IN THE MATTER OF THE ARBITRATION PROCEEDINGS

BETWEEN

DANE COUNTY, WISCONSIN
MUNICIPAL EMPLOYEES LOCAL
60, AFSCME, AFL-CIO,

Union,

and

ARBITRATOR'S AWARD
Case 13 No. 159385 INT/ARB-9108

VILLAGE OF McFARLAND,

[correction: Case 13 No. 59385 INT/ARB-9108]

Employer.

[Dec.No.30149-A]

Arbitrator: Jay E. Grenig

Appearances:

For the Employer: James R. Macy, Esq.
Davis & Kuelthau

For the Union: Jack Bernfeld, Staff Representative
Wisconsin Council 40, AFSCME

I. BACKGROUND

This is a matter of final and binding interest arbitration for the purpose of resolving a bargaining impasse between the Village of McFarland ("Village" or "Employer") and Dane County, Wisconsin Municipal Employees Local 60, AFSCME, AFL-CIO ("Union"). The Village is a municipal employer. The Union is the exclusive collective bargaining representative for all regular full-time and regular part-time employees of the Village, excluding supervisory, managerial, confidential, craft, and law enforcement employees with the power of arrest.

The bargaining unit consists of approximately 20 employees in a variety of classifications. The employees are primarily blue collar employees in the Street Department

and clerical employees working in the Village Hall. Approximately one-fourth of the employees are part-time employees who work less than 40 hours each week.

The Village participates in the Wisconsin Public Employers' Group Health Insurance Plan (State Plan) established in accordance with Wis.Stats. § 40.51(7). The plan is administered by the Wisconsin Department of Employe Trust Funds. Participants are notified annually of the available plans in their employer's service area and are given an opportunity to select a plan. All but two members of the bargaining unit participate in the program. Of the eighteen remaining employees, ten are enrolled in a family plan.

The Union and the Village have been parties to a series of collective bargaining agreements commencing with their initial contract in January 1992. The parties have been engaged in negotiations for an agreement for the period January 1, 2001, through December 31, 2002, and have been unable to resolve all issues for an agreement.

On November 16, 2000, the Union filed a petition with the Wisconsin Employment Relations Commission alleging that an impasse existed between it and the Village in their collective bargaining and requesting the WERC to initiate arbitration pursuant to Wis.Stat. § 111.70(4)(cm)(6).

Final offers were exchanged by the parties and submitted to an investigator for the Wisconsin Employment Relations Commission on May 25, 2001. On June 7, 2001, the WERC certified that the investigation was closed and submitted a list of arbitrators to the parties. The parties selected the undersigned to resolve their dispute. On June 21, 2001, the Employer issued an order appointing the undersigned as the arbitrator.

A hearing was conducted on October 25, 2001. Upon receipt of the parties' reply briefs, the hearing was declared closed on December 28, 2001.

II. FINAL OFFERS

A. EMPLOYER

1. Status Quo matters in prior contract except as noted as follows.

2. Section 11.01 - Add the following sentence to the second paragraph to read as follows:

> "Effective January 1, 2002, in addition, regular full-time employees who are employed for a full calendar year are entitled to three (3) personal days off with pay, each day to be taken at the employee's discretion, subject to the approval of the employee's supervisor, except for the Public Works crew who shall be subject to Article 10 - Scheduling of Paid Leave for the Public Works crew.

3. Section 13.01 - Health Insurance - Add the following sentence to read as follows:

> "Effective January 1, 2002, the Village agrees to pay 95% of the premium and the employee agrees to pay 5% of the gross premium of the alternate or standard health insurance plan that is the least costly qualified plan within the service area, but not more than the total amount of the premium of the plan selected, for regular full-time employees and their dependents, if any. [sic]

4. Section 20.01 - Salary Schedule and Classifications

1. All wage rates to be increased as follows:

a).	Effective 1/1/01	3.5%
b).	Effective 1/1/02	4.0%
c).	Effective 7/1/02	1.0%

2. Change the last sentence on the bottom of Appendix A to read:

Employees shall receive ~~fifty cents ($.50)~~ <u>one dollar ($1.00)</u> per hour in addition to the rates contained in the above salary schedule when they are assigned to cover the ambulance schedule or required to answer an ambulance call.

