BEFORE THE ARBITRATOR

In the Matter of the Petition of

SHOREWOOD POLICE ASSOCIATION,
LOCAL 307

For Final and Binding Arbitration Involving
Law Enforcement Personnel in the Employ of

Village of Shorewood

Case 50
No. 63195 MIA-2569
Decision No. 31061-A

Appearances:
Mr. Kevin Naylor, Labor Consultant, Labor Association of Wisconsin, Inc.
Davis & Kuelthau, S.C., by Mr. Daniel J. Vliet, on behalf of the Village.

ARBITRATION AWARD

The Shorewood Police Association ("Association"), and the Village of Shorewood ("Village"), are signatories to a collective bargaining agreement which expired on December 31, 2003. That agreement covered certain non-supervisory law enforcement personnel employed by the Village.

The parties engaged in negotiations for a successor collective bargaining agreement and the Association filed an interest arbitration petition with the Wisconsin Employment Relations Commission ("WERC"), on January 4, 2004, alleging that an impasse existed between the parties, and requesting that the WERC initiate arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act ("MERA"). The WERC appointed Marshall L. Gratz, a member of the WERC staff, to serve as investigator and to conduct an investigation. The investigation was closed on August 24, 2004, and the WERC on September 20, 2004, issued an Order appointing the undersigned to serve as the Arbitrator.

A hearing was held in Shorewood, Wisconsin, on December 16, 2004. The hearing was not transcribed and the parties subsequently filed briefs and reply briefs which were received by February 21, 2005.

Based on the entire record and the arguments of the parties, I issue the following Award.

FINAL OFFERS

The Association has proposed the following Final Offer:

1. **ARTICLE III – FAIR SHARE AGREEMENT**
Page 3, Section 3.03, lines 3-7. Delete "with the month immediately following the month in which such employee completes his probationary period, provided, however, that in the event such employee becomes a member of the Association prior to the completion of his probationary period, such deduction shall commence with the month immediately following receipt of notice by the Village of his Association membership" and insert "thirty (30) calendars (sic) days from the employee's date of hire."

2. **ARTICLE IV – SALARY PROVISIONS**
Page 4, Section 4.01. 1.5% ATB effective 1-1-04; 1.5% ATB effective 7-1-04
1.5% ATB effective 1-1-05; 1.5% ATB effective 7-1-05

3. **ARTICLE XVIII – CLOTHING ALLOWANCE**
a. Page 20, Section 18.01. Delete obsolete language.
b. Page 21, Section 18.04, line 28. After the word "provide" insert "a minimum Level 2A".

4. **ARTICLE XXII- INSURANCE**
a) *Page 22, Section 22.01, paragraph B.* Modify this paragraph to provide that effective 1-1-04, employees will pay $72/month for the family plan and $25/month for the single plan. Effective 1-1-05, employees will pay $90/month for the family plan and $35/month for the single plan.

b) *Page 24, paragraph E, Lines 10-19.* Rewrite as follows:
"The Village agrees that if it decides to change the insurance in any way, it shall notify the Association of its intent to change the insurance at least sixty (60) days prior to the intended change if practicable, but not less than thirty (30) days from the intended date of change. The Employer agrees that it shall provide the Association with written documentation setting forth all of the changes. If the changes are not agreeable to the Association, the parties agree to open the contract to negotiate on the

proposed changes, provided, however, if the Employer changes insurance carriers and the level of benefits are equal to or greater than the existing program, there will be no obligation on the part of the Employer to reopen the contract to negotiate the change."

c) The employer will be responsible for reimbursing any employees who incurred out of pocket expenses as a result of the newly imposed deductible that went into effect on January 1, 2004, under the United Health Care Choice Plus Plan SO1 until the first of the month following the arbitrator's award.

5. **ARTICLE XXXII – DURATION OF AGREEMENT**
Page 29, Section 32.01. Change the dates in this Section to reflect a two year agreement effective January 1, 2004 and ending on December 31, 2005.

6. Delete "Investigator" throughout the contract and insert "Detective".

The Village has proposed the following Final Offer:

1. **Article III – Fair Share Agreement**

Page 3, Section 3.03, lines 3-7.

