

NYS PUBLIC EMPLOYMENT RELATIONS BOARD  
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CONCILIATION

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD  
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In the Matter of the Interest Arbitration X

between X

THE VILLAGE OF SCARSDALE X

"Village" X

Case No. IA86-18  
M86-307

-and- X

THE SCARSDALE UNIFORMED FIREFIGHTERS X  
ASSOCIATION, LOCAL 1394, IAFF, AFL-CIO X

"Union" X  
-----X

APPEARANCES

For the Village

RAINS & POGREBIN, P.C.  
Alan C. Marin, Esq., of Counsel  
Richard J. Rohan, Village Director of Personnel

For the Union

Duncan C. MacRae, Executive Vice President, NYS Professional  
Fire Fighters Association  
Louis DiFrancesco, President, SUFA

BEFORE: Terence M. O'Neil, Esq., Employer Panel Member  
Thomas F. DeSoye, Esq., Employee Panel Member  
Howard C. Edelman, Esq., Public Panel Member and Chairman

## BACKGROUND

The parties were signatory to a three year Agreement which expired on May 31, 1986. Sometime prior thereto, the parties began negotiations for a successor agreement. These proved unsuccessful, as did mediation efforts. As a result, the Union filed a Petition for Compulsory Interest Arbitration on October 17, 1986. Pursuant to the rules and regulations of the Public Employment Relations Board (PERB), the undersigned Interest Arbitration Panel was constituted to hear and resolve the dispute. Hearings were held before us on February 12, 1987 and April 20, 1987. Subsequently, the parties filed briefs. Upon the Panel's receipt of same, the record was declared closed. This Interest Arbitration Opinion and Award follows.

## ISSUES

Pursuant to agreement of the parties, the following issues are properly before the Panel:

1. Salary
2. Vacations
3. Personal Leave
4. Holiday Pay
5. Funeral Leave
6. Longevity
7. Dental Benefits
8. Health Insurance
9. Sick Leave
10. Compensatory Time - Kelly Days
11. Other Matters - Item C, only (Joint Exhibits 3,4)

## POSITIONS OF THE PARTIES

### I - Salary

#### A. Union

The Union seeks a general increase of 10% above current wages. It argues that, at present, salaries for Scarsdale Firefighters rank in the bottom one-third when compared to other communities in Westchester (Union Exhibit 58). As such, the Union maintains that a rise considerably in excess of the average of these municipalities is warranted.

In addition, the Union asserts that a long standing pattern exists between Scarsdale Firefighters and Scarsdale Police Officers. In its view, since 1981, Firefighters have received wage increases equal to or greater than those received by Police Officers (Union Exhibits 47,52). For the period June 1, 1986 to May 31, 1987, that increase was \$2,000 per Officer. In the Union's words, "There is no apparent reason for the trend of recent years to discontinue" (Union's Brief, p.10).

Furthermore, the Union insists, the Village can easily afford substantial increases in salary and other economic improvements it seeks. It notes that Scarsdale's per capita income exceeds, by \$10,000 or more, the income of other Westchester County municipalities (Union Exhibit 36). Moreover, the Union asserts, the Village's budget contains ample provision to fund all of the Union proposals. In support of this position, it relies on the testimony of Edward J. Fennell, a Consultant

in the area of Municipal Finance. Fennell stated that the General Fund, from which Firefighter salaries and benefits are drawn, began the 1986-87 budget year with an unreserved balance in excess of 1.2 million dollars. In addition, Fennell suggested that the Village anticipates General Fund spending for 1986-87 to exceed that of 1985-86 by 7.7%. Thus, the Union submits, the Village recognizes that the cost of goods and services, including Firefighter compensation, will increase substantially.

Also, the Union contends that the Village spends less of its total budget on fire protection services than do its Westchester neighbors (Union Exhibit 47). As such, it argues, funding all of its proposals will not result in spending more for these services than other similarly situated communities.

In addition to a 10% across-the-board salary increase, the Union asks that the differential for Fire Captains be raised from the current 26% to 30%. It points out that Scarsdale Sergeants and Detectives received a 1% rise in their differential in the latest Police negotiations. The Union notes that a Fire Captain functions as a Shift Commander, while Sergeants and Detectives do not. Thus, the Union insists, the Fire Captains merit a larger increase in their differential than that received by Police Superior Officers.

In sum, the Union maintains that its salary proposals are reasonable when compared with wage increases granted Police

Officers, as well as wages paid Firefighters in other Westchester communities. Furthermore, the Union urges that the Village's per capita income, tax rate and budget condition permit it to fund all of its proposals, without significant cost impact. Accordingly, and for these reasons, the Union asks that its wage proposals be adopted.

