ILLINOIS LABOR RELATIONS BOARD

INTEREST ARBITRATION BEFORE

ARBITRATOR STEPHEN B. GOLDBERG

CITY OF BLOOMINGTON	)	
	)	
Employer	)	
	)	
And	)	ILRB Case No. S-MA-08-242
	)	
IAFF LOCAL #49	)	
	)	
Union	)	

Appearances:

City of Bloomington: James J. Zuehl (Franczek Radelet)

IAFF Local #49: Shayne M. Voyles (Policemen's Benevolent Labor Committee

Arbitrator: Stephen B. Goldberg

I. INTRODUCTION

The parties agreed, pursuant to Section 14(p) of the Illinois Labor Relations Act, to waive a tripartite arbitration panel, and to appoint Stephen B. Goldberg as sole arbitrator to hear and decide two issues on which they could not reach agreement: (1) wages; (2) health insurance.

The final offers of the parties on these issues were:

City

Wages	
May 1, 2009	0%
May 1, 2010	2%
May 1, 2011	2.5%
January 1, 2012	.5%

The average annual wage increase proposed by the City over the 3-year contract period is 1.56% (treating the third year as a 2.67% proposal, 2.5% for eight months and 3% for four months).

Health Insurance

Effective January 1, 2012, change PPO plan option from current plan to Wellness Plan.

Union

Wages

May 1, 2009	3%
May 1, 2010	3%
May 1, 2011	3%

Health Care

Status Quo

I. RELEVANT STATUTORY PROVISIONS

5 ILCS 315/14(h)

Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

(1) The lawful authority of the employer.
(2) Stipulations of the parties.
(3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
(4) 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:

(A) In public employment in comparable communities.

(B) In private employment in comparable communities.

(5) The average consumer prices for goods and services, commonly known as the cost of living.

(6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(8) 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.

5 ILCS 315/14(g)

As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h).

II. WAGES

A. SUMMARY OF RELEVANT EVIDENCE

1. The Financial Ability of the City to Meet the Costs of the Union's Proposed Wage Increase.

a. The General Fund

Although it is but one of over 70 City funds, the General Fund is that from which firefighter salaries are paid. General Fund revenues have increased each fiscal year (May 1 – April 30) since 1987-88, including FY 2008-9, when, according to the City, the Great Recession struck Bloomington.

General Fund revenues exceeded General Fund expenditures from FY 2003-2004 through FY 2005-2006. Beginning in FY 2006-2007, however, the City spent heavily on capital projects, including a 7,500 seat arena, construction of nearly 200 acres for parks, and the renovation of a performing arts center. Financing these projects, as well as covering the debt service on the arena, required substantial fund transfers from the General Fund to other City funds. As a result, the balance in the General Fund, which had reached $19.5 million at the end of FY 2004-2005, had dropped to $3.4 million at the end of FY 2007-2008.

In late 2008, the City concluded that its expenses had to be reduced and revenue increased. On the revenue side, the City:

- Doubled residential refuse collection fees from $7.00 to $14.00 per month.
- Increased the vehicle use tax from .5% to .75%.
- Doubled the package liquor tax from 2% to 4%.
- Doubled seven ordinance violation fees from $50 to $100 per violation and one fee from $25 to $50.
- Established an annual increase of 3% in ambulance basic fees and mileage reimbursement.
- Established an annual increase in water rates every May until 2011 and sewer rates every May until 2012. Also provided for annual increases in private fire protection charges for commercial property.

The City also took steps to reduce expenses:

- The City offered an early retirement program to encourage senior employees to retire on a voluntary basis. Sixty-seven of 94 eligible employees took the program.
- The City laid off approximately 14 additional employees.
- The City delayed the opening of a new fire station (#5), which was estimated to save approximately $500,000 in operating costs.
- The City stopped replacing non-essential equipment, a decision that saved (in the short term) over $3M.
- All non-essential spending was placed on hold.
- Several equipment replacement funds were closed.

Despite the above, when City Manager David Hales began in January 2009 to prepare the City budget for FY 2009-10, he projected a $7M gap between anticipated revenues and anticipated expenditures. Accordingly, the City took still further steps to cut expenses:

- The City's executive staff voluntarily accepted a wage freeze.
- The City stopped hiring for non-essential positions.
- The City placed a hold on multiple non-essential budget items, including travel, tuition reimbursement, and office supplies.
- The City further delayed capital projects, including the elimination from the budget of road resurfacing funds.
- The City consolidated departments, resulting in the elimination of three executive positions.
- The City imposed a wage freeze on all classified (non-represented) staff.

In addition, the City proposed that bargaining unit employees accept a voluntary wage freeze. This proposal was rejected by all the unions which represent City employees. According to the City, as the collective bargaining agreement with each of these unions expires, the City will propose that the union agree to a wage freeze in the first year of its new contract. In addition to making that proposal in these proceedings, the City has also done so in negotiations with Local 362, which represents support staff and parking attendants.

