

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In The Matter Of The Petition Of

VILLAGE OF ROTHSCHILD

To Initiate Interest Arbitration
Between Said Petitioner and

LOCAL 1287A, AFSCME COUNCIL 40, AFL-CIO

INT/ARB-11457
Case 24, No. 69437
Decision No. 33073-A

APPEARANCES:

Mr. John Spiegelhoff, Staff Representative, AFSCME Council 40, AFL-CIO, 1105 E. 9th Street, Merrill, Wisconsin 54452, on behalf of Local 1287A, AFSCME Council 40, AFL-CIO.

Mr. Philip P. Salamone, Consultant, 7111 Wall Street, Schofield, Wisconsin 54476, on behalf of the Village of Rothschild.

The Village of Rothschild filed a petition with the Wisconsin Employment Relations Commission to initiate interest arbitration pursuant to Section 111.70(4)(cm) of the Municipal Employment Relations Act with respect to an impasse between it and Local 1287A, AFSCME Council 40, AFL-CIO, hereinafter referred to as the Village and the Union, respectively. The undersigned was appointed as arbitrator to hear and decide the dispute, as specified by order of the Wisconsin Employment Relations Commission, dated August 17, 2010. Hearing was held on November 1, 2010, without the services of a court reporter. Post-hearing initial briefs and reply brief were exchanged by February 1, 2011, marking the close of the record. An expedited award was issued on February 17, 2011.

Now, having considered the evidence adduced at the hearing, the arguments of the parties, the Final Offers, and the record as a whole, the undersigned issues the following Supplemental Award.

FINAL OFFER OF THE VILLAGE

WAGES

EFFECTIVE – 7/10 (First pay period) – Increase wages by 1% across the board

EFFECTIVE – 12/10 (First pay period) – Increase wages by 1% across the board

EFFECTIVE – 7/11 (First pay period) – Increase wages by 2% across the board

EFFECTIVE – 2010 Place the position of ‘Assistant Water Works Operator II’ into the wage schedule consistent with the existing position of truck Driver/Laborer/Forester/Groundskeeper at the 2009 rate applying existing contractual graduated pay scale for newly hired employees as well as across the board 2010-11 wage increases contained herein.

ARTICLE 7 – SENIORITY, PROMOTIONS, LAYOFF, SEVERANCE- Effective upon receipt of the arbitration award. Amend as follows:

New Section:

There shall be two separate and distinct seniority rosters. One listing shall include Village employees filling all non-clerical positions in the Village’s Department of Public Works (Water Works Operator, Asst. Water Works Operator, Mechanic, Operator (1), Operator (2) Truck Driver/Laborer/Forester/Groundskeeper, Truck Driver/Laborer, Common Laborer, and Asst. Water Works Operator and Asst. Water Works Operator II).

The other seniority roster shall consist of clerical positions of the Village (Deputy Clerk/Utility Clerk, Executive Administrative Assistant–Police Department, Clerk of Court, Police Secretary, and Administrative Assistant).

Promotions and/or layoffs provided for within Article 7 shall (unless otherwise agreed to by the parties) recognize and apply seniority within respective rosters. While current employees may utilize prior service in the other roster, there shall be no contractually mandated promotion or bumping rights of employees between positions outside their respective seniority groupings. (For example in the event of a layoff, a member of the DPW roster may utilize all accrued Village service time to bump less senior members of the DPW roster, but cannot bump an employee of the clerical group. Similarly, in a

promotion/posting, an employee from the clerical roster may use all service time at the Village to contractually access another position within the clerical roster, however movement into the DPW roster shall be permitted but not contractually mandated.)

ARTICLE 26 - INSURANCE

- 1.) Employees premium share Employees shall assume ten percent (10%) of the premium costs
- 2.) The Security Health Plan 2-2 shall be incorporated
- 3.) Delta Dental Premier Option Plan w/ \$2000 annual maximum shall be incorporated
- 4.) **Opt-out**

Section 1. All employees eligible to receive health insurance benefits may choose to 'opt out' by not taking advantage of such benefits and receive compensation in lieu thereof. All eligible employees who waive enrollment and receive no health insurance coverage with the Village shall do so in writing on the provided form(s) and shall receive \$300 per month for the single plan or \$400 per month for the single plus one and family plan. Such payment shall be subject to federal, state, and social Security taxes. Waiver of insurance may be revoked, but re-entry into the insurance program is subject to any restrictions imposed by the insurance carrier or provider. Restriction for reentry in the insurance program and qualifying events will be stated on the Waiver of insurance form. Couples who both continue to be covered under the Village's family health insurance plan shall not be eligible to access this benefit due to 'opting out' of the Village health insurance plan and joining the Village couples or family health insurance plans.

Section 2

All employees shall assume the full costs of the deductibles up to two hundred and fifty dollars (\$250) for the single plan and five hundred dollars (\$500) for the single plus and aggregate family plan.

ARTICLE 30 - VACATIONS- Decrease 4-week threshold from 11 to 10 years of service.

ARTICLE 28 - SICK LEAVE

1. Allow for usage in one (1) hour increments
2. Increase attendance bonus to two (2) days per year

ARTICLE 29 - UNIFORM ALLOWANCE (Section 2)- Boot allowance, allow for benefit carry-over to subsequent year (not to exceed \$180)

FINAL OFFER OF THE UNION

INSURANCE

Employee premium share

Effective 1/1/10 (per pay period)

- Single plan - \$30.02
- Couples plan - \$82.55
- Family plan - \$90.06
- Employee plus child - \$60.04

Effective 1/1/11 (per pay period)

- Single plan - \$33.00
- Couples plan - \$90.81
- Family plan - \$99.06
- Employee plus child - \$66.04

Accept Security Health Plan 2-2

Dental – Delta Dental Premier Option Plan 2/\$2000 Annual maximum

ARTICLE 26 - INSURANCE

Section 1. All employees eligible to receive health insurance benefits may choose not to take advantage of such benefits and receive compensation in lieu thereof. All eligible employees who waive enrollment and receive no health insurance coverage with the Village shall do so in writing on the provided form(s) and shall receive ~~\$150~~ \$300/month for the single plan or ~~\$250~~ \$400/month for the single plus one plan or family plan. Such payment shall be subject to federal, state, and social security taxes. Waiver of insurance may be revoked, but reentry into the insurance program is subject to any restrictions imposed by the insurance carrier or provider. Restriction for reentry into the insurance program and qualifying events will be stated on the Waiver of Insurance form (Effective January 1, 2010).

Effective upon implementation of the arbitration award couples who both continue to be covered under the village's family health insurance plan shall not be eligible to access this benefit due to 'opting out' of the Village single health insurance plan and joining the Village couples or family health insurance plans.

Section 2. Effective 1/1/11, the employees shall assume the full costs of the deductibles up to ~~one hundred fifty dollars (\$150)~~ two hundred fifty (\$250.00) for the single plan, ~~three hundred dollars (\$300.00)~~ five hundred dollars (\$500.00) for the single plus one plan, and , ~~three hundred dollars (\$300.00)~~ five hundred dollars (\$500.00) for the single plus one plan aggregate for the family plan. For calendar year 2010, the Village shall pay the difference between the previous deductible of the Security Health Plan HMO s (\$150/\$300) and the deductible of the security Health Plan HMO – Option 2-2 (\$250/\$500).