B. UNION

The 1998-2000 collective bargaining agreement between the Village of McFarland and Dane County, Wisconsin Municipal Employees Local 60, AFSCME, AFL-CIO shall be modified as follows (underlined language is to be added, ~~strikeouts are to be deleted~~):

1. Amend Appendix A as follows:

a. Change the last sentence on the bottom of Appendix A to read: Employees shall receive ~~fifty cents ($.50)~~ <u>one dollar ($1.00)</u> per hour in addition to the rates contained in the above salary schedule when they are assigned to cover the ambulance schedule or required to answer an ambulance call.

b. Increase all wage rates contained in Appendix A, July 1, 2000 by:

1. Effective January 1, 2001 - two percent (2%),
2. Effective July 1, 2001 by an additional two percent (2%),
3. Effective January 1, 2002 by an additional two percent (2%),
4. Effective July 1, 2002 by an additional two percent (2%).

2. The Tentative Agreements between the parties.

III. STATUTORY CRITERIA

111.70(4)(cm)

. . .

7. '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:

a. The lawful authority of the municipal employer.

b. 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.

d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.

e. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes generally in public employment in the same community and in comparable communities.

f. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes 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 employes, 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.

IV. POSITIONS OF THE PARTIES

A. THE UNION

The Union argues that, in spite of the strong economic position of the Village, "the Village has staked out a radical position by proposing to significantly reduce employee compensation." The Union says that it proposes no change in the historical basis for paying premiums.

According to the Union, the Village offer is vague and makes no assents. Pointing out that the Village says its offer would require premium sharing on the same basis as

they currently have with their sworn police employees, the Union claims that the parties' bargaining history and the language itself indicate otherwise. The Union notes that the agreement between the Village and the police employees provides that

> [t]he Village agrees to pay 95% of the premium and the employee agrees to pay 5% of the premium for single or family insurance in the amount of 105% of the gross premium of the alternate or standard health insurance plan that is the least costly qualified plan within the service area, but not more than the total amount of the premium of the plan selected, for regular full-time employees and their dependents, if any.

If the Village truly intended to administer the benefit in the same manner, the Union argues that it would have proposed the same language. The Union says that a plain reading of the Village's proposal clearly shows it intends to pay less for employees represented by the Union than it pays police employees.

With respect to bargaining history, the Union notes that the Village's proposal was for employees "to pay 15% of the premium for single or family health insurance *in the amount of one hundred five percent (105%)* of the gross premium." (Italics.) The Union states that this underlined language was omitted from the Village's certified final offer. If the Village wanted to propose the same benefit basis as its police, the Union claims the Village knew how to do it but chose not to. The Union construes the Village proposal as providing that the Employer will contribute an amount equal to 95% of the least costly plan.

The Union states that of the ten comparable communities, seven participate in the State plan and all, except the Village, make health insurance contributions for full-time employees in the identical manner as the Union's offer. The other three communities pay 100 percent of the cost of specified plans.

It is the Union's position that the Village's offer results in higher employer contributions toward premiums for part-time employees than full-time workers. In other words, part-time employees would have 100 percent of the premium paid while full-time employees would have to contribute 5% of the premium. The Union claims that the Village's proposal would result in an adverse change in the relationship between full-time and part-time employees enrolled in the family plan.

With respect to the proposed wage increase, the Union argues that there is a 0.5% difference between the two proposals with the Union's offer resulting in an 8% increase over the term of the contract and the Village's offer resulting in an 8.5% over that period. Using the maximum Crew rate of $15.17 per hour, the Union says that the Village's offer results in a final wage of only $.08 per hour more than the Union's offer. On an annualized basis, the Union claims the Village's offer will result in a Crew member at the

maximum rate earning $166.40 earning $166.40 more annually than under the Union offer, substantially less than the impact of their insurance offer for an employee enrolled in a family plan. According to the Union, the Village's offer is out of sync with the comparables; their year one offer is lower in lift than the comparables and their end of contract lift of 8% is a mere .5% more than the Union's offer.

Turning to the Village's holiday proposal, the Union asserts the Village's proposal changes how holidays are paid and denies the additional holiday to part-time employees. The Union declares that the Village's offer significantly reduces the holiday benefit. Pointing out that the current holiday benefit provides that the personal days are to be provided "each year," the Union observes that the Village's proposal omits that language and substitutes instead "each day."