The result of the City's efforts to increase revenues and reduce expenditures has been that the General Fund, which had dropped from $19.5 M in FY 2004-5 to $3.4 M in FY 2007-8, increased to $4.1 M in FY 2008-9 and to $10.7 M at the end of FY 2009-10.

City Finance Director Tim Ervin testified that building a strong unreserved General Fund balance was a top City priority for several reasons:

> Number one is to offset any economic uncertainty. As you saw in 2008, we basically entered a great recession. At this time, the City had little to no reserves, so we had little to no room where we could fall back on our reserves to help offset some of the operating costs.
>
> A second reason is to prepare for a natural disaster. If the City of Bloomington has a tornado go through it, we need to draw very quickly on [the General Fund] to pay our public safety employees, our road – public works to do what needs to be done.
>
> And third, a strong reserve helps the City to support our cash flow position. For example, the income tax that we get from the state is five months behind. Unfortunately, our bills aren't five months behind. We have to keep paying our employees. We have to keep paying our bills. So a good strong reserve helps the city offset that area.

Additionally, Mr. Ervin testified, a healthy General Fund balance is an important factor considered by bond rating companies when they rate municipal borrowers. A strong balance allows a municipality to borrow money at a lower rate. The City's bond rating had been lowered by Standard & Poor's in November 2009 due to the City's "ongoing financial deterioration as a result of its inability to close a persistent budget gap", and by Fitch in February 2010 due to "diminished financial flexibility as evidenced by multi-year fund balance draws and softening of economically sensitive revenue sources". Most recently, in September 2010, Moody's affirmed the City's rating, citing its "strong and stable local economy, an anticipated stabilization in [its] financial position after a substantial deterioration over the recent past. . ."

b. Other Indicia of the City's Economic Health

Each of the bond rating agencies, regardless of whether it affirmed or reduced the City's bond rating, noted that the City benefitted from such factors as:

- [A] significant, stable, and diverse local employment base, with the county's unemployment rate as of June 2010 (8%) below both the state (10.8%) and national (9.6%) rates, and the county's employment base only declining slightly during the prior recession . . . Unlike many areas, growth has been stable and as of 2009 the city had not seen outright declines in taxable valuations . . . [T]he city's wealth levels are above average. (Moody's, September 2010)
- [A] broad, diverse tax base and considerable revenue raising capacity conferred by home-rule status. (Fitch, February 2010).
- Deep and diverse employment base. . .; Diverse revenue streams; Moderate overall debt levels. (Standard & Poor's, November 2009).

Two of the bond rating agencies – Standard & Poor's and Moody's - also addressed the reasons for the City's economic problems since 2006:

> The city's fiscal 2006 draw of $2.7 million was followed by spending down reserves by $8.2 million in 2007, or 12% of that year's budget. While revenues were down – including sales tax receipts, which comprise 14% of total government revenues – the driving force behind the budget deficits appears to be support of civic projects. This includes the US Cellular Coliseum, The Bloomington Center for the Performing Arts, and a police/fire dispatch system, all of which began in 2006. The city constructed the coliseum with the intention that enterprise fund revenues would cover debt payments and operations, but revenues have been insufficient. [Standard & Poor's].

> The city's financial position is expected to improve over the near-term following substantial deterioration of the city's balance sheet in recent years. The city built healthy operating reserves between fiscal 2003 and fiscal 2005, ... closing fiscal 2005 with a $19.5 million General Fund balance (or a healthy 31.1% of revenues). In fiscal 2006 this trend of surpluses reversed and the city posted a $2.7 million operating deficit, primarily due to the opening of the U.S. Cellular Coliseum Event Center that required a $2 million General Fund subsidy, primarily to support debt service associated with the facility. The city also brought its emergency dispatch center back under the city's operations, ending a joint dispatch arrangement with McLean County that resulted in $2 million of capital needs. Most of the expenditures related to these events were absorbed in the 2007 fiscal year, which reflected a sizeable $8.3 million draw on reserves. At the close of fiscal 2007, the city's General Fund balance had declined to $8.6 million (or a narrower, though adequate, 12.0% of revenues).
>
> The city's fiscal pressures were compounded in fiscal 2008, when the Coliseum required operating support – in addition to approximately $2 million in annual debt service payments made from the General Fund. Further exacerbating expenditure pressures, costs associated with operations of the emergency dispatch center were nearly double budgeted expectations. At this time, growth in key revenues also showed weakening, including sales tax receipts and state shared income tax revenues. As a result, the city closed fiscal 2008 with a substantial $4.4 million shortfall, reducing General Fund reserves to $3.3 million (or a weak 4.4% of revenues). [Moody's.]

2. <u>Comparables</u>

a. <u>Internal Comparables</u>

For many years, the City has sought internal consistency across employee groups, negotiating similar wage increases with each. The City has also taken the position that a 3% increase is the norm. In no year since 1994 have the firefighters received less than a 3% annual increase.