Effective 2010 – Place the position of ‘Assistant Water Works Operator’ into the wage schedule consistent with the existing position of Truck Driver/Laborer/Forester/Groundskeeper at the 2009 rate applying existing contractual graduated pay scale for newly hired employees as well as across the board 2010-2011 wage increases contained herein.

WAGES

Effective first pay period of July 2010 – 1%
 Effective first pay period of December 2010 – 1%
 Effective first pay period of July 2011 – 2%

STATUTORY CRITERIA

The criteria to be utilized by the Arbitrator in rendering the award are set forth in Section 111.70(4)(cm), Stats., as follows:

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.

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 under subd. 7r.

7r. "Other factors considered." In making any decision under the arbitration procedures authorized in 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 employees involved in the arbitration proceedings with the wages, hours and conditions of employment performing similar services.
- e. Comparison of the wages, hours and conditions of employment 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.
- f. 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 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 in 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.

INITIAL BRIEF OF THE VILLAGE

The County first points out that under Sec. 111.70(4)(cm)7g., the arbitrator must give greater weight to economic conditions. The entire nation is currently in the grips of the most brutal economic crisis since the Great Depression. The Wausau region has been negatively impacted to an even greater extent with its reliance on manufacturing geared toward residential and commercial construction. Although unemployment in the area is slightly below that of the nation, it has continued to exhibit severe negative growth during the “recovery” phase. Household income in the region has suffered. Median household income fell.

While the Village does not seek a “race to the bottom,” it believes the parties must recognize the economic realities. With the economic picture so bleak, the less costly offer of the Village should be accorded greater weight under Sec. 111.70(4)(cm)7g and because it will moderately and more effectively contain health insurance costs into the future.

The national health care reform bill has yet to take effect. The nation continues to have appalling health care costs and crippling economic stagnation. Wisconsin in particular has been disproportionately impacted by spiraling health care costs. Wisconsin’s health care costs are 22% greater than the national average. Even when fully implemented, most of the provisions of the new health care law do not offer much relief to employers already offering health insurance.

Rothschild is a smaller employer and has suffered increases more severe than most large employers in Wisconsin. The Village was initially quoted a 21% increase for September 2009 through August 2010. The previous plan would no longer be offered, and a new agreed-upon plan only reduced the increases to 17.95%.

For the remainder of 2010 and into 2011 premiums increased an additional 18.10%. Thus despite cost cutting measures, premiums increased 36% over the two-year term of the instant contract. On September 1, 2011 the rates will increase yet again.

On their face the offers seem to have similar monthly premiums. However, the parties know the case boils down to the structure of how premiums will be expressed in the future. The differing structures translate into whether the increasing costs will be borne solely by the Village, or be shared on a 90%/10% basis with the employees. Under the Union's offer employees would continue to pay a capped \$214.63, while under the Village's offer, the Village would continue paying the lion's share of the increase while the employees would have a modest increase in their share of \$40 per month.

Arbitrators have traditionally accorded significant weight to what has been voluntarily agreed to with other represented groups of an employer. Internal comparables are considered even more significant with respect to fringe benefits. The Police and the DPW/Clerical units are the only collective bargaining units in the Village. They are equivalent in size: 12 employees in this unit and 8 employees in the Police unit. They also share a similar (if not identical) fringe benefit package.

The Police agreed to wage increases, improved vacation, a change to the health insurance premium to a flat 10% along with a new insurance plan, and a considerably

improved dental plan. This unit adopted the same wage pattern as the Police, the new health insurance plan, and the improved dental plan that the Police agreed to.

The dispute centers on the structure of future health insurance contributions. The Police agreed to a percentage contribution by the employees. The Union seeks to maintain increased employee dollar caps.

The Village believes the Police agreement on this issue is highly significant and lends great support to the Village offer. While the Union will argue the Police have a “me too” clause on health insurance, at hearing both the police officer witness and the Village Personnel Committee Chair both testified there was no discussion of how that clause would apply with interest arbitration.

Typically, “me too” clauses are to ensure the unit that initially settles would not find themselves settling for less favorable terms than units that settle later. No group would want to settle and thus there would be a chilling effect on voluntary bargaining.

The Police “me too” clause states: “If the employer settles a Collective Bargaining Agreement with any other bargaining unit for health insurance” that would give the Police a greater benefit in plan design, then the Police would also receive that benefit. The word “settle” has inherent meaning of mutuality and it would not apply to the forced outcome of interest arbitration. Moreover, there is inherent agreement between the two units in the plan design. In the final analysis, since the only internal comparable is the Police unit and they accepted the modified premium payment structure, the Village offer should be favored.

In addition, there is a difference in the effective date for the premium sharing. The Police agreed to January 1, 2010 and the Village offer reflects that same date, while

the Union proposes a January 1, 2011 start date. The Village offer again matches the internal comparable and is preferred.

Turning to external comparables, the parties agree on many of the external comparables. The parties agree the comparables should include: Wausau, Weston, Schofield, Kronenwetter, Mosinee, and Merrill. The Village would also propose Marathon County, Antigo, and Stevens Point, while the Union proposes Plover as an additional comparable.

Rothschild's population falls in the middle of most of the Village's proposed comparables. In addition, all of the Village's proposed comparables are within a 30-40 mile radius. For some inexplicable reason the Union skips past Stevens Point to include Plover. It also fails to include Marathon County, which includes most of the municipalities in their respective proposed comparable groups.

A serious problem is reflected when the costs of Rothschild's plan are compared to the external comparables. Rothschild is at a disadvantage when buying health insurance because it is smaller, while larger employers have more purchasing power.

The Village's premiums for both the family plan and the single plan are higher than nearly all of the external comparables. Excluding Teamster units, under either final offer, Rothschild's premium exceeds the average of the group by over 43% per month.

The Village believes that much of the premium problem is structural and directly related to employee premium caps. There is no doubt that IN going forward only a structural change that establishes modest but reasonable percentages will effectively result in any degree of relief for the Village. Unless structural relief is provided, disparate family health cost problems will continue to accelerate.

The Village further maintains that the external comparables overwhelmingly establish that percentage premium cost sharing is common. Seven of the nine comparables maintain percentage cost sharing approaches. Six of the seven have a 90%/10% sharing of premium costs. Two of three provide employer dollar caps with all increases above the caps to be the employees' responsibility. In fact, Plover, which the Union proposes as a comparable, has a 90%/10% arrangement.

With respect to the implementation date on the higher up-front deductibles, the Police unit implemented in 2010 while no external comparable has up-front deductibles for 2010.

Every healthy bargaining relationship recognizes at least some degree of common interest. Relationships in smaller employers are often like a family. Historically, the Village and the Union have grappled with a multitude of issues. Several years ago, two sets of Village employees married and modified their health insurance coverage from single to family. Each couple was allowed to secure a \$250 monthly stipend. This first came to light in early 2010. Village officials felt those employees were "gaming" the system. The Village first attempted to correct the situation administratively. However, the Union filed a grievance. They might have acted premeditatedly. A total of \$42,000 was inappropriately secured from the Village.

