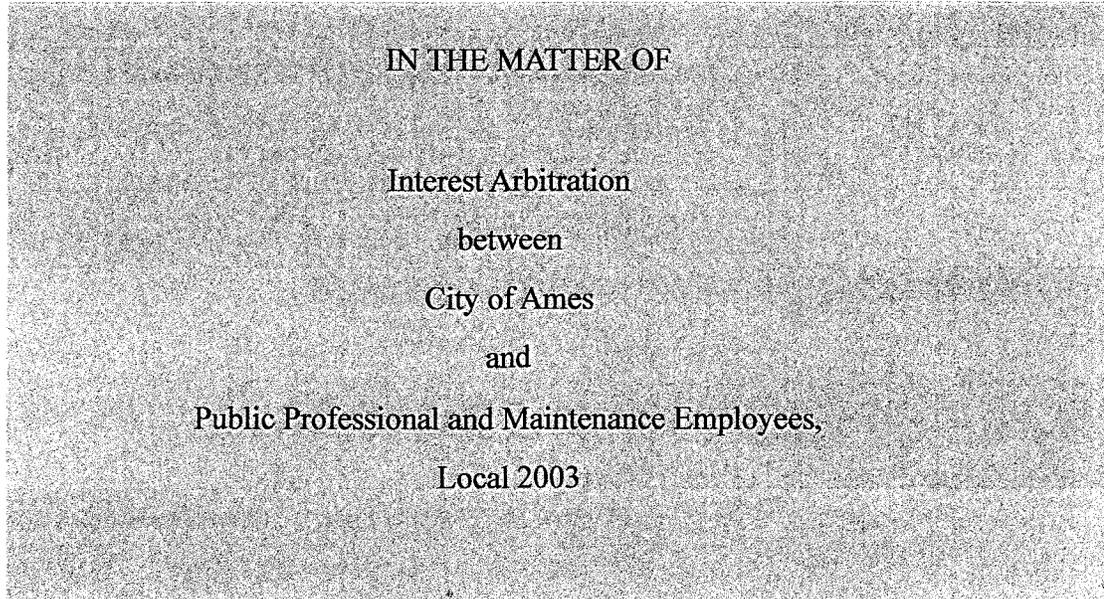


**DECISION OF THE ARBITRATOR**



**IOWA PERB CASE NO. CEO:41/Sector :1**

**REPRESENTATIVES:**

**City:** James Hanks, Attorney

**Local 2003:** Mark Hubbard, Business Representative  
Clint Hertz, Police Officer

**DATE OF DECISION:**

April 11, 2016

**DATE OF HEARING:**

March 25, 2016

RECEIVED  
2016 APR 13 PM 1:00  
PUBLIC EMPLOYER AND  
RELATIONS BOARD

## **EXHIBITS:**

- City of Ames: Notebook of Exhibits, Nos. A1-5, B 1-6, C 1-8, D 1-5, and E 1 and 2.
- Local 2003: Notebook of Exhibits, Nos. 1-15.

## **ARBITRATOR'S AUTHORITY:**

By an E-Mail dated February 12, 2016, the Iowa Public Employment Board (PERB) notified Peter Obermeyer of his selection by the parties to hear and decide PERB Case No. CEO:41/Sector 1. The parties to the dispute were identified as the City of Ames (Employer or City) and the Public Professional and Maintenance Employees, Local 2003 (Union or Local 2003). The bargaining unit involved was Police Officers and related employees of the Employer .

On Friday, March 25, 2016, at 9:30 A.M., a hearing was held in the Council Chambers of the City Hall, Ames, 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 March 25, 2016, 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 selection of the City's or Local 2003'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.

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 the City and Local 2003 agreed that the Arbitrator's Decision, postmarked not later than Monday, April 11, 2016, would be accepted as timely by the parties.

## **INTRODUCTION:**

1. Background. The City is located generally in the center of the State, with a population now exceeding 60,000. The Community has experienced significant growth, generated by a growing Iowa State University and several large federal and State agencies located there.

