

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In The Matter Of The Petition Of

**WISCONSIN PROFESSIONAL POLICE ASSOCIATION/
LAW ENFORCEMENT EMPLOYEE RELATIONS DIVISION**

Case 39, No. 60495
MIA-2419
Decision No. 30280-B

To Initiate Interest Arbitration
Between Said Petitioner and

VILLAGE OF WEST MILWAUKEE (POLICE)

APPEARANCES:

Mr. Thomas Bahr, Business Agent, 340 Coyier Lane, Madison, Wisconsin 53713, on behalf of the Wisconsin Professional Police Association/Law Enforcement Employee Relations Division.

Ms. Susan Love, Davis & Kuelthau, 111 E. Kilbourn Ave., #1400, Milwaukee, Wisconsin 53202-6613, on behalf of the Village of West Milwaukee (Police).

The Wisconsin Professional Police Association/Law Enforcement Employee Relations Division, hereinafter referred to as the Association, filed a petition with the Wisconsin Employment Relations Commission to initiate interest arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act with respect to an impasse between it and the Village of West Milwaukee (Police), hereinafter referred to as the Village. The undersigned was appointed as arbitrator to hear and decide the dispute, as specified by order of the Wisconsin Employment Relations Commission, dated April 30, 2002. Hearing was held on July 18, 2002, affording the parties full opportunity to present evidence, testimony, and argument. Initial and reply briefs were exchanged by September 16, 2002, marking the close of the record.

PARTIES' FINAL OFFERS

The final offers of the parties include certain identical provisions, as follows:

1. All provisions of the 2000-2001 collective bargaining agreement are continued into the successor agreement except as modified by stipulation or by incorporation of the party's final offer.
2. Term: January 1, 2002 through December 31, 2003.
3. Wages: effective January 1, 2002, 3.25% increase; effective January 1, 2003, 3.25% increase.

The issues in dispute include:

1. Health Insurance Premium Contribution:

Association Position –

Effective 01-01-02, revise Article 21 – Insurance, Section 21.01 – Hospital and Surgical Insurance paragraph B as follows:

B) The Employer will pay an amount toward the premium cost at 105% of the premium of the lowest cost plan, “less \$10.00 per month”. The employee shall pay the balance of the premium cost, if any, via payroll deduction.

Effective 01-01-03, revise Article 21 – Insurance, Section 21.01 – Hospital and Surgical Insurance paragraph B as follows:

B) The Employer will pay an amount toward the premium cost at 105% of the premium of the lowest cost plan, “less \$10.00

\$20.00” per month. The employee shall pay the balance of the premium cost, if any, via payroll deduction.

Village Position –

January 1, 2002:

Employer contribution: 96.25%
Employee contribution: 3.75%

January 1, 2003:

Employer contribution: 92.5%
Employee contribution: 7.5%

Percentages are based on the total contribution (105%) of the lowest cost health insurance offered through the state-sponsored public employees insurance program.

2. Health Insurance Buyout:

Association Position: The Association proposes the status quo.

Village Position: Health insurance buy-out program to continue with the Village sharing 50% of the employer health insurance premium contribution with employees opting out of the health insurance program.

3. Weapons Allowance:

Association Position: The Association proposes the status quo.

Village Position: The Village proposes to delete Section 19.02, Weapons Allowance payments to employees.

The parties also disagree with respect to the appropriate group of external comparables.

STATUTORY CRITERIA

The criteria to be utilized by the Arbitrator in rendering the award are set forth in Section 111.77(6), Stats., as follows:

(6) In reaching a decision the arbitrator shall give weight to the following factors:

- (a) The lawful authority of the 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 these costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - 1. In public employment in comparable communities.
 - 2. In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the 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.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) 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.

POSITION OF THE ASSOCIATION

The Association first notes that no argument has been raised, nor evidence presented, under Sec. 111.77(6)(a), Stats., that the Village does not have the authority to lawfully meet the Association's final offer. Accordingly, that criteria should not affect the arbitrator's decision. The Association next points out that the parties have reached agreement on eleven items.

Under Sec. 111.77(6)(c), Stats., the arbitrator must give weight to the interests and welfare of the public. The Association contends that its offer best serves the public by maintaining the morale and health of its Police Officers. Morale is based both upon the tangibles, such as wages and benefits, as well as the intangibles. The Association submits that because they work side-by-side with employees from other departments in the Village, comparison with those other employees should be the most relevant.