The City is currently party to six collective bargaining agreements with various unions that include wages for FY 2009, and in some cases for FY 2010 and FY 2011. Each of those agreements provides for a 3% wage increase in each of those years. All of those agreements have effective dates prior to the fall of 2008. Some of them, however, were not signed until December 2008 or January 2009.[1]

b. **External Comparables**

The wage rate increases called for by the firefighter collective bargaining agreements with the eight agreed-upon comparable communities are:

	2009[2]	2010	2011
Champaign Fire Department:	3.75%		
Decatur Fire Department:	4.00%		
DeKalb Fire Department:	4.00%	4.00%	0.0%
Normal Fire Department:	3.50%	3.5%	
Pekin Fire Department:		4.00%	4.00%
Peoria Fire Department:	3.50%	0.0%	
Springfield Fire Department:	4.00%	4.00%	4.00%
Urbana Fire Department:	4.00%	0.0%	
Averages:	**3.84%**	**3.1%**	**2.0%**

Most of these contracts, nearly all of which provide for annual wage increases in excess of 3%, were negotiated prior to the autumn of 2008. In Peoria, however, the Firefighters agreed in late 2009 to forego a contractually due wage increase for 2010, instead accepting a wage freeze for that year. They did so, according to the Peoria Journal-Star, at a time when Peoria was facing a $14.5M deficit for 2010 and a $5M deficit for 2011. As for the Urbana 2010 wage freeze, the Urbana News-Gazette quoted a city alderman as saying that, "It's only through the employees [AFSCME and Firefighters] taking this sacrifice of a zero pay increase that the city budget is afloat this year."

Prior to 2007, the Bloomington Fire Department provided basic life support and transport service. In that year, the Department, which had trained 24 firefighters to the EMT-I level and

[1] Contracts with LIUNA Locals 46, 392, and 362 were signed on December 31, 2008. The Police Command contract with PBPA was signed on January 16, 2009.
[2] The absence of data for a particular year indicates that the contract does not include that year.

purchased additional ambulances, was upgraded to become an Advanced Life Support (ALS) provider. As such, it is now capable of providing paramedic services. City Financial Director Tim Ervin estimated that the ALS service generates annual net income to the City of approximately $500,000 per year. Among the comparable Fire Departments, only DeKalb and Normal provide ALS service.

3. The Consumer Price Index (CPI)

Between 2000 and 2009, the CPI for All Urban Consumers increased an average of 2.56% per year. From May 2008 to May 2009, the last year of the expiring contract between the City and the Firefighters, the CPI for Urban Wage Earners and Clerical Workers in the Chicago-Gary-Kenosha area, the closest comparable area for which CPI data are available, dropped 2.8%. From May 2009 to May 2010, the first year of the contract involved in these proceedings, the CPI for Urban Wage Earners and Clerical Workers in the Chicago-Gary-Kenosha area increased by 2.1%.

The Congressional Budget Office has forecast, on a nation-wide basis, that the CPI will increase by 1.4% in 2011 and by 1.2% in 2012.

B. DISCUSSION

1. The City's Financial Condition

It is undisputed that 3% annual wage increases are the norm in Bloomington, and that all the existing collective bargaining agreements with unions representing Bloomington employees call for 3% wage increases in each year of the agreement. The City argues, however, that:

> The goal of consistency and a preference for 3% increases assumes . . . a stable, positive, economic environment. . . Consistency has no value when the economy is undergoing upheaval. It makes no sense to argue that an economic change as catastrophic as the Great Recession must be ignored in order to maintain a mindless devotion to consistency. The economic situation of the City deteriorated sharply with the advent of the Great Recession, and the City should not be forced now to offer wage levels that were appropriate only before the Great Recession.

An examination of the evidence fails, however, to support the City's assertion that "the economic situation of the City deteriorated sharply with the advent of the Great Recession". To be sure, the City's economic situation deteriorated between 2006 and 2008, as shown by the sharply reduced General Fund level. It does not appear, however, that this was solely, or even primarily, a result of the Great Recession. To the contrary, the reports of both Standard &

Poor's and Moody's suggest that the primary cause of the City's financial problems was the costs associated with various capital projects. Moody's devotes two paragraphs, set out on pages 6-7 above, to the costs and operating expenses of the City's various capital projects in FY 2006 – 2008 and their effect on the General Fund. Standard & Poor's, more succinctly states that ". . . the driving force behind the budget deficits appears to be support of civic projects".

To be sure, both the Standard & Poor's and the Moody's reports refer to "weakened revenue streams", but there is nothing in those reports to suggest that the Great Recession, however harmful its effects on the national economy and that of other cities, has fundamentally altered Bloomington's financial position. The fundamental financial problem in Bloomington has been that of expenditures – particularly those on capital projects – exceeding revenues. The budgetary practices adopted by the City in late 2008, and continued by current City Manager David Hale since early 2009, have, however, led to a solid General Fund balance of nearly $11M at a time when the ravages of the Great Depression are still being felt by many other cities.