The Union notes that the Union's proposal deletes the sentence in the previous contract providing that "[r]egular part-time employees shall be entitled to holidays off with pay on a pro rata basis." If the Village's proposal is intended to supersede the current contract provision in 2002, the Union argues that it would appear the Village is proposing that part-time employees receive no personal holidays in 2002 and thereafter, perhaps no holidays at all.

With respect to the language that only full-time employees "who are employed for a full-calendar year" are entitled to personal holidays, the Union maintains that this is a significant takeaway. The Union questions whether this means that an employee would not be eligible for a personal holiday if the employee were on unpaid leave or unpaid family medical leave during the year . The Union notes that the Village currently provides slightly less holidays for full-time employees than the majority of the comparables; the addition of an addition is hardly a major change. Additionally, the Union expresses concern that the Village's offer appears to deny employees personal days during their first year of employment. The Union says that no comparable community has this condition and the Villages does not have such an arrangement with its police unit.

The Union argues that the four-person police officer bargaining unit is too small in comparison with the bargaining unit represented by the Union to constitute a valid internal comparable. The Union also points out that there has been an historical difference in the health insurance benefits between the police unit and the Union's bargaining unit. Additionally, police officers receive ten holidays to the Union's eleven (twelve if the Village's offer is selected) and police officers receive a different retirement benefit than employees represented by the Union.

The Union stresses that the Village is not proposing the same health insurance premium sharing terms for the Union as it has with the police. It points out that the language of the of the Village's offer is materially different than the language in the police contract. It also notes that police salaries were increased by at least 14.7%—an increase

nearly two and one-half times the rate of inflation—in return for the police agreeing to health insurance premium sharing in the 1992-93 contract.

B. THE VILLAGE

The Village does not argue inability to pay, but asserts that the expense of health insurance premiums is an economic condition that must be given weight. Claiming that "the cost of health insurance is of nation-wide concern and its implications clearly fall upon the shoulders of the costs associated with this bargain," the Village believes that greater weight criterion (Wis.Stat. § 111.70(4)(cm)(7g)) is at issue.

The Village disagrees with the Union's claim that it is attempting to have AFSCME employees pay more toward the cost of insurance than its other internal bargaining unit (police employees). According to the Village, the Village explained during negotiations that the language was to be applied in the same manner as it applies to the police employees.

The Village asserts that in 2002 its proposal would mean that employees would pay an additional five percent toward the cost of the insurance based on 105% of the lowest plan. For example, where 105% of the lowest plan is $697.10, and an employee chose a plan with a higher premium, the employee would pay an additional 5% of $697.10—not 5% of the actual premiums. The Village says that the additional cost associated with its offer would not exceed $34.85 per month in 2002.

It is the Village's position that it has met the criteria necessary to change the status quo. First, the Village asserts that it has established a need for change. Because health insurance premiums have skyrocketed in the past couple of years, the Village argues that there is a compelling need for employee concessions toward the cost of health insurance. The Village relies on various articles, including an article suggesting that the events of September 11 "will send shockwaves through the entire insurance industry," suggesting that double-digit increases in health insurance are expected to continue for some time.

The Employer cites *Algoma School District*, Decision No. 20086-B (Johnson 1983), in which the arbitrator found containment of health insurance increases is possible only if employees are cognizant of the cost to the employer. It also refers on *Ripon School District*, Decision No. 26251 (Friess 1990), in which the arbitrator found that the Employer had established that a change (employee's paying a portion of the premium) was "urgently needed." The Village also relies on *Sheboygan Falls School District*, Decision No. 26201 (Oestreicher 1990) (good public policy favored employer's proposal that employees begin to share cost of health insurance coverage); *Winneconne Community School District*, Decision No. 26202 (Yaffe 1990) (selection of union's position may result in relatively comparable salary settlement that fails to acknowledge and address Board's legitimate concerns about controlling District cost in health insurance area and which fails to follow potential settlement trends on issue); *Forest County (Courthouse)*,

Decision 58796 (Weisberger 2001) (despite employer's failure to provide customary quid pro quo for changing health insurance status quo, employer's proposed health insurance changes can be justified by fact that it has been required to pay substantial increases for health insurance in 2000 and 2001; total package costs demonstrated that employer's final offer was more reasonable).