The parties agree the practice will end; however, the Union wants it to continue until receipt of the arbitration award. The Village seeks an effective date of January 1, 2010.

The Village leaders would like to believe that when the opt-out language started both sides were acting in good faith. However, there can be little doubt that the perverse

opt-out interpretation was so inappropriate that it became readily apparent to the Union that it could not defend its position in interest arbitration. The Village believes it only included the change with an implementation date when the award is received so as not to contaminate their total package. The arbitrator should not sanction this practice by allowing yet another \$3,500 inappropriately garnered over the years.

Unions and employers usually seek to aggregate represented employees into appropriate bargaining units, considering common skills, responsibilities, policies, workplaces, supervision, and working conditions. Labor laws recognize this dynamic. Parties often voluntarily assemble bargaining units based on communities of interest.

While for smaller employers it might be administratively burdensome to have separate units, the Village already has two units. Historically, this unit started with blue collar workers and over the years clerical employees have been added. The posting and bumping provision was originally included for what had been DPW blue-collar employees.

Movement between groups has created undue hardship regarding training, flexibility, recruitment, etc. While many local public employers permit movement between clerical and DPW groups, almost none are contractually mandated to do so.

The Village can either create two separate units with only four clericals in one unit, or address the matter through separating the seniority lists. Creating separate units would likely only occur through voluntary recognition. The Village believes it has submitted a reasonable proposal.

When considering the statutory criteria of comparing the municipal employees with the private sector, one can only imagine the reaction of the community if they

learned of the wages and benefits for this unit. The Village is offering a 4% wage increase over the two-year contract term, and despite crushing health insurance costs, the Village is proposing that it pay 90% of the premiums.

With respect to the statutory CPI criteria, there is actually some concern of deflation. In these economic times, many employers are forced to cut back on wages and benefits for employees. With respect to health insurance, these employees have largely been protected from that volatile economic cost.

Considering the continuity and stability of employment criteria, the Village has treated its employees quite well with stable middle income wage levels and favorable benefits.

When the criteria of what would have been voluntarily agreed to is considered, the Village believes its offer is favored. The foremost reason is the agreement reached with the Police unit, which is entirely consistent with the Village's final offer here. It is important to note in this regard that the Police reached their settlement voluntarily. The reasonable settlement on the ancillary issues also favors the Village's offer.

In conclusion, the Village offer is more reasonable. With the health insurance costs, there is tremendous pressure on the budgets of small municipalities such as Rothschild. Other area municipal employers have similar premium cost sharing as the Village proposes here. The Village final offer on the ancillary issues is also more reasonable.

VILLAGE REPLY BRIEF

In response to the Union's arguments, the Village notes that the Union did not mention the fact that Village health insurance costs have increased over 36% during this

contract alone. The Union needs to recognize that health care is increasingly expensive and is a mutual problem. It has become increasingly the norm for today's employees not to expect employers to automatically absorb increases. The Village's rates have been disproportionately higher than its comparables. The Union should know that the situation is unsustainable.

Under either offer the Village pays over \$500 per month more than surrounding communities for family health insurance. However, the Union's dollar-capped employee contributions remains constant, while the Village's share will likely again increase significantly. Marathon County was faced with a similar situation in 1999 where the County faced a two-year premium increase of 36.8%. The arbitrator recognized that since nearly all the comparables required their employees to pay a portion of the premium, it was reasonable for Marathon County employees to also do so.

It is striking that the Union would argue that "no compelling need" exists for at least a modest change in the Village's health insurance costs-sharing formula. Clearly, there is a problem. Tinkering along the edges will not meaningfully address the problem in the necessary structural way. The Union ignores that nearly all of the comparables now maintain a cost-sharing arrangement consistent with the Village's offer.

While the Union points out that this bargaining unit has a differing community of interest from the police officers, all workers share the very same interests on health insurance. The Union notes that the groups maintain different schedules, retirement plans, wages, vacations, holiday structures, etc. While this may be true, it does not impact their similar interests on health insurance.

The Union correctly notes that some arbitrators have indicated that protected service employees are somehow unique and deserve special treatment with respect to health insurance. However, others have held quite differently, especially in situations such as this where health insurance costs have risen rapidly.

The Village acknowledges that in recent years there had developed a slight disparity between what the Village Police and DPW/Clerical units for contributing to their respective health insurance premiums. However, in more recent contracts that disparity has decreased. There has been only a single contract where there emerged significant premium-payment differences between the Police and the employees in this unit. However, for 2008-2009 the two groups were again more consistent.

The Union accepted the general wage settlement received by the Police for 2010 and 2011. They also accepted the new health insurance plan and dental plan agreed to by the Police. The Village's final offer would therefore continue their clear trend toward parity by institution of an equal cost-sharing formula between the two groups. The Union's offer reverses the more recent trend toward parity between the two groups.

The Village believes that in the final analysis great weight should be given to internal comparables and that external comparables should be incorporated into any meaningful valuation.

Both internal and external comparables almost universally support health insurance premium cost sharing on a percentage basis. The bottom line is that, except for Merrill, there is virtually no comparable support for the continued employee dollar caps provided in the Union offer. Internal and external comparables have all moved in the direction of the Village's offer.

While the Union asserts that its offer has external support because three of eight comparables (Merrill, Kronenwetter, and Schofield) currently have employee premium contribution as a specific dollar amount, that is incorrect because two of those three maintain an employer premium contribution: Kronenwetter and Schofield. The Village believes the Union has seriously mischaracterized the comparisons.

Although the Union states that since 2003 six of the eight comparables have maintained the same employee premium contribution method, that is very misleading. Those comparables have used the same cost sharing system sought by the Village here.

While the Union contends that the percentage-based premium sharing formulas in external comparables was accomplished through negotiations, not interest arbitration, the record is devoid of evidence as to how the method was established. Nonetheless, it can reasonably be asserted that voluntarily accepted percentage-based premium cost-sharing structures among the external comparable actually support the Village here.

The Union sites the three-prong test for changing the status quo. The Village asserts that its offer on health insurance premium passes that test. The Village argues that the health insurance costs are an unreasonable burden. The days of defending the status quo on almost any health insurance issues are increasingly vanishing.

Currently, nearly all employers and unions recognize that rising health care costs are a problem. External comparables have applied similar approaches.

The Village notes that there was virtually no choice on health insurance plan design. The insurer would not continue to offer the previous plan. The modified plan design incorporating increased deductibles were minimal and only reduced a 39% premium increase to a 36% increase. The parties know that in September of 2011 the

health insurance carrier will most likely increase its rates. Those rates would increase through the end of August 2012.

The Union also asserts that no quid pro quo for the health insurance premium change was offered. That is incorrect for, as noted in the Village's initial brief, there are a number of items that were agreed to as quid pro quo. The improvements are tangible and will generate gains for Union members. Some arbitrators have held that a more modest quid pro quo is called for when there is considerable external comparables support, as here.

It can hardly be argued that paying a tenth of the health insurance premium can be considered unreasonable. Assuming a 20% per year change, that would only add \$40 per month with the family premium.