The intangibles for employee morale are particularly significant for Police Officers, because of the type of job Police Officers perform in protecting the public. Association Exhibit 14 shows that the crime level in West Milwaukee is very high. The Association notes that Officers must always demonstrate a professional demeanor and they are always under scrutiny. Therefore, keeping a high level of morale is imperative.

The Association asserts that morale may be jeopardized under the Village's final offer. The Village's desire to impose a percentage-based relationship of Health Insurance premium cost sharing would remove the ability to discuss future premium sharing arrangements. The Village seeks to have the arbitrator change a fundamental component to the parties' agreement with respect to Health Insurance, unlike any of the comparables proposed by either party. While comparable employees contribute higher amounts

toward the premium, they do not participate in the Wisconsin Plan. For those who participate in the Wisconsin Plan, employers contribute 105% of the lowest cost plan offered.

The employees are prepared to voluntarily contribute to the Health Insurance costs; however, the Village demands that employees pay a percentage of the premium. Moreover, the Village's final offer would reduce the amount employees who do not participate, from 50% of 105% of the least expensive plan to 50% of the least expensive plan. The Village also seeks, with little explanation, to remove the Weapons Allowance. Clearly, the Association argues, the employees' morale will suffer under the Village's final offer.

It has not been claimed that, pursuant to Sec. 111.77(c), Stats., the Village does not have the financial ability to meet the costs of either final offer. That is not a factor, and it should not be considered by the arbitrator. While the Village argues that it is at the top in the Gross Property Tax Rate, it has made a substantial improvement in the area of taxes between 1994 and 2000.

In 1996 Arbitrator Kessler determined the external comparable municipalities include: South Milwaukee, Cudahy, and St. Francis. Arbitrator Kessler ruled that the other cities and villages submitted by either party were considered, but all were too substantially different, either by geographic or demographic factors, to be included.

The group of twenty-seven municipalities proposed by the Village continue to be either demographically or geographically too dissimilar to be considered comparable to West Milwaukee. To the extent that the Village offers Village Exhibit 10 in support of its proposed comparables, that may have been appropriate twenty-two years ago, but

much has changed since that time, and that group of municipalities is no longer appropriate.

The Association submits that its final offer is supported by the external comparables. Considering the Village's proposed comparables, all but one use the Wisconsin Plan, and all but one pay up to 105% of the lowest plan offered in 2002. The remaining one pays up to 103%. For 2003 the only change is that South Milwaukee employees, participants of the Wisconsin Plan, contribute \$10.00 per month for the single plan and \$20.00 per month for the family plan. The status quo is therefore 105% for the Wisconsin Plan.

The Village also proposes deletion of the Weapons Allowance. That benefit provides an annual payment of \$300.00 per year to each employee. That is 0.63% of the top patrol annual wage. Association witness Kellerman testified that it had initially been proposed by the Village to be used to increase the wage of Police Officers in such a way that other Village employees would not also demand a similar increase. Moreover, when it was recently learned that some Officers were not receiving the allowance, a grievance was filed.

Comparable wage settlements for 2002 and 2003 favor the Association's wage proposal, absent any other changes. The Association's wage proposal simply attempts to hold the relative position of the top patrol wage rate.

With respect to the internal comparables, while arbitrators give great weight to internal patterns, in this instance the other two internal bargaining units are both in interest arbitration.

With regard to the cost-of-living criteria, the Association notes that the settlements for comparable employees are consistent with the Association's final offer. The cost-of-living criteria along with the more relevant standard of external wage settlements favor the Association's final offer.

The Association submits that with respect to overall compensation, the benefit levels as compared to other comparables should not cause the arbitrator to find its final offer unreasonable.

There are no other factors under Sec. 111.77(6)(g)(h), Stats., that need to be considered.

In response to the arguments raised by the Village, the Association agrees that a total package approach is appropriate. However, while the Village attempts to compare its Police Officers' wages and benefits with internal and external comparables, it fails to provide any cost analysis. Without such valuation, the Village has not demonstrated that its final offer is more reasonable.

Though the Village contends the appropriate comparable pool should consist of six municipalities, instead of the three comparables Arbitrator Kessler found appropriate in 1996, Arbitrator Kessler reviewed the parties' arguments and Arbitrator Zeidler's decision. He rejected Greenfield and Greendale as appropriate comparables. In addition, West Milwaukee's equalized property value differs greatly from that of Greenfield, Port Washington, Brown Deer and West Allis. Furthermore, West Allis' population is fifteen times that of West Milwaukee and Port Washington is over thirty miles away.