By having employees pay a small portion of the existing health insurance premium, the Village suggests that employees are much more likely to realize just how expensive health insurance is and that employees will be more likely to use health insurance only when necessary if they realize that they share in the cost of maintaining the program. Additionally, the Village contends that employees are more likely to be receptive to redesigning the existing health insurance plan if they have some limited stake in sharing the cost.

Turning to the previous arbitration between the parties, the Village points out that Arbitrator McAlpin found the internal comparables favored the Village with respect to insurance and the external comparables favored the status quo. However, Arbitrator McAlpin found that there was no quid pro quo offer as had been offered to the police unit.

According to the Village, this is not the case this time. The Village notes that it has proposed a wage increase of 3.5% effective January 1, 2001; 4% effective January 1, 2002; and an additional 1% effective July 1, 2002. It points out that the average wage increase among the comparable municipalities is slightly above 3% for 2001 and 3.36% for 2002. In addition, its proposal provides employees with an additional personal day effective in 2002. Thus, the Village claims that its wage proposal sufficiently addresses the quid pro quo criterion for employees to pay a portion of the health insurance premium. Pointing out that the Union's offer provides for wage increases greater than increases in the CPI, the Village claims the Union's offer is not reasonable compared to the cost-of-living.

Recognizing that a majority of the external comparables do not require employees to contribute to the payment of the health insurance premium using the same method proposed here, the Village argues that not all the municipalities require a 105% contribution toward the gross premium of the least costly plan. For example, the Village of DeForest and the City of Sun Prairie contribute 100% toward the lowest plan.

Although the Village had originally proposed to have the same contribution proposal apply to part-time employees, the Village explains that it dropped the proposal as part-time employees do not receive the same benefit structure as full-time employees.

The Village argues that the cast forward method of costing accurately portrays the value of the proposed settlement. It asserts that the cohort of employees in the base year must be kept constant over the life of the agreement so that any changes in wages or

fringe benefits can be measured accurately; the only variables are those items that the parties have bargained and time. The Village claims that if the parties were free to take into account retirements, layoffs, or new hires, all that would be left is an "apples to oranges" comparison. According to the Village, arbitrators have considered actual costs only when the employer has argued an inability to pay.

According to the Village, Village employee wages rank above the average of the comparables. It declares that wages paid by the Village are clearly comparable to, if not superior to, those paid by comparable municipalities that are two to three times its size.

With respect to its holiday proposal, the Village argues that the Union's "attempt to re-write the holiday benefit for part-time employees demonstrates how tenuous the Union's case is in this proceeding. The Village contends that there never was any intent to deprive part-time employees of the additional holiday benefit, or of any holiday benefit.

V. FINDINGS OF FACT

A. State Law or Directive (Factor Given the Greatest Weight)

No state law or directive lawfully issued by a state legislative or administrative officer, body or agency placing limitations on expenditures that may be made or revenues that may be collected by a municipal employer is at issue here. Neither party argues that this criterion is relevant here.

B. Economic Conditions in the Jurisdiction of the Municipal Employer (Factor Given Greater Weight)

This factor relates to the issue of the municipal employer's ability to pay. Ability to pay is not at issue in this proceeding. Neither party argues that this criterion is relevant here.

C. The Lawful Authority of the Employer

There is no contention that the Village lacks the lawful authority to implement either offer.

D. Stipulations of the Parties

While the parties were in agreement on many of the facts, there were no stipulations with respect to the issues in dispute. They have, however, reached agreement on a number of issues not in dispute here.

E. The Interests and Welfare of the Public and the Financial Ability of the Unit of Government to Meet these Costs

This criterion requires an arbitrator to consider both the employer's ability to pay either of the offers and the interests and welfare of the public. The interests and welfare of the public include both the financial burden on the taxpayers and the provision of appropriate municipal services. There is no contention that the Village lacks the financial ability to pay either offer.

The public has an interest in keeping the Village in a competitive position to recruit new employees, to attract competent experienced employees, and to retain valuable employees now serving the Village. Presumably the public is interested in having employees who by objective standards and by their own evaluation are treated fairly. What constitutes fair treatment is reflected in the other statutory criteria.