With respect to the change in the seniority provisions, the parties have long known that seniority systems are not perfect. Seniority rights do not necessarily remain fixed and static. When this unit was organized over 40 years ago, it consisted solely of blue-collar DPW employees. More recently, its composition has grown to incorporate the Clericals. However, there have been no corresponding contract modifications relating to how seniority impacts the two groups. The Village believes the change it seeks is not unreasonable. Employees will continue to have the right to post for vacant positions, and bump less senior employees if there are forced reductions. It would not result in any preferential treatment. Employees would continue to retain seniority rights to promote for vacant positions and have protection in workforce reductions.

There is no doubt that Clerical and DPW employees maintain very different skill sets. They work separately from each other and under different supervision. Employers

and unions have traditionally understood those dynamics. Other communities recognize this and they have limited contractual movement between Clericals and DPW groups. The Village believes that the Union fully understands the proposal.

The Union's arguments are a subterfuge with respect to the seniority change. The Village's proposal on seniority is quite clear. It allows movement between groups that sets up a procedure similar to when an employer hires from the outside.

Contrary to the Union's assertions, whether for bumping or posting, the Village seniority proposal does not eliminate or alter the grievance procedure or the right of employees to seek recourse. It incorporates no change in bumping or posting when there are competing qualified candidates within the same seniority rosters.

While the Union argues that the retroactive health insurance deductible would be difficult to implement, the Village responds that any possible administrative problems should not be of concern to the Union. The logistics would be handled in an appropriate and mutually acceptable manner. The Village also notes that with respect to the deductibles, the Village offer provides deductible increases effective in January 2010 while the Union offer provides they become effective in January 2011. No award will be rendered until some time in 2011. Calculations can be made for both 2010 and 2011.

With respect to the opt-out provision, essentially the Union is arguing that those employees should retain the money despite the fact that they know it was improperly collected. And there can be little question that what occurred for about seven years was quite improper. The Union's final offer acknowledges it and it provides that such payments would not continue beyond this contract. The Union further argues that the financial impact of the back pay obligations on the two impacted employees would

largely offset their wage increases. However, the situation involves couples in which both individuals work for the Village and both would receive retroactive pay increases. Therefore, while it is true that reimbursements are for the improper collection of a single opt-out payment, it is offset by two general wage increases.

The Union contends that the consumer price index favors its position; however, the Village points out that wages are not in dispute.

The Union's initial brief does not mention the effect upon the current Assistant Water Works Operator. The Union offer is flawed in that it incorrectly identifies the position as Assistant Water Works Operator rather than what it intended as Assistant Water Works Operator II. If there were no Assistant Water Works Operator position in the contract that might not be a problem; however, there is such a position. While it may be a drafting error, if the Union's offer would be selected the Village would have to adhere to it. The only other possibility is that the Union offer intended for a reduction in pay for the Assistant Water Operator position. This would translate into over \$2000 in wage reductions for this position.

INITIAL BRIEF OF THE UNION

The Union asserts the Police unit settlement does not carry significant weight in this matter because of different job duties between the two units, the "me too" clause, and the history of a different employee premium share than the Union here. Moreover, the Police settlement differs significantly from the Village's offer here when take home wages are analyzed. The Union also points out that the Police unit is the only other

organized group of employees in the Village. The Police also have a significant difference in their work schedule.

Arbitrators recognize that when there is an internal unit where there are differing duties, those units should be considered but not given controlling weight. The Union further argues that the Police settlement should not be given much weight because it is only one settlement. However, even if it were considered a persuasive settlement pattern, the “me too” clause must be given significant consideration, since the Police settlement on health insurance can be modified by the contract that will be determined here.

The Union contends the “me too” provision indicates hesitation on the part of the Police unit to accept the terms offered by the Village. The Police unit had paid more in their premium share since 2006 and they now wanted to be treated in the same manner as this unit. All the Village has agreed to with the “me too” clause with the Police is that there will be parity on insurance between the Police and this unit. Therefore, no weight can be given to the actual terms of the Police settlement or that it creates a controlling pattern.

Historically, both internal units have bargained and maintained a fair balance relating to wages and health insurance for each unit. However, the Village seeks to upset this balance with a far more significant and negative impact on the employees in this unit. For 2010, six of the twelve employees will have a negative hourly take home wage under the Village’s proposal. In contrast, the Police unit has no employees with a negative hourly take home wage in 2010.

The Police unit has historically paid a greater premium share. The greater premium share in conjunction with the Police higher take home pay has resulted in take

home parity between the two groups. However, the Village's offer would create a profound negative financial impact on many members of this unit with the insurance change they seek. The Village's final offer would decrease employee's net wages from 50.44% to 82.73%, depending on the employee.

The Union's offer, on the other hand, would only impact employees' net wages from 35.55% to 57.56%. While both offers have significant health insurance changes, the Union's offer is more reasonable since it addresses rising health insurance through additional insurance contributions while providing a balance between wages and health insurance.

The parties consider premium share methodology as a significant issue. Because, as the Union asserts, there is no internal comparable pattern, an analysis of the external comparables is appropriate. This unit has never gone to interest arbitration in the past. The parties agree on certain external comparables, including: Kronenwetter, Merrill, Mosinee, Schofield, Wausau, and Weston.

The Union's proposed comparable group is based upon geographic proximity, similar population size, and similar economic indicators. All of the Union's proposed comparables lie within a thirty-five mile radius of the Village of Rothschild. The Union proposes the Village of Plover, a municipality not in common with the Village. The Union asserts Plover and Rothschild have similar economic indicators: the median and mean tax levy, tax rate, and adjusted gross income demonstrate comparability. It is therefore reasonable to include Plover as an external comparable.

The Village also proposes Antigo, Stevens Point, Marshfield, and Marathon County. The Union does not believe those are appropriate based on population, distance, economic indicators, and governmental structure.

Antigo is over forty miles from Rothschild. It is unlikely that employees in blue collar or clerical occupations would travel such a distance for employment. That alone should exclude Antigo. Marshfield has a much greater population and equalized property value than Rothschild. Marshfield's population is three times that of Rothschild.

Stevens Point has an even greater disparity than Marshfield from Rothschild. Stevens Point is a more industrialized municipality, as it has five times the population and equalized property value as Rothschild. It therefore contains no significant commonalities or comparability to Rothschild.

Marathon County has the greatest disparity from Rothschild. The only commonality is that Rothschild is located within Marathon County. Marathon County has a population 130,000 more than Rothschild. Its equalized property value dwarfs Rothschild. In addition, its government structure is vastly different.

The Union submits that its comparable set should be chosen because it is based on similar population size, proximity, and economic factors.

The Union contends that its offer has external comparable support. Three of the eight comparable municipalities proposed by the Union have premium contribution using a specific dollar amount: Kronenwetter, Merrill, and Schofield. More importantly, six of the eight comparables have maintained the same premium contribution methodology since 2003. It is highly likely that the comparables have also experienced rising insurance costs. However, the comparables have worked within negotiated parameters of

their agreement to address rising insurance costs. Only Mosinee and Weston have modified the premium contribution methodology. It is also likely that changing the insurance methodology in those comparables was done by bilateral negotiations, not interest arbitration. However, the Village here wants to significantly alter the methodology of employee premium share without a quid pro quo.

The Union maintains the insurance contribution methodology that has been in place since 2003 while addressing the rising cost of insurance. It addresses the rising cost of insurance through increased employee contributions and larger deductibles. The Union's final offer is strongly supported by the external comparables which have not altered their methodology with regard to how the employee premium share is identified in the labor contract.