Delete "with the month immediately following the month in which such employee completes his probationary period, provided, however, that in the event such employee becomes a member of the Association prior to the completion of his probationary period, such deduction shall commence with the month immediately following receipt of notice by the Village of his Association membership" and insert "thirty (30) calendar days form (sic) the employee's date of hire."

2. **Article IV – Salary Provisions, Section 4.01**

The Village proposes:

1.5% across the board increase January 1, 2004
1.5% across the board increase July 1, 2004
1.5% across the board increase January 1, 2005
1.5% across the board increase July 1, 2005
1.5% across the board increase January 1, 2006
1.5% across the board increase July 1, 2006

3. **Article XVIII – Clothing Allowance**

a. Page 20, Section 18.01.

Delete obsolete language.

b. Page 21, Section 18.04, line 28.

After the word "provide" insert "a minimum Level 2A."

4. **Article XXII – Insurance.**

(B.) Delete in its entirety and replace with the following:

"The Village and its employees shall pay the cost of premiums for the employee's health insurance. Employees will contribute 5.5% of the single or family plan premium for health insurance effective January 1, 2004. Employees shall contribute seven percent (7%) effective January 1, 2005. Employees shall contribute 7.5% effective January 1, 2006. The Village shall pay the remainder."

The health plan will change to the United Health Plan Choice Plus No. SO1. (identified as Option V in the materials) effective January 1, 2004.

Note: Since the carrier unilaterally terminated the Village's prior plan effective December 31, 2003, the Village has implemented the new plan effective January 1, 2004, in order to assure employees and retirees health insurance coverage during the contract hiatus. In order to minimize any hardship caused by the change in plan, the Village will reimburse employees for any additional deductible expenses incurred by an employee under the new plan for the period January 1, 2004 through March 31, 2004. Further, the Village will reopen its Section 125 plan in order to allow employees to adjust their contributions to the Section 125 plan as soon as possible after the implementation of the new agreement, provided that the Village is permitted, under the applicable federal regulations, to do so **(this paragraph is a side agreement and not to be incorporated in the contract)**.

(C.) Delete the following:

"…under the family plan and 100% of the employees' cost of health insurance premiums under the single plan,…"

5. **Article XXXII – Duration of Agreement**

The Village proposes a three (3) year term.

6. Delete "Investigator" throughout the contract and insert "Detective."

7. Remainder of contract status quo.

Both parties therefore have agreed to the wages for 2004 and 2005; to fair share; to the clothing allowance; to changes in the health insurance plan; and to delete the word "Investigator" throughout the contract and to insert the word "Detective".

The following issues remain in dispute: How much employees should pay for health insurance and whether the amount should be a percentage or flat dollar; whether the Village will continue paying 100% of the single health care premiums for future retirees who have single coverage;[1] whether the Village's side letter relating to the payment of certain medical and drug expenses should be part of the agreement; whether the Association's language relating to possible change of health insurance carrier and/or benefits should be adopted; and duration.

STATUTORY CRITERIA

Section 111.77(6) of MERA reads:

> (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 the costs.
>
> (d) Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceedings 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.

[1] The Village currently pays 100% of the single health insurance premium in effect at the time of an employee's retirement. If the premium increases, the retiree pays for anything over that amount.

> (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 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.

POSITIONS OF THE PARTIES

The Association contends that "the controlling factor" in this matter is whether the Village has offered an adequate quid pro quo for the significant modifications it seeks . . ." in its insurance proposal relating to retirees who have single health care coverage. It also asserts that the Village has not established a compelling need for the changes it seeks; that the Village's settlement with its Library Board employees "contains quid pro quos and is more generous. . ." than what is being offered here; that the Village "failed to put forth the required effort to obtain health insurance changes at the bargaining table"; and that the Association's membership ratified past agreements "due in part to the value of the retiree health insurance and flat dollar contribution".