As of July 1, 2016, the authorized full-time equivalent work force was 572 full-time positions. The Law Enforcement Department is staffed with 74.25 positions, of which 54 are represented by Local 2003. Of the 54 positions 37 are Police Officers.<sup>1</sup>

Local 2003 was certified as the bargaining representative of the law enforcement appropriate unit on December 8, 1975, by the Iowa PERB. The bargaining unit includes the following Position Titles:

Animal Control Clerk  
Animal Control Officer  
Parking Meter Attendant  
Lead Police Records Clerk  
Police Records Clerk  
Public Safety Lead Dispatcher

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<sup>1</sup> City Exhibit, No. A-1, p.1.

Public Safety Dispatcher  
Police Officer

The positions excluded from the unit are Chief of Police, Commanders, Support Services Manager, Lieutenants, Sergeants, Secretary to the Chief of Police, Principal Clerk (confidential), Animal Control Supervisor, and those other employees excluded by the Public Employment Relations Act, Iowa Code Chapter 20.<sup>2</sup>

The parties have had a generally constructive collective bargaining relationship since the Union was certified in 1975. Contracts of 1, 2, and 3 years have been agreed upon at various stages of the Iowa's dispute resolution system - face-to-face bargaining, mediation, fact-finding, and arbitration. Renewal of the 2013-1016 Agreement has resulted in this arbitration.

2. The Iowa Arbitration System. Iowa's final offer, issue by issue arbitration system requires the Arbitrator to select the final offer of either the Employer or the Union on the issues at impasse. In this case one issue - wages (Addendum A:Schedule of Rates) is in dispute. As is true in other final offer arbitration cases, the Arbitrator in this impasse may have reached a decision which would have differed from either the City's or the Union's final position, if such latitude was available.

3. Arbitrator's Bias. The Arbitrator has two biases concerning the system of collective bargaining, which influenced the outcome of this case. First, the Arbitrator believes that a change made to existing contract language is best left to the parties. It is through the bargaining process that labor and management craft an agreement that suits their needs. An Arbitrator's decision should encourage the parties to reach future negotiated settlements. And second, adding or subtracting a term or condition of employment from an existing collective bargaining contract is justifiable only in unique circumstances. Absent major abuse, inconsistency with written rule, law, or significant variance from a comparability group, this Arbitrator is reluctant to make modifications of an existing collective bargaining contract.

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<sup>2</sup> City of Ames, No. A-5, p.1, Article 2.1.

**ISSUE AT DISPUTE**

Through Exhibits received at the hearing and stipulations made into the record by the representatives, the issue of the City and Local 2003 was identified as:

City of Ames.

**IMPASSE ITEM: WAGES**

ADDENDUM A: SCHEDULE OF RATES<sup>3</sup>

2.75% across the board increase for all positions - July 1, 2016 through June 30, 2017.

PPME, Local 2003.

**IMPASSE ITEM: WAGES**

ADDENDUM A: SCHEDULE OF RATES<sup>4</sup>

Rate of pay for fiscal year 2016/2017 shall be as set out in Addendum A. The Union seeks a one year deal with an increase of 2.5% cost of living across the board for all employees except Police Officer, with an additional 2 steps for Police Officers only to be added the following years of employment as illustrated below for police officers.

#1	Step A	Step B	Step C	Step D	Step E
Pay	49,970	55,784	66,531	68,526	70,582
Term	0-24	25-48	49-96	97-144	145+
Increase	0%	2%	2%	3%	3%

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<sup>3</sup> City Exhibit, No. A-2.

<sup>4</sup> Local 2003 Exhibit, Introduction, p.3.

#2	Step A	Step B	Step C	Step D	Step E
Pay	49,970	55,784	66,531	68,526	70,582
Term	0-18	19-36	37-96	97-144	145+
Increase	0%	2%	2%	3%	3%

July 1st, 2016, all current officers will follow pay scale #2. All officers hired after January 1st, 2016, will follow pay scale #1.

**POSITION OF THE PARTIES:**

The central issue in this impasse is: What is the makeup of the comparability group of Iowa cities that is appropriate to identify a pattern or trend of settlement.