In the 2003-2005 contracts, both this unit and the Police unit agreed that employees would begin to contribute toward the monthly insurance premium amount. Both represented groups paid the same employee premium contribution which was a dollar amount per pay period in their respective labor agreements.

Commencing in the 2006-2007 contracts, the two units deviated in their employee premium share contribution. The Police unit agreed to contribute a higher amount toward the premium than this unit. In the 2008-2009 contract, the Police unit continued to pay a higher premium share than this bargaining unit. However, during the past two bargaining cycles this unit has incrementally increased their premium share at a quicker rate than the Police unit. As a result, the premium share for these employees is only slightly behind the Police unit in 2009 as compared to 2006.

The Village is proposing a change in the method of the employee premium contribution from a dollar amount to a percentage. When a party is seeking a change in the status quo, the party must demonstrate that a problem exists, the change will reasonably address the problem, and that a sufficient quid pro quo is offered. Arbitrators have required that those criteria be applied when a party is proposing a change from fixed dollar premium contributions to percentage contributions.

The Union's offer addresses the rising cost of health insurance while keeping the same methodology. The Village has never articulated why changing the status quo is necessary. The Union submits that the Village has not identified any problems which have arisen under the present contract language. The Village has not met the first criteria when proposing a change in the status quo.

In the past with rising insurance costs, the parties have been able to address the problem by increasing the dollar amount employees contribute to the premium. The Union's final offer continues this practice of increasing the employee's share. The Village's proposal is too drastic and upsets the parties' historical method of addressing rising health insurance costs.

The Village has not offered any quid pro quo with its proposal to modify the existing methodology for employee premium contribution. The parties agree to a 2% wage lift in each year of the contract. That is below the wage increases of the external comparables. The other benefit changes do not have any significant value associated with them. The vacation enhancement has no immediate impact on bargaining unit members. The change in sick leave usage reflects current practice. No quid pro quo is offered by the Village.

The Union's proposal increases employee contributions by 10% for 2010. The dollar amounts in the Union's proposal are equivalent to the Police unit's employee contributions.

The bargaining unit is a combined unit of public works and clerical employees, with seven public works employees and five clerical employees. Executive Administrative Assistant Deb Ehster worked as a truck driver for 4½ years then was able to bump back as a clerical when the truck driver position was eliminated. Chris Erickson began as a clerical then successfully posted into a truck driver position.

The Village proposes to alter the longstanding employee right to bump and post within all positions in the unit. The same principles for changing the status quo identified above, apply here as well. The Village has the burden for demonstrating that its offer meets the criteria.

As noted, there is a longstanding practice where employees have bumped and posted, improving their earning potential and job security. The Village has never articulated to the Union what problems exist that make separate seniority lists necessary. In fact, the Village never raised the issue in bilateral negotiations with the Union. It first made a general proposal in its initial final offer. The Village only drafted language during the final offer exchange process. If a true problem exists, it is unlikely the party would wait until final offers to raise the issue.

Many arbitrators have found that inserting or deleting contractual provisions in a final offer without any meaningful discussion weighs against the party who proposes it. The Village has never discussed with the Union that a problem exists with bumping and

posting between clerical employees and truck drivers. The Village has not met the first prong in the test for changing the status quo.

The Union also asserts that the proposal by the Village to amend the seniority provisions actually creates problems. The proposed language is relatively clear up to the point of the parentheses in the third paragraph, but it then becomes unclear when it states: “Similarly, in a promotion/posting, an employee from the clerical roster may use all service at the Village to contractually access another position within the clerical roster, however, movement into the DPW roster shall be permitted but not contractually mandated.” The Village thus proposes to eliminate all posting and bumping between clerical and public works but then would permit it but only at their discretion. The language would permit favoritism and it lacks unbiased criteria. The Union would be unable to challenge the Village’s decision. The proposal also creates ambiguity related to bumping between groups. The language creates more issues where there is a non-existent problem. The Village has not met the second prong of the test for changing the status quo.

The Village is proposing a change in the seniority status quo without offering any quid pro quo. The offer thus does not meet any of the tests required for changing the status quo.

The parties agree to eliminate the insurance opt-out payment for the spouse of a married couple. Two employees did receive the benefit for many years when their spouses were also Village employees. The Union is cognizant this practice is contrary to the intent behind the insurance opt-out language and the parties therefore agreed to eliminate it.

The parties differ on the implementation of the opt-out change, however. The Union proposes that it would be effective on the date of the award, which would not financially saddle two bargaining unit employees with back pay for opt-out payments received during the contract hiatus. The Village proposes January 1, 2010 as the effective date. For the two employees affected by the change, their wage increases would essentially evaporate. Moreover, it is not clear how they would pay back the money to the Village. The Village's offer on the effective date for insurance opt out is an extreme overreach, creating an unnecessary burden on those two employees.

Many arbitrators have held that the CPI in the month preceding the expiration of the labor agreement is the most relevant index. The CPI for Midwest Size D in December 2009 favors the Union's offer. The mutually agreed upon wage increase is below the CPI for December 2009.

In conclusion, the Union maintains its final offer is more reasonable, and more closely adheres to the statutory criteria of chapter 111.70. Over the past three bargaining cycles, the parties had agreed to the employee premium contribution with a specified dollar amount. The Union seeks to maintain the same methodology, while the Village wants to change to a percentage approach. The Police unit is very different from this bargaining unit, so the Police unit settlement is not a controlling internal pattern. Moreover, since 2006, the parties have not been in lockstep regarding employee premium share. The Village further seeks to alter the bumping and posting language, without demonstrating a problem. Moreover, the seniority language proposed by the Village is contradictory and confusing. The Village's effective date for the insurance opt-out change would cause a dramatic adverse impact on the two affected employees. In

contrast, the Union's offer provides a reasonable premium insurance cost sharing without changing the status quo on the methodology, maintains the status quo on bumping and posting, and eliminates the insurance opt out without creating a financial burden on the two affected employees. The Union therefore submits that its offer should be adopted.

UNION'S REPLY BRIEF

In response to the Village's initial arguments, the Union notes that the Village emphasis on internal consistency is disingenuous since it has voluntarily agreed to differ in health insurance premiums for the two bargaining unit since 2005. For five years, the Village has voluntarily treated its units differently regarding employee premium share. Now, the Village seeks consistency, but it has failed to explain what has changed during this bargaining round. While the Village asserts that the internal comparables have similar fringe benefit packages, that is not true. Differences include overtime and premium language, compensatory accumulation banks, sick leave accrual per year, vacationing to relation maximum, clothing on, mileage, and workers compensation administration. Because the two units have different duties and responsibilities it makes sense that the benefit packages would also differ.

Although the Village contends that the Union's witness, Police President Johnson, testified that the "me too" clause would only apply to voluntary settlements, he actually testified that it would apply whether through voluntary or involuntary settlements such as interest arbitration.

The Village attempts to use the external comparables to justify its proposal; however, in the instant proceeding, the arbitration is not centered on the dollar amount that the Village would contribute. Rather, it deals with a change in methodology used to

establish the monthly employer and employee per premium contribution. The external comparables clearly support the Union's methodology for premium contribution.