The Association also asserts that its offer merely seeks to maintain the status quo and does "not seek an above average wage increase or to improve upon existing benefits"; that its request for a 2 year agreement "is a direct result of the Village's attempts to isolate. . ." the Association from "meaningful negotiations"; and that its request to modify Section 22.01, Paragraph E, relating to possible changes in the insurance carrier "is merely an attempt to clarify its intent". It adds that the Village's offer "is fatally flawed" because it contains "a Side Letter which the Arbitrator is unable to award", and that all of the statutory criteria supports its offer. It

also claims that "the Village is inconsistent with its demand for internal consistency"; that "the Village has over exaggerated the impact the Association's Final Offer would have on future negotiations"; that "arbitrators have long recognized a distinction between protective employees and non-protective employees"; and that "the premium contributions found in other North Shore communities resulted from quid pro quo bargaining."

The Village maintains that "arbitrators have historically given weight to internal settlements", and that the internal comparables support its offer because the other two Village bargaining units have agreed to what it is proposing here. It states that the cost of the parties' offers must be considered in rendering an award because the Village must be fiscally responsible, and that its health care costs will continue to escalate even with increased premium sharing. It adds that the external comparables consisting of various North Shore communities support its offer; that the Village's wage offer is "significant" and should be weighted when compared to police wage rates in the comparable pool; that its offer on health insurance is more reasonable than the Association's; and that the Village offers "more generous benefits than those received by the comparables.

The Village also states that the CPI supports its offer; that its proposed "changes to the health insurance contribution method and amount are supported by a compelling need"; and that no compelling needs support either the Association's proposed revisions to Section 22.01(E) of the agreement or its proposed changes for the duration of the successor agreement.

DISCUSSION

Turning first to the statutory criteria, there is no dispute about the lawful authority of the employer, and the stipulations of the parties do not favor either Final Offer.

The interests and welfare of the public and the Village's financial ability to meet the costs of either Final Offer do not favor either party because the interests and welfare of the public will be served by selecting either offer, and because the Village can afford to pay the approximately $1,719 which separates the parties' offers (Association Exhibit 906).

The CPI does not impact on either Final Offer because the parties' wage proposals for 2004 and 2005 are identical and because the actual dollar difference in the parties' proposals relating to how much active employees should pay towards the cost of their health insurance is minor.

In addition, there have not been any changes in the statutory circumstances during the pendency of this proceeding which affect either offer.

As for the internal comparables, the Village has settled with its other two bargaining units, i.e., Local 1486, District Council 48, AFSCME, AFL-CIO, which represents the Village's Library Board employees and the Shorewood Department of Public Works Employees who also are affiliated with Milwaukee District Council 48, AFSCME, AFL-CIO. Those bargaining units have agreed to 3-year agreements and to the use of percentages for health insurance premium contributions. In addition, the DPW union has agreed to the language for future retirees that the Village is proposing here.

Ordinarily, internal settlements are given great weight unless a party can establish special circumstances as to why that should not be done, and the Village cites a plethora of arbitral authority to that effect.[2]

The Association asserts that there is a difference between the statutory provisions relating to the interest arbitration procedures between non-protective and protective employees, and that arbitrators have recognized this difference in finding that the internal settlements relating to the former are not as important as the external settlement patterns of protective employees. See City of Glendale, Dec. No. 30084-A (Dichter, 10/01); Portage County, Dec. No. 25971-A (Fleischli, 9/89); City of River Falls, Dec. No. 21523-A (Boyer, 10/84).

The Association also points out that the Village does not maintain parity between the Village's bargaining units because: (1), Library Board employees, unlike the DPW employees and the employees here, do not receive the retirement benefit in dispute; and (2), the Library Board and DPW employees receive 12 paid holidays unlike the employees here who receive 11 paid holidays.

In addition, Library Board employees received several improvements in their last round of negotiations, i.e. an additional 15 minute break for employees working a six hour shift; an increase in the number of pay steps; and a 114% increase in Sunday premium pay over the life of the three year agreement. Here, there have not been any such improvements for the successor agreement.

