

BEFORE THE ARBITRATOR

In the Matter of the Petition of

**THE LABOR ASSOCIATION
OF WISCONSIN, INC.**

To Initiate Arbitration Between Said Petitioner and

TOWN OF LISBON

Case 3 No. 58877

INT/ARB-9029

Decision No. 30123-B

Arbitrator James W. Engmann

Appearances:

Mr. Patrick J. Coraggio, Labor Consultant, and at hearing and on briefs Ms. Milissa A. Blackburn, and Mr. Benjamin M. Barth, and at hearing Mr. Fred Weber, Labor Association of Wisconsin, Inc., 2835 N Mayfair Road, Wauwatosa, WI 53222, appearing on behalf of the Labor Association of Wisconsin, Inc.

Mr. Daniel G. Vliet, Attorney at Law, and at hearing Ms. Jeanne LaCourt, and on reply brief Mr. Joel S. Aziere, Davis and Kuelthau, S.C., 111 East Kilbourn, Suite 1400, Milwaukee, WI 53202, appearing on behalf of the Town of Lisbon.

ARBITRATION AWARD

The Labor Association of Wisconsin, herein referred to as the Association, is a labor organization maintaining its offices at 2835 North Mayfair Road, Wauwatosa, Wisconsin. The Town of Lisbon, hereinafter referred to as the Town, is a municipal employer maintaining its offices at W234 N8676 Woodside Road, Sussex, Wisconsin. At all times material herein, the Association has been the exclusive collective bargaining representative of certain employees of the Town, specifically all regular full-time and regular part-time employees in the Highway and Parks Department and the Town Hall of the Town of Lisbon, excluding supervisory, managerial, temporary and confidential employees, firefighters, and employees with the power of arrest.

The parties exchanged their initial proposals and bargained on matters to be included in a collective bargaining agreement. In May of 2000, the Association filed a petition requesting the Wisconsin Employment Relations Commission (hereinafter Commission) to initiate Arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act (hereinafter MERA). A member of the Commissions staff conducted an investigation via six meetings between July 13, 2000, and January 27, 2001. Said investigation reflected that the parties were deadlocked in their negotiations.

By April 27, 2001, the parties submitted to said Investigator their final offers as well as a stipulation of matters agreed upon, at which time the Investigator notified the parties that the investigation was closed.

The Investigator advised the Commission that the parties remained at impasse. On May 3, 2001, the Commission certified that the conditions precedent to the initiation of Arbitration as required by Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act had been met with respect to negotiations between the parties over wages, hour and conditions of employment for a collective bargaining agreement. The Commission therefore ordered that Arbitration be initiated for the purpose of issuing a final and binding award to resolve the impasse existing between the parties. The Commission also submitted a panel of seven Arbitrations from which the parties were to strike six.

The parties advised the Commission that they had selected James W. Engmann, Madison, Wisconsin, as the arbitrator, and the Commission issued an Order Appointing Arbitrator on May 24, 2001, appointing the undersigned as the arbitrator to issue a final and binding award in this matter. Hearing was held on September 11, 2001, at which time the parties were afforded the opportunity to present evidence and witnesses and to make arguments as they wished. The parties filed briefs and reply briefs, the last of which were exchanged on February 19, 2002, after which the record in this matter was closed.

1. FINAL OFFERS

1. LABOR ASSOCIATION OF WISCONSIN, INC.

ARTICLE 12 - INSURANCE

Section 12.01 - Hospital and Dental Insurance: After ninety (90) days of employment, the Town shall provide health and dental insurance for all full-time employees. As soon as possible after the execution of the 2000-2002 agreement, the Town shall change health insurance coverage to the United Health Select Plus Co-pay through United Health. The parties agree to continue the existing health insurance coverage until such change is made. The Town shall pay one hundred percent (100%) of the cost of the plan for single or family health and dental coverage. The deductible portion and any other medical and dental expenses not covered by the insurance plan are the responsibility of the employee. The Employer may change medical and dental carriers or self-fund the insurance provided the benefit levels remain substantially equivalent to the coverage in effect before the change, unless mutually agree otherwise by the parties.

Section 12.03 - Retirement: Upon retirement the Town shall provide health insurance benefits and coverage with the following terms and conditions:

1. An employee who has completed at least twenty-five (25) years of full-time service and is at least sixty-two (62) years old is entitled to three (3) years of health insurance as provided below; or
2. An employee who has completed at least thirty (30) years of full-time service

and is at least sixty (60) years old is entitled to five (5) years of health insurance as provided below.

The Town shall provide the same health insurance for eligible retired employees as for full-time bargaining unit employees. However, if a retired employee becomes eligible for Medicare coverage and is still entitled to health insurance as provided above, the Town will provide a Medicare supplemental plan until the end of time period provided above. Retired employees shall make the same monthly contribution as bargaining unit employees. The benefits and the amount of the Town's contribution to the cost of health insurance provided under Section 12.03 are subject to change or termination in contract negotiations between the Town and the Association.

ARTICLE XVI - RESIGNATION/TERMINATION/RETIREMENT

Section 16.02 - Payment of Accrued Vacation and Sick Days: Upon retirement, resignation or termination of employment by an employee, the employee shall be paid out for accrued and unused vacation. Sick days accumulated but not used, shall be paid in accordance with the following schedule:

<u>Length of Employment</u>	<u>Percentage of Sick Days</u>
10 years	75
11 years	80
12 years	85
13 years	90
14 years	95
15 years	100

ARTICLE XVIII - HOLIDAYS

Section 18.01 - Holidays: The following holidays will be paid time off:

New Year's Day	Thanksgiving Day
Good Friday	Day after Thanksgiving Day
Memorial Day	Christmas Eve Day
Fourth of July	Christmas Day
Labor Day	New Year's Eve Day
(3) Floating Holidays	

Section 18.03 - Floating Holidays: The Highway Department employee's three (3) floating holidays will be used in conjunction with the following holidays:

3. Friday prior to Memorial Day
4. The day prior to or following July 4th, to be decided by the Department Head

5. Friday prior to Labor Day

Full-time Town Hall employees shall receive three (3) floating holidays and part-time Town Hall employees shall have their holidays pro-rated. Office employees will select and notify the Town Clerk of their floating holidays selection at least one week in advance, and are subject to the Town Clerk's approval.

ARTICLE XIX - LONGEVITY

Section 19.01 - Longevity: All employees shall be awarded longevity pay at the rate of twenty cents (\$0.20) per hour for every three (3) years of full-time service prior to 1994 and thirty cents (\$0.30) per hour for every three years of full-time service from 1994 and beyond. This is in addition to the employee base wage.

ARTICLE XXV - PART-TIME EMPLOYEES

Section 25.01 - Benefits: Part-time employees shall be provided prorated sick leave, funeral leave, vacations, holidays and longevity.

APPENDIX A - WAGES

<u>Employee</u>	<u>Base Wage</u>	<u>Longevity</u>	<u>1999 Pay Rate</u>	<u>Date of Hire</u>	<u>Next Longevity Date</u>
Fred Weber	\$17.22	\$1.60	\$18.82	8-1-77	2001
John Greiten	\$16.94	\$.60	\$17.54	5-1-93	2002
Mark Jungbluth	\$16.86	\$.30	\$17.16	1-1-96	2002
Paul Pichler	\$16.93	\$.30	\$17.23	1-22-95	2001
Lee Rolfs	\$16.94	\$.60	\$17.54	9-30-93	2002
Randall Steffen	\$17.07	\$.80	\$17.87	1-1-91	2000
Hire Rate	\$15.76				
After Probation Rate	\$16.86				

Effective January 1, 2000 (3.0% across the board increase in base wage)

<u>Employee</u>	<u>Base Wage</u>	<u>Longevity</u>	<u>Pay Rate</u>
Fred Weber	\$17.74	\$1.60	\$19.34
John Greiten	\$17.45	\$.60	\$18.05
Mark Jungbluth	\$17.37	\$.30	\$17.67

Paul Pichler	\$17.44	\$.30	\$17.74
Lee Rolfs	\$17.45	\$.60	\$18.05
Randall Steffen	\$17.58	\$1.10	\$18.68
Hire Rate	\$16.27		
After			
Probation Rate	\$17.37		

Effective January 1, 2001 (3.25% across the board increase in base wage)

<u>Employee</u>	<u>Base Wage</u>	<u>Longevity</u>	<u>Pay Rate</u>
Fred Weber	\$18.32	\$1.90	\$20.22
John Greiten	\$18.02	\$.60	\$18.62
Mark Jungbluth	\$17.93	\$.30	\$18.23
Paul Pichler	\$18.01	\$.60	\$18.61
Lee Rolfs	\$18.02	\$.60	\$18.62
Randall Steffen	\$18.15	\$1.10	\$19.25
Hire Rate	\$16.83		
After			
Probation Rate	\$17.93		

Effective January 1, 2002 (3.5% across the board increase in base wage)

<u>Employee</u>	<u>Base Wage</u>	<u>Longevity</u>	<u>Pay Rate</u>
Fred Weber	\$18.96	\$1.90	\$20.86
John Greiten	\$18.65	\$.90	\$19.55
Mark Jungbluth	\$18.56	\$.60	\$19.16
Paul Pichler	\$18.64	\$.60	\$19.24
Lee Rolfs	\$18.65	\$.90	\$19.55
Randall Steffen	\$18.78	\$1.10	\$19.88
Hire Rate	\$17.46		
After			
Probation Rate	\$18.56		

2. TOWN OF LISBON

ARTICLE 12 - INSURANCE

Section 12.01 - Hospital and Dental Insurance: After ninety (90) days of employment, the Town shall provide health and dental insurance for all full-time employees. As soon as possible after the execution of the 2000-2002 agreement, the Town shall change health insurance coverage to the United Health Select Plus Co-pay through United Health. The parties agree to continue the existing health insurance coverage until such change is

made. The Town shall pay one hundred percent (100%) of the cost of the plans for single or family health and dental coverage. The deductible portion and any other medical and dental expenses not covered by the insurance plan are the responsibility of the employee. The Employer may change medical and dental carriers or self-fund the insurance plans provided the benefit levels remain comparable to the coverage in effect before the change. The Town shall not be responsible for self-insuring any unilateral changes in the health insurance plan made solely by the carrier.