While it is true that the Village and Merrill are the only two municipalities in the Village's comparable set to use employee dollar caps, the lack of comparable contract language does not necessarily require the change be made. Uniqueness is not a precondition for the elimination of a benefit. The Village has had a dollar capped approach for the last several years when the majority of the comparables used a percentage based system. The Village has always been different. None of the comparables have made changes in their insurance contribution methodology during this last round of bargaining. Nonetheless, the Union holds that the statistics forward by the Village are misleading and fail to take into account the savings produced by having a couples plan in addition to a Family Plan. A more accurate cost comparison would be to weigh the cost of insurance taking into account the number of employees on both the couples and family plan. Using that analysis, the actual total monthly cost would be \$2219.06. That is much closer to the comparables.

The Village's external health insurance data is highly questionable. The Village acknowledged that it gathered information through direct conversation with municipalities. However, the Village failed to ask what the insurance data pertain to. The Union asserts that the Village's emphasis on the comparable deductibles is simply a red herring. The parties have agreed to plan design changes effective in 2010 and that would carry over to 2011 and provide savings for the Village. The fact that the Union proposes that the Village cover the cost of the deductible increase in 2010 stem simply

from an implementation issue and the difficulty of retroactively collecting increased deductibles.

Employee premium share is a unique health insurance cost-sharing feature that was negotiated between the parties. Simply because the majority of external comparables do not share such a feature is not a precondition to change. The Union contends that its final offer appropriately increases employee premium share contribution consistently with the rising cost of health insurance on maintaining the cost-sharing arrangement voluntarily agreed to by the parties.

The Village argues that changing the cost-sharing structure between the parties is necessary to protect the Village against future insurance cost. However, that is not accurate. The employee dollar caps that were in place under the expired contract exceeded what would have been the case if the Village's proposed 10% employee contribution had been in place.

Clearly, the current method has served the parties while addressing the rising cost of health insurance. It does not require the radical changes sought by the Village. The Union's offer appropriately addresses the rising health insurance costs consistent with the parties' practice.

While the Village asserts that the rise in health insurance costs supports adoption of its offer, the actual difference in costs associated with the parties' health insurance proposals mirror each other despite the difference in language. In the second year of the contract the difference amounts to \$5 per month for the single plan and \$16 per month for the family plan. Clearly, the Village can afford to fund the Union's final offer during the two-year duration of the contract.

The Village claims that if the current method is maintained, future increases would be borne solely by the Village. However, there is no evidence in the record regarding past bargains which would support this assertion of the Village. From 2007 through 2011, the Union has agreed to adjust the employees' premium contribution upward to help cover the increasing cost of insurance.

The Union has sought to address the rising health insurance cost by proposing an increased employee dollar-based premium share. Its proposal is consistent with how the parties have bargained health insurance in the past. Arbitrators have found the parties' past cost sharing method instructive when rendering the award.

Rising health insurance costs have been an issue in the Village. The Union has appropriately responded in the last three contract terms by agreeing to increase the employee's monthly premium contribution. The Union notes that nothing in the Village's proposal would address the rising cost of insurance. The only way to reduce the rising insurance costs would be for the parties to agree to changes in the plan design, such as wellness programs that would reduce insurance claims. The Village simply could have proposed a larger premium contribution, but it did not. It cannot use the cost of insurance to justify the change, since a change in methodology is not necessary, particularly when the Union has shown a willingness to continue to modify the employee contribution to address the rising costs.

The composition and bargaining relationship between the Village and the Union has changed since the Union's inception in 1969. While it is true that it began as a blue-collar unit, the parties agreed to the voluntary accretion of Clerical workers in the Union in 2002. It is fairly common for employers to have different types of classification

contained in a bargaining unit. Courthouse units are prime examples of the combination of blue collar or clericals in a bargaining unit. The Village has offered no tangible evidence of posting and bumping between DPW and Clericals that has caused undue administrative hardship. Interestingly, the Village already possesses the right to determine whether an employee is qualified for posted positions under Article 7, Section 3, of the labor agreement. The Village's proposal would take away significant contractual rights for job advancement.

The parties agree to eliminate insurance opt-out for a married couple when both are employed by the Village. It is common in contracts that any practice which mutually develops between the parties must be maintained until changes are mutually agreed to by the parties in collective bargaining. The Village attempted to unilaterally discontinue the practice during the contract hiatus period. The Union grieved an alleged violation and the Village remedied the grievance by continuing to pay employees the insurance opt out. The Union has agreed to eliminate the practice. It is extremely disingenuous and irrelevant to blame the Union for exercising their contractual rights in an attempt to rationalize the reasonableness of the Village's final offer.

Nonetheless, the Village's final offer creates a financial hardship for two employees who received insurance during the contract term. The Village offer seeks retroactivity to January 1, 2010. The Village overreaches on this issue. On the other hand, the Union proposal does not create a financial hardship for the two affected bargaining unit employees.

General arguments about the current state of the economy have been found wanting in recent arbitration decisions when addressing the greatest or greater weight

criteria because they do not demonstrate the uniqueness of the local economic conditions. The Union notes that the Village fails to present any evidence which compares this municipality to private external comparables. The Village has not met the burden of persuasion which would persuade the arbitrator to consider the greatest or greater weight criteria here. Furthermore, the cost difference between the parties is not one that would cause any significant impact on the Village's budget or its taxpayers during the contract term. Given the small difference in cost along with a lack of record evidence demonstrating that the local economic conditions in the Village are uniquely different or would be significantly impacted by adoption of the Union offer, the Union contends that the Village has the ability to pay the final offer of the Union.

As noted in its initial brief, the Union asserts that Marshfield and Stevens Point are too large to be considered comparable. Wausau's inclusion is predicated on its proximity and labor market connection. The Village's proposed inclusion of Marshfield and Stevens Point should be rejected given their dissimilar size or lack of proximity.

The statute requires the arbitrator to consider comparable private employment if they are of the same community and in comparable communities. The Village's evidence in support of the statutory criteria is from national statistics relating to comparison of public employee versus private employee health insurance benefits. The Village fails to provide persuasive evidence under this criteria to support adoption of their offer.

The Union objects to the Village's characterization that the Union has totally insulated itself from the very difficult problems facing the community, since a review of the Union's offer reveals it has agreed to a below average wage increase while at the

same time agreeing to increase the employee's monthly contribution of health insurance in addition to increasing the death tolls of the plan.

The Village has not demonstrated that its employees have total compensation "favorable" to private-sector employees performing similar work. Moreover, there is no tangible evidence to support the assertion that its fringe benefits are more favorable than in the public sector.

The Village notes in its brief that it believes there is a drafting error in the Union's offer regarding the Assistant Water Works Operator II position. The Union concurs that an error in drafting occurred and the parties have continued to reach a tentative agreement on that matter. Arbitrators have corrected final offers when it is one of form and not substance. Because the Village clearly acknowledges it was a clerical error, the Union does not anticipate any objection by the Village if the Arbitrator uses his authority to correct the inadvertent error. If the Village objects, the Union holds the only motivation of the Village would be to capitalize on the Union's mistake at the expense of the employees that would be affected.