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[2] See City of Wisconsin Rapids (Police), Dec. No. 30175-A (Michelstetter, 2/25/02); City of Waukesha, Dec. No. 21299 (Fleischli, 8/28/84); City of Oshkosh, Dec. No. 26923-A (Gunderman, 3/3/93); Mount Horeb School District (Auxiliary Personnel), Dec. No. 7301 (Oestreicher, 12/6/95); City of Madison (Firefighters), Dec. No. 21345 (Vernon, 11/84); Marinette County Department of Social Services (Professional Staff), Dec. No. 22574-A (Grenig, 9/85); City of Milwaukee, Dec. No. 25223-B (Rice, 9/88); City of Green Bay, Dec. No. 26948-A (Vernon, 4/92); City of New Berlin, Dec. No. 27293-B (Krinsky, 2/93); City of Appleton, Dec. No. 25626-A (Vernon, 4/89).

As for the DPW employees, the record does not establish why they agreed to the Village's proposal regarding retirees' health insurance.

However, Officer Debra Rappold testified that she heard that the DPW employees were concerned about layoffs and possible consolidation and that they may have agreed to what they did to avoid such layoffs. Since Rappold's testimony was based on hearsay, it is difficult to determine how much weight should be given to this testimony.

The Union also points out that the employees here retire earlier than the DPW employees and that health insurance for retirees means more to this bargaining unit than the DPW unit, which is why the DPW unit may have been more willing to agree to the Village's proposal.

There also is another notable difference between the bargaining here and the bargaining there.

Officer Rappold testified without contradiction that DPW representatives met with representatives of the Village's health care carrier, at which time changes to the Village's prior health care plan were discussed. Since any such changes also affected the employees here, Association representatives should have been invited to participate in any such meetings.

That did not happen. As a result, Rappold had to ask the DPW union for permission to attend those talks and she was allowed to be present conditioned upon the express understanding that she could not speak.

Rappold added that after the DPW union agreed to certain insurance changes and after it settled with the Village, the Village expected the Association to accept those changes and "we were offered the same thing over and over again." The Association therefore objects to the manner in which negotiations were conducted.

This question of process also affects some of the other issues in dispute.

The question of health care contributions and whether those contributions should be expressed in fixed dollar amounts or percentages also centers on the bargaining process because, given the very small difference in actual dollars (only $1,719), the parties are mainly concerned about how they will bargain over this issue in a successor contract.

The Village wants to use percentages because employees automatically will have to pay a higher share of health insurance premiums when they go up at the termination of this agreement and because, as the Village points out: "paying a percentage of the health insurance premiums makes employees more aware of the increase or decrease in the cost of the coverage", thereby hopefully encouraging them to help lower those costs. The Association wants employees to pay flat dollar amounts because the Village will have to pay anything over those amounts. Much of the jockeying here therefore turns on which side will have a leg up in future negotiations.

As a general rule, percentages are fairer to both sides because they guarantee that employers and employees will both share the costs of higher premiums. Since both the Library and the DPW unions have agreed to the use of percentages, the internal comparables favor the Village's proposal.

The external comparables also support the Village's proposal.

The parties have agreed to the following external comparables: the Village of Bayside; the Village of Brown Deer; the Village of Fox Point; the City of Glendale; the Village of River Hills; and the Village of Whitefish Bay.

Four of those comparables in 2004 – the Village of Fox Point, the City of Glendale, the Village of River Hills, and the Village of Whitefish Bay – offered the State's Health Insurance Plan and required employees to pay a certain amount over fixed percentages for other coverage. The Village of Bayside offered a plan which provided for a percentage contribution and the

Village of Brown Deer used percentages to calculate employee contributions (Association Exhibit 603; Village Exhibit 16). At the same time, some flat dollar amounts were used for certain plans.

The question of whether the agreement should be two or three years duration also centers on process.

The Association wants to break out of the three year bargaining cycle agreed to by the Library Board and DPW employees so it can bargain independently before them and before the Village can settle with the other two unions and then offer the Association what has been agreed to there.

The Village wants the added stability that a longer agreement will bring, and it prefers to deal with the Association when it deals with its other two unions because it may then be able to lock in its other internal comparables; because that is less time consuming than having to bargain in different years; and because that will make it easier to have all bargaining units under the same health plan.