F. Comparison of Wages, Hours and Conditions of Employment

1. Introduction

The purpose in comparing wages, hours, and other conditions of employment in comparable employers is to obtain guidance in determining the pattern of settlements among the comparables as well as the wage rates paid by these comparable employers for similar work by persons with similar education and experience.

2. External Comparables

a. Introduction

The parties resorted to interest arbitration once before in 1994. The parties agree that the external comparables adopted by Arbitrator McAlpin are appropriate for comparison in this proceeding:

DeForest	Oregon
Fitchburg	Stoughton
Middleton	Sun Prairie
Monona	Verona
Mount Horeb	Waunakee

These communities are contiguous to or within close proximity to the Village. The per capita value of property in the Village ranks sixth among the comparables. In ranks in the top half of the comparable pool when considering adjusted gross income. It ranks in the bottom half with respect to tax rates.

b. Analysis

Each of the comparable communities uses the same premium formula—105% of the lowest option—as proposed by the Union. None of the comparables has a contribution provision similar to that proposed by Village. Although lacking in some specificity, the record shows that the employees represented by the Union receive wages that compare favorably with those received by the external comparables.

3. Internal Comparables

a. Introduction

Generally, internal comparables have been given great weight with respect to basic fringe benefits. *Winnebago Village*, Decision No. 26494-A (Vernon 1991). Significant equity considerations arise when one unit seeks to be treated more favorably than others. Ordinarily, employers try to have uniformity of fringe benefits for all their bargaining units because it avoids attempts by bargaining units to whipsaw their employers into providing benefits that were given to other bargaining units for a very special reason. *Village of Grafton*, Decision No. 51947 (Rice 1995).

Internal consistency is less significant when public safety employees are involved, unless they are being compared with other public safety employees such as firefighters. *City of Glendale,* Decision No. 30084-A (Dichter 2001).

b. Analysis

The parties disagree on the number of police officers in the Village's police bargaining unit. According to the Village, it employees nine police officers in the police officer bargaining unit. According to the Union, there are four police officers in the bargaining unit.

Regardless of the specific number of officers, it is a single bargaining unit with less than half the number of members than in the bargaining unit represented by the Union here (20 members).

G. Changes in the Cost of Living

The governing statute requires an arbitrator to consider "the average consumer prices for goods and services, commonly known as the cost of living." While a number of arbitration awards suggest that changes in the cost of living are best measured by comparisons of settlement patterns, such settlements, do not reflect "the average consumer prices for goods and services." Despite its shortcomings, the Consumer Price Index ("CPI") is the customary standard for measuring changes in the "cost of living." Settlement patterns may be based on a number of factors in addition to changes in the "average

consumer prices for good and services." However, a comparison of settlement patterns is important and has been considered in Section F, above.

The cost of living as measured by the CPI increased by 2.2% in 1999, 3.4% in 2000, and 3.2% in 2001 (as of the date of the hearing). Both offers provide for wage increases in excess of the increases in the CPI. The Union's offer more closely approximates the increases in the CPI.

H. Overall Compensation Presently Received by the Employees

In addition to their salaries, employees represented by the Union receive a number of other benefits. While there are some differences in benefits received by employees in comparable municipalities, it appears that persons employed by the Village generally receive benefits equivalent to those received by employees in the comparable municipalities.

With respect to costing proposals, Arbitrator Yaffe has stated that he

> does not believe that such changes in the size of the workforce are relevant to costing determinations absent the existence of an inability to pay argument by the employer . . . . What counts most and what is most relevant is the value of improvements actually received by affected employees.

Kenosha Service Employees, Decision 19882-A (Yaffe 1983). See also *Watertown School District*, Decision 20212-A (Zeidler 1983) (rejecting actual-to-actual costing and approving the cast forward costing method). In *Bonduel School District*, Decision No. 24341-A (Nielsen 1987), the arbitrator stated:

> The undersigned cannot accept the Association's argument that actual costs should be considered under the cost of living criterion. As traditionally applied in negotiations, CPI is a measure of what a reasonable increase in wages might be, rather than what a reasonable increase in costs might be. The cast forward method of costing does not inflate the size of the package in terms of staff turnover and staff reduction. It is a generally accurate measure, however, of the degree of benefit that will be received by remaining employes. When compared with the increase or decrease in the inflation rate, cast forward costing provides a reliable picture of the erosion or enhancement of purchasing power that will result from a given settlement.