Section 12.03 - Retirement: Upon retirement the Town shall provide health insurance benefits and coverage with the following terms and conditions:

6. An employee who has completed at least twenty-five (25) years of full-time service and is at least sixty-two (62) years old is entitled to three (3) years of health insurance as provided below; or
7. An employee who has completed at least thirty (30) years of full-time service and is at least sixty (60) years old is entitled to five (5) years of health insurance as provided below.

The Town shall provide the same health insurance for eligible retired employees as for full-time bargaining unit employees. However, if a retired employee becomes eligible for Medicare coverage and is still entitled to health insurance as provided above, the Town will provide a Medicare supplemental plan until the end of time period provided above. Retired employees shall make the same monthly contribution as bargaining unit employees. The benefits and the amount of the Town's contribution to the cost of health insurance provided under Section 12.03 are subject to change or termination in contract negotiations between the Town and the Association.

ARTICLE XVI - RESIGNATION/RETIREMENT

Section 16.02 - Payment of Accrued Vacation and Sick Days: Upon retirement, resignation or termination of employment by an employee, the employee shall be paid out for accrued and unused vacation. Accrued and unused sick leave days shall be paid out in accordance with the following schedule, for employees who retire or resign:

<u>Length of Employment</u>	<u>Percentage of Sick Days</u>
10 years	75
11 years	80
12 years	85
13 years	90
14 years	95
15 years	100

ARTICLE XVIII - HOLIDAYS

Section 18.01 - Holidays: The following holidays will be paid time off:

New Year's Day	Thanksgiving Day
Good Friday	Day after Thanksgiving Day
Memorial Day	Christmas Eve Day
Fourth of July	Christmas Day
Labor Day	New Year's Eve Day
Two (2) Floating Holidays*	

*For the years 2000 and 2001 the Town agrees to continue the prior practice of three (3) floating holidays and to schedule such holidays pursuant to past practice.

Section 18.03 - Floating Holidays: Highway Department employee's two (2) floating holidays will be used on the day prior to or following July 4th (to be decided by the Department Head) and the Friday prior to Labor Day. Office employees will select and notify the Town Clerk of their floating holidays selection at least one (1) week in advance and are subject to the Town Clerk's approval.

ARTICLE XIX - LONGEVITY

Section 19.01 - Longevity: All full-time employees employed before January 1, 2000, shall be awarded longevity pay at the rate of twenty cents (\$0.20) per hour for every three (3) years of full-time service prior to 1994 and thirty cents (\$0.30) per hour for every three years of full-time service from 1994 and beyond. This is in addition to the employee base wage. Employees hired after January 1, 2000, shall not be entitled to longevity and shall be paid as provided on the wage schedule attached as Appendix A.

ARTICLE XXV - PART-TIME EMPLOYEES

Section 25.01 - Benefits: Part-time employees shall be provided prorated sick leave, funeral leave, vacations, and holidays.

APPENDIX A

Highway Department Employees Hired After January 1, 2000

		3.25%	3.75%
	2000	2001	2002
New Hire	\$16.27	\$16.80	\$17.43
After Probation	\$16.68	\$17.22	\$17.87
Start of Second Year	\$17.09	\$17.64	\$18.30
Start of Third Year	\$17.50	\$18.07	\$18.75
Start of Fourth Year	\$17.91	\$18.49	\$19.18

Highway Employees Hired before January 1, 2000

1999 wages for employees:

Employee	Base Wage	Longevity	1999 Pay Rate	Next Longevity Date
Fred Weber	\$17.22	\$1.60	\$18.82	2001
John Greiten	\$16.94	\$.60	\$17.54	2002
Mark Jungbluth	\$16.86	\$.30	\$17.16	2002
Paul Pichler	\$16.93	\$.30	\$17.23	2001
Lee Rolfs	\$16.94	\$.60	\$17.54	2002
Randall Steffen	\$17.07	\$.80	\$17.87	2000

Effective January 1, 2000, 3.0% across the board increase in base rate

<u>Employee</u>	<u>Base Wage</u>	<u>Longevity</u>	<u>Pay Rate</u>
Fred Weber	\$17.74	\$1.60	\$19.34
John Greiten	\$17.45	\$.60	\$18.05
Mark Jungbluth	\$17.37	\$.30	\$17.67
Paul Pichler	\$17.44	\$.30	\$17.74
Lee Rolfs	\$17.45	\$.60	\$18.05
Randall Steffen	\$17.58	\$1.10	\$18.68

Effective January 1, 2001, 3.25% across the board increase in base rate

<u>Employee</u>	<u>Base Wage</u>	<u>Longevity</u>	<u>Pay Rate</u>
Fred Weber	\$18.32	\$1.90	\$20.22
John Greiten	\$18.02	\$.60	\$18.62
Mark Jungbluth	\$17.93	\$.30	\$18.23
Paul Pichler	\$18.01	\$.60	\$18.61
Lee Rolfs	\$18.02	\$.60	\$18.62
Randall Steffen	\$18.15	\$1.10	\$19.25

Effective January 1, 2002, 3.75% across the board increase in base rate

<u>Employee</u>	<u>Base Wage</u>	<u>Longevity</u>	<u>Pay Rate</u>
Fred Weber	\$19.01	\$1.90	\$20.91
John Greiten	\$18.70	\$.90	\$19.60
Mark Jungbluth	\$18.60	\$.60	\$19.20
Paul Pichler	\$18.69	\$.60	\$19.29
Lee Rolfs	\$18.70	\$.90	\$19.60

Randall Steffen \$18.83 \$1.10 \$19.93

2. STATUTORY CRITERIA: Section 111.77(4)(cm)7 of the Municipal Employment Relations Act reads in part:
1. 'Factor given greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.
 - 7g. 'Factor given greater weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.
 - 7r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:
 1. The lawful authority of the municipal employer.
 2. Stipulations of the parties.
 - c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
 4. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
 - e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.
 6. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees in private employment in the same community and in comparable communities.
 - g. The average consumer prices for goods and services, commonly known as the cost

of living.

- h. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

III. ISSUES IN DISPUTE¹

1. Comparables

Association: Village of Hartland, Village of Menomonee Falls, Village of Pewaukee, Village of Sussex, *City of Brookfield, Town of Butler, Village of Germantown, and Waukesha County*

Town: Village of Hartland, Village of Menomonee Falls, Village of Pewaukee, Village of Sussex, *Town of Merton, Village of Merton, City of Pewaukee, Town of Brookfield, City of Delafield, Town of Delafield, Town of Genessee, Town of Mukwonago, Town of Oconomowoc, Town of Summit, Town of Vernon, and Town of Waukesha*

2. Section 12.01 - Hospital and Dental Insurance

Association: The Employer may change medical and dental carriers or self-fund the insurance provided the benefit levels remain *substantially equivalent* to the coverage in effect before the change, *unless mutually agree otherwise by the parties.*

¹In this section, language in dispute is indicated by *Italics*.

Town: The Employer may change medical and dental carriers or self-fund the insurance *plans* provided the benefit levels remain *comparable* to the coverage in effect before the change. *The Town shall not be responsible for self-insuring any unilateral changes in the health insurance plan made solely by the carrier.*

3. Section 16.02 [Sick Leave Payout]

Association: Section 16.02 – Resignation/*Termination*/Retirement

Sick days accumulated but not used, shall be paid in accordance with the following schedule:

Town: Section 16.02 – Resignation/Retirement

Accrued and unused sick leave days shall be paid out in accordance with the following schedule, *for employees who retire or resign*:

4. Section 18.03 - Floating Holidays

Association: *The Highway Department employee's three (3) floating holidays will be used in conjunction with the following holidays:*

1. *Friday prior to Memorial Day*

Town: Highway Department employee's two (2) floating holidays will be used *on the day prior to or following July 4th (to be decided by the Department Head) and the Friday prior to Labor Day.*

5. Section 19.01 - Longevity

Association: All employees shall be awarded longevity pay at the rate of twenty cents (\$0.20) per hour for every three (3) years of full-time service prior to 1994 and thirty cents (\$0.30) per hour for every three years of full-time service from 1994 and beyond. This is in addition to the employee base wage.

Town: *All full-time employees employed before January 1, 2000*, shall be awarded longevity pay at the rate of twenty cents (\$0.20) per hour for every three (3) years of full-time service prior to 1994 and thirty cents (\$0.30) per hour for every three years of full-time service from 1994 and beyond. This is in addition to the employee base wage. *Employees hired after January 1, 2000, shall not be entitled to longevity and shall be paid as provided on the wage schedule attached as Appendix A.*

6. Section 25.01 - Benefits

Association: Part-time employees shall be provided prorated sick leave, funeral leave, vacations, holidays and *longevity*.