City of Ames Position. The City put forward arguments urging the continuation of the pool of fourteen cities established by the parties in the 1982 impasse procedures. First, the current comparability group of fourteen Iowa cities has been used in bargaining for over thirty years, confirmed by both fact-finders and arbitrators during that time. A comparability group established by the parties, must remain with the parties to change through the collective bargaining process, not by an arbitrator. What has been created by the City and Local 2003, must remain with them to modify.

Second, the historical comparability group provides the parties with data to "... Make comparative judgments over time..."<sup>5</sup> and "...provides stability and consistency..."<sup>6</sup> for negotiations.

And in conclusion, the agreed upon comparability group provides a statistically sound basis for the evaluation of wage data for employees performing similar job duties and responsibilities.

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<sup>5</sup> City Exhibit, C-1, p.3.

<sup>6</sup> ibid.

The City stresses the importance of reserving to the parties the responsibility and duty to collectively bargain changes in a comparability group crafted by the parties in 1982 bargaining.

Local 2003 Position. The Union argues that the comparability group, originally established by the parties in 1982 "... is at present time out dated as far as what it was originally based on, which is seven cities above and seven cities below..."<sup>7</sup> the population of the City of Ames.

The Union puts forth three arguments challenging the current comparability pool. First, significant population changes have occurred in the historical comparability pool. Seven have lost population between 1980 and 2015, two remained basically the same, and six (including Ames) have had population increases. Interestingly, three of these communities have a higher education institution in the city. The Union argues that updating the comparability pool, "... based on current census data would be a much fairer comparison based on the population changes since this group was formed in 1982."<sup>8</sup>

Second, the cost of living in Ames is significantly higher than most cities in Iowa. Cost of living data would "... accurately show that Ames is one of the highest cost of living cities in the State."<sup>9</sup>

In conclusion, the Union contends that over the last eight fiscal years (FY 2007 - FY 2014) the Police Department has underspent it's budget in all years except FY 2008, totaling \$776,638 over the eight fiscal year period. It suggests that "... the City has given back a significant amount of money that could be used to fund the raise the Union is asking for to bring the Police within the average salary ..."<sup>10</sup> of the comparability group proposed by the Union.

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<sup>7</sup> Union Exhibit, Introduction, p.1.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.,p.2 (and Union Exhibit, 14.)

## DISCUSSION

Introduction. Generally, contractual terms and conditions of employment are best left to the parties to craft; based on their knowledge, needs, and bargaining strategies. Therefore, proposals to modify a contract's language or establish new contract terms through arbitration carries a substantial burden on the party requesting the change or addition. Absent a clear showing of abuse, substantial need, or gross inconsistency with comparability, the Arbitrator will not make such a proposed change or addition.

In this case the Union is seeking changes in the comparability pool and contract language which add two steps to the Schedule of Rates established by Addendum A. Changes to the comparability group and an expansion of the Salary Schedule are issues better left to the parties, in their subsequent negotiations.

The Arbitrator does have concern, however, that the comparability pool established by the parties in the 1982 negotiations and impasse procedures is losing some relevance. The original 1982 Comparability pool was population driven - seven cities greater than Ames and seven cities less than Ames. Population changes since 1982 have seen seven cities of the 14 member pool losing population, five increasing, and two remaining basically unchanged. In future bargaining the parties need to review the current population of the seven cities above and the seven below Ames.

Three criteria of Iowa Code 20.22, subdivision 7, were used by the Arbitrator: past collective bargaining, internal wage comparison, and external wage comparison.

Past Collective Bargaining. Since the bargaining relationship between the City and Local 2003 began for the 1976-1977 fiscal year contract, the parties have engaged in face-to-face bargaining, mediation, fact-finding, and arbitration to reach a settlement. Since the 2007-2008 contract year the parties have reached a settlement of their bargaining either in face-to-face negotiations or mediation, indicating to the Arbitrator of a maturing relationship between the parties. Since 1982 no change to the comparability pool has been made in the face-to-face bargaining, mediation, fact-finding, or arbitration. A persuasive history of negotiations over a

relatively long period of time, which does not persuade the Arbitrator to alter the historical comparability pool of Iowa cities used by the parties.