As a general rule, it is generally recognized that a longer agreement is better than a shorter agreement because of the stability it brings.

The Village's proposed side letter stating that the Village will pay for certain deductible health insurance expenses incurred between January 1, 2004, through March 31, 2004, also involves process because the Association claims that such a side letter cannot be considered unless it is actually part of the agreement.

I disagree. The side letter only covers a three month period of the agreement and there is nothing wrong with setting it apart from the rest of the agreement since it will automatically expire at the agreement's expiration, thereby sparing the parties from dealing with it when the agreement expires. That is regularly done with side letters which can be grieved along with the rest of an agreement and there is no valid reason why it should not be done here.

The Association's proposal relating to the Village's possible change of health insurance benefits and/or the health insurance carrier also centers on what process should be followed if that eventuality arises.

The prior agreement at Article XXII, entitled "Insurance", addressed this issue via the following language:

> The Village agrees that if it decides to change the insurance carrier during the term of this agreement, it shall notify the Association of its intent to change the carrier at least sixty (60) days prior to the intended change if practicable, but not less than thirty (30) days from the intended date of change. The employer agrees that it shall provide the Association with written documentation setting forth the level of benefits of the new program. If the level of benefits is not agreeable to the Association the parties agree to open the contract to negotiate on the new insurance, provided, however, if the Employer changes insurance carriers and the level of benefits are equal to or greater than the existing program, there will be no obligation on the part of the Employer to reopen the contract to negotiate the change.

This language refers to the "term of this agreement" which, of course, has a termination date. The Association's proposal here extends past the termination date because it deletes the phrase "term of this agreement", thereby allowing the Association to claim that the Village cannot unilaterally change benefits and/or the carrier after the successor agreement expires and during a possible contractual hiatus. The Association's proposal here also refers to changing the insurance "in any way", thereby making it broader than the prior language.

The Village claims that the Association has not met its burden of proving there is a need for this change, as its points out that the Association arbitrated this issue before Arbitrator Christopher Honeyman who ruled against the Association by stating:

. . .

> *Health insurance*
> I find the Association's proposed new health insurance language not well justified in the record, but not particularly significant either. The existing contract language allows the Village of change health insurance carriers provided that the new coverage is "equal or better". The Association's proposal would maintain the "equal or better" standard, but ostensibly applies it more broadly to changes in "insurance" rather than merely "carrier".
>
> But to assume that this change would actually impact management adversely is to assume that the existing language allows management to change insurance levels within the same carrier to some greater degree. That assumption is a tall order, as impliedly admitted by the Village's immediate agreement, as soon as the association filed a grievance protesting the unilateral 2001 change in co-pays during the pendency of this dispute, to indemnify employees until the dispute was resolved. Even if the Village had not done so, it would be a strained reading of the existing insurance language to argue that the Village was free to substitute inferior insurance provisions as long as it remained with the same carrier. The result is that the Association's proposed new language could arguably be read as providing greater flexibility for management than the existing language – because the Association's language expressly admits at least the possibility of a mid-contract change in insurance levels within the same carrier, while the existing language arguably bars any such change. Consequently, although I agree with the Village that the proposal is not well justified in the record, I do not see any reason to weigh it significantly against the Association.[3]

I agree with Arbitrator Honeyman and find that while the Association has not demonstrated a need for its proposed change, very little weight can be given to this issue when deciding which Final Offer should be selected.

The parties are not that far apart on the actual amount of the health insurance premiums to be paid.

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[3] Labor Association of Wisconsin, Inc. (Shorewood Police Association) and Village of Shorewood, WERC Case 46, No. 59664, MIA-2284 (2002), p. 8.

The Association's offer requires employees to pay $72 a month for the family plan and $25 a month for the single plan effective January 1, 2004, and $90 a month for the family plan and $35 a month for the single plan effective January 1, 2005. The District's offer requires employees to pay 5.5% for the family and single plan effective January 1, 2004; 7% effective January 1, 2005; and 7.5% effective January 1, 2006.