B. Village

The Village acknowledges its ability to fund the Union's proposals. However, it submits that other circumstances warrant raises far less than those sought by the Union. These factors, the Village stresses, include the Consumer Price Index (CPI), salary raises in general, increases given other Village employees and current hourly compensation of Firefighters in similarly situated communities.

As to the CPI, the Village notes current increases are modest and far below the Union's 10% salary demand (Village Exhibits 25A, 25B). In addition, the Village asserts that, over a ten year period, Firefighter raises have exceeded those in the CPI. Thus, the Village argues that recent changes in the CPI warrant a very "moderate" adjustment (Village's Brief, p.27).

Concerning salary raises in general, the Village points out that private sector advances averaged 2.4% in 1986; public sector advances were 5.7% for the same period (Village Exhibits 26,29). These figures, the Village asserts, further demonstrate the excessive nature of the Union's salary demand.

The Village also contends that wage patterns among its other employees militates against the Union proposal. It points out that the CSEA, Management (Non-contract) and Teamsters all received increases of 5.75% or less for 1986 and 1987. Furthermore, the Village insists that Firefighters have traditionally earned less than Policemen both in Scarsdale and nationally. In the Village's words, "All of these factors should be taken into account when fashioning a fair and equitable wage package for 1986 and 1987." (Village's Brief, p.23).

Moreover, the Village maintains that Scarsdale's Firefighters are well compensated when compared to other Westchester communities. It avers that the per hour compensation rate for ten year employees exceeds that of other selected communities, even when Scarsdale's 1985 figures are compared to the 1986 rates for other municipalities.

In fact, the Village insists, Scarsdale's rate is dramatically higher than the other communities if a \$600 across-the-board salary increase is factored in (Village Exhibit 34).<sup>\*</sup> According to the Village, these statistics demonstrate that Scarsdale's Firefighters are well compensated when compared to those performing the same services in similarly situated communities. Thus, while the Village makes no formal salary proposal, it

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<sup>\*</sup>Included in this projection is a \$129 per person reduction in dental insurance contributions. See discussion of this item, below.

suggests that a \$600 across-the-board increase is justified. For these reasons then, the Village asserts that any raise given Scarsdale Firefighters must reflect the factors discussed above.

Finally, on the wage issue, the Village contends that the Union has not submitted evidence to support an increase in the Captain's differential or any other wage adjustment. Therefore, the Village asks that all of the Union's other wage proposals be rejected.

## 2. Vacations

### A. Union

The Union proposes an increase in vacation leave as follows:

Current	Proposed
10 days after 1 year of service	18 days after 3 years of service
15 days after 3 years of service	24 days after 5 years of service
20 days after 10 years of service	27 days after 15 years of service

Also, the Union asks that vacation leave be increased in the employee's final year of service by the number of workdays equal to unused sick leave, up to a maximum of 1800 hours. In support of this proposal, the Union points out that Police Officers and Firefighters have generally received the same vacation leave. However, the Union notes, effective June 1985, Police Officers received twenty vacation days after seven years of service and 22 vacation days after twelve years. Also, at that time, Police Officers were permitted to accumulate up to 1600 hours vacation time in their last year of service, if they had sufficient unused sick leave.

As the Union sees it, no sound reason exists for treating Firefighters different from Police Officers in this area. Furthermore, it argues, these increases would not result in financial impact upon the Village. Accordingly, the Union asks that its vacation leave proposals be adopted.

#### B. Village

The Village alleges that Scarsdale's Firefighters enjoy substantially more vacation leave than Firefighters in other communities (Brief, p. 19). As such, it sees no justification for the Union's demands.

In addition, the Village asks that the current vacation entitlement be changed from working days to calendar days. In its view, this demand, if awarded, would lessen the disparity between Scarsdale Firefighters' vacation leave and that in nearby municipalities.

### 3. Personal Leave

#### A. Union

The Union asks that personal leave be paid at the time and one-half rate and that relief be supplied by the Village. In addition, the Union seeks additional personal leave days for all members of the bargaining unit and unlimited days for Captains. In support of this proposal, the Union cites an increase in the number of days granted Police Officers. Also, the Union notes that Firefighters often work on weekends, when many family

obligations occur. For these reasons, the Union asks that its proposals be granted.

B. Village

The Village suggests that any increase in personal leave is unwarranted in light of comparisons with Firefighters in Fairview, New Rochelle, Hartsdale and Greenville (Village Brief, p.10). In fact, the Village submits that a decrease in the personal leave entitlement for Captains is justified. In its view, no valid reason exists to give them more leave time than Firefighters.