Town: Part-time employees shall be provided prorated sick leave, funeral leave, vacations, and holidays.

7. Appendix A - Wages Structure

Association: *Hire Rate*
After Probation Rate

Town: *Highway Department Employees Hired After January 1, 2000*

New Hire
After Probation
Start of Second Year
Start of Third Year
Start of Fourth Year

8. Appendix A - Wages Year 2002

Association: **Effective January 1, 2002 (3.5% across the board increase in base wage)**

<u>Employee</u>	<u>Base Wage</u>	<u>Longevity</u>	<u>Pay Rate</u>
Fred Weber	\$18.96 \$1.90		\$20.86
John Greiten	\$18.65 \$.90		\$19.55
Mark Jungbluth	\$18.56 \$.60	\$19.16	
Paul Pichler	\$18.64 \$.60		\$19.24
Lee Rolfs	\$18.65 \$.90		\$19.55
Randall Steffen	\$18.78 \$1.10	\$19.88	

Town: **Effective January 1, 2002, 3.75% across the board increase in base rate**

<u>Employee</u>	<u>Base Wage</u>	<u>Longevity</u>	<u>Pay Rate</u>
Fred Weber	\$19.01 \$1.90		\$20.91
John Greiten	\$18.70 \$.90		\$19.60
Mark Jungbluth	\$18.60 \$.60	\$19.20	
Paul Pichler	\$18.69 \$.60		\$19.29
Lee Rolfs	\$18.70 \$.90		\$19.60
Randall Steffen	\$18.83 \$1.10	\$19.93	

4. POSITIONS OF THE PARTIES

1. LABOR ASSOCIATION OF WISCONSIN, INC. on brief

1. Comparables: The Association asserts that one of the important parts of this proceeding is to determine the appropriate comparable communities; that the impact of this part of the Arbitrator's ruling will not only help determine the outcome in the instant case but will also have a long lasting impact on future negotiations; that in general arbitrators usually compare communities that are contiguous or in the same geographic area, share the same job market and have a history of interaction; that arbitrators also give weight to areas of similarity in population, square miles, number of employees, municipal spending, net tax rate and equalized valued growth, tax rates by purpose, and property value; that arbitrators look at communities that have employees of the same classification or profession covered by a collective bargaining agreement; that, generally, communities with the same classifications or professions which are unrepresented are not given as great a weight as communities that have association/union representation; that the Association has provided the Arbitrator with its list of comparables which is reasonable and should be adopted by the Arbitrator; that the communities selected by the Association are the Village of Sussex, Village of Hartland, Village of Pewaukee, Village of Menomonee Falls, City of Brookfield, Village of Germantown, Village of Butler, and Waukesha County; that the only exception would be the City of Pewaukee, which up until approximately one year ago was the Town of Pewaukee; that the City of Pewaukee is also developing its first collective bargaining agreement; and that it is highly likely that due to its geographic proximity, same job market, and interaction with the Town of Lisbon, it will constitute a valid comparable in further negotiations.

2. Statutory Factors: The Association argues that the factor given greatest weight and the factor given greater weight are not an issue in this dispute; that the Town never made an issue of its inability to pay nor did it ever take the position that there were any state or local limitations on expenditures that would prohibit the Town from meeting the Association's requests; that while the lawful authority of the municipal employer must be considered by the Arbitrator, the Town has not argued that it lacks the lawful authority to meet the terms and conditions set forth in the Association's final offer; that, therefore, it is not a factor in the instant case and should not be given any weight; that the fact that the Town never provided the Arbitrator with one document regarding the costing of the final offers supports the notion that the Town has the financial ability to meet the Association's final offer; that the Town never raised the argument of its inability to pay or difficulty to pay; that therefore this issue should not be given any weight by the Arbitrator; that the public interest is well served if the citizens and taxpayers of the Town are provided with public servants who are well paid and of high spirits and morale; that the financial ability of the Town to meet the Association's final offer is not an issue; that the Town has the financial reserves to do so; that the issue here is one of morale and fair treatment; and that if the Arbitrator selects the Association's final offer, it will have a favorable impact on employee morale and esprit de corps which will then carry over to the interests and welfare of the public which they serve.

3. Tentative Agreements: In reviewing the tentative agreements, the Association asserts that the Arbitrator will note that the language found in the tentative agreements reflect in great part the status quo of the parties which was in place by virtue of an Employee Manual, Town Resolution or past practice of the parties; that there were only two issues which the Town felt were worth noting to the Arbitrator: fair share and workers compensation; that the record is clear that the Town started taking out fair share from the employees in September 1999 at the request of the employees; that the Town acknowledged that it did not have to comply with the employees' wishes; that the comparables strongly supported the Association's position of fair share;

that in an effort to move forward, the Association agreed to a very employer oriented Management Rights clause in exchange for a Fair Share/Dues Deduction Article; that Workers Compensation is increased in the benefit package; that the benefit is not as good as the comparables; that the three part-time employees had a wage incentive to agree to the five-step wage system offered by the Town; that the Town never made the same type of percentage offer to the six full-time employees in the Highway Department; that there was no incentive to change the status quo; that the Town cannot legitimately claim the three part-time employees' pay scale is a valid internal comparable; and that the only significant issue in the tentative agreements is the voluntary wage increases that were given to the three part-time employees.

4. Comparison of Wages, Hours and Conditions of Employment: The Association argues that the comparison of wages, hours and conditions of employment with employees who do the same or similar work in the recognized comparable communities is an important criteria; that it is generally viewed to be given great weight by many arbitrators; that this case should be no different; and the issues that are in dispute clearly favor the Association's final offer.

5. Health Insurance Standard: The Association argues that, in reviewing the exhibits, it is easy to ascertain that there are more comparables that favor the Association's final offer of "substantially equivalent," as opposed to the Town's final offer of "comparable"; that five of the eight comparable communities have the same or a stronger standard for the employer changing the health insurance benefits; and that, therefore, it is evident that the Association's final offer on this issue is more comparable than the final offer of the Town.

6. Health Insurance Language: The Association argues that the language which the Town wants to include is a strongly worded waiver clause; that said waiver clause only affects health insurance; that there are no comparables that have the language put forth by the Town; that the waiver clause cannot be accepted by the Arbitrator; that the Town is attempting to be relieved of its obligation to negotiate on changes in health insurance; that a waiver clause of this strength and magnitude has the possibility of tremendous financial impact on the members of the bargaining unit; and that not only is this language not found in any other contract, it should not be found in this one.

7. Sick Leave Payout: The Association asserts that it established that its language has been in effect in the Employee Manual for approximately 20 years; that the Association's final offer is mirroring the status quo; that the Association is not looking for any change; that it is simply trying to codify a benefit that has been in existence for many years; that, however, the Association voluntarily modified the payout and relinquished the first ten years of payout as a quid pro quo for the part-time employees to receive prorated floating holidays and longevity; that the people who would be paid out, i.e., persons who retire, resign, or terminate, remains the same; that it is the Association's position that the status quo should be maintained; that the Town's final offer does not include employees who terminate; that laid off employees could forfeit this benefit; that this is an unreasonable change in the status quo; that the proponent of change to the status quo bears the burden of proof; and that the Town has not offered any quid pro quo for modifying this benefit.

8. Floating Holidays: The Association argues that it is proposing to, once again, codify the status quo of three floating holidays; that these holidays have been in existence for approximately 19 years; that the third floating holiday was purchased by the employees giving up \$.05 of their pay; that the Association's final offer simply identifies the benefit the employees bought and paid for with no increase to the Town; that the Town is attempting to take away one of the floating holidays for full-time employees; that in 2002, the employees would

lose the third floating holiday; that the employees would be required to work an additional eight hours per year without receiving any additional compensation; that the Town has offered no quid pro quo for changing the status quo; that the Town offered no plausible explanation for its position other than it was excessive; that the Town's position of taking away one floating holiday from the full-time employees is absurd; that it cannot be condoned by the Arbitrator; and that the Arbitrator in this case cannot allow for the reduction of one floating holiday without an adequate quid pro quo.

9. Longevity: Again, the Association argues that it is simply trying to codify the existing longevity benefit which the employees have been afforded for many years; that a benefit in existence for 20 years cannot be summarily discontinued by the Town for future employees without having provided a reason for change and a quid pro quo; that in the future two employees will be working side by side, doing the same job, and one employee will have longevity and one will not; that this divisive measure will do nothing but create ill will among members of the bargaining unit; that this must not be condoned by the Arbitrator; and that the status quo for the full-time employees must be maintained.

10. Wages: In terms of the dispute in the third year of the agreement, the Association asserts that the employees are not overpaid; that they do not make more money than their counterparts in the surrounding communities; that, in fact, because they are few in number, these employees have to take on additional duties and responsibilities that other highway departments with more employees are not required to perform; that, additionally, these employees are required to be on stand by from November 15 to March 15 each year because of their duties and responsibilities in respect to snow plowing; that none of the comparables have this restriction; that this restriction covers six major holidays precludes them from taking extended vacations during this time; and that, therefore, when you take into consideration the restrictions placed on these individuals and the fact that they are paid below average, the Association's final offer is the more reasonable of the two. In regard to the Town's five-step pay scale, the Association argues that the Town is attempting to replace the long standing past practice of having employees start at \$1.10 below the base wage, receive \$1.00 after completing probation and the additional \$.10 after completing one year of employment; that here again the Association is simply trying to codify the status quo; that the Town has not provided the employees with any incentive or quid pro quo to go from a three-step procedure achieving top pay in one year to a five-step procedure and achieving top pay at the start of the fourth year; that there is little or no comparability for the Town's final offer of reaching top pay at the start of the fourth year; that at least half of the comparable communities favor the Association's final offer; that there are not comparables that have steps that require reaching top pay at the start of the fourth year; and that, therefore, the Association's final offer is more in line with the comparables than the Town's final offer.