Internal Wage Settlements. The City has a consistent pattern of wage rate increases, both historically and for the 2016 increase. It is clear that the City and its five units of unionized employees has rarely reached settlements, which varied more than .05% since the 2005-2006 fiscal year agreement.<sup>11</sup>

Since the fiscal year settlement of 2005-2006 the cumulative average increase for the internal five unions averaged 31.77% over the eleven year period. The average cumulative settlement varied from a high of 32.75% for police (Local 2003) and a low of 31% for electric distribution (IBEW). A very narrow spread of settlements over more than 10 years. The Arbitrator finds this to be evidence of an internal pattern of settlements among unionized employees of the City.

The three negotiated settlements for fiscal year 2016-2017 continues this pattern. The negotiated settlements were wage schedule increases of 2.62%, 2.75%, and 2.75%, which averaged a 2,71% increase.<sup>12</sup>

The internal patterns of wage settlements supports the City's 2.75% increase to the Contract's current "Schedule of Rates".

Comparable External Groups. The Arbitrator earlier in this Decision discussed the concern for modifying existing contract language that has remained in the contract since 1982. The fifteen city comparability group (Comp.Group) has remained unchanged through face-to-face negotiations, fact-finding, and arbitration. The City's position concerning the members of the existing comparability group is confirmed by the Arbitrator.

A Review of the 7-1-16 wage increase for the Comp. Group, of the eleven cities that have settled, averaged 2.54%. Only two settlements (Mason City and Muscatine) equaled or exceeded the City's final offer.

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<sup>11</sup> City Exhibit, D-4.

<sup>12</sup> City Exhibit, D-5.

The data is similar when a state-wide average of Law Enforcement settlements is made. Of the twenty-seven municipal settlements reached with police, represented by a variety of unions, the average settlement for July 1, 2016, was 2.46%. Again, the arbitrator finds evidence that the Comp. Group of Iowa cities averaged settlement of 2.54% and the current state-wide average settlement increase for police of 2.46% is persuasive. The City's final position on the wages impasse issue of "...2.75% across the board increase for all positions - July 1, 2016 through June 30, 2017" is the "... most reasonable offer, ..." in my judgement.

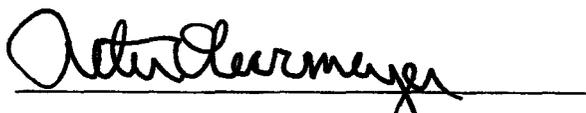
Discussion. Three determinants were relied upon by the Arbitrator in reaching the decision that the City's "final position" of a 2.75% increase to the existing wage schedule was the "most reasonable". First, there is a lengthy period of negotiations, which has used a comparability group of fifteen Iowa cities serving as a benchmark for the parties. Second, the City and three unions representing separate units of City employees, have reached settlements of 2.62% (power plant), 2.75% (fire), and 2.75% (blue collar) all effective 7-1-16. This confirms an internal pattern of settlements among unionized employees. And finally, the Comp. Group's average settlement for eleven cities was 2.54%. This is consistent with state-wide average settlement of police at 2.46%.

The City's final position on the wage issue of "...2.75% across the board increase for all positions - July 1, 2016 through June 30, 2017" is the "... most reasonable," in my judgement.

**DECISION: City's final offer.**

1. No change to the structure of the Schedule of Rates Addendum.
2. 2.75% across the board increase for all positions - July 1, 2016 through June 30, 2017.

Signed this 11<sup>th</sup> day of April 2016.

  
Peter E. Obermeyer, Arbitrator

**CERTIFICATE OF SERVICE:**

I certify that on the 11th of April, 2016, 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:

Mark Hubbard, Business Representative  
Public Professional and Maintenance Employees, Local 2003  
P.O. Box 1722  
Fort Dodge, Iowa 50501

James Hanks, Attorney  
Ahlers Law Group  
100 Court Avenue, Suite 600  
Des Moines, Iowa 50309

This Decision was also mailed to the Iowa Public Employment Relations Board on the 11th day of April, 2016.

  
Peter E. Obermeyer