4. Holiday Pay

A. Union

The Union seeks an increase in the number of paid holidays from eight to twelve. It points out that Scarsdale Police Officers currently receive that amount. Moreover, the Union suggests, twelve paid holidays would bring Scarsdale in line with the nearby communities of Hartsdale and Greenville (Union Exhibit 64).

B. Village

The Village sees no need for the Union's proposal. It asserts that Scarsdale Firefighters already are paid the highest hourly rate of surrounding communities as a result of excessive time off (Village Exhibit 34). As such, the Village asks that the Union's holiday proposals be rejected.

5. Funeral Leave

A. Union

The Union seeks an expansion of the definition of "relatives" for whom funeral leave is granted. It suggests that an expanded definition more accurately reflects family patterns in today's society.

B. Village

The Village sees no need for this proposal. Thus, it asks that it be rejected.

6. Longevity

A. Union

The Union asks that the longevity steps be decreased from 5, 10 and 15, to 7.5, 12.5 and 17.5 years, respectively. In addition, the Union asks that dollar amounts currently paid be converted to a percentage formula of 2,3 and 4 per cent, for each step.

In support of these proposals, the Union points out that since June 1985, Scarsdale Police Officers have received \$50 more for each longevity step than Firefighters. Also, the Union notes, percentage longevity steps exist in other Firefighter agreements (see, for example, Union Exhibits 14c,15,28 and 29). Consequently, the Union insists, its proposals concerning reduced steps and percentage adjustments are meritorious and should be adopted.

## B. Village

The Village suggests that the Union's demand represents a radical transition from flat dollar amounts to percentages of salary. It also argues that its longevity payments are generous (Village Exhibit 34). Thus, the Village contends that the Union's proposals should be rejected.

## 7. Dental Benefits

### A. Union

The Union seeks an additional \$100 per employee per year for its dental plan. It contends that other units near Scarsdale enjoy significantly higher benefits than do its members. According to the Union, the dental fund is currently experiencing substantial deficits. For these reasons, it asks that this proposal be adopted.

### B. Village

The Village maintains that a decrease in its dental contributions is justified. It points out that all other bargaining units receive substantially less than the \$379 currently paid to Firefighters. Under these circumstances, the Village argues, its contributions should be reduced to \$250 per employee.

## 8. Health Insurance

### A. Village

The Village proposes that employees hired before January 1, 1984, be granted only individual coverage upon their retirement.

It suggests that giving current employees family coverage upon retirement is a very costly benefit. Accordingly, it asks that its demand be adopted.

B. Union

The Union sees no need for the Village's request. Therefore, the Union asks that it be rejected.

9. Sick Leave

A. Village

The Village seeks a change in the method of computing sick time. It points out that currently sick leave entitlement is based upon a twelve hour workday. It asks that future computation be based upon an eight hour workday.

The Village submits that there is a high usage of sick leave among Firefighters, more than in surrounding communities (Village Exhibit 14). Furthermore, the Village points out that because of the extended length of their shifts, Firefighters work approximately 180 days per year. As such, the Village insists, a day of leave equal to twelve hours represents an excessive, undeserved benefit. For these reasons, then, the Village asks that its proposal be adopted.

B. Union

The Union asserts that most Firefighters' sick leave is computed on a twelve hour day. Therefore, it argues, no justification exists for granting this proposal. Accordingly, the Union seeks its rejection.

10. Compensatory Time - Kelly Days

A. Village

The Village asks that compensatory time off be given only for weeks in which Firefighters are required to work more than forty hours. In its view, the current practice is grossly inequitable, and has resulted in numerous employees being granted Kelly Days for weeks in which they worked less than forty hours due to vacation, sick leave, etc. (Village Exhibits 20A,21). Thus, the Village reasons that its Firefighters are getting compensatory time for days they do not work. Accordingly, the Village concludes that compelling reasons exist for the adoption of this proposal.

B. Union

The Union disputes the Village's assertions. It contends that the maximum average hours per week must be computed by subtracting vacation, holiday or other paid time off from the 2080 hours which a Firefighter would normally work. Thus, the Union insists that the Village's proposal is simply inconsistent with relevant case law.

11. Other Matters - C only

A. Village

The Village proposes that Article XIV-C be deleted from the Agreement. That provision reads:

All promotional positions will be filled within ninety (90) days or number of days accumulated by Employee vacating position, whichever is greater. A promotion list up to the rank of Chief will be maintained at all times.