11. Part-time Employees: The Association asserts that its six full-time members want their three part-time members to have the same benefits that they enjoy; that the parties have agreed that part-time employees shall receive certain benefits prorated; that the Association also wants the part-time employees to have floating holidays and longevity; that the full-time members understand that they had to give up something to get the third floating holiday 19 years ago; that they fully realize that they must also make a concession to provide the three floating holidays and longevity to the part-time employees; that the quid pro quo which they have offered is giving up the right to cash out sick days for the first ten years of employment if the employee terminates employment for any reason; that this is a long standing benefit which could cost the Town a considerable amount of money; that with the addition of these benefits, all members of the bargaining unit will be treated equally; that this is a principle which the six full-time employees believe in so profoundly that they have offered

their significant quid pro quo; and that the Arbitrator must view the equalization of the benefits as a step toward internal bargaining member unity and give great deference to the significant concession to obtain it.

12. Burden of Proof: The Association argues that there is a long standing list of arbitral decisions regarding changing the status quo; that in this case the Town is attempting to change the status quo in respect to sick day paid out to employees who terminate, reducing one floating holiday, deleting longevity for future employees, and changing the number of years and method to achieve top pay; that the Town's final offer would seriously change four long standing past practices of the parties; that the only quid pro quo offered is one-quarter of one percent; that costed out that comes to \$662; that changing one item in the status quo through contract arbitration is a major hurdle because arbitrators are extremely hesitant to modify the status quo without certain conditions being met; that arbitrators require that a legitimate problem exists which requires attention; that arbitrators require that the proposal reasonably addresses such a problem; that arbitrators require that there be an appropriate quid pro quo offered for the change; that the Town has not demonstrated that a legitimate problem exists; that the Town never offered an adequate quid pro quo for the changes; that, additionally, the Town is attempting to achieve a contract with a new benefit; that the health insurance waiver clause is not supported by any quid pro quo or a need for a change; that the Town is attempting to change the status quo but has not achieved the criteria set forth by numerous arbitrators; that the Town did not address an appropriate quid pro quo for the significant modifications they are attempting to make; and that the Arbitrator cannot allow the Town to use the arbitration process to modify these existing benefits and add a waiver clause.

2. TOWN OF LISBON on Brief

1. Comparables: Calling the selection of the comparable group of municipal employers one of the critical issues facing this Arbitrator, the Town argues that arbitrators consider geographic proximity, population, tax base and income levels in an effort to establish a rough equivalency among the employers to be included in the comparable group; that there is no support among arbitrators for random selection of comparables, as it appears the Association is suggesting when its proposed pool wanders outside the contiguous municipalities; that there is no support for picking comparables based on the identity of the labor organization representing the employees, which appears to be the other approach favored by the Association; that, rather, the goal is to select comparable municipal employers who are in similar circumstances; that in reviewing the proposed comparable groups, the Town's proposed comparable group can be justified under all the standard criteria used by arbitrators; and that the same cannot be said about those proposed by the Association.

More specifically, the Town argues that the Town's proposed comparable pool takes into account all of the relevant factors; that the Town considered all of the municipalities in the immediate area; that the Town first included all contiguous cities, towns and villages: Hartland, Merton (Town and Village), Menomonee Falls, Pewaukee (City and Village) and Sussex; that this group of contiguous communities meets the tests established by arbitrators; that it makes sense since all these communities are clearly part of the same labor market; that additional comparable municipalities that are similar to the Town of Lisbon are the Towns of Brookfield, Delafield, Genesee, Mukwonago, Oconomowoc, Summit, Vernon and Waukesha, as well as the City of Delafield; that all of these additional municipalities are within Waukesha County; that, with the exception of the City of Delafield, they share the common governmental structure of being a Town; and that the Town has considered three internal comparables: police, fire and non-represented employees; and that these three groups encompass all of the Town employees outside of this bargaining unit.

2. Status Quo: Countering the Association's argument that it is merely trying to maintain the status quo, the Town argues that there is no status quo to maintain since this is an initial contract; that when a contract is in place, arbitrators generally look for a quid pro quo to support a change in the status quo; that arbitrators have taken just the opposite approach in an initial contract; that rather than looking for some trade-off in an initial contract, arbitrators look to both internal and external comparables to determining the prevailing wages, benefits and conditions of employment; that the tentative agreements demonstrate the Association's willingness to change the status quo; that as is obvious from a review of the tentative agreements, the Association is not seeking to maintain the status quo; and that, instead, the Association is attempting to obtain all the benefits the surrounding communities have negotiated over for many years in the initial contract while maintaining those benefits provided by the Town in the past which were substantially in excess of those provided by the surrounding communities.

3. Health Insurance Standard: In terms of the final offers, the Employer asserts that the issue of the standard to be applied when changing health insurance coverage should be "comparable" to the old coverage, not "substantially equivalent" as proposed by the Association; that in comparing insurance coverage it is readily apparent that no two carriers offer the same coverage in each category or use identical terminology to describe the coverage provided; that the Town's intention is to provide coverage comparable to that provided in the past; that minor differences are unavoidable; that given the high cost of health coverage, the Town must have some flexibility in order to be a responsible employer; that the Association is attempting to hamstring the Town by setting the bar so high that no alternative coverage is available; that finding substantially equivalent coverage, as proposed by the Association, is in all probability impossible; that the Association's proposal represents a significant change in the Town's practice; that in the past the Town has changed coverage and health plans without providing "substantially equivalent" benefits; that now the Association wants to virtually eliminate the Town's ability to make health insurance changes; that given the high cost of health insurance and the continuing upward trend in health insurance costs, it is simply absurd to attempt to lock and employer in to only one health-insurance plan; that the Association's proposal is irresponsible; and that the Association's proposal would be a disservice to the Town and the taxpayers.

4. Health Insurance Language: The Town asserts that the Association wants the Town to self-insure any changes imposed by the carrier; that to require the Town to self-insure any changes made by the carrier with no Town directive to do so, no Town approval, and contrary to the Town's wishes, would be a substantial change in the status quo; that an arbitrator has ruled that a Town was obligated to self-insure any benefit changes made by the carrier, even though there was no contractual obligation to do so, citing Town of Oconomowoc and the WPPA, (Peterson, 9/00); that given the lack of control that a small employer has over the actions of its carrier, this is a burdensome and difficult obligation to assume; that since the Town has never assumed this responsibility in the past, the Town is seeking to clearly indicate that it does not intend to become an insurance company in the future; that the Town's proposal does nothing more than maintain the status quo ante; that the Association will argue that a similar provision is not found among any of the comparables; that the better question is whether any of the comparables faced the same issue and were forced to self-insure benefits; that the answer is probably not since self-insurance of benefits is an administrative nightmare for an employer; and that it is difficult to understand how the Association can object to the status quo.

5. Retiree Health Insurance: The issue of retiree health insurance, though agreed upon by the parties, remains on the table because the Town has made a substantial change in the form of a significant enhancement in this benefit from its prior practices; that all current qualified employees who work through to retirement will be entitled to a full five years of health insurance coverage; that the retiree health insurance

would also apply, on a prorated basis, to the Town Hall employees; that this is a significant extension of this benefit given the substantial cost of health insurance; that this is one more area where the Association was not content with the status quo and another area where the Town was willing to make a concession in return for other changes significant to the Town; that the retiree health insurance benefit provided by the Town is unmatched by any of the comparables, even those offered by the Association; that the Association will argue that the Town is simply continuing to do what it had in the past been willing to do; that, however, like the rest of the benefits provided by the Town, the retiree health insurance was subject to change by the Town Board; that now the Town is entering into a binding contract to provide this benefit; that this is a substantial benefit that is extremely costly for the Town to provide; that in making the determination as to which offer is most reasonable, this particular proposal must be given great weight, both because of its cost, its consequent value to the Town's employees, and the fact that this benefit is unique to the Town; that the Town is willing to spend tens of thousands of dollars for retiree health insurance, in return for some minor changes in other areas; that this benefit far outweighs any perceived loss to the employees; that the police unit, the fire department employees and the non-represented employees of the Town do not receive this benefit, with the exception of the Highway and the Assistant Highway Superintendents; and that such a substantial increase in benefits cannot be ignored and must be taken into account by the Arbitrator in determining which final offer is more reasonable.