The Village argues that the arbitrator should not "second guess" the Village's decision; such a cavalier attitude caused the parties to be participants in this proceeding.

The Association contends the Village is attempting to mandate through arbitration the Village's cost-sharing approach. The Association responds that the Village is proposing to change the status quo. The Association contends that its proposal addresses the Village's concerns. While the Village has been through difficult times, over the past six years, it has reduced the tax rate by 14%.

The Village has not demonstrated that the Association has ignored the rising premium costs. The Association submits that the Village proposal does not control costs, but rather shifts the cost increases to employees. The Village offer does not make any provision for reviewing its proposed premium sharing arrangement in the future. The Association asserts that the Village's premium sharing proposal is the equivalent of a top wage rate employee contributing 0.1 % in the first year of the contract and 1.1% in the second year. Moreover, the Village further proposes to delete the Weapons Allowance, which is the equivalent of .6% of the top wage for 2002 and 2003.

Contrary to the Village assertion that its proposal brings West Milwaukee in line with the prevailing practice, such is not supported by the evidence, no matter which list of comparables is applied. The Village attempts to break stride with all area municipalities who participate in the State Plan.

The Association concludes that the Village attempts to make substantial changes in the cost sharing of employee benefits, and that would diminish the effectiveness of the arbitral process. The Association submits that its final offer is more reasonable and should be adopted by the arbitrator. The Association cites arbitral authority in support of its argument.

POSITION OF THE VILLAGE

The Village first points out that the arbitrator's role is to attempt to place the parties in the same position as that which they would have achieved if they had been able to reach a voluntary agreement. The Village's final offer comports with what has been agreed to by other communities and unions. The economic and political climates have changed drastically in the last five years. Municipalities work under tighter revenues and West Milwaukee is in the weakest economic position among comparables. The critical issue is Health Insurance, and the Village believes that employees should be willing to pay a small portion of the Health Insurance cost and share in the increases.

Turning to the issue of the appropriate external comparable group, the arbitrator must consider geographic proximity, population, tax base, and income levels to find a rough equivalency, with a goal of selecting municipal employers in similar circumstances.

The Village notes that previously determined comparables should remain, absent compelling justification. However, there is not a previously established set of comparables between these parties. In 1986 Arbitrator Zeidler rejected the proposed set of comparables and established a list of six, while in 1996 Arbitrator Kessler rejected the Zeidler comparables as well as the comparables proposed by both parties to adopt a list of three. Arbitrator Kessler's comparables should be rejected because he ignored the position of the parties to the contract and the economic conditions; moreover, three comparables are insufficient for comparison.

The arbitrator should therefore analyze data to identify municipalities most similar and exclude those dissimilar. The Village has submitted evidence regarding

twenty-seven communities by comparing geographic proximity, population, equalized value, and operating expense, and proposed that seven of those are clearly distinguishable from the others.

While the Association proposes the three comparables determined by Arbitrator Kessler, that pool is insufficient to allow adequate comparison. Only two of the three have settled, which is insufficient for comparison.. The Village, on the other hand, proposes: Brown Deer, Cudahy, Greenfield, Port Washington, St. Francis, South Milwaukee, and West Allis.

The Village submits Arbitrator Zeidler's award along with economic data. The Village's proposed comparables are amply supported by the evidence. They are in the same geographic labor market. The arbitrator must also consider the economics of the communities. West Milwaukee has: the lowest per capita income, the fifth lowest per capita property value, the lowest property value growth rate, the highest property tax rate, and the second highest per capita of police services.

The populations of other listed communities are not helpful because only seven are close to West Milwaukee's. Only sixteen are relatively close in wealth. Twelve have generally similar property value growth. Seven have generally similar income per capita, and those seven were on the Association's proposed list in 1986 and 1996.

Based upon such an analysis, the Village proposes that the arbitrator includes the following seven external comparables: Brown Deer, Cudahy, Greenfield, Port Washington, St. Francis, South Milwaukee, and West Allis.

The central issue is over Health Insurance. The Village proposes to have employees contribute 3.75% then 7.5% of the Health Insurance premium, as defined as

105% of the lowest cost plan in the state insurance plan. While the Village recognizes a contribution of 7.5% will not solve the Health Insurance problem, the Village believes it drives the point home. Employees should be willing to pay a small portion of the expensive fringe benefit and share in the future increases.