The Village argues that the clause is clearly a non-mandatory subject of bargaining. As such, the Village views its inclusion in a labor agreement as unnecessary. Therefore, the Village asks that its demand be granted.

B. Union

The Union sees no need to delete Section C. In addition, it argues that the Village agreed to withdraw this proposal as part of the settlement of an improper practice charge which the Village filed before PERB. For these reasons, the Union seeks the rejection of this proposal.

OPINION

Several introductory comments are appropriate. The Panel is charged with making a "just and reasonable determination of the matters in dispute." [Section 209(4)(V) of the Taylor Law]. In making its decision, the Panel must take into account, "in addition to other relevant factors," the following criteria:

- a. 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 or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;

- b. the interests and welfare of the public and the financial ability of the public employer to pay;
- c. comparison of peculiarities in regard to other trades or professions, including specifically,
  - 1. hazards of employment;
  - 2. physical qualifications;
  - 3. educational qualifications;
  - 4. mental qualifications;
  - 5. job training and skills;
- d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

In essence, then, the Panel must balance the legitimate interests of the employees with the equally legitimate needs of the employer. It is with this principle in mind that the Panel addresses the issues in dispute.

1. Salary

Any analysis of this item must take into account the bargaining history relationship between Firefighters and Police Officers within the Village. Both, obviously, work for the same Employer. Over the years, dollar salary increases for the two groups have been either identical or similar. Clearly, the most comparable community to Scarsdale is Scarsdale itself [Section 209(4)(V)(a)]. As such, an examination of recent Police Officer increases is in order.

Effective June 1, 1986, salaries for Police Officers were increased by \$2,000. For the 1985-86 year, salaries rose \$1,900, while Firefighters' pay increased by \$1,925.

Under these circumstances, it is clear that for the period June 1, 1986 to May 30, 1987, Firefighter salaries should rise by \$2,000. This figure retains the historically close relationship between the two bargaining units. No reason exists for any figure other than the one received by Police Officers.

This is not to say that all Firefighter improvements must mirror those gained by Police Officers. If that were the case, no need would exist for two sets of collective negotiations. However, on the salary issue, the \$2,000 improvement in Police Officer salaries for 1986-87 should be applied to Firefighter wages.

Furthermore, no reason exists to disturb this balance for 1986-87. Firefighters in other communities have received similar increases. Salary increases for comparable periods reveal the following:

	<u>Community</u>	<u>Increase*</u>
1.	White Plains	1898
2.	Fairview	2032
3.	Greenville	1972
4.	Hartsdale	1973
5.	Larchmont	1986
6.	Mount Vernon	2150
7.	<u>Mamaroneck</u>	<u>2065</u>
	Average	2006

(Union Exhibits 15,16,18,19,20,21,28)

Thus, a comparison of wages within Scarsdale and with Firefighters in other similarly situated areas mandates the conclusion that a \$2,000 increase for 1986-87 is fair and in accord with the criteria set forth in the Taylor Law.

As to 1987-88, the Panel is convinced that a \$1,950 increase is warranted. This figure reflects the relatively stable dollar

\*Figures are for top step Firefighters, exclusive of longevity payments.

increases in salaries over the past few years. Though slightly less, in percentage terms, than the 1986-87 rise, it is consistent with a slight downward trend in Firefighter settlements for those communities that have settled for the 1987-88 fiscal year (See, for example, percentage figures for Eastchester, Larchmont and Peekskill - Union Exhibit 57).

In addition, the \$2,000 and \$1,950 increases are consistent with other relevant factors. While they exceed projected rises in the Consumer Price Index, they are well within the Village's ability to pay. There is no evidence that these improvements would result in undue stress upon the Village's budget. As such, they reflect adjustments which meet the legitimate needs of both employer and employees. Accordingly, and for these reasons, the Panel awards the following salary improvements for Firefighters:

1986-87 - \$2,000 per unit member

1987-88 - \$1,950 per unit member

The Union proposed an increase in the Captains' differential. The Panel has carefully considered this request. We must reject it. While Captains in Eastchester received a two per cent increase in their differential (Union Exhibits 14A-C), they still receive three per cent less than do Scarsdale's Captains. Thus, the improvements in Eastchester do not justify similar raises here.

It is true that Scarsdale Sergeants and Detectives' differentials increased by one per cent, effective June 1, 1985. However, their differentials remain considerably below Fire Captains'. Also, the duties of the positions are not sufficiently similar so that any increase in Sergeants or Detectives' stipends automatically justifies a corresponding rise in Fire Captains' pay. Accordingly, the Union's demand in this area must be rejected.