6. Sick Leave Payout: In terms of sick leave, Town asserts that the dispute revolved around when an employee is entitled to be paid out; that in addition to resignation and retirement, the Association would like employed to be eligible to collect these monies upon termination; that the Town believes its final offer stacks up favorably when compared to the other municipalities within its suggested comparable pool; that this clearly exhibits that the Town's final offer is superior to all other comparable municipalities; that less than half of the municipalities are entitled to receive cash payouts on sick leave; that of those which offer cash payouts, two-thirds have provisions stating that the payout may be used to offset health insurance premiums; that as the Town pays retiree health insurance premiums for a period of three to five years, this negates the need to convert monies to health insurance premiums; that, again, the Town provides a benefit substantially better than the comparables; that this is not a situation where the Association's "status quo" and "quid pro quo" arguments apply; that the Arbitrator, taking into account the tentative agreements, the parties' proposals and the comparables, among other factors, must determine the most reasonable proposal; that the continuation of a generous sick leave payout, rather than simply matching comparables, must weigh heavily in favor of the Town's final offer; that a review of the comparables shows that, with one exception, all payout at retirement; that, essentially, this is a modern substitute for the gold watch; that payout of sick days is not allowed at termination in any of the additional or alternate municipalities proposed by the Association; that the Association's proposal requires the Town to payout sick leave to employees terminated for misconduct; that the Town has gone beyond the comparables in allowing payout upon resignation of the employee; that the Association insists that terminated employees should also be paid out; that employees who are terminated for just cause should not collect sick leave payout; that this is bad public policy, bad employee relations and a waste of the taxpayers' money; that it is not the Town's intent to deny sick leave payout to anyone, including a laid-off employee, except an employee who is terminated for cause; and that the police contract only allows a cash payout upon retirement and only after 20 years of service.

7. Floating Holidays: In terms of holidays, the Town asserts that no comparable has 13 holidays, as the Association is proposing, or even 12 holidays, as the Town is proposing; that the Association will argue that the employees bought the extra holiday somewhere back in time; that since employees were not unionized at

the time, any benefit could also be taken away; that now the employees want the security of a union contract, they also have to live with the application of the statutory criteria; that in an initial contract, no quid pro quo is required; that the Town's offer of 12 holidays is generous; that for internal comparables the police receive the most holidays with 12; and that the Town's final offer on the number of holidays is not only the most reasonable, it is the only reasonable offer.

8. Longevity: The parties agree that all current employees will be compensated in the same manner as in the past; that this includes longevity for all current employees, that to pay employees the same rate for the same work, the Town proposed that new employees be on a wage schedule; that under the Town's proposal, a new employee would receive annual increases until the employee reaches the schedule maximum after four years; that new employees would not receive longevity; that only one comparable pays longevity; that longevity is costly, excessive and serves no useful purpose; that, nonetheless, the Town is willing to pay longevity to its present, full-time employees in this unit; that there is no reason to continue this practice for employees not yet hired; that the longevity system proposed by the Association will continue a pay plan where employees doing the same work are paid significantly different rates; that in order to avoid any animosity, the Town is willing to continue to provide longevity for current employees; that the Town is not eliminating longevity to reduce its overall wage costs, as is clear from the wage proposal; that the Town realizes the benefit of experience by establishing a wage schedule for new employees that increases until the fourth year level; and that the Town's final offer is the norm, its proposal is fair and equitable and is the most reasonable offer.

9. Part-time Employees: The Town proposes that part-time employees receive prorated sick leave, funeral leave, vacation and holidays; that it argues that this is a significant increase in benefits since part-time employees only received holiday pay previously; that the Association's final offer includes all these and adds another new benefit: longevity; that part-time Town Hall employees currently do not receive longevity; that the Association seeks to add this benefit without justification or comparable support; that the parties agreed to substantial increases in the wage rates for Town Hall employees; that only one comparable provides longevity for their full and part-time employees; that the amount is far lesser than proposed by the Association; that 14 out of 15 comparables do not pay part-time employees any longevity pay, regardless of years of service; that there is no justification for expanding the use of longevity to part-time employees; that, internally, the Town's final offer is the most reasonable; that with the exception of the Park Superintendent, none of the police, fire and non-represented employees receive longevity; and that the internal comparables clearly favor the Town's final offer as being the most reasonable.

10. Wages: The Town asserts that settlements in the range of 3-3.25% appear to be much closer to the norm in 2002 than 2.5%; that the Town's offer of 3.75 % is substantially better than many of the comparable communities and obviously more generous than the Association's offer; that the Town's offer is tied to a reduction in the number of holidays in the third year; and that the Town's offer is more reasonable, taken as a part of a comprehensive final offer, than that of the Association.

11. Conclusion: During negotiations, the Town agreed to provide benefits that match or exceed those received by employees in comparable communities; that the employees have not been short-changed in any of the usual benefits; that in the course of one round of negotiations, the Association has obtained a contract that other municipal bargaining units worked many years to obtain; that the Association's offer represents nothing more than a stretch to obtain the best of both worlds; that what the Association is seeking from the Arbitrator is the best of the wages and benefits the employees had when not represented and the best of the

comparables; that the Town respectfully asserts that it would be doing a disservice to its taxpayers to give into greed; that the Arbitrator's job is to weigh both offers and determine which one is more reasonable; that taking into account the comparable municipalities and the internal comparables, the Town's offer is considerably more reasonable than the Association's offer; that recognizing that the final offers take into account the tentative agreements emphasizes that the Town Board has made every effort to provide generous wages and benefits to the employees in this bargaining unit; and that, therefore, the Town respectfully requests that its offer be selected as the most reasonable, fair, equitable and logical final offer.

3. Association on Reply Brief

The Association argues that the Town's brief and the contents thereof need to be addressed; that the goal of preserving their benefits and treating all of the members of the Association alike is what this arbitration is all about; that the Town states that there is no status quo; that if there is no status quo, what terminology should be used to identify the unrefuted testimony that many benefits have been in effect for over 20 years; that the Town's position that these benefits do not constitute the status quo is untenable and cannot be given any weight by the Arbitrator; that some of the fabrications which are in the Town's brief have no basis, foundation or truth; that in regard to the proposal on sick leave payout, the Town is once again attempting to mislead the Arbitrator; that during the course of negotiations, the six members of the Highway Department agreed to change one of their long-standing benefits to allow employees who had their sick day paid out upon retirement, resignation or termination; and that the Town is using smoke and mirrors when it refers to the tentative agreement on uniform allowance.

The Association also argues that the Town's assessment on the issues and their argument is misleading; that in terms of health insurance, the Association's position is that it should be maintained by the Town until it can be replaced by a substantially equivalent policy or the parties negotiate a change; that this language in the Association's final offer was not mentioned by the Town; that in terms of the health insurance waiver, the insurance carrier can diminish the benefits at any time and the Association would have no right to negotiate the change; that in terms of retiree health insurance, the major point the Arbitrator has to focus on is not that the Town was generous and gave up this benefit, but that the courts have said that any benefits tied to an age are discriminatory; that the Town has collected \$.35 per hour since 1992 to fund health insurance for the full-time employees and shall continue to collect it until they retire for this benefit; that in terms of the floating holiday, the Town is ignoring the clear testimony that the Association membership gave up \$.05 per hour to obtain this floating holiday 19 years ago; that longevity was never a problem until the employees organized; that the Town's attempt to create a wage schedule that requires working more than three years to reach top pay is a major change which was not supported by any rational or reasoning; that the Town's resentment of the employees organizing is evident; that the Town's brief is replete with smoke and mirrors, false or misleading statement and language evidencing anti-union animus; and that the members of the bargaining unit assert that the status quo should be preserved and that all bargaining members should have the same benefits.

4. Town on Reply Brief

The Town argues that the Association provides no justification for its selection of comparable communities; that the "quid pro quo" doctrine does not apply to an initial contract; that the Association wants much more than the status quo; that the Association misrepresents the Town's health insurance proposal; that the Arbitrator's job is to weigh both offers and determine which one is more reasonable; that the Association has misled the

Arbitrator, argued the wrong standard for decisions involving initial contracts and failed to support its position with anything more than argument; that the Town provided persuasive support for its final offer; that the Arbitrator is required to consider the whole picture, not the isolated portions focused on by the Association; and that, based on the record before the Arbitrator, the Town respectfully requests that the Town's final offer be selected as the final offer to be implemented as a part of the initial agreement between the parties.

V. STATUTORY ANALYSIS

A. Introduction.

Neither party asserted or presented any evidence that there was any state law or directive lawfully issued by a state legislature or administrative body which places limitation on expenditures that may be made or revenues that may be collected by the municipal employer. Therefore, "7. Factor given greatest weight" is not an issue in this matter. Nor did either party make an issue of the economic conditions in the jurisdiction of the municipal employer, so "7g. Factor given greater weight" is not an issue in this matter.

Indeed, no assertions were made or arguments presented about the lawful authority of the municipal employer, the interests and welfare of the public, the financial ability of the unit of government to meet the costs of any proposed settlement, the comparison of wages, hours and conditions of employment of the municipal employees involved with those of other employees in private employment in the same community or in comparable communities, changes in any of the foregoing circumstances during the pendency of the arbitration proceedings, or such other factor which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment. Therefore, none of these factors were considered or will be further discussed.

As this is an initial collective bargaining agreement, this case does involve the stipulations of the parties and, directly related, the overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospital benefits, the continuity and stability of employment, and all other benefits received. Most important in this case is the comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.

B. Determination of External Comparables

The parties agree that the following comparables should be included: Village of Hartland, Village of Menomonee Falls, Village of Pewaukee and Village of Sussex. Each of these is a contiguous community to the Town of Lisbon. With the exception of Menomonee Falls with a population over 30,000, the others are similar in size to the Town. As the parties agree on these comparables, the Arbitrator sees no reason to challenge them and accepts them as they are.