ANALYSIS

A. EXTERNAL COMPARABLES

This is the first time the parties have gone to interest arbitration, and there is some disagreement as to the appropriate set of external comparables. The parties concur on the inclusion of: Wausau, Weston, Schofield, Kronenwetter, Mosinee, and Merrill as external comparables. The Village, however, also proposes Marathon County, Antigo, and

Stevens Point as appropriate comparables, while the Union proposes Plover as an additional comparable.

With respect to Plover, it has a population of about 12,000 and is about 36 miles from the Village, which has a population of about 5,000. I find it is reasonably comparable to the Village and should be included.

The Union believes that Antigo is not acceptable because it is forty miles from the Village and it is unlikely that employees in blue collar or clerical occupations would travel such a distance for employment. However, its distance from the Village is about the same as the distance to Plover. In addition, its population at about 7,800 is closer to the Village population than Plover's. Antigo shall therefore be included in the comparable roster.

The Union asserts that Marshfield and Stevens Point have much greater populations and equalized property values than Rothschild and should not be part of the comparable group. Marshfield's population is over three times that of Rothschild, while Stevens Point's population is about five times that of Rothschild. Total equalized property values for both municipalities are also much greater than Rothschild's. As such, they do not have reasonably similar characteristics so as to be considered as appropriate external comparables and will not be included.

The Union objects to Marathon County because its population is about 130,000, its equalized value is much greater, and its governmental structure is different. While that is true, because it encompasses the Village, as well as many of the external comparables and therefore covers a large segment of the labor market, I believe it is well suited as a secondary comparable.

B. INSURANCE – PREMIUM SHARING

There has been a substantial increase in health insurance premiums for 2010 and 2011. Even after changing plans, there was still approximately an 18% increase for each year. Moreover, the premiums are higher than most, if not all, of the external comparables at \$2,304/month for family coverage and \$768/month for single coverage for the twelve month period beginning September 1, 2010¹.

The crux of the dispute is the manner of insurance premium sharing that is to be utilized. The Village proposes a change in the premium share method from a fixed dollar amount for the employees' share to a percentage approach with employees paying 10% of the premium and the Village 90%. The Union, on the other hand, has proposed continuation of the fixed dollar contribution by employees, though at a higher amount. It is noted that the employee contributions under the two final offers are fairly close for the 2010 and 2011 premiums.

The analysis on premium sharing will consider the internal comparable, external comparables, and other pertinent aspects of the parties' final offers.

1. INTERNAL COMPARABLE - PREMIUM SHARING – Sec. 111.70(4)cm7r.d.

The Police bargaining unit is the only other group of represented employees in the Village. Starting with the 2003-2005 contracts, both this unit and the Police unit agreed that employees would begin to contribute the same fixed dollar amount toward the monthly insurance premium. Commencing in the 2006-2007 labor agreements, the Police unit agreed to contribute higher amounts toward the premium than this unit. With

¹ The health insurance policy also includes premium categories for “employee plus children” and “employee plus spouse” that are in between the monthly premiums for single and family coverage. For the sake of simplicity in the analysis, only the single and family monthly premium amounts will be referenced.

the 2008-2009 labor agreements, the Police unit continued to pay a higher premium share than this bargaining unit.

The Police unit settled their 2010-2011 contract, agreeing to change the employee premium contribution method to a percentage approach where employees would pay 10% of the monthly premium and the Village would pay 90% of the premium. The bargaining unit here has agreed to the same wage pattern, the new health insurance plan, and the improved dental plan that the Police have settled for.

The Police have also included a “me too” in its settlement, however. That provision states:

If the employer settles a Collective Bargaining Agreement with any other bargaining unit for health insurance that would give members of the Wisconsin Professional Police Officer’s Association of Rothschild a greater benefit in plan design, then members of the Wisconsin Professional Police Officer’s Association of Rothschild shall receive this benefit as well.

The Village argues the “me too” clause would not be triggered if the Union’s final offer were chosen because this bargaining unit has submitted to interest arbitration and the parties have not “settled” their labor agreement. The Union contends, on the other hand, that the “me too” clause would apply even with this labor contract being decided through interest arbitration and the “me too” clause therefore limits the importance of the Police health insurance settlement.

The parties here were unable to voluntarily “settle” their 2010-2011 labor agreement and they have therefore submitted to binding interest arbitration where I will decide which offer should be included in that contract. As such the “me too” clause in the Police settlement would not be triggered with this award, since this bargaining agreement has not been arrived at through a voluntary settlement by the parties here.

While the Union believes they are distinguishable from the Police unit regarding health insurance, the prevailing view among arbitrators is that it is reasonable to compare non-protective service bargaining units with protective service units with respect to insurance benefits. All of the employees of a municipal employer have common interests regarding this benefit. Moreover, there are some administrative efficiencies when a municipal employer can apply a similar approach to health insurance across bargaining units, particularly with a smaller employer like the Village.

The Police settlement of the 2010-2011 labor agreement with its 90%/10% health insurance premium payment thus supports the Village offer.

2. EXTERNAL COMPARABLES - PREMIUM SHARING- Sec. 111.70(4)(cm)7r.e.

Although the Union contends that the Village has always been unique, such an assertion ignores the arbitrator's obligation under Sec.111.70(4)(cm)7r.e. to compare this bargaining unit to similarly situated communities. It is therefore necessary to consider how the external comparables have handled employee health insurance premium contributions. The following table summarizes the external comparables on premium sharing for 2009 and 2010 (All the external comparables except Wausau are still in negotiations for 2011):

TYPE OF EMPLOYEE HEALTH INSURANCE PREMIUM CONTRIBUTION		
MUNICIPALITY	2009	2010
Antigo (DPW and Clerical)	Percentage (90%/10%)	Percentage (90%/10%)
Kronenwetter (City Hall and DPW)	Dollar (Employer cap)	Not Settled
Marathon County (HWY. and Clerical)	Percentage (95%/5%)	Percentage (95%/5%)
Merrill (DPW)	Dollar (Employee cap)	Dollar (Employee cap)
Mosinee (DPW)	Percentage (90%/10%)	Percentage (90%/10%)

Plover (City Hall and DPW)	Percentage (90%/10%)	Percentage (90%/10%)
Schofield (DPW)	Dollar (Employer cap)	Dollar (Employer cap)
Wausau (City Hall and DPW)	Percentage (90%/10%)	Percentage (90%/10%)
Weston (DPW and Clerical)	Percentage 85%/15%	Percentage 85%/15%
Rothschild (City Hall and DPW)	Dollar (Employee cap)	Union Offer: Dollar (Employee cap) Village Offer: Percentage – 90%/10%

As the table shows, most favor a percentage approach toward health insurance premiums.

The external comparables thus strongly support the Village's proposal on health insurance premiums.

3. ADDITIONAL BENEFITS – PREMIUM SHARING

The Village offer includes four additional improvements as apparent quid pro quos for its health insurance proposal. As noted above, the Union has agreed to one of those, the dental insurance improvement. The remaining three include:

ARTICLE 28 - SICK LEAVE: Allow for usage in one (1) hour increments
Increase attendance bonus to two (2) days per year

ARTICLE 29 - UNIFORM ALLOWANCE (Section 2): Boot allowance,
allow for benefit carry-over to subsequent year (not to exceed
\$180)

ARTICLE 30 – VACATIONS: Decrease 4-week threshold from 11 to 10
years of service.