The actual monetary difference between these two proposals is $5.16 for 2004 and $1,713.96 for 2005 (Association Exhibit 906).

The parties also are apart on when the increased health insurance deductibles (which includes higher drug co-pays), should go in effect, with the Village arguing for April 1, 2004, and the Association arguing that they should go in effect the first month following the issuance of this Award.

It is difficult to calculate the monetary difference on this issue because the record does not establish how much has been paid in higher deductibles and higher drug co-pays from April 1, 2004, to the present. However, since there are about 17 bargaining unit members, and since many of them probably have incurred higher deductibles and higher drug co-pays, it is safe to assume that thousands of dollars separate the parties' proposals.

The internal comparables support the Village because both the Library Board union and the DPW union have agreed to pay a percentage of the health insurance premiums and because those employees have been paying higher deductibles and higher drug co-pays since the early part of 2004.[4]

[4] See Wausau City Hall Employees Union, Dec. No. 29533-A (Torosian, 11/99), and City of Cudahy (Fire), Dec. No. 30434-A (Torosian, 4/03), where the importance of maintaining uniform health insurance benefits was stressed.

I find that these two proposals should be adopted because they are supported by the internal comparables and because it is only fair that there be retroactivity for the higher deductibles and higher drug co-pays when wages are retroactive.

As for the other issues, there is no dispute between the parties over the wages to be paid in 2004-2005 since both of them have agreed to 1.5% across the board increases on January 1, 2004; 1.5% on July 1, 2004; 1.5% on January 1, 2005; and 1.5% on July 1, 2005. They therefore only disagree over what should be paid for a third year which goes to the question of duration.

The Village's wage offer here is higher than what was offered to the Library Board and DPW bargaining units because the wage offer here provides for four separate 1.5% split wage increases rather than the straight 2.3% and 2.25% across the board wage increases agreed to there. Hence, the officers here would get a 6% lift over 2004-2005 rather than the 4.55% lifts agreed to there, and the Village's wage proposal here for 2006 would increase the lift to 9%, as opposed to the 6.7% lifts agreed to there.

The biggest monetary item in dispute thus involves the Village's proposal to cut in half the single health insurance premium it now pays for retirees so that it pays about $227.49 in the future rather than the $454.99 provided for in 2004. As related above, the Village's current 100% contribution is based upon the premium in effect at the time of retirement, with retirees paying anything above that amount.

The external comparables which are unrelated to using sick leave for health care coverage support the Village because the Village is the only employer now paying 100% of the single health insurance premium in effect when employees retire. The Village of Brown Deer contributes $200 per month for single coverage and $400 per month for family coverage up to Medicare eligibility; the Village of Fox Point contributes a sliding scale ranging from $150-$250 per month; the City of Glendale contributes the same amount it was contributing at the time of

retirement up until age 65 when it pays for the full cost of single or family coverage for Medicare Extended health insurance; the Village of River Hills calculates retiree contributions separately apparently based on payments of $77.15 per month up to a maximum of 144 payments; and the Village of Whitefish Bay pays 50% of the single or family plan premium until the retiree reaches Medicare eligibility (Village Exhibit 17; Association Exhibit 706). The Village of Bayside ties in unused sick leave with the payment of health insurance for retirees (Association Exhibit 706).

It is well recognized that a party seeking to change a collective bargaining agreement ordinarily must prove that: (1), there is a compelling need for the change; (2), its proposal reasonably addresses the need for such a change; and (3) a sufficient quid pro quo has been offered in exchange for the requested change.

Here, the Village has not offered a quid pro quo in exchange for its retiree's proposal because it claims "a pressing issue for municipalities, such as the health care crisis relaxes the need for a traditional quid pro quo."

The Village thus cites Mondovi School District (Support Personnel), Dec. No. 30633-A (1/04), wherein Arbitrator Douglas V. Knudson ruled: "the District's rapidly increasing health insurance premiums provide a sufficient basis to justify a change in the status quo without a traditional quid pro quo." There, the employer proposed that full-time 12-month employees contribute 3% towards the cost of the family health insurance premium.