The Town also includes the City of Pewaukee in its list of comparables. In terms of the City of Pewaukee, the Association writes:

The only exception would be the City of Pewaukee, which up until approximately one year ago was the Town of Pewaukee. They are also currently in the process of developing their first collective bargaining agreement and at this writing have not completed the process. It is highly likely that due to its geographic proximity, same job market and interaction of the City of Pewaukee with the Town of Lisbon, that it will constitute a valid comparable in further negotiations.²

As the City of Pewaukee is contiguous and as it is of similar size, I will include it in the list of comparables. As the City had not concluded its collective bargaining agreement, however, there is no data from the City to include in this arbitration so it is not considered.

The Association also offers the City of Brookfield, the Town of Butler, the Village of Germantown, and the County of Waukesha as comparables, all of which the Town objects to. The City of Brookfield is not contiguous and, while it is in Waukesha County, it is a much larger community, larger than Menomonee Falls, and has a much larger work force. Any need for the comparables to include a larger entity is taken care of by including the contiguous Village of Menomonee Falls.

The Town of Butler also is not contiguous and is much smaller than the Town. No convincing arguments were offered for its inclusion, and so it is not included. The Village of Germantown is not contiguous and is not even in the County of Waukesha. Again, no convincing arguments were offered for its inclusion, so it is not included. Finally, the Association argues that the County of Waukesha should be a comparable. There may be circumstances where a town is considered comparable to the county in which it resides, but not for such a small town and such a large county. Again, no convincing arguments were offered to include the County so it is not included.

On the other hand, the Town offers the Towns of Merton, Brookfield, Delafield, Genessee, Mukwonago, Summit, and Waukesha, and the Village of Merton, all of which are objected to by the Association. The Town argues that the Town and Village of Merton should be included because they are contiguous to the Town of Lisbon. But neither of these municipalities have collective bargaining relationships with labor organizations representing employees similar to those represented in this matter. For this Arbitrator to consider an entity comparable, a collective bargaining relationship is necessary. For this reason, these two municipalities are not included. The same holds true for the Towns of Brookfield, Delafield, Genessee, Mukwonago, Summit, and Waukesha.

However, the City of Delafield and the Towns of Oconomowoc and Vernon are similar in size and close in proximity to the Town of Lisbon, and all have collective bargaining agreements with employees similar to those represented here, so all are included as comparables.

In sum, this Arbitrator concludes that the pool of comparable communities for this collective bargaining unit is made up of the City of Delafield, the Village of Hartland, the Village of Menomonee Falls, the Village of Sussex, the Town of Oconomowoc, the City of Pewaukee, the Village of Pewaukee, and the Town of Vernon.

²Association Brief in Chief at page 15.

C. Determination of the Status Quo

Before this Arbitrator can review the stipulation of the parties and analyze the comparables, both internal and external, the issues of burden of proof and the status quo must be addressed.

The Association argues that there is a long standing list of arbitral decisions regarding changing the status quo; that to change the status quo, arbitrators require that a legitimate problem exists which requires attention; that arbitrators require that the proposal reasonably addresses such a problem; and that arbitrators require that there be an appropriate quid pro quo offered for the change. The Association further argues that the Town has not demonstrated that a legitimate problem exists to change the status quo and that the Town has not offered an adequate quid pro quo for the changes.

And in the vast majority of cases that this arbitrator sees today, the Association is correct. In this day of highly unionized public employees, the initial bargaining contract is somewhat of a rarity. The vast majority of contract negotiations involve successor agreements, and arbitrators are loath to change those agreements. Those agreements are the status quo, the agreements of the parties from which future agreements are created. To change something in a successor agreement through arbitration, to change an item that the parties have agreed to in the past, that is, to change the status quo, arbitrators require the moving party to bear the burden of proof. That burden is expressed by requiring the moving party to show that a problem exists, that the proposal the moving party has brought forward mediates the problem, and that the moving party has offered an appropriate quid pro quo to the opposing side for the change. Only if those three obstacles are overcome, only if the moving party has met its burden of proof, will an arbitrator consider changing the status quo in the face of opposition from one of the parties.

Prior to the collective bargaining agreement at issue here, the parties did not have an collective bargaining agreement recognized by law. While for over 20 years, the Town Board and its employees have discussed wages, hours and conditions of employment, and while the Town Board has responded to the input of employees regarding their wages, hours and conditions of employment, and while the employees have suggested trading this for that on several occasions in regard to their wages, hours and conditions of employment, the Town Board and its employees did not negotiate over wages, hours and conditions of employment in any manner that is legitimized by statute and protected by law. Up until now, the Town Board set the wages, hours and conditions of employment for the employees involved. And what the employees had was an Employee Handbook. And while this Employee Handbook offers some protections and benefits for employees, it does not have the contractual enforcement procedures or protections that a collective bargaining agreement has.

And in the common use of the phrase "status quo," the Employee Handbook is the status quo in the sense that those are the wages, hours and conditions of employment of these employees. But in the labor relations sense, there is not status quo. And while this will be hard for these employees to hear, it is an issue of fairness. To require the moving party to carry a heavy burden when it wishes to change something the parties have agreed to in the past makes good policy sense, for one party to a collective bargaining agreement should not be able to easily change that agreement without the consent of the other party.

But to put that burden on the parties in an initial collective bargaining agreement does not make sense. In most cases, it would put a labor organization at a severe disadvantage, for one reason employees organize it that

their wages, hours and conditions or employment are not as good as those of their unionized neighbor. Because it is an initial collective bargaining agreement, the union is not attempting to change something previously agreed to by the parties.³ Prior to their being certified as a collective bargaining unit, the Town of Lisbon determined the wages, hours and conditions of employment of these Town of Lisbon employees. So, in this case, as in all cases involving an initial collective bargaining agreement, the Association is trying to change something unilaterally implemented by the Town. To require a union to bear such a burden to change so many things in an initial agreement would thwart the intent of collective bargaining.

So instead of having a status quo, the parties start with a clean slate, and the criteria for determining the content of that initial collective bargaining agreement is much more influenced by what other unionized employees have in the internal comparables and external comparables than by what the Town Board has decided in the past should be the employees' wages, hours and conditions of employment.

The problem for this collective bargaining unit is that it has several benefits which are better than the comparables, both internal and external. But while that is the status quo in their lives, that is, the benefits they are receiving, it is not the status quo in the labor relations sense of the words for, indeed, there is not status quo between these parties.

In sum, the Arbitrator determined that as this is an initial collective bargaining agreement and as there is no previous agreement which the parties are trying to change, that the labor relations concept of status quo with its accompanying burden of proof will not apply, that the Association's arguments regarding status quo will be rejected,⁴ and that the analysis will focus on the stipulations of the parties and the comparison of wages, hours and conditions of employment of municipal employees in the same community and in comparable communities to determine the selection of the final offer.

D. Comparison of External and Internal Comparables

Basically there are six major areas of dispute between the parties, with some areas having several disputes intermixed.

1. Health Insurance – There are three issues involved: the standard for change, the requirement to bargain

³Regardless of how the employees feel in this matter, they did not have an agreement with the Town.

⁴While the Town argues that there is no status quo as this is an initial contract, it too at times uses the status quo argument, including arguing about a quid pro quo, which shows how deep these concepts are in the psyche of labor relations professionals. But as with the status quo arguments offered by the Association, the Town's arguments to that affect will also be rejected.

a change, and what the Town calls a disclaimer and the Association calls a waiver regarding the Town's responsibility for changes made unilaterally by the carrier. Table 1 Health Insurance lists the external and internal comparables and the parties' final offers:

TABLE 1: Health Insurance⁵

External Comparables	Health Insurance
City of Delafield	Employees shall be provided with medical and hospitalization insurance, provided by the Employer for full-time employees. The employer agrees to provide coverage through Wisconsin Public Employer's Group Health Insurance Program (State health insurance plan).
Village of Hartland	The Village may, from time to time, change the insurance carrier and/or self-fund its health care program if it elects to do so. In the event of a change, the level of benefits provided shall not be reduced below the benefits provided under the lowest cost qualified plan in the service area.
Village of Menomonee Falls	The parties recognize that changes in provider networks often are beyond their control. Nevertheless, if, during the term of this contract the Village desires to make changes in the health or dental carriers, it shall so notify the union at least sixty days in advance of such proposed changes and will negotiate in good faith regarding any proposed changes in the health or dental benefits provided in this contract.
Town of Oconomowoc	The Town shall retain the right to negotiate and execute the replacement for the health insurance plan currently in effect providing that such replacement plan shall provide coverage and benefits equal to those currently provided in this agreement.
Village of Pewaukee	The Employer may, from time to time, change the HMO carriers, or also change the regular health plan, and/or elect to self fund its health care benefits, so long as comparable benefits are provided.
Village of Sussex	The Village may from time to time change the insurance carrier provided that substantially equivalent coverage is maintained
Town of Vernon	The Township agrees to enroll in the Wisconsin Public Employer's

⁵In all the Tables, *Italics* are used to highlight the differences between the parties' final offers and **Boldface** is used to highlight comparisons with external and internal comparables.