Using the cast forward method of costing, the evidence shows that the total package cost of the Village's offer results in a total package percentage increase of 5% in 2001 and 5.18% in 2002 for a total increase of 10.18%. The Union's proposal would result in a

total package increase of 4.6% in 2001 and 5.12% in 2001 for a total increase of 9.72%. The difference between the two proposals is 0.46%. Both offers result in increases in excess of the cost of living as measured by the Consumer Price Index.

The Village currently pays 105% of the gross premium of the alternative or standard health insurance plan that is the least costly qualified within the service area, but not more than the total amount of the premium of the plan selected. Under the 2001 premiums, whether an employee chose Dean Health, GHC, Physicians Plus, or Unit, the employee would not be required to pay anything toward the cost of insurance because 105% of the lowest premium, $636.41, was higher than any of the family premiums listed for the four plans.

In 2002 that would not be the case under either offer. The insurance costs for the four health plans (family coverage) for 2002 are as follows:

105% of Lowest Plan--$697.10

	Premium	**Employer Contribution**	**Employee Contribution**
Dean Health	$663.90	$663.90	--------
GHC-SC	$666.20	$686.20	--------
Physicians Plus	$721.70	$697.10	$24.61
Unity-UW Health	$707.20	$697.10	$10.11

Effective January 1, 2002, the Village's offer would require employees "to pay 5% of the gross premium of the alternate or standard health insurance plan that is the least costly qualified plan within the service area, but not more than the total amount of the premium plan selected, for regular full-time employees and their dependents, if any." According to the Employer's calculations this would result employee contributions as follows: Dean Health, $33.20; GHC-SC, $34.31; Physicians Plus, $34.85; and Unity-UW Health, $34.85.

The record shows that Dean Health premiums increased by 7.4% in 2000, 16.1% in 2001, and 8.9% in 2002. GHC-SC premiums increased by 6.1% in 1999, 8.1% in 2000, 17.2% in 2001, and 10% in 2002. Physicians Plus premiums increased by 4.4% in 1999, 10.2% in 2000, 12% in 2001 and 19.1% in 2002. U Care increased by 9.5% in 1999, 4.0% in 2000, 18% in 2001, and 12% in 2002.

I. Changes During the Pendency of the Arbitration Proceedings

No material changes during the pendency of the arbitration proceedings have been brought to the attention of the Arbitrator.

J. Other Factors

This criterion recognizes that collective bargaining is not isolated from those factors comprising the economic environment in which bargaining takes place. See, e.g., *Madison Schools*, Decision No. 19133 (Fleischli 1982). There is no evidence that the Village has had to or will have to reduce or eliminate any services, that it will have to engage in long term borrowing, or that it will have to raise taxes if either offer is accepted.

Good economic conditions mean that the financial situation is such that a more costly offer may be accepted and that it will not be automatically excluded because the economy cannot afford it. *Northcentral Technical College (Clerical Support Staff)*, Decision NO. 29303-B (Engmann 1998). See also *Iowa Village (Courthouse and Social Services)*, Decision No. 29393-A (Torosian 1999) (conclusion that employer's economic condition is strong does not automatically mean that higher of two offers must be selected or, conversely, a weak economy automatically dictates a selection of the lower final offer).

While the Village relies on an exhibit indicting that the events of September 11 "will send shockwaves through the entire insurance industry," that exhibit does not make reference to health insurance. The person quoted in the article refers specifically to "life, property and casualty, auto, and commercial lines" but makes no reference to health or medical insurance.

The record indicates that employees in a number of municipalities and school districts throughout Wisconsin pay a percentage of their health insurance premiums. In *Fond du Lac School District*, Decision 27443-A (Vernon 1993), the arbitrator recognized that

> there is an almost universal pattern of other non-school employers requiring a premium contribution from their employees. In fact, premium sharing in the private sector is almost a given in collective bargaining. It is clearly the rule and not the exception. . . . Now that the private sector views health insurance as a shared burden this should influence the arbitrator as well.

However, the agreed upon comparable municipalities have not required their employees to pay a percentage of their health insurance premiums in the manner proposed by the Village here.