## 2. Vacations

The Union's proposal for a revised vacation schedule must be rejected. While Police Officers have received some improvements in this area, Scarsdale's Firefighters compare very favorably to other communities. Currently a Firefighter in Scarsdale with ten years of service receives 240 hours of vacation leave. Figures for comparable communities range from 180 hours to 216 hours of vacation time (Village Exhibit 33)\*. Thus, while Police Officers' vacation leave was improved, no justification, beyond that improvement, exists for Firefighters. Accordingly, the Panel must reject this proposal.

However, the Panel does not believe that the Village's proposal to change vacation entitlement from working days to calendar days is warranted. Vacation leave for Firefighters is not so far out of line, when compared to other communities, so

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\*The Panel notes that the Village's selection of a ten year employee may skew the figures somewhat in its favor. However, by all accounts, vacation leave for Scarsdale Firefighters exceeds that of virtually all other communities.

as to require a downward modification in this area. Furthermore, given the recent improvements made by Scarsdale Police Officers, the Village's proposal should not be adopted. Therefore, the Panel rejects its demand to calculate vacation leave by calendar days, as opposed to working days.

The Union proposed that vacation in an individual's final year of employment be increased by the number of work days equal to unused sick leave, up to a maximum of 1800 hours. The Village rejected this proposal.

In the Panel's view, justification exists for some improvement in this area. We note that Police Officers received an increase from 1440 hours to 1600 hours. Firefighters currently have 1440 hours. Given this prior parity, We are convinced that Firefighters should receive a similar rise to 1600 hours. Unlike the Union vacation proposal, the record does not reveal that Scarsdale's firefighters rank well above their counterparts in similarly situated communities. Thus, the record demonstrates that a rise to 1600 hours is warranted. Accordingly, the Panel finds that the Vacation Leave article, Section 3, should be amended to read 1600 hours, instead of 1440 hours. Inasmuch as vacation leave improvements serve no useful purpose if applied retroactively, this amendment is to become effective on June 1, 1987.

### 3. Personal Leave

Stated simply, the Union's proposals are without merit. The record is devoid of evidence to support payment of personal

leave at the time and one-half rate, relief to be supplied by the Village or an increase in the number of personal leave days for Firefighters or Captains. While Police Officers in Scarsdale receive five personal leave days per year, the total number of hours of personal leave is less than that given to Firefighters (Union Exhibit 5). Therefore, all Union proposals on personal leave must be rejected.

A different result is warranted with respect to the Village's demand that personal leave for Captains be reduced from six to four. At present, Scarsdale Captains receive more personal leave than do those in virtually all other contiguous communities (Village Exhibit 2; Union Exhibit 72). Indeed, Captains receive more than twice as many personal leave days than do their counterparts in Hartsdale, Greenville and New Rochelle, and in Fairview which, though not contiguous, is nearby. Thus, when compared to other Firefighters units, Scarsdale Captains' leave entitlement is excessive.

In addition, the Police Officers' bargaining unit makes no distinction between Superior Officers and Patrolmen with regard to personal leave entitlement (Union Exhibit 51). As such, relevant comparisons, both within and without Scarsdale, mandate a reduction in personal leave.

In the Panel's view, Captains' personal leave should be reduced to four days, effective June 1, 1987. This would equalize personal leave between Captains and Firefighters, as

exists between Superior Officers and Patrolmen. In addition, Captains would still enjoy more personal leave than their counterparts in nearby communities. However, the Panel is convinced that Captains should not be deprived of personal leave should pressing matters arise. Under these circumstances, Captains should be permitted to request two additional personal leave days per year, if the need arises. The decision to grant such requests must properly lie with the Village Manager or his designee. As a result, Captains will have the same number of personal leave days as other unit members, except they will be given the opportunity to seek additional days, consistent with their former entitlement, if necessary. Thus, the Village's proposal is awarded, to this extent.

#### 4. Holiday Pay

The Panel is convinced that some increase is justified in this area. The record reveals that Firefighters in Scarsdale generally receive fewer hours of holiday pay than do their counterparts in similarly situated communities. For example, members of the bargaining unit receive 96 hours of pay (8 holidays X 12 hours per day), while Firefighters in Hartsdale and Greenville are granted 144 holiday hours. Thus, it is clear that some upward adjustment in this benefit is warranted. However, the Panel is equally convinced that the increase must be a modest one. Police Officers in Scarsdale have twelve holidays of eight hours each, for a total of 96 hours, the same amount Firefighters

have. Any drastic improvement for Firefighters would unduly disturb the relationship between the two units. Thus, the Panel believes that an eight hour increase in Holiday hours is appropriate. It reflects the relatively poor position of Scarsdale Firefighters, when compared to others in nearby communities. It retains the historic relationship between Scarsdale Firefighters and Police Officers, wherein Firefighters have had (until 1986) 8 more holiday hours than Police Officers. As such, an increase to 104 holiday hours is appropriate. This can best be accomplished by amending Article VII to provide for 13 holidays at eight hours each. Since holiday pay has already been given for 1986-87, this change should be effective June 1, 1987. For the foregoing reasons, then, the Union's proposal is granted to the extent detailed above.