The City's core financial argument, however, is not, as contemplated by Section 14(h)(4), that it currently lacks the financial ability to meet the Union's demands, but rather that regardless of the healthy level of the General Fund at the close of FY 2009-10, the Firefighters (and presumably the other unions with which the City bargains) ought not be exempt from the sacrifices demanded of all Bloomington citizens via increased taxes and fees in 2008 - 2009, and of unrepresented employees via the wage freeze imposed upon them in 2009. It states

> The City does not propose a wage freeze for fiscal year 2010 lightly. It has struggled long and hard with the economic realities it faces. It has approached its fiscal situation systematically and sought to distribute the burdens of that situation fairly. It adopted the goal of a one-year wage freeze for all employee groups as part of a larger strategy to decrease expenditures across the broad spectrum of its budget. At the same time, it has increased revenues by increasing taxes and fees on its residents. Everyone has been asked to share the pain, and it is only in that context that it proposes that members of Local 49 do their part.

There is an unquestioned air of fairness to the City's position. However, I find no support in Section 14 of the Illinois Public Labor Relations Act for the proposition that because the City has had to raise taxes and cut spending to return to fiscal health, employees cannot share in the benefits of that financial health to the extent that the Section 14 criteria justify their doing so.

The City also argues that it has delayed capital projects and equipment replacement in order to build up the General Fund, and that the expense associated with attending to these needs must also be taken into consideration in determining the merits of the Union's wage demands. At no time, however, has the City argued that it does not have the financial ability to both meet the Union's wage demands and make appropriate investments in capital projects and equipment replacement. Assuming, then, that the City is not financially incapable of meeting the costs of a wage increase determined on the basis of the statutory criteria other than its ability to pay, I turn now to those criteria.

2. Internal Comparables

All the internal comparables have contracts providing for the 3% annual wage increases here sought by the Union. The City asserts that none of those contracts were negotiated subsequent to the fall 2008 advent of the Great Recession, hence argues that they are irrelevant in determining the appropriate wage increases for Firefighters for FY 2009 – FY 2011. As already noted, however, the Great Recession did not strike Bloomington with sufficient force to render irrelevant contracts signed prior to the fall of 2008.[3] The City's contracts with its other unions, even those signed prior to the autumn of 2008, are relevant and support the Union's wage demands here.

It may also be worth noting that at least four of the union contracts (Police Command and three LIUNA contracts), though dated as early as May 1, 2007, were not signed until late December 2008 or January 2009. While it may well be that the effects of the Great Recession – as limited as those were in Bloomington – were not known during most of the time those contracts were being negotiated, what was known by the time they were signed was that the General Fund balance on April 30, 2008, the end of FY 2007-8, was $3.4M. If the City's practice of providing 3% wage increases was applicable when the General Fund balance was $3.4M, it would appear applicable now when the General Fund balance is $10.7M.

3. External Comparables

The contracts of the external comparables, nearly all of which provide for annual wage increases of 3% or more, also support the Union's demands. To be sure, the only two of those contracts negotiated or modified subsequent to the onset of the Great Recession – Peoria and Urbana – appear to support the City because each provides for the one year wage freeze the City seeks here. However, the dire financial conditions of Peoria and Urbana at the time those wage freezes were agreed to are so far removed from the current financial condition of Bloomington that those wage freezes do not support the City's argument that a one-year wage freeze is appropriate here.

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[3]In that respect, the cases cited by the City (North Maine Fire Protection District and North Maine Firefighters, Local 2224 (2009) (Benn) and Illinois FOP Labor Council and City of Belleville (2010) (Goldstein)) are inapposite here.

4. Cost of Living

Turning next to the cost of living criterion, the City points to the 2.8% drop in the CPI between May 2008 and May 2009 to bolster its wage proposal. 2008-9, however, was the final year of the prior contract, hence is of little relevance in fixing wages for this contract, which covers 2009-2012. In 2009 -10, the first year of the contract at issue here, the CPI rose by 2.0%, an amount closer to the Union's 2009-10 demand of a 3% wage increase than to the City's proposal of a 0% wage increase.

In support of its position with respect to the second and third years of the contract at issue here, the City relies on the Congressional Budget Office predictions that the CPI is likely to increase by 1.3% in 2011 and 1.2% in 2012, both of which are closer to the City's proposed 2% and 2.67% proposals for Years 2 and 3 of the contract than they are to the Union's proposal of 3% for each year.

The Union would dismiss the CBO predictions as no more than "outdated predictions", compiled no later than February 2010, and of less relevance than historical evidence that between 2000 and 2009 the CPI increased an average of 2.56%, closer to the 3% annual wage increase sought by the Union than to the 1.55% average annual wage increase proposed by the City. The Union's arguments on this score are not persuasive. The predictions of the CBO are often relied upon in contract negotiations, and are entitled to more weight than evidence of changes in the CPI in years when the U.S. economy was healthier than it is now. On the other hand, economic predictions, no matter how distinguished the economists, are far from infallible. On balance, then, the CPI evidence is something of a standoff, with the historical evidence of CPI changes in 2009-2010 strongly supporting the Union's position in the first year of the contract, and the CBO predictions for 2011 and 2012 somewhat less strongly supporting the City in the final two contract years.