VI. ANALYSIS

A. Introduction

While it is frequently stated that interest arbitration attempts to determine what the parties would have settled on had they reached a voluntary settlement (See, e.g., *D.C. Everest Area School Dist. (Paraprofessionals)*, Decision No. 21941-B (Grenig 1985) and cases cited therein), it is manifest that the parties' are at an impasse because neither party found the other's final offer acceptable. The arbitrator must determine which of the parties' final offers is more reasonable, regardless of whether the parties would have agreed on that offer, by applying the statutory criteria. In this case, there is no question regarding the ability of the Employer to pay either offer. The most significant criterion here is a comparison of wages, hours and conditions of employment.

B. Discussion

One of the most important aids in determining which offer is more reasonable is an analysis of the compensation paid similar employees by other, comparable employers. Arbitrators have also given great weight to settlements between an employer and its other employees. See, e.g., *Rock Village (Deputy Sheriffs' Ass'n)*, Decision No. 20600-A (Grenig 1984).

In this case, the external comparables support the Union's proposal that the parties maintain the status quo with respect to premium contributions. On the other hand, the internal comparable provides some support for the Village's proposal. While arbitral authority establishes the principle that internal settlements are to be given "great weight," such internal settlements are not conclusive. It is still necessary to examine the other criteria, including external comparables. Although relevant to a determination of the reasonableness of offers, the single comparable is of little probative value. The settlement involves a single bargaining unit of less then ten employees. This single settlement involving a single bargaining unit does not establish a pattern of settlement. See *City of Glendale (Police)*, Decision No. 30084-A (Dichter 2001) (rejecting internal comparable of one bargaining unit). Compare *Rock County (Deputy Sheriffs)*, Decision No. 20600-A (Grenig 1984) (pattern of settlement of nine bargaining units given great weight).

More importantly, the Village's proposal is different than the premium sharing provision in the other bargaining unit's collective bargaining agreement. The police agreement provides:

> The Village agrees to pay 95% of the premium and the employee agrees to pay 5% *of the premium for single or family insurance in the amount of 105%* of the gross premium of the alternate or standard health insurance plan that is the least costly qualified plan within the service area, but not

> more than the total amount of the premium of the plan selected, for regular full-time employees and their dependents, if any. [Italics added.]

The Village's proposal provides:

> Effective January 1, 2002, the Village agrees to pay 95% of the premium and the employee agrees to pay 5% of the gross premium of the alternate or standard health insurance plan that is the least costly qualified plan within the service area, but not more than the total amount of the premium of the plan selected, for regular full-time employees and their dependents, if any.

As can be seen from a reading of the two provisions, the Village's proposal omits the language "of the premium for single or family insurance in the amount of 105%." Although the Village asserts that it intends the two provisions to have identical meaning, the omission of the key phrase quoted above suggests that the Village has not achieved this objective. Words are the most important single factor in determining the parties' intent as the words were chosen by the parties to express their meaning. It is generally presumed that experienced negotiators understood what they were doing when they drafted the agreement. When parties change contract language, arbitrators generally find an intention to change the meaning of the contract. *Thrifty Corp.*, 85 LA 780, 783 (Gentile 1985).

Arbitrators generally hold that a party proposing a change in the status quo is required to offer justification for the change and to offer a quid pro quo to obtain the change. See, e.g., *Middleton-Cross Plains School Dist.*, Decision No. 282489-A (Malamud 1996). Arbitrator Malamud has explained:

> Where arbitrators are presented with proposals for a significant change to the status quo, they apply the following mode of analysis to determine if the proposed change should be adopted: (1) Has the party proposing the change demonstrated a need for the change? (2) If there has been a demonstration of need, has the party proposing the change provided a quid pro quo for the proposed change? (3) Arbitrators require clear and convincing evidence to establish that 1 and 2 have been met.

The Employer's demonstration of need consists (1) of data showing that the cost of health care insurance as increased and (2) newspaper articles suggesting that when workers pay more they'll think twice about care. The newspaper articles fall short of providing expert testimony on the effect of premium sharing on health care costs. Indeed an article dated October 15, 2001, from the Milwaukee Journal Sentinel asserts without explanation that "[a]s employees pay more for health care, they will make better decisions about using the system." There is no persuasive evidence in the record, from expert wit-

nesses or otherwise, to support this newspaper reporter's assertion. Furthermore, the article quotes the State Insurance Commissioner as stating, "[T]he Medicare shortfall is the main reason health insurance premiums in Wisconsin are among the nation's highest. Wisconsin has continually suffered under a Medicare reimbursement formula that pays less for health services for seniors here compared with other states."