The Village argues it is a purely economic issue and its proposal is not a radical change; rather, it simply redistributes the dollars the Village spends in this round of bargaining.

The Village argues that when a union proposes increases in wages each year, those are changes in the status quo, though it is generally not thought of in that fashion. This same idea carries over to Health Insurance. While the Village was willing to pay 105% of the lowest cost plan premium, economic reality dictates some restraint when there have been at least twenty percent increases in the premium each year.

In 2001 the increase in the single plan was thirty percent for the single and twenty-six percent for the family, with a twenty-four percent increase for the single in 2002 and twenty-four percent for the family. With a three percent rate of inflation, such increases alone demonstrate the need to control costs.

The main point the Village wishes to make is that escalating Health Insurance costs are a problem facing every organization in the public and private sector. Employers have a critical need to get a handle on Health Insurance costs. While the Association proposes a flat-dollar contribution, which is a step in the right direction, it does nothing to share the burden of future increases.

The Village's offer does not take away the valuable Health Insurance benefit; rather, the Village's offer simply asks to pick up a percentage of its cost.

The Association will argue the Village's offer changes the status quo; however, that is not entirely true, because employees contribute depending on the insurance plan. In 2000 five of the eight employees enrolled in the Health Insurance plan contributed 10% to 35% of the insurance premium. The Village argues it is simply proposing the employee contributions extend to all plans.

Assuming there is a change in the status quo, there is a compelling reason for doing so. The overwhelming evidence and arbitral opinion clearly shows that the Village has proven a need to change the status quo.

The Village further asserts that its proposal to ask employees pay \$162.72 in 2002 and \$325.44 in 2003 for the single plan and \$405.48 in 2002 and \$810.92 in 2003 for the family plan is reasonable. Moreover, because of the Section 125 plan, the employee's actual contribution will be less. Additionally, five of the seven comparables require contributions.

Arbitral principles mandate a quid pro quo, and the Village contends its offer meets that test. With improvements in Field Training Officers' pay, vacations, clothing allowance, and the 3.25% increase, there is a significant quid pro quo, the Village argues. The quid pro quo includes the Village's final offer as well as the array of fringe benefits the employees enjoy.

However, the Village does not believe a quid pro quo is required, given the increases in the Health Insurance premiums. The Village points out that there was no quid pro quo for the wage increases. The Village directs the arbitrator's attention to Arbitrator Petrie's analysis in Mukwonogo School District, Dec. No. 25380-A (Petrie, 1988).

The Village submits that by having employees pay a small portion of the existing Health Insurance premium, they are more likely to realize just how expensive it is. Under the existing language, the effect is diluted, since they do not experience the true effect of the increases. More importantly, employees should be more receptive to redesigning the insurance plan if they have some stake in sharing the costs.

While the Village is aware its proposal does not solve the problem, it does bring the point home that it is not a “free lunch.” The Village believes that its offer is the first step in the right direction. The Village finds it hard to believe employees would resist cents per day in their insurance premium contribution in order to maintain such excellent coverage.

The Village and the employees must strive to contain health costs; however, the Association has only paid lip service to this notion. The Association’s proposal to pay a flat-dollar amount shirks the responsibility to control or contribute to future increases. A partnership between the Village and the employees must be created to solve the problem.

The Village points out that all non-represented employees have paid 7.5% of the premium since January 1, 2002. The Village’s offer would maintain consistency, while the Association offer perpetuates a lack of uniformity. The Village again notes that under the current language some employees already contribute toward the premium.

The Village argues that the most important exhibit is Village Exhibit 13, which proves that five of the comparable municipalities require employees to pay a portion of the premium. Four require contributions in excess of those proposed by the Association. The clear trend is for employees to pay a portion of the premium. The Village’s offer

follows the practice of the comparables and other municipalities, and the Village's offer is reasonable when that trend is considered.

The Village notes that other arbitrators have struggled with this dilemma, and they have strongly supported employers' attempts to contain skyrocketing Health Insurance costs. They all support the Village decision to require employees to pay a portion of the premium cost.

The Association's response to the problem basically ignores the dilemma. They believe that if money is available in the reserves, then the Association's proposal should be granted. Simply because the Village can fund the Association's proposal does not mean the employees are entitled to it. The Village must balance the needs of the employees against all the other services the community must provide. The arbitrator should not second guess the Village's decision.