5. Conclusion

In sum, having concluded that the statute provides no support for the City's argument that fairness to the taxpayers requires that the Union's wage demands be rejected, I further conclude that the Great Recession – at least its effect on Bloomington – did not render the City incapable of meeting the costs of the Union demand of a 3% annual wage increase. I further conclude that that demand finds greater support in both the internal comparables and the external comparables than does the City's proposal of wage increases of 0%, 2%, and 2.67%.

The Union's position is also supported by the City's long-standing practice of providing for 3% annual wage increases. The City argues that its past practice in this respect is irrelevant, however, because "the economic situation of the City deteriorated sharply with the advent of the Great Recession". If I were persuaded that the effects of the Great Recession in

Bloomington had been as catastrophic as the City claims they were, and as they have undoubtedly been elsewhere, I would accept the City's argument that its practice of providing annual 3% wage increases should be treated as irrelevant. The evidence, however, particularly the reports of the bond rating companies, indicate that Bloomington, due primarily to its "significant, stable, and diverse local employment base" (Moody's), has been spared the worst effects of the Great Recession. The City has, to be sure, undergone difficult financial periods as a result of its penchant for undertaking major capital projects, and the General Fund was substantially lower at the end of FY 2006 – 2008 than it had been in previous years. The General Fund is now healthy, however, with the result that the City cannot successfully argue that its financial condition, due either to the Great Recession or its earlier capital spending, precludes it at this time from continuing with its prior practice of negotiating 3% annual wage increases.

The only factor providing some support for the City's position is the CBO projection of CPI increases below 1.5% in the last two years of the contract, and that is insufficient to outweigh the criteria supporting the Union's position.

Wages being an economic issue, the arbitrator is not free to award whatever wages he/she views as fair, but is limited by Section 14(g) of the Act to selecting the last offer of settlement which more nearly complies with the applicable factors prescribed in Section 14 (h), sometimes expressed as requiring that the arbitrator select the final offer which is more reasonable under the Section 14(h) criteria.

I conclude that in light of the Section 14(h) criteria the Union's demand of a 3% wage increase in each year of the contract is the more reasonable of the final offers put forward by the parties. It will, therefore, be awarded.

III. HEALTH INSURANCE

A. SUMMARY OF RELEVANT EVIDENCE

1. The City's Proposed Changes

The record evidence relating to health care insurance for the firefighters begins in 2002, when they, like every other City bargaining unit, as well as unrepresented City employees, had the same insurance plans - a $150 deductible Preferred Provider Option or the OSF HMO. All plans provided that single employees paid no premium for their coverage, and employees with families paid 33% of the premium costs. (Only the police, who had their own health insurance, were outside the otherwise uniform plan.)

In 2002, the firefighters' deductible for the PPO increased to $250.00 and the HMO provider was changed. Premium costs remained the same.

In their 2006 Agreement, the City and the Firefighters agreed that single employees hired prior to May 1, 2006, would continue to pay no premium for health insurance coverage, but single employees hired after that date would pay 25% of premium costs. Family coverage remained at 33% of premium costs for employees hired prior to May 1, 2006, but were reduced to 25% for employees hired after that date.

In negotiations for the current Agreement, the City proposed that all employees pay 25% of premium costs. The effect of this change would be to reduce the bargaining unit's share of total premium costs by approximately $18,000 (from $287,624 to $269,414 in 2010) and to increase the City's share of total premiums by approximately the same amount. While this change cost the City an additional $18,000, the City thought it was a worthwhile investment in the long term because it would provide employees with an interest in keeping health care costs and premiums down. (The evidence showed steadily increasing health care premium costs, especially in 2008 – 2011, during which there was an average annual increase in premiums of 7.8% in the PPO plan.) The Union agreed to this change.

The City also proposed that as of January 1, 2012, the PPO 250 Plan would be replaced by a Well Plan. The changes introduced by the Well Plan would be:

- An increase in the annual deductible from $250 to either $300 or $400 for a single employee, and from $500 to $600 or $800 for a family. In both, the lower deductible would be available if the employee – or the employee and his/her family – participated in a web-based survey about health status and behavior. The survey would be conducted by Blue Cross Blue Shield, and would be anonymous in the sense that no names would be attached to responses in the survey report provided to the City by Blue Cross Blue Shield. The purpose of the survey was to provide information that could be used to design features of the Well Plan that would reduce the frequency of costly illnesses within the bargaining unit.
- An increase in the annual out-of-pocket maximum from $1,000 to $1,300 or $1,400 for single employees, and from $2,000 to $2,600 or $2,800 for a family. In both, as with the annual deductible, the lower maximum would apply if the employee – or the employee and his/her family - participated in the web-based survey.
- Co-pays for doctor visits would be increased from $15.00 to $20.00.
- Drug co-pays would be increased from $15.00 to $20.00 for generic drugs, from $20.00 to $25.00 for preferred brand drugs, and from $35.00 to $45.00 for non-preferred brand drugs.