The same article goes on to say that "[w]ith health care costs rising rapidly some one has to foot the bill. And with the economy slowing and unemployment increasing, employers have less fear of losing workers if they cut benefits." In other words, many employers are cutting benefits or shift premium costs because they can get away with it—not because it will reduce total health care costs.

The article concentrates on higher deductibles and co-pays, not premium sharing, as means of transferring more of the costs to employees who use health care the most so the employees will have more incentive to take better care of themselves and to hold down health care costs. The Village's proposal addresses premium sharing not the use of higher deductibles and co-pays to encourage more prudent use of health care services. Thus, the Village's proposal is more in the nature of cost shifting, transferring more costs to employees, than a proposal that would give employees more incentive to hold down health care costs. The Village's offer also results in the anomaly of part-time employees receiving an arguably more favorable health benefit than full-time employees in that part-time employees would not be required to premium share in the same manner as full-time employees.

With respect to the claimed quid pro quo for the Village's premium sharing proposal, the Village proposes a wage increase greater than that proposed by the Union and the designation of an additional personal holiday beginning in 2002. Section 11.01 of the current collective bargaining agreement provides, in pertinent part, as follows:

> In addition, regular full-time employees are entitled to two (2) personal days off with pay, each year to be taken at the employee's discretion subject to the approval of the employee's supervisor, except for the Public Works crew who shall be subject to Article 10 – Scheduling of Paid Leave for the Public Works Crew. Regular part-time employees shall be entitled to holidays off with pay on a pro-rata basis.

The Village's proposed holiday language is as follows:

> Effective January 1, 2002, in addition, regular full-time employees who are employed for a full calendar year are entitled to three (3) personal days off with pay, each day to be taken at the employee's discretion, subject to the approval of the employee's supervisor, except for the Public Works

crew who shall be subject to Article 10 - Scheduling of Paid Leave for the Public Works crew.

An analysis of the Village's proposal discloses that it changes "two (2)" to "three (3)" effective January 1, 2002, thus adding a personal day. However, the Village also inserts a new clause in the holiday section providing "regular full-time employees *who are employed for a full calendar year* are entitled to . . . ." (Italicized language proposed new language.) The Village's proposal also omits the language relating to regular part-time employees.

The Village argues that it only intended to change the number of personal holidays. However, when parties change contract language arbitrators have generally found an intent to change the meaning of the contract. See, e.g., *Thrifty Corp.*, 85 LA 78-, 783 (Gentile 1985). By adding the phrase "who are employed for a full calendar year" and eliminating the sentence relating to part-time employees in its proposal, it appears that the Employer is doing more than adding an additional personal holiday—it is restricting the use of personal holidays to those "who are employed for a full calendar year" and it is taking away personal holidays from part-time employees. Cf. *Int'l Harvester Co.*, 12 LA 650, 652 (McCoy 1947) (when prior contract contains an express exception and the newly negotiated language does not include the express exception, it would appear that the parties clearly intended to abolish the exception).

C. Conclusion

The Village's offer proposes a significant change in the manner in which the Village and employees in the bargaining unit pay for health insurance benefits. The Village's offer further results in a significant change in eligibility for personal holidays. The Village's proposal is not supported by a comparison with premium sharing in the comparable municipalities. The internal comparison is limited to a single bargaining unit of law enforcement employees and is of limited probative value. More importantly, the Village's premium sharing proposal omits key language found in the police contract regarding computation of the employees' share of the premium. Although the Village claims the two provisions are intended to be construed identically, the difference in language is strong evidence that the provisions in fact have different meanings.

The Village has not provided appropriate quid pro quo for the changes in the status quo. While adding a third personal holiday, the Village's proposal by its terms reduces the number of employees eligible for any personal holiday, denying part-time employees personal holidays and requiring full-time regular employees to have been employed for a full calendar year.

VII. AWARD

Having considered all the relevant evidence and the arguments of the parties, it is concluded that the Union's final offer is more reasonable than the Village's final offer. The parties are directed to incorporate into their collective bargaining agreements the Union's final offer .

Executed at Delafield, Wisconsin, this January 2, 2002.

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Jay E. Grenig