Currently, the police services use 32% of the budget; moreover, the \$511 per capita police cost is double that of other communities. The Village argues that the criteria of the financial ability of the government to meet the costs does not only consider whether funds are available, but also includes the economic condition of the jurisdiction and the allocation of resources. In other words, undue and disparate economic burdens should not be placed upon an employer without considering the statutory criteria of comparable economic conditions.

The Village submits that the costs of municipal government continue to rise; however, the Village must be prepared to contend with the expected decrease in shared revenues. The more the Village pays to its employees, the less that is available for other

expenditures. The Village cannot escape the impact of limited future revenues. The Association's offer ignores the skyrocketing insurance premiums.

The Village contends that the arbitrator cannot ignore the current economic and political environment. The arbitrator must consider the interests and welfare of the public. The Village feels that all employees of the Village must assume the responsibility of keeping wages and fringe benefits to a reasonable level. The interest and welfare of the public strongly supports the Village's offer.

Considering external comparable wages, the Village is in the middle of the group, though it is last in economic health. The Village points out that the evidence shows that with a 3.25% wage increase each year, its relative position is maintained.

While the Association may argue the employees receive low monthly wages, such a comparison is inappropriate because the police employees here work notably fewer hours than their counterparts. The Village contends that the annual salary must be divided by 1989 hours, the negotiated number of required hours of work each year. The hourly rate gives a more accurate picture.

Though the Association may also argue that both offers have identical wage increases, such an argument ignores the impact on the entire package. The wage rate increase is equal to the average settlement rate among comparable municipalities.

The Village submits that its final offer exceeds the consumer price index. Employees will receive wage and fringe benefit gains in excess of the cost-of-living. They will therefore gain in real terms. The Village's offer emerges as the most reasonable when measured against the cost-of-living criterion.

With respect to the internal comparables, the evidence demonstrates that the Village's offer is consistent with the various groups within the Village, mirroring the non-represented employees and its offer to the other represented employees. Arbitral precedent favors consistency. The Village suggests it has sound reason for the consistency, while the Association's offer has no basis. Consistency between internal employee groups also avoids a bidding war between the units. Arbitrators recognize the need for consistency.

Moreover, the Health Insurance covers all employees of the Village, so the Village sought consistency of the employees' costs and co-pays. The Village uses the same insurance carrier to obtain the best coverage at the best price. The same holds true towards the insurance premium. Its other employees pay 7.5%, while here the Village is proposing phasing in that payment by bargaining unit employees.

The Association provides little justification for its position, the Village argues. Ten police employees take insurance, only four of whom are single. One can only wonder how those four employees feel when they pay the same amount for coverage as for those under the family plan.

In any event, the overwhelming weight of authority favors consistency. The Association can offer no justification for seeking deviation from the norm.

The Village points out that the arbitrator must consider overall compensation. The Village bargained on a total package basis. This includes the wage increase as well as the high price for maintaining fringe benefits. While the Association does not care how much Health Insurance costs, the Village must. The arbitrator should not accept the Association's view that insurance roll-up costs are automatic and need not be accounted

for. Under the Association's offer, the Village is locked into accepting whatever the insurance company charges.

The Village's offer creates a fork in the road, so that if the Association wants more wages, it must accept less fringe benefits. This is the inherent trade off when bargaining a total package. Arbitrators support the principle of total package costs.

Even though the Police Officers are among the top paid of the external comparables, they also have among the highest overall benefits. They enjoy the shortest work schedule of any other department in the group. They have the highest sick leave accumulation and dental insurance benefits.

The Village points out that the tentative agreements also include increasing the pay for Field Training Officers, the vacation schedule the clothing allowance, the reimbursement for damaged uniforms, and pay for "officer-in-charge." When all the benefits are considered, the Village's total package offer is more reasonable. The Association cannot have the best of all worlds.

With respect to the Weapons Allowance, the bargaining agreement provides that each employee shall purchase a 9mm Smith and Wesson and shall be the property of the officer. The contract also provides a \$300.00 Weapons Allowance. However, for those employees hired after 1993, the Village has provided weapons and they do not receive the Weapons Allowance. In February 2001 the Police Chief recognized a safety problem with the Smith and Wesson, so the Village began providing all Officers with a 40 caliber weapon.

With a change in the status quo, the party proposing the change must establish the need for the change, the party proposing the change must provide a quid pro quo, and the

party proposing the change must meet the first two tests by clear and convincing evidence. The Village asserts that it has met those criteria for the Weapons Allowance proposal, since there is no longer a need for the allowance. Section 19.03 recognizes that there would not be a Weapons Allowance when the Village provides the weapon. The Village submits that its offer is therefore more reasonable.