#### 5. Funeral Leave

Stated simply, the Union has not demonstrated any compelling reason for awarding this proposal. Accordingly, it is rejected.

#### 6. Longevity

The Panel is convinced that some increase in longevity is appropriate. The record reveals that until June 1, 1985, Firefighters and Police Officers received the same longevity differentials. On that date, Police Officers received a \$50 increase at each step. No reason exists to deviate from this parity of longevity differential. While some other Firefighter units may have fewer steps or a percentage differential, the

long standing Firefighter-Police Officer relationship ought not be disturbed. Accordingly, the Panel finds that each longevity step should be increased by \$50, retroactive to June 1, 1986.

#### 7. Dental Benefits

After reviewing the record, the Panel is convinced that the Village's and the Union's proposals should be rejected. The Panel recognizes that the Village spends more money for Firefighters than it does for other Village employees on this benefit. However, the record also reveals that current expenditure levels have produced deficits in the Union Dental Trust Fund. To decrease the Village's contribution would likely yield a severe reduction in benefits. This result should be avoided, if possible. Similarly, to grant all or part of the Union's proposal would mean that the cost of Firefighter dental benefits would far exceed that of other Village employees. For these reasons, then, neither the Union demand nor the Village demand is granted.

#### 8. Health Insurance

The Panel rejects the Village's proposals. Other than a reduction in costs, the Village has not demonstrated a compelling reason for the Panel to adopt this demand. No evidence exists that other bargaining units, within or without Scarsdale, bar pre-1984 hires from family coverage upon their retirement. Therefore, the Panel finds no basis for incorporating this proposal into the 1987-88 Agreement.

#### 9. Sick Leave

The Panel finds that the Village's proposal to compute sick leave on an eight hour basis, instead of the existing 12 hour day, is rejected. The Panel recognizes that the issue of sick leave usage is a serious one (Village Exhibit 16). However, any remedies to this problem do not lie in recomputing sick leave entitlement. Instead, the Village must avail itself of other avenues to curb what it perceives as inordinate utilization of this benefit. It would be inequitable to reduce sick leave payment for those who are legitimately absent from work, so as to curtail usage by any who take undue advantage of this benefit. Accordingly, and for these reasons, the Village's demand is denied.

#### 10. Compensatory Time - Kelly Days

The Village's proposal represents a major alteration in the method of computing Kelly Days. In the Panel's view, this proceeding is the improper forum for effecting such a change. As the Village correctly observed,

An interest arbitration panel should proceed cautiously in making adjustments to an agreement which, up to recently the parties recognized as the "bible" governing their working relationship. The process should not be used for "major surgery," or to implement radical approaches which the parties themselves have not mutually agreed are necessary (Village Brief, p. 2)

We are convinced that calculating Kelly Days to provide for compensatory time only in weeks Firefighters are required to work in excess of 40 hours represents "major surgery" within the parties' agreement. Such a proposal is better left to the collective bargaining table. Thus, without passing on the merits of the Village's demand, the Panel is constrained to reject it.

11. Other Matters (C Only)

The Panel is convinced that there is some merit to the Village's proposal. The second sentence of Section C requires that the Village keep a promotion list up to the rank of Chief. This language is more than a non-mandatory subject of bargaining. The Village should simply not be required to maintain a list under any and all circumstances. Thus, the Panel is convinced that the sentence should be deleted.

In sum, the Panel believes that the findings contained herein represent a proper balance between the competing, though equally legitimate, interests of the parties. In our view, the 1986-88 Agreement will fairly reflect other settlements in and outside of Scarsdale. It also takes into account various economic pressures on both employer and employees. As such, this settlement, in our view, simply makes sound labor relations sense. Accordingly, and for the foregoing reasons, this dispute is resolved in accordance with the Opinion contained herein. It is so ordered.\*

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\*The Panel notes, for the record, that any other proposals not specifically addressed in this Opinion are rejected.