There are significant differences between Mondovi and this case. There, health insurance premiums increased by 39.21% in one year. Here, no such astronomical increase has occurred. Secondly, the union there never made any significant concessions aimed at lowering the cost of those health insurance premiums. Here, the Association has made significant concessions by

agreeing to increased deductibles and by agreeing to pay higher drug co-pays. Thirdly, the employees there were only required to pay 3% of their health care premiums. Here, the Village wants future retirees to pay 50% of their premiums.

The Village also quotes Arbitrator Herman Torosian's decision in Oconto Unified School District (Clerical and Professional), Dec. No. 30295-A (10/09/02), wherein he stated:

> "There is no set answer as to what constitutes a sufficient quid pro quo. It is, in the opinion of the Arbitrator, directly related, inversely, to the need for the change. Thus, the quid pro quo need not be of equivalent value or generate an equivalent cost savings as the change sought. Generally, greater the need, lesser the quid pro quo."

There is, indeed, a health care "crisis" which is why many employers are now trying to limit those costs by making changes in their health care plans and/or by making their employees pay more for their health care insurance (Village Exhibit 20).

That, though, does not automatically relieve employers from offering a quid pro quo when they seek to cut in half a retirement benefit which involves health insurance. It only means that there may be a compelling need for the changes sought and that both parties' Final Offers must recognize that health insurance is a vital component of any economic package.

In some cases such as when insurance premiums go up astronomically an employer may be able to successfully argue that no quid pro quo is necessary because something must be done and because the employer simply cannot afford to offer a sufficient enough quid for the quo sought. In other instances -- when there is less of a need to make the changes or when an employer seeks to reduce a benefit well in excess of any health insurance rise – there is no reason to not require a quid pro quo, as such give and take is an essential part of the collective bargaining process.

Here, the Association has made significant insurance concessions by agreeing to the United Health Care Choice Plus Plan S01 which has higher drug co-pays and higher deductibles which are spelled out in Association Exhibit 1:

	Prior Plan	New Plan S01
In-Network	$20 Office Visit Copay $0 Deductible 100% Coinsurance $0 Out-of-Pocket $20 Urgent Care Copay $100 Emergency Roon (sic)	$20 Office Visit Copay $500 Deductible 100% Coinsurance
Out-of-Network	$300 Deductible 80% Coinsurance $2,500 Out-of-Pocket	$1,000 Deductible 70% Coinsurance $3,000 Out-of-Pocket
Prescription Drugs Mail Order	$10/15/25 2 X's	$10/25/40 2.5 X's
Vision	Quality Vision Rider	Routine Exams Covered

It also has agreed to raise employee contributions for the family plan from $55 in 2003 to $72 in 2004 and $90 in 2005. Its proposal also calls for raising the single contribution from $25 in 2003 to $35 in 2005. The Association's willingness to agree to those changes without receiving any quid pro quo in return establishes that the Association has recognized the need for cost savings and cost containment.

The Village also claims that it is unfair to pay 100% of the premium for a retiree's single coverage when it only pays 50% for a retiree's family coverage, which is why it calls its proposal "fairer".[5]

[5] The Village's proposal only affects prospective retirees and thus does not affect any current retirees.

I disagree. There is no evidence in this record showing that any employees and/or retirees receiving family coverage have ever complained over this issue. Moreover, even if they did, they need only be reminded that the Village already is paying more for their family coverage even if it is only at the 50% rate. Hence, if one assumes that all retirees should be treated equally and that they thus should receive benefits which carry the identical costs for the Village, it can be argued that it is they who are being treated more favorably.

The Village also contends that its proposal represents a "balanced and reasonable strategy to achieve uniformity in Village benefits", and it cites City of Cudahy (Fire), Dec. No. 30434-A (4/03), where Arbitrator Torosian stated: "it is generally accepted by arbitrators that uniform benefits, especially as it relates to health insurance, among employees of the same employer, is vitally important because of fairness and the impact on morale of the employees."

Here, though, the issue centers on whether a retirement benefit should be reduced in half, as opposed to whether employees should pay a few dollars more for health insurance benefits during active employment.