In response to the Association's arguments, the Village replies that there is a thinly veiled threat by the Association when it argues the interests and welfare of the public are best served by maintaining the morale of the Police Officers. The Village believes that is essentially a threat of job action, which should be rejected. The Village adds that the interests and welfare of the public include the tax burdens of the citizens.

The Village further rejects the Association's contention that internal comparables should not be considered.

The Village also disagrees with the Association that requiring the employees to pay a percentage of the premium would eliminate the employees' ability to discuss the matter in the future. The parties are obligated to bargain in good faith. In addition, the percentage approach provides incentive to work collaboratively.

The Village further responds that the Association misstates the Village proposal with respect to employees who opt out of Health Insurance coverage. Under the Village proposal, employees who opt out will receive 50% of the employer's cost. Thus, when coupled with the Village premium sharing proposal, employees who opt out would receive 50% of the Village contribution of 96.25% of 105% of the lowest cost premium for 2002, and 50% of 92.5% of 105% of the lowest cost plan for 2003. The intent of the proposal is to encourage employees covered by other plans to choose that coverage.

Under the Association proposal those employees who opt out will actually receive greater than 50% of the employer's contribution.

While the Association contends that its proposal on Health Insurance employee contributions is the status quo, it actually is a departure.

With respect to the Weapons Allowance, the Association misstates the bargaining discussion and the record at hearing here, which reflects the Village's rationale for modifying that provision. After the original Weapons Allowance provision was included in the contract, a separate provision was negotiated which required that employees hired after a certain date would be provided a weapon. Those employees have not received an allowance for the nine years that provision has been included in the contract. With that history, it becomes clear that the Association created another explanation for the provision. The language is clear, and contrary to the Association's position, it is not a wage increase.

The Village asserts the Association tries to downplay the exceptional benefits the employees receive. As previously noted, when taken as a whole, the Police Officers are among the highest compensated Officers among the comparables.

The Village also disagrees with the Association argument that the previous tentative agreements did not have costs. The record clearly reflects that the tentative agreements included items with increased costs, including increasing the Field Training Officer pay, vacation, clothing allowance, and pay for Officers assuming supervisory responsibilities.

The Village concludes that its offer is more reasonable and should be accepted by the arbitrator. The Village cites arbitral authority in support of its position.

DISCUSSION

APPROPRIATE GROUP OF EXTERNAL COMPARABLES

The threshold issue focuses on the appropriate group of external comparables. In West Milwaukee Professional Policemen's Association and Village of West Milwaukee (Police Department), Dec. No. 17745-A (1986), Arbitrator Zeidler determined that the following were the appropriate group of external comparables:

Cudahy
Greendale
Greenfield
Hales Corners
St. Francis
West Allis

Arbitrator Zeidler reasoned in large part: "Thus while the use of police departments, excluding Milwaukee County has value, there is a greater interaction existing between the municipalities in southern Milwaukee County."

In Wisconsin Professional Police Association/Law Enforcement Employee Relations Division and Village of West Milwaukee (Police Department) Dec. No. 28606-A (1996), Arbitrator Kessler stated:

West Milwaukee is a unique community. It is an older industrial and residential suburb. ... West Milwaukee has changed from a low tax haven, to the highest taxed municipality in the County. ... The only other industrial communities that are similar in income, industrial mix, and are in Milwaukee County are in the Cities of South Milwaukee, Cudahy and St. Francis.

The Association believes that the external comparable group determined by Arbitrator Kessler continues to be appropriate.

However, the Village argues that Arbitrator Kessler ignored the position of the parties to the contract and the economic conditions; moreover, the Village contends that

three comparables are insufficient for comparison. Instead, the Village proposes the following list of comparables:

Brown Deer
Cudahy
Greenfield
Port Washington
St. Francis
South Milwaukee
West Allis

The Village asserts that those comparables have similar economic data, including: per capita property value, property, growth, per capita income, net property tax rate, per capita police service cost, per capita debt, and police service percentage of expenditures.

The appropriate group of external comparables is particularly troublesome in this matter. Previous arbitrators' decisions as to the appropriate comparable group generally should be given deference. However, as the Village points out, in 1986 Arbitrator Zeidler decided on a group of six comparables and in 1996 Arbitrator Kessler decided on a group of three. Thus, there is not a long-standing, consistent arbitral precedent as to the appropriate comparable group. I also agree with the Village that three comparables is an insufficient database for discerning any trends. In this instance, it is therefore appropriate to reconsider which external comparables should be included.