AWARD

The successor Agreement between the Village of Scarsdale and the Scarsdale Firefighters Association shall commence on June 1, 1986 and expire on May 31, 1988. That Agreement shall be modified as follows:

1. Salary

Article IV shall be amended to provide for a \$2,000 and \$1,950 increase for the 1986-87 and 1987-88 fiscal years respectively, as follows:

A. Effective June 1, 1986, First Grade Firefighters will receive \$32,554 annually

B. Effective June 1, 1986, Fire Captains will receive \$41,018 annually

C. Effective June 1, 1987, First Grade Firefighters will receive \$34,504 annually

D. Effective June 1, 1987, Fire Captains will receive \$43,475 annually

All other salary proposals are rejected.

2. Vacations

Article VI-B shall be amended to increase the maximum number of hours to 1,600.

All other Vacation proposals are rejected.

3. Personal Leave

Effective June 1, 1987, Article X-A shall be amended to read as follows: Each unit member shall be granted four (4) personal leave days per year. Captains may request up to two (2) additional days per year, at the discretion of the Village Manager or his or her designee. Such request shall not be unreasonably denied.

All other Personal Leave proposals are rejected.

4. Holiday Pay

Article VIII-A shall be amended to entitle employees to thirteen (13) paid holidays at the rate of eight (8) hours pay. The parties shall meet to determine the holidays to be so specified.

All other Holiday Pay proposals are rejected.

5. Funeral Leave

All proposals are rejected.

6. Longevity

Effective June 1, 1986, Article XIV-N shall be amended as follows:

Years	Stipend
7.5	550
12.5	650
17.5	750

All other longevity proposals are rejected.

7. Dental Benefits

All proposals are rejected.

8. Health Insurance

All proposals are rejected.

9. Sick Leave

All proposals are rejected.

10. Compensatory Time

All proposals are rejected.

11. Other Matters

Effective June 1, 1987, Article XIV-C shall be amended by deleting the last sentence.

All other proposals on Article XIV-C are rejected.

12. All other proposals of the Village and the Union, whether or not specifically addressed herein, are rejected.

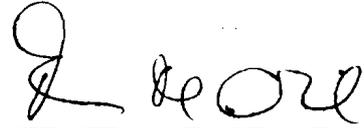
July 24, 1987.

  
Howard C. Edelman, Esq.  
Public Panel Member and Chairman

Date 7/24/87

Concur All except items in  
Dissent

4. Holiday Pay  
8. Health Insurance  
10. Comp. Time (Kelly Leave)

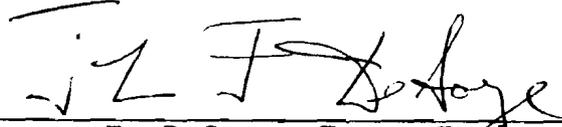
  
Terence M. O'Neil, Esq., Employer Panel Member

Date 7/24/87

Concur All except below

Dissent

portion # 1 (Cpts. Differentiation)  
portion # 2 (failure to increase vacation)  
portion # 3 (modification Cpts.)  
portion # 11 (deletion of final sentence)

  
Thomas F. DeSoye, Esq., Employee Panel Member



AUG - 7 1987

CONCILIATION

DISSENTING OPINION  
OF  
EMPLOYER PANEL MEMBER

As the Employer Panel Member, I feel compelled to dissent on three issues contained in the majority opinion of the interest arbitration award. I believe the award by the Majority on these issues is not justified.

\*4. Holiday Pay

The Majority of the Panel has awarded the fire fighters 13 holidays at 8 hours for a total of 104 hours. This total exceeds by 8 hours the number of holidays for which the members of the police department are paid. I believe the increase in holidays granted to the police in their prior negotiations was intended to bring the police up to the same number of hours as the fire fighters. The granting of additional holiday pay to the fire fighters in the second year covered by this arbitration award will again put the fire fighters ahead of the police by 8 hours. While the fire fighters holidays are not excessive when compared to other fire departments, I do not believe there is any justification for them to exceed the police in this area.

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\* The numbering herein coincides to the numbering of the issues as outlined on page 2 of the Majority Opinion.

8. Health Insurance

While it is conceded there are very few fire departments in the county whose members contribute towards health insurance, in my opinion the time has come for public employees to contribute towards their health insurance coverage. It is their most expensive fringe benefit, and the rates have been increasing dramatically in the past few years. Both state employees and many employees in the private sector are now contributing a portion of the premium to cover their health insurance. Public employees should do likewise.