Indeed, the Village itself recognizes that retirement benefits can differ among its own three bargaining units because the Village's Brief acknowledges, at 14:

> "The Library contract doesn't provide for any payment of retiree health insurance, so this wasn't an issue with this unit. Library employees are allowed to continue in the Village's health insurance plan after retirement provided the retiree pays the entire premium."

Since the Village already differentiates between its various bargaining units in this fashion, there is no retirement uniformity to maintain.

The Village also argues that the officers here receive a higher level of overall compensation than their comparable counterparts, and that this supports the selection of its offer. It thus claims that the officers here "are among the highest paid in the North Shore group" even though they work "substantially fewer hours than any of the other comparables;" that they enjoy

a better than average sick leave benefit and sick leave benefit accumulation; that they receive the largest uniform allowance of any comparable except for the Village of Fox Point; that they are the only ones to enjoy an 8 hour work day; and that they are the only ones to receive premium pay for working 11 designated holidays.

The Association, on the other hand, maintains that its members are falling further behind the external comparables; that the sick leave benefits here are "slightly above average"; that the vacation benefit here is "significantly below average"; that the holiday allowance is "average"; that the uniform allowance is "above average"; that shift premium/out of classification pay is "average"; that the Village does not provide a longevity benefit even though 4 out of the 6 comparables offer that benefit; and that the Village is the only employer among the comparables that will not pay 100% of the employees' WRS contribution because its contribution is capped at 7%.

I find that the overall level of compensation does not favor either party because this case does not turn upon whether wages and/or benefits should be increased to match the external comparables.

CONCLUSION

This case boils down to whether the Village's failure to offer a quid pro quo for its retirement proposal outweighs the Village's other proposals relating to duration; how much employees should pay for their health insurance and whether those amounts should be based upon percentages; and the retroactivity of health insurance deductibles and drug co-pays.

Since the Village's proposals relating to a three year agreement and the use of percentages for calculating employee contributions mainly center on the jockeying that will go on in the next round of contract negotiations, they are not as important as the parties' other proposals which carry a clear economic cost.

As related above, the difference between the parties' health care proposals is about $1,719 and the retroactivity of health insurance deductibles and drug co-pays, while unclear, appears to involve thousands of dollars.

That amount must be weighed against the long term costs of the Village's retirement proposal which would require current and future officers to pay half of the single health care premium in effect when they retire. Since the premium for 2004 was $454.99, (Association Exhibit 906), such retirees would have to pay at least half of that, i.e., $227.49, for every month of their retirement until they reach 65 years of age. That $227.49 per month equals about $2,730 a year. For an officer retiring at 55, that comes out to about $27,300 over a ten year period.

The Village acknowledges that Officer Glen Wagner, who has a hire date of November 4, 1978, and about 27 years service, is close to retirement (Association Exhibits 600, 900). The Village's proposed change therefore would cost him about $27,300 if he retires at 55 and less if he retires after that. Four other officers who have been hired since 2002 also have single health insurance coverage (Association Exhibits 600, 900). If any of them retain their single health insurance coverage and stay with the department until they retire at 55 years of age, they, too, will pay about $27,300 more for their single health care coverage at that time.

Whether that happens or not is a matter which cannot now be determined, which is why the long-term costs of the Village's proposal cannot be ascertained. Nevertheless, there is a substantial probability, if not near certainty, that the out-of-pocket expenses incurred under the Village's proposal will far exceed what the Village will save under its retroactivity proposal and the approximately $1,719 difference in the parties' proposals relating to the sharing of health insurance premiums.

Given that disparity, I conclude that the failure to offer a meaningful quid pro quo in exchange for the Village's retirement proposal outweighs the other favorable aspects of the Village's Final Offer and that, as a result, the Association's Final Offer must be selected.

In light of the above, it is my

AWARD

That the parties' successor 2003-2005 agreement shall contain all aspects of the Association's Final Offer described above.

Dated at Madison, Wisconsin, this 22nd day of April, 2005.

Amedeo Greco /s/
Amedeo Greco, Arbitrator