Economic indicators, population, the geographic proximity, labor market the municipalities recruit from, the type of community (i.e., whether they are urban, suburban, or rural) are all criteria to be considered in analyzing which municipalities should be included as the appropriate comparables. Applying those criteria, the Village's proposed comparables of Cudahy, Greenfield, St. Francis, and South Milwaukee are sufficiently similar.

However, I disagree with the Village with respect to Brown Deer, Port Washington, and West Allis. Port Washington and Brown Deer are not geographically close to West Milwaukee and they would not generally recruit from the same labor market. Both are suburban communities, whereas West Milwaukee, along with the four I noted, is within the urban community. Brown Deer's per capita property value is \$63,016, while West Milwaukee's is \$42,746; Port Washington's is also at the high end of per capita property values. West Allis, while part of the urban community close to West Milwaukee, has a population of 63,769, whereas West Milwaukee's population is only 4,195. (Village Exhibit 4 b) Such a large population disparity prohibits the inclusion of West Allis as one of the comparables. Accordingly, I find the four external comparables of Cudahy, Greenfield, St. Francis, and South Milwaukee comprise an appropriate group.

FINAL OFFERS

HEALTH INSURANCE PREMIUM CONTRIBUTION

To reiterate, the Association proposes 105% of the lowest cost Health Insurance offered through the state sponsored public employees insurance plan, less \$10.00 per month to be paid by the employee via payroll deduction, effective January 1, 2002; the amount contributed by the employee would increase to \$20.00 per month, effective January 1, 2003. The Village proposes to contribute 96.25% of the Health Insurance premium with the employee contributing 3.75%, effective January 1, 2002; those amounts would change to 92.50% contributed by the Village and 7.50% for the employee contribution, effective January 1, 2003.

Though the Village contends it is not changing the status quo, it is difficult to find otherwise. Under the 2000-2001 bargaining agreement, employees did not pay toward the Health Insurance premium if the chosen plan is 105% of the lowest cost plan. Under either side's proposal, all participating employees will begin paying either a percentage of the premium (under the Village proposal) or a flat-dollar amount toward the premium (under the Association proposal).

Nonetheless, as the Village asserts, its Health Insurance costs have gone up dramatically and they are expected to continue to increase. Indeed, employers around the country are facing higher premium costs, and they must determine how to address the challenge. Because the parties were not able to voluntarily settle this issue, the statute requires me to analyze how the other comparable municipal employers have responded to the dilemma.

A. EXTERNAL COMPARABLES - EMPLOYEE CONTRIBUTIONS

Village Exhibit 13 provides the following data for the external comparables determined to be appropriate here:

EXTERNAL COMPARABLES – EMPLOYEE'S CONTRIBUTION TO MONTHLY HEALTH INSURANCE PREMIUM

<u>COMPARABLE</u>	<u>SINGLE</u>	<u>FAMILY</u>
Cudahy	0	0
Greenfield	5% (\$20.00 max.)	5% (\$37.50 max.)
St. Francis	\$12.50	\$20.00
South Milwaukee (City pays 105% of lowest cost State Health Plan)	\$10.00 (eff. 1/1/03)	\$20.00 (eff. 1/1/03)

The table reveals that St. Francis and South Milwaukee have a flat-dollar amount for the employee contribution toward the premium while Cudahy has no employee contribution. Greenfield, though including a percentage provision for the employee contribution, caps it with a flat-dollar amount. Given today's high monthly Health Insurance premiums, Greenfield, as a practical matter, has capped, flat-dollar employee premium contributions.

While the Village vigorously argues that the only way for employees to think seriously about a solution to the problem is to require a percentage contribution so that the employees will "feel the pain" with each premium increase, the comparables have not applied that approach. Rather, they have all opted either for an essentially flat-dollar cap or for no contribution by the employee. The external comparables thus favor the Association's offer, since its offer more closely mirrors that approach.

B. INTERNAL COMPARABLES – EMPLOYEE CONTRIBUTIONS

With respect to the internal comparables, the non-represented employees pay 7.5% of the Health Insurance premium, effective January 1, 2002. The DPW bargaining unit is in arbitration, and the Village's final offer includes a proposal that the DPW employees pay 7.5% toward the premium. The Dispatcher bargaining unit is also in arbitration, and the Village's final offer includes Health Insurance premium payments that mirror the final offer here.