10. Compensatory Time - "Kelly" Days

This item was the most complex issue in this proceeding. Nonetheless, I believe it also had the most compelling facts in support of the Village's position. Broken down to its simplest argument, members of the department will receive compensatory time for time not worked. The state law mandates the fire fighters' workweek average no more than 40 hours per week, while the fire fighters' schedule provides for an average of 42 hours per week. There are many weeks, however, when fire fighters do not actually work the 42 hours the schedule calls for (e.g. weeks in which vacations, personal leave, or sick leave are taken). Thus, there should be no compensatory time for those weeks in

which they do not actually work the 42 hours. Presently, they receive approximately 104 hours in compensatory time (52 weeks x 2 hours per week). As shown by the Village, members of the unit average between 35-43 weeks of actual weeks when they work in excess of 40 hours. Their actual compensatory time, therefore, should be somewhere between 70-86 hours per year instead of the 104 hours per year they presently receive.

The Majority of the Panel has indicated this is an issue which should be resolved by the parties, since it would constitute "major surgery" on the parties agreement, and that such a proposal "is better left to the collective bargaining table". If this issue is not equitably resolved in negotiations, unfortunately, as the Taylor Law is presently written, the Village has no alternative but to resolve it through interest arbitration. Since the parties had already reached that crucial stage, I believe this issue should have been resolved as proposed by the Village.

  
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TERENCE M. O'NEIL  
EMPLOYER PANEL MEMBER

I respectfully dissent from certain portions of Items numbered 1, 2, 3 and 11 of the Award.

As part of its salary proposal, the Union sought an increase in the differential between a top paid firefighter's salary and that of a Fire Captain. Both of these titles are within the Unit represented herein.

Currently, a Captain receives a salary of 26% higher than that of a top paid firefighter. The Union seeks an increase to 30%. I believe the record presented to the panel supports the increase sought. Certain members of the bargaining unit represented by the Scarsdale PBA, with whom the firefighters have had a historical bargaining relationship, received 1% increases in their differential as of June 1, 1985 (Union exhibit 13H).

Scarsdale police Lieutenants with whom the Fire Captains are most comparable have enjoyed a 27% differential for many years (Union exhibit 51) indicating to me that some increase in Fire Captains differential is long overdue.

Moreover, the neighboring community of Eastchester, whose fire captains are shift commanders for a number of fire houses, and are, therefore, comparable to Scarsdale Fire Captains, have recently received an increase in their differential of three percentage points effective January 1, 1988 (Union exhibit 14).

The Union has cogently exhibited the minimal financial impact of an increase for Fire Captains differential (Union exhibit 60).

Union witness, Captain Robert McKeever, explained in some detail the substantial and increased responsibilities of a Fire Captain in this community.

For all of the foregoing reasons, I believe that Scarsdale Fire Captains are entitled to an increase in their differential; and I, therefore, dissent from that aspect of the Award wherein the panel declines to grant such an increase.

My dissent as to Item #3, "Personal Leave", is limited to that portion of the Award which requires Fire Captains to have the approval of the Village Manager for their fifth and sixth personal leave day in any given year.

As stated above, I believe that Scarsdale Fire Captains merit an increase in their comparative rate of compensation.

I find no support in the record before this panel to restrict the utilization of two of the captains personal leave days. I do not believe that the Scarsdale captains leave entitlement is excessive. Nor do I believe, as do my co-panel members, that police sergeants and detectives receive the same number of personal leave days as do patrolmen should control with respect to Scarsdale firefighters.

Finally, as I view the most recent contract settlement between the Village and the police, I find no concessions contained therein and, therefore, frankly, find no reason for the modifications of captains personal leave which the panel has awarded.

With respect to Item 2, Vacations, I dissent from that portion of the award which rejects the Union's proposal for an increase in vacation leave.

Union exhibit 47 shows the vacation parity between the police and firefighters in Scarsdale since June of 1981.

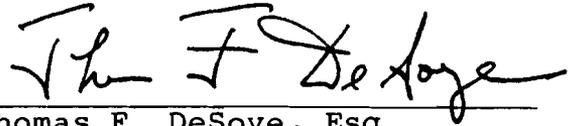
Effective June 1, 1985 Scarsdale police receive 20 days vacation after seven years of service and effective June 1, 1986, 22 days after twelve years of service (Union exhibit 13H).

The Union has displayed the financial impact of the grant by this panel of improvements in firefighters vacation, which would mirror those previously negotiated by the police, to be zero (Union exhibit 70). For these reasons, I dissent.

Finally, the panel proposes the deletion, in Article XIV sub-division C, of the final sentence in the paragraph which now reads "a promotion list up to the rank of Chief will be maintained at all times". The Village argued that this was a non-mandatory subject of bargaining and should, therefore, be stricken from the contract.

I do not believe that this is the appropriate forum to determine the