- The existing maximum of $500 per year on wellness/preventive care (routine physical exams, immunizations, and routine diagnostic tests) would be removed.

These changes, if effectuated, would reduce total annual premium costs in 2010 from the $1,077,661 they would have been under the existing plan (with employees paying 25% of premium costs as the Union had agreed) to $1,025,123 under the Well Plan. The total premium savings in 2010 would be $52,538, of which $39,404 would be realized by the City, which was to pay 75% of premium costs, and $13,135 to members of the bargaining unit, who were to pay 25% of premium costs. In 2011, the reduction would be from $1,199,097 to $1,140,632, a total of $58,465, of which $43,847 would be realized by the City and $14,616 by the bargaining unit.

The reasons for the reduction in total annual premium costs were, according to the City: (1) Under the Well Plan, a greater share of medical costs would be paid by those employees who used medical care, in the form of higher co-pays, higher deductibles, and increased annual maximums, and a lesser share would be borne by all employees in the form of premiums ; (2) Placing greater costs on the users of medical services would discourage the unnecessary use of such services; (3) The availability of free preventive care would reduce the need for costly medical interventions to treat serious illnesses. The Union did not accept the proposed change from the PPO 250 Plan to the Well Plan.[4]

2. Internal Comparables

In 2009, the City adopted the Well Plan for its unrepresented employees. The City has also proposed the Well Plan to Local 362, which has not accepted it. According to the City, it plans to propose the Well Plan to each of its remaining bargaining units as their contracts become open for negotiation.

3. External Comparables

The evidence relating to deductibles and out-of-pocket maximums contained in the Bloomington Well Plan and the health insurance plans of the comparable communities for which information was available showed:

	Deductible/Max out of pocket	
	Individual	**Family**
Bloomington Fire Department:	300/1300	600/2600

[4] The Union also rejected the City's proposed change from the existing HMO plan to an HMO Well Plan. The latter, like the City's proposed PPO Well Plan, increased some costs (copays and drug costs), while offering a $100 premium reduction to employees who participated in the web-based health risk assessment. Since the parties have focused their discussion on the changes in the PPO Plan, I shall do likewise.

Decatur Fire Department:	100/1000	300/3000
DeKalb Fire Department:	375/750	750/1500
Normal Fire Department:	50/1500	150/2500
Pekin Fire Department:	1000/0	2000/0
Peoria Fire Department:	100/1200	250/2400
Springfield Fire Department:	100/250	300/750
Urbana Fire Department:	0/1500	0/3000

Under the existing health care plan, Bloomington ranked 6th among the eight comparables on the amount of the employee's individual and family annual deductible and 4th of eight on the amount of the maximum annual out-of-pocket expense. Under the City's proposed plan, Bloomington would rank 6th of eight on all criteria: individual and family deductible, individual and family maximum out-of-pocket.

Evidence relating to co-pays for physician office visits and drug purchases was available, in whole or in part, for six of the comparables. :

	Employee Co-Pay Physician Office Visit	**Employee Co-Pay Drug Purchase**
Bloomington	$20.00	Generic $15; Preferred $25; Non-Preferred $45
DeKalb	---	Generic $15; Preferred $30; ---
Pekin	$20.00	---
Peoria	$20.00	Generic $7; Preferred $15; Non-Preferred $30
Springfield	$20.00	Generic $10; Preferred $20; Non-Preferred $35
Urbana	$25.00	Generic $20; Preferred $40; Non-Preferred $45

Under the existing City plan, Bloomington co-pays for physician office visits were the lowest of the five comparables; under the Well Plan, they are tied with three others for the lowest. As for drug co-pays, Bloomington had been tied for second of five on generics and preferred drugs, tied for second of four on non-preferred drugs. Under the Well Plan, Bloomington is tied for third of five on generics, is third on preferred, and is tied for fourth of four on non-preferred.

B. Discussion

The Union asserts that the City's proposed Well Plan constitutes a "breakthrough" proposal - one that would change the "structure, design or nature of a program or provision in a collective bargaining agreement". The party wishing to change the status quo, the Union goes on, bears the burden of proving that reasonable negotiators should have agreed to the change. And, since the change in the status quo sought by the City here would be a "breakthrough", the Union argues, the City cannot prevail without showing: (1) there is a proven need for the change; (2) the City's proposal meets that need without imposing an undue hardship on the bargaining unit; and (3) the City has offered a quid pro quo to the Union of sufficient value to buy out the change. See Illinois FOP Labor Council and City of Belleville (Goldstein, 2010). That, the Union concludes, the City has not done.