While the Village contends the internal comparables support the final offer here, the Dispatchers and DPW bargaining units have not settled their successor contracts, nor has an arbitrator issued an award for either unit's successor labor agreement. Given the pending status of those bargaining agreements, neither can be used to demonstrate the internal comparables support either side's position. Though the non-represented

employees pay 7.5% of the monthly premium, that requirement was not bargained, but rather unilaterally imposed on those employees, and it does not carry the same weight as it would if they had been represented.

Since no other internal bargaining unit has reached agreement, the internal comparables do not favor either side's final offer.

Because the external comparables favor the Association's approach and the internal comparables do not particularly favor either party's proposal, I find the Association's proposal with respect to the employees' contributions to the Health Insurance premium to be more reasonable.

2. HEALTH INSURANCE BUYOUT

The Village proposes to share 50% of the employer's Health Insurance premium contribution with those employees who opt out of the Health Insurance program, while the Association proposes the status quo. Section 21.01 (E) from the 2000-2001 bargaining agreement states:

The Village will pay an employee who, although eligible, voluntarily agrees not to participate in the Village family Health Care Plan a monthly amount equal to 50% of an amount equal to 105% of the lowest cost plan in effect during the period the employee continues such agreement. To be eligible for the payment provided for in this Section, the employee must have proof of coverage under another plan.

The key change proposed by the Village, then, is to not tie the pay out to 105% of the lowest cost plan, but rather to the employer's contribution.

The net effect of the Village's proposal will be to decrease the amount paid to those employees who opt out of the Health Insurance program, changing the status quo. However, other than a general decrease in the costs of the Village, there is no clearly

demonstrated reason why it is specifically being proposed, nor is there a clearly demonstrated quid pro quo for the proposal. I therefore find the Association's proposal to retain the status quo to be more reasonable.

3. WEAPONS ALLOWANCE

The 2000-2001 labor agreement provided for a Weapons Allowance as follows:

19.02 – The service weapon, a 9MM Smith & Wesson automatic, shall be purchased by each member of the Police Department and shall at all time (sic.) remain the employee's personal property. In the event the automatic is damaged beyond repair in the line of duty, a new automatic of the same make and model may be purchased by the Village on the recommendation of the Chief of Police, and shall become the personal property of the officer. Each sworn officer shall receive an annual payment of \$300.00 to be used as a weapons allowance. All such payments shall be provided to each sworn officer on the 1st day of June of each year.

19.03 – Employees hired on and after January 1, 1993 shall be provided with all uniform apparel as designated by the Chief of Police, including Personal Body Armor and service weapon, the expense of which shall be paid by the Village. Officers supplied with Personal body Armor under this section will be required to wear same on duty.

There is some disagreement by the parties as to the history and intent of those provisions. As noted, the Association contends that when the \$300 Weapons Allowance was included in the labor contract, it was added to surreptitiously boost the wages of the Officers, without the other bargaining units knowing about it. The Village disagrees and further asserts that in February 2001 the Police Chief recognized a safety problem with the Smith and Wesson weapon, so the Village began providing each Officer with a 40-

caliber weapon. The Village contends, therefore, that the Weapons Allowance is no longer needed.¹

Because the Village recognized a safety problem with the Smith and Wesson weapons and it now provides each Officer with a 40-caliber weapon, the Weapons Allowance has essentially been rendered superfluous. I find there is a compelling reason for deleting that provision, and the Village's position is favored on this issue.

CONCLUSION

While I find the Village proposal to delete the Weapons Allowance to be more reasonable, the primary issue is with respect to the changes in the employee contribution to the Health Insurance premium. Because the Association's proposal on that issue, as well as its proposal to retain the status quo for employees who opt out of the Health Insurance program, are favored, the Association's final offer prevails.

Having considered the statutory criteria, the evidence and arguments of the parties, the undersigned concludes that the final offer of the Association is more reasonable and therefore should be favored over the offer of the Village, and in that regard the undersigned makes and issues the following

¹ There is a pending grievance over that provision.

AWARD

The Association's final offer is to be incorporated into the 2002-2003 two-year collective bargaining agreement between the parties, along with those provisions agreed upon during their negotiations, as well as those provisions in their expired agreement which they agreed were to remain unchanged.

Dated in Madison, Wisconsin, on October 16, 2002,

by

Andrew M. Roberts