	Group Health Insurance and to pay 105% of the premium of the lowest qualified plan...Issues of coverage under the policy are between the insurance carrier and the affected employee and the Town has no responsibility for medical cost that are deemed not to be covered under the applicable policy.
Internal Comparables	
Police	The Town shall provide group health insurance coverage to all regular full-time employees.
Fire ⁶	The Town of Lisbon shall provide, at its expense, group health insurance and dental coverage to the employees and members of the employee's family.
Final Offers	
ASSOCIATION	The Employer may change medical and dental carriers or self-fund the insurance provided the benefit levels remain <i>substantially equivalent</i> to the coverage in effect before the change, <i>unless mutually agree otherwise by the parties</i> .
TOWN	The Employer may change medical and dental carriers or self-fund the insurance plans provided the benefit levels remain <i>comparable</i> to the coverage in effect before the change. <i>The Town shall not be responsible for self-insuring any unilateral changes in the health insurance plan made solely by the carrier.</i>

Only one of the external comparables, Village of Pewaukee, has the exact language of the Town's final offer, "comparable". And only one external comparable, Village of Sussex, has the exact language of the Associations final offer, "substantially equivalent." While several of the contracts do not include a standard for changing insurance carriers and/or coverage, the Village of Hartland guarantees that benefits "shall not be reduced below the benefits provided under the lowest cost plan in the service area" and the Town of Oconomowoc guarantees that it "shall provide coverage and benefits equal to those currently provided in this agreement." And while only one of the comparables, Village of Menomonee Falls, has agreed to "negotiate in good faith regarding any proposed changes in the health or dental benefits provided in this contract," the City

⁶From the record it appears that, while the Town of Lisbon Police Officers are represented for purposes of collective bargaining, the Town of Lisbon Fire Department employees are not. While data from the Fire Department will be included, it will not be given the weight that the data from the Police Department is given.

of Delafield and the Town of Vernon name the carrier in the collective bargaining agreement.

Most importantly, no contract has the disclaimer/waiver language offered by the Town. The Town argues that there is a problem, that an arbitration in another jurisdiction has been lost which puts the Town at risk, and that this language remedy's the problem. After reading the Town's arguments, this Arbitrator is not convinced that there is a problem or, if there is, that this language solves it.

For the internal comparables, there is no standard for change or requirement for negotiation, but neither is there the disclaimer or waiver language proposed by the Town.

In sum, the language offered by the Association relating to health insurance is more in line with the external comparables in that it sets a standard of "substantially equivalent" and allows for the parties to change carriers and benefits if mutually agreed upon by the parties. The internal comparables offer no standard and contain no requirement to negotiate changes. The Town's disclaimer or waiver language is nowhere to be found in the external or the internal comparables. Overall, the Association's final offer as it relates to health insurance is the more reasonable of the two.

2. Sick Days Payout at Termination – The parties have agreed to a schedule for sick leave payout when an employee resigns or retires. The dispute involves payout of sick leave for employees who terminate or who are terminated. Table 2 Sick Leave Payout lists the external and internal comparables and the parties' final offers:

TABLE 2: Sick Leave Payout

External Comparables	Sick Leave
City of Delafield	Upon retirement ...an employee with 15 years total service ...may receive as compensation for his/her accumulated unused sick leave, up to a maximum of one hundred twenty (120) days...to remain on deposit with the City for application to monthly premiums for continued health insurance .
Village of Hartland	Unused sick leave may be accumulated to a maximum of one hundred and fifty (150) days...the daily rate of pay in effect at the time of retirement , times 25% of his accumulated sick leave days shall provide a fund which shall be used to pay the health insurance premiums for the retirees until the fund is exhausted.
Village of Menomonee Falls	Each employee, upon retirement , shall be paid by the Employer for all unused sick leave not exceeding one hundred and ten (110) days then credited to him/her at the hourly wage rate being then paid to said employee based upon an eight (8) hour work day. Each employee, upon retirement, shall have the option of using up to 110 days of said accumulated sick

	leave days for the payment of health insurance premiums (not including dental) until the value of the sick leave days accumulated have been exhausted.
Town of Oconomowoc	[no payout]
Village of Pewaukee	[no payout]
Village of Sussex	Employees who retire after twenty (20) or more years of permanent full-time service to the Village...shall receive payment in the amount equal to fifty percent (50%) of accumulated sick days, up to a maximum of 120 days. In the alternative, such employees may elect... to receive payment in the amount equal to one hundred percent (100%) of accumulated sick days to be applied toward health insurance contribution following retirement, up to a maximum of ninety-five (95) days.
Town of Vernon	Employees will be given the opportunity to apply 100% of their accrued, but unused sick leave toward payment of health insurance premiums. All accrued, but unused sick leave will be forfeited.
Internal Comparables	
Town of Lisbon: Police	Upon the retirement of an employee with a minimum of twenty (20) years of service to the Town, the employee shall be paid out for accumulated sick leave up to a maximum of one hundred twenty (120) days.
Town of Lisbon: Fire	At retirement or termination of employment, the employee would be paid for accumulated sick days using the following schedule:
Final Offers	
ASSOCIATION	ARTICLE XVI: RESIGNATION- <i>TERMINATION</i> -RETIREMENT: <i>Sick days accumulated but not used</i> , shall be paid in accordance with the following schedule:
TOWN	ARTICLE XVI: RESIGNATION-RETIREMENT: <i>Accrued and unused sick leave days</i> shall be paid out in accordance with the following schedule, <i>for employees who retire or resign</i> :

Only two comparables, Village of Menomonee Falls and Village of Sussex, allow an outright payout

of accumulated sick leave, but they do so only at retirement, in both cases offering the option of applying said money to retiree health insurance. Two comparables, the City of Delafield and the Village of Hartland, do not allow for a cash payout, but do allow employees to apply a certain cash amount toward health insurance based upon their accumulated sick leave but, again, only upon retirement. It is unclear in my reading of the Town of Vernon agreement what the triggering event is for payment of unused sick leave, but, again, it is not a cash payout but is used for health insurance. The other two comparables, Town of Oconomowoc and the Village of Pewaukee, have no payout for unused sick leave.

What is clear is that, absent the Town of Vernon in which the triggering event is unclear, none of the external comparables allow for payout of unused sick leave upon resignation or termination. Even the internal police comparable allows for sick leave to be paid out only upon retirement with a minimum of 20 years of service.

The other internal comparable, the fire department, allows for sick leave payout at retirement or termination. It is unclear what happens at a resignation. If termination is something the employee does, then it would seem to include resignation. If the employer is doing the terminating, then it would appear to exclude a resignation. It is interesting to note that the Town did not adequately explain why it has allowed this language into the fire contract which it now so vehemently opposes including in this agreement.

The Association argues vigorously that excluding the word “termination” would put employees on lay-off at risk of losing their accumulated sick leave. At hearing and on brief, the Town stated that was not the intent of the language; indeed, it seems to this Arbitrator that an employee need not resign when his lay-off call back time has ended to qualify under the Town’s language.

In any case, there is no external comparable support and only partial internal comparable support for the Association’s position. Indeed, the Town’s offer of including resignation for sick leave payout far exceeds anything offered by any of the external comparables. The internal comparables cut both ways. It is easy to see that, as to this issue, the Town’s offer is the more reasonable of the two.

3. Floating Holiday – The parties have agreed to ten holidays and two floating holidays. The dispute involves the Association’s attempt to have a third floating holiday. Table 3 Holidays lists the external and internal comparables and the parties’ final offers:

TABLE 3: Holidays

External Comparables	

City of Delafield	9 plus 2 personal days
Village of Hartland	8 plus 2 floating
Village of Menomonee Falls	8½ plus 3 floating
Town of Oconomowoc	10 plus 1 floating
Village of Pewaukee	9 plus 2 personal days
Village of Sussex	10 plus 1 personal and 1 floating
Town of Vernon	10 plus 1 floating [9.2 + 1.85 = 11.05]
Internal Comparables	
Town of Lisbon: Police	10 plus 2 floating
Town of Lisbon: Fire	10 – 0 floating
Final Offers	
ASSOCIATION	10 plus 3 floating
TOWN	10 plus 2 floating

This is one area in which the Association argues the status quo because the employees have had a third floating holiday for many years and they believe they bought this holiday by taking a smaller pay increase many years back. The Town also argues status quo, stating it is offering a .25% more in wages in the third year to buy back the third floating holiday. As noted above, these arguments are rejected as there is no status quo between the parties.

Instead this Arbitrator must look at the comparables, and they speak loud and clear. None of the comparables, external and internal, have a total of 13 holidays. The only comparable which has three floating holidays, as the Association seeks, has only 8½ holidays, compared to the 10 holidays agreed upon by the Association and the Town in this matter. The comparables that have 10 regular holidays (Town of Oconomowoc, village of Sussex, Town of Vernon, Town of Lisbon Police and Fire) have no more than two floating or personal days. The comparables are in total support of the Town's position and, therefore, it is the more reasonable final offer of the two.⁷

⁷The Association was also seeking to use the third floating holiday on the Friday prior to Memorial Day as a time to use a floating holiday. This is a minor issue compared to the number of days and, as the Association has no support for a third floating holiday, that resolves the whole issue.

4. Longevity: The parties have agreed to continue longevity for the present Highway Department employees who have longevity. The Town is seeking to limit longevity to these six employees, while the Association wishes to continue longevity for any new employees.

This is another easy issue. Again, because the Association's status quo argument is rejected, it has little to support its position because none, absolutely none, of the external and internal comparables have longevity. None. The Town's offer is the more reasonable of the final offers on this issue.

5. Part-time Employees: The parties have agreed that part-time employees will be provided with prorated sick and funeral leave, vacations and holidays. The dispute centers here on the Association's desire to have part-time employees receive prorated longevity.