For each of those proposals, the Union responds with the status quo. The Union maintains that the change in sick leave usage reflects current practice and the vacation enhancement has no immediate impact on bargaining unit members. The Union further argues that those proposals are insufficient quid pro quos for the Village proposal to change premium sharing.

These Village proposals are not fully fleshed out by the parties. However, each of these proposals is an enhancement that benefits the employees. Even if the sick leave proposal reflects the current practice, memorializing that practice in the contract would provide additional protection to the employees. I therefore find that they are at least partial quid pro quos for the Village proposal to change how employees would share payment of the health insurance premiums.

4. FINDING ON HEALTH INSURANCE PREMIUM SHARING

It is the strong support in the internal comparable and the external comparables that carries the most weight in support of the change to the percentage approach for health insurance premium sharing. Accordingly, because the comparables support the Village offer, along with the improvement in dental insurance and the Village's proposed improvements in sick leave, the uniform allowance, and vacation, I find the Village offer to change the health insurance premium share to a 90%/10% approach is preferred.

C. WAGES

Both parties' offers are identical on the across-the-board wage increases with each final offer proposing the following:

Effective – 7/10 (First pay period) – Increase wages by 1% across the board.

Effective – 12/10 (First pay period) – Increase wages by 1% across the board.

Effective – 7/11 (First pay period) – Increase wages by 2% across the board.

The external comparable wage settlements can be summarized as follows:

EXTERNAL COMPARABLES 2010 ACROSS-THE-BOARD WAGE INCREASES

MUNICIPALITY	2010 ATB WAGE INCREASE
Antigo	Wage freeze
Kronenwetter	Not settled
Merrill	2.5%
Mosinee	3%
Plover	3%
Schofield	3%

Wausau	2% 1/1/10; 1% 7/1/10
Weston	3%
Rothschild	1% 1 st Pay Period 7/10 1% 1 st Pay Period 12/10

The table reflects that the parties' identical wage proposals are less than the external comparables for 2010. (Only Wausau has settled for 2011). Moreover, they are less than the CPI. As the Union argues, the parties' lower wage increases lend some support to the Union's proposal to continue with the employee dollar cap on health insurance premiums.

D. INSURANCE – DEDUCTIBLE IMPLEMENTATION DATE

Under the prior labor agreement employees were responsible for paying the deductibles under the health insurance plan. Under the new plan the deductibles have increased from \$150 to \$250 for the single coverage and from \$300 to \$500 for single plus one and for family under the Security Health Plan HMO-Option 2-2. Although the parties agree in their final offers that the employees will assume the full costs of the deductibles, the parties differ on the implementation date for paying the full increase in deductibles. The Village proposes implementation on January 1, 2010, while the Union proposes that for 2010 the Village would pay the difference in the increased deductibles and for 2011 the employees would cover the full cost of the deductibles. The Union asserts there would be difficulties in retroactively collecting increased deductibles.

For the 2010-2011 labor agreement the Police agreed that those employees would pay all of the increased deductibles beginning January 1, 2010, which supports the Village proposal. While the Union asserts the collection of the deductibles from the employees may be problematic, such calculations are common with either voluntary

settlements or interest arbitration awards. The Village offer on the increased deductible implementation is found preferable.

E. INSURANCE – OPT OUT

As the Village describes in its initial post-hearing brief, several years ago two pairs of Village employees married and modified their health insurance coverage from single to family. Each couple was allowed a \$250 monthly stipend. This first apparently came to light in early 2010.

Both parties agree that couples will no longer be allowed to access the benefit when “opting out” of single coverage. However, the parties differ as to the implementation date. The Village proposes ending the practice effective January 1, 2010 while the Union proposes ending the practice upon implementation of this award.

Given that both parties agree to terminate the practice, it is reasonable to implement the change at the beginning of the contract. Although the Union points out that the Village would need to recoup the money from the affected employees from the beginning of 2010 through the date of this award, that is an administrative matter left to the parties to resolve. The Village proposal on this issue is preferred.

F. ARTICLE 7 – SENIORITY, PROMOTIONS, LAYOFF, SEVERANCE

The Village proposes amending the seniority clause so that there would be two separate lists: one for the DPW job classifications and the other for the Clerical classifications; as a result, employees would generally be restricted from bumping or posting between the two groups of jobs. The Union’s final offer, on the other hand, would retain the status quo with respect to this provision of the labor agreement. As described in post-hearing briefs, the bargaining unit began in 1969 solely as a DPW

bargaining unit. In 2002 Clericals were voluntarily accreted into the unit. Testimony reflected that there were at least a couple of occasions where employees had posted for and taken positions across those two groups of classifications, apparently without creating any undue difficulties.

The parties did not discuss the issue during negotiations; rather, the Village first raised their proposal during the final offer exchange process. As the Union notes, such a fundamental change should have been discussed during negotiations so that the Village could have raised any concerns with the seniority provision face-to-face with the Union. If there were a serious concern over seniority that needed to be addressed, then the Union could respond accordingly, allowing for a free give-and-take between the parties.

To first present the issue during the final offer exchange process raises a question as to whether a substantial problem actually exists. While the Village points to reasons why they believe it might make sense to split the seniority roster between the two groups, that alone does not demonstrate a serious problem that the parties should address. In fact, no ascertainable problem was demonstrated, other than to claim that it would be better to alter the seniority system to restrict the ability to bump and post between the two groups of employees. I therefore find that the Union's final offer to retain the status quo on the seniority provision is preferred.

G. "GREATER WEIGHT" CRITERIA OF Sec. 111.70(4)(cm)7g.

The agreed-to wage settlement, which is lower than the comparables, is a favorable response to the impact the recession has had on the local economy, largely addressing the Sec. 111.70(4)(cm)7g. "greater weight" criteria applied to the "the economic conditions of the jurisdiction of the municipal employer."

Applying that criteria to the method of insurance premium payments, while the Village contends that changing to a percentage contribution for health insurance will slow future increases in the health insurance premiums, there is no evidence to suggest that who pays the premium will seriously affect future premiums amounts.

CONCLUSION

While the change in the seniority provision is troublesome, on balance, the strong support for the health insurance premium payment change to 90%/10%, along with the improvements in dental insurance, sick leave, uniform allowance, and vacation, the deductible implementation date, and the insurance opt-out, tip the balance in support of the Village's final offer. Based upon the application of the statutory criterion to the parties' final offers and the evidence presented with regard thereto, the Arbitrator finds the Village's final offer to be the more reasonable of the two final offers.²

SUPPLEMENTAL AWARD

The Village's final offer is to be incorporated in the 2010-2011 collective bargaining agreement between the parties, along with those provisions agreed upon during negotiations, as well as those provisions in their expired agreement that they agreed were to remain unchanged.

Dated at Madison, Wisconsin, on February 19, 2011, by

Andrew M. Roberts, Arbitrator

²The parties' final offers were identical on the issue of placement the Assistant Water Works Operator II in the wage schedule, except the Union's offer had a typographical error, unintentionally listing the position as Assistant Water Works Operator. Given that the final offer of the Village has been selected, that error by the Union is moot.