Whether or not the changes in the health insurance plan sought by the City would, if awarded, constitute a "breakthrough", it is clear that those changes are not insignificant. The key question then, as the Union asserts, is whether the parties, as reasonable negotiators, should have agreed to those changes. In resolving that question, I accept, at least *arguendo*, that the criteria cited by the Union are relevant, and that all those criteria must be satisfied to justify the changes proposed by the City.[5] I do so, however, with one reservation. While the Union, relying on previous arbitrators' decisions, asserts that the City must show a proven "need" for the change it here seeks, I find the term "need" too strong, suggesting an absolute necessity. Instead, I prefer to ask whether (1) the City has shown a legitimate interest in the change it seeks; (2) the proposed change meets the City's legitimate interest without imposing undue hardship on the Union, and (3) the City has proposed an adequate quid pro quo for the proposed change.

1. Did the City show a legitimate interest justifying its proposed changes in the health insurance plan?

   It is undisputed that the City's health care costs have been increasing steadily, especially during 2008-2011 when there was an average annual increase of 7.8% in PPO plan premiums. And, since the bulk of premium costs are paid by the City, those increasing costs were a matter of legitimate concern to the City. This concern was sufficiently great that, in the course of negotiations for the current Agreement, the City proposed an alteration in the division of premium costs between the City and the Union that, in the short term, increased the City's premium costs while reducing premium costs for employees. The City's proposal did so by reducing premiums for some employees, but

[5] But see County of Will and MAP (McAlpin 1998), in which the arbitrator stated (p. 20) that a party wishing to effectuate significant change must show strong reasons and a proven need or that there was a quid pro quo or that other comparable groups were able to achieve the provision without a quid pro quo.

also by requiring, for the first time, that all firefighters covered by City health insurance pay at least part of the premium for that insurance. In this way the City hoped to increase employee concern about rising premium costs and to motivate employees to use health care in a sufficiently wise manner that the increase in premium costs would be slowed, if not halted. If employees were so motivated, their premium costs would be reduced in the long term, as would the City's. This proposal, which was accepted by the Union, clearly shows – through the City's willingness to accept increased short term costs in the hope of long-range reduction in health care costs – that the City has a legitimate and substantial interest in seeking some change in the existing health insurance plan. Whether that interest, in light of the burden it placed on bargaining unit employees, justified the particular changes proposed by the City is the question to which I next turn.

2. Did the City's proposed changes in the health plan meet its identified interest without imposing undue hardship on the bargaining unit?

In answering this question, one must initially determine the extent of the hardship imposed on bargaining unit members by the City's proposed changes.

- The annual deductible was to be increased from $250 to either $300 or $400 for a single employee, and from $500 to $600 or $800 for a family. In both, the lower deductible was available if the employee – or the employee and his/her family – participated in an anonymous web-based survey about health status and behavior. Since I can see no legitimate reason for employees and their family members not to participate in such a survey, and the Union suggests no such reason, I shall treat the increase in the annual deductible as that applicable to employees who participate in the survey - $50.00 for a single employee, $100.00 for an employee and his/her family.
- The annual out-of-pocket maximum was to be increased from $1,000 to $1,300 or $1,400 for single employees, and from $2,000 to $2,600 or $2,800 for a family. Here, too, the increase was to be lower for those who participated in the survey, and here, too, I shall treat the increase as that applicable to those who did so - $300.00 for a single employee, $600.00 for an employee and his/her family.

The maximum additional cost imposed on an employee by the City's proposed changes was thus $350.00 per year for a single employee and $700.00 for an employee with a family.

Against these potentially increased costs must be calculated the reduction in employee premiums that would flow from the adoption of the Well Plan. The total premium reductions, if the Well Plan had been in effect in 2010, would have been $13,135; in 2011, they would have been $14, 616. It is thus reasonable to assume total premium reductions in 2012, when the City proposes to implement the Well Plan, would be no less than the 2011 figure of $14,616. Since there are 94 employees in the bargaining unit, a total reduction in premiums of $14,616 for the entire unit would result in an average premium reduction of $155.00 per employee. To be sure, those savings must be reduced by the fact that the Well Plan would not go into effect until January 1, 2012, hence would result in lower premiums for only four months. The same, however, would be true for the increased costs resulting from the higher annual deductible and out-of-pocket maximums contained in the Well Plan, since they, too, would be effective for only the first four months of 2012.

On balance, do the potentially increased costs imposed by the Well Plan, when weighed against the reduced premiums brought about by that plan, impose an undue hardship on the members of the bargaining unit, one not warranted by the City's legitimate interest in controlling the costs of health care?[6] That question, I believe, cannot be answered without considering the third of the criteria suggested by the Union - whether the City has proposed an adequate quid pro quo for the proposed change.