Let me repeat. This is another easy issue. The Association argues that it gave up retiree health insurance benefits to gain longevity for part-time employees so all employees will be treated the same. In actuality, the Association did not give up retiree health insurance benefits so much as it secured a wonderful benefit for retirees by having retiree health insurance included in this contract. While I will talk about this later, let me state that this is a benefit unmatched by any of the comparable. Again, none, absolutely none, of the external and internal comparables have longevity. None. The Town's offer is the more reasonable of the final offers on this issue as well.

6. Wage Schedule: The parties are in agreement that present full-time employees will continue to receive longevity. The dispute centers around the Town's desire to implement a wage schedule for new employees in the Highway Department, while the Association wishes to continue the longevity schedule. Table 4 Wage Schedule and Increases lists the external and internal comparables and the parties' final offers:

TABLE 4: Wage Schedule and Increases

External Comparables				
City of Delafield			3%	3%
		1/1/00	1/1/01	1/1/02
	Start	\$15.25	\$15.71	\$16.81
	After 6 months	\$17.18	\$17.70	\$18.23
	After 1 Year	\$17.72	\$18.25	\$18.79
	After 2 Years	\$18.26	\$18.81	\$19.37
Village of Hartland	Start	1 Year	2 Years	
	1998 (3.5%)	\$14.10	\$15.86	\$17.62
	1999 (3.5%)	\$14.59	\$16.41	\$18.23
	2000 (3.5%)	\$15.10	\$16.99	\$18.87
Village of Menomonee Falls			3%	3%
		1-1-01	1-1-99	1-1-00

	Truck Driver \$19.06 \$19.63 \$20.22				
	New Employees After January 1, 1998 Entry Position: 90% of Top Rate After 90 Days:95% of Top Rate After 270 Days: 100% of Top Rate				
Town of Oconomowoc	Effective 1/1/01 1/1/02 1/1/03	Start \$18.11 \$18.79 \$19.49	After 6 months \$18.93 \$19.69 \$20.47		
Village of Pewaukee	2000 - 3.0% Starting 1 yr 2 yrs 3 yrs 4 yrs 3 \$17.48 \$18.11 \$18.72 \$19.26 \$19.88 4 \$14.97 \$15.78 \$16.66 \$17.55 \$18.67 5 \$14.24 \$14.97 \$15.71 \$16.40 \$17.03 6 \$13.69 \$14.33 \$14.99 \$15.53 \$15.95 2001 - 3.0% Starting 1 yr 2 yrs 3 yrs 4 yrs 3 \$18.00 \$18.65 \$19.28 \$19.84 \$20.48 4 \$15.42 \$16.25 \$17.16 \$18.08 \$19.23 5 \$14.67 \$15.42 \$16.18 \$16.89 \$17.54 6 \$14.10 \$14.76 \$15.44 \$16.00 \$16.43				
Village of Sussex	Classification 1/1/00: 3.5% Lead Worker Employee 1/1/01: 3.25% Lead Worker Employee 1/1/02: 3.25% Lead Worker Employee	Start \$15.69 \$15.22 \$16.20 \$15.72 \$16.73 \$16.23	6 mos \$16.62 \$16.13 \$17.16 \$16.65 \$17.72 \$17.19	1 Year \$17.54 \$17.01 \$18.11 \$17.58 \$18.70 \$18.13	2 Years \$18.46 \$17.91 \$19.06 \$18.49 \$19.68 \$19.09
Town of Vernon	7/1/00 7/1/01 7/1/02 Mechanic/Crew Leader \$17.59 \$18.29 \$19.11 Road Maintenance I \$16.83 \$17.50 \$18.29 Road Maintenance II \$15.71 \$16.34 \$17.08				
Internal Comparables					

Town of Lisbon: Police	1/1/00	2%	7/1/00	2%
	1/1/01	2%	7/1/01	2%
	1/1/02	2%	7/1/02	2%
	Start 2002	\$15.36		\$15.68
	After One Year	\$16.56		\$16.89
	After Two Years	\$17.78		\$18.14
	After Three Years	\$18.99		\$19.37
	After Four Years	\$20.21		\$20.61
Town of Lisbon: Fire	2000	4.7%		
	2001	2.5%		
	First Year	\$27,810		
	Second Year	\$28,642		
	Third Year	\$31,366		
	Fourth Year	\$34,486		
	Fifth Year	\$37,939		
Final Offers				
ASSOCIATION	2000: 3.00%	Hire Rate \$16.27		
		After Probation Rate \$17.37		
	2001: 3.25%	Hire Rate \$16.83		
		After Probation Rate \$17.93		
	2002: 3.50%	Hire Rate \$17.46		
		After Probation Rate \$18.56		
TOWN	Highway Department Employees			
	Hired After January 1, 2000			
		3.00%	3.25%	3.75%
		2000	2001	2002
	New Hire	\$16.27	\$16.80	\$17.43
	After Probation	\$16.68	\$17.22	\$17.87
	Start of Second Year	\$17.09	\$17.64	\$18.30
	Start of Third Year	\$17.50	\$18.07	\$18.75
	Start of Fourth Year	\$17.91	\$18.49	\$19.18

As noted above, none of the comparables, external and internal, have longevity. But, the Association argues, the comparables do not support a wage schedule with five steps. Indeed, the Town of Vernon appears to have only one step, while the Town of Oconomowoc has two steps, the Village of Hartland and the Village of Menomonee Falls have three steps, and the City of Delafield and the Village of Sussex have four steps. Only the Village of Pewaukee has five steps.

The Association also argues that the comparables do not support a wage schedule that does not max

out until after the third year.⁸ Indeed, the Town of Vernon appears to have only one step and, thus hits the maximum immediately, while the Town of Oconomowoc reaches its max after six months and the Village of Menomonee Falls reaches its max after nine months. Three of the comparables max out after two years (City of Delafield, Village of Hartland, and Village of Sussex), while the Village of Pewaukee reaches its max after four years.

So the Town's proposal is on the high end both in terms of number of steps, though the Village of Pewaukee also has five steps, and amount of time reach the maximum, though it takes four years, one more year than in the Town's offer, to reach the maximum in the Village of Pewaukee. Looking at the seven comparables, the average number of steps is a little over three, and if you take out Vernon with its unique one step, the average is closer to four. The average time to reach the maximum is a little over one-and-one-half years and, again, if you delete the unique Vernon pay schedule, it is closer to two.

So the Association is correct that the Town's proposal is high, both in terms of the number of steps and the amount of time it takes to reach the maximum, in comparison with the seven comparables. But, once again, it is important to note, none of the comparables, external and internal, have longevity. Not one of the comparables have a pay structure as proposed by the Association. Five of the seven comparables have a pay schedule that goes beyond the start and non-probation rates, and four of the schedules goes past the one year mark. So, once again, the Town's proposal is the more reasonable of the two.

In summary, the Associations proposals as to health insurance are preferred to the Town's because the external comparables supports the Association's position of "substantially equivalent" and the possibility of negotiation, while none of the comparables, external or internal, supports the Town's proposed disclaimer/waiver language. The Town's proposal on sick leave payout is preferred, even though one of the internal comparables includes "termination" because none of the external comparables, if they allow sick leave payout at all, allows it for resignation, much less termination. In terms of the third floating holiday, the Town's proposal is preferred because none of the comparables, external or internal, have 13 total holidays and of the one comparable that has three floating holidays, it only has 11½ total holidays. The Town's proposal to eliminate longevity while grandparenting current employees is preferred, as is the Town's proposal not to provided longevity to part-time employees, because not one of the comparables, external and internal, offers longevity. And while the Town's proposal for a wage schedule may be long both in terms of number of steps and amount of time it takes to reach maximum salary, again it has grandparented current employees and its proposal has the support of a majority of comparables, while none of the comparables, as noted above, supports the Association's proposal to have a longevity system of pay.

5. Stipulation of the Parties and Overall Compensation

⁸To be consistent, all of the maximums will be stated as "after the 'X' year".

The Association argues vehemently that it will lose much of the status quo if the Town's offer is accepted. While I have rejected the status quo argument in this case, I note that the Association believes it loses benefits in terms of sick leave payout, floating holidays and longevity if I accept the Town's offer. The Association also believes that it gave up part of the status quo in sick leave payout to secure longevity for the part-time employees of the bargaining unit.

While I do not doubt the sincerity of the Association's beliefs, I do not believe that its members see all of the gains the Association has accomplished in these negotiations. Certainly the retirees' health insurance benefits are better than they were prior to this collective bargaining agreement. Part-time employees gained prorated sick leave, funeral leave, vacation and holidays, as well as a substantial pay increase. But, most importantly, these employees have gained the right to have competent labor relations professionals represent them in collective bargaining, as well as in administration of the agreement, including a grievance procedure which ends in final and binding arbitration. In addition, the employees gained the protection of the "just cause" standard for suspension, demotion, discharge and other disciplinary action. Finally, they received recognition of seniority as a determining criteria for vacations, other off day requests, overtime and layoff. While one can not put a monetary value on these benefits, my experience in labor relations says these benefits are worth much.

6. AWARD

After carefully reviewing the entire record in this matter, for the reasons stated above, this Arbitrator issues the following:

AWARD

1. That the final offer of the Town of Lisbon is the most reasonable of the offers before this Arbitrator.
2. That said final offer shall be incorporated in the parties collective bargaining agreement.

Dated at Madison, Wisconsin, this 19th day of April, 2002.

By _____
James W. Engmann, Arbitrator

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