3. Has the City has proposed an adequate quid pro quo for its proposed change in the health care plan?

   The Union's objection to the changes embodied in the Well Plan rests primarily on what the Union describes as the miniscule amount of the City's wage proposal of 0% in 2009-10, 2% in 2010-11, and 2.5% from May through December 2011, with an additional 0.5% from January through April 2012, said by the City to provide a quid quo pro for any increased costs associated with the Well Plan. The Union's response is this:

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[6] I refer to the "potentially" increased costs imposed by the Well Plan because the terms of the Well Plan, combined with the premium reductions associated with that plan, may well result in cost savings for some employees. Consider, for example, an employee with a family, whose premium is reduced by $155.00. If that employee, together with his/her family had no more than one physician office visit per month, a total of 12, the employee's total cost for those visits would be $240.00 (12 x $20.00), rather than the $180.00 it would be under the existing plan (12 x $15.00), an increased cost of $60.00. If each office visit led to the purchase of a generic drug, the total drug cost would be $180.00 (12 x $15.00), rather than the $120.00 it would be under the existing plan (12 x $10.00), an increased cost of another $60.00. The total additional costs imposed on that employee under the Well Plan would thus be $120.00, less than the $155.00 premium reduction associated with the Well Plan. Furthermore, since that employee's total annual costs were $420.00, he/she would be unaffected by the increase in the annual deductible from $500.00 to $600.00. Recognizing, however, that other employees would incur greater additional costs under the Well Plan, and that those costs would not be fully offset by the premium reductions, I shall proceed on the assumption that the effect of the Well Plan would be to impose the maximum possible additional costs on employees, and consider whether under those circumstances the City has proposed an adequate quid pro quo for the Well Plan. .

> No prior interest arbitration decision holds that such a miniscule amount is a sufficient quid pro quo to increase employee health insurance costs. . . Here, the City of Bloomington offers a wage package less than what the Union proposed, except during the last four months of the agreement, at which point its offer only matched, without exceeding, the Union's proposal. Because it has offered nothing extra, the City has offered no quid pro quo or incentive which the Union should have agreed to at the bargaining table.

Whatever the merit of the Union's assertion that the City's final offer of 0%-2%-2.67% was insufficient to serve as a satisfactory quid pro quo for the potentially greater costs placed on employees by the Well Plan, the result of this arbitration is to increase the wages to be received by firefighters by 3% in each of the three contract years. Translating the percentage differences between the City's final offer and the wage increases here awarded into dollar terms, the City's final offer would have increased the total wages paid to the bargaining unit over three years by $327,000; the instant Award increases those wages by $600,000, a difference of $273,000. Since there are 94 employees in the bargaining unit, the difference between the City's final wage offer and the wages awarded here amounts to an average of approximately $2,900 per employee.

Would reasonable negotiators representing the Union have agreed to accept the Well Plan if the City had increased its final offer on wages to 3%-3%-3%? Stated otherwise, if the City had said, "We'll increase our final wage offer from 0% -2% -2.67% to 3% -3% -3%, an average increase of $2,900 per employee", should reasonable Union negotiators have viewed that increase as an adequate quid pro quo for the proposed Well Plan? Weighing the proposed wage increase against the potentially increased dollar costs of the Well Plan, a maximum of $350.00 per year for a single employee and $700.00 for an employee with family, there can be little question but that reasonable Union negotiators would – and should – have viewed the proposed wage increase as an adequate quid pro quo, particularly since employees will be on the Well Plan for only the first four months of 2012.[7]

[7] The Union argued in its brief that the Well Plan should be rejected because the quid pro quo was insufficient as an incentive for the firefighters to agree to the "permanent extra financial burden" imposed by the Well Plan. No permanent extra financial burden is, however, imposed by this Decision, which awards the City's proposed Well Plan only for the period from January 1, 2012, through April 30, 2012. Whether the Well Plan will continue after that date is a matter for the parties to address in their negotiations for a successor to the 2009-2012 contract, and is not a subject of this Opinion and Award.

C. Conclusion

The three-part test put forward by the Union to determine whether the City's proposed changes in the health care plan should be awarded appear to be more than satisfied: (1) The City has a legitimate interest in containing health care costs;(2) The proposed changes in the health care plan are designed to further that interest and do not impose undue hardship on the bargaining unit, particularly in light of (3) the quid pro quo that employees are to receive in exchange for those changes.

Nor is a contrary conclusion compelled by the evidence that the Well Plan would lower the ranking of the City health care plan compared to the plans of some comparable communities. The differences between the costs associated with the Well Plan and the costs of health care in the comparable communities are not great, and are more than compensated for by the wage increase that Bloomington firefighters are to receive in exchange for accepting the Well Plan.

The ultimate question for the interest arbitrator in his/her role as substitute for the collective bargaining process on those economic issues as to which the parties could not reach agreement is which of the final offers should have been accepted by reasonable negotiators. While the response to that question is often informed by statutory criteria, few of the Section 14() criteria are useful on the health insurance issue. In view of all the circumstances, however, particularly the wage increase here awarded, I have no hesitation in concluding that the parties should reasonably have agreed to the Well Plan in exchange for that wage increase.

IV. AWARD

For the reasons set forth herein, the Award of the Arbitrator is:

Wages	**Union final offer**
Health Insurance	**City final offer**

Stephen B. Goldberg, Arbitrator

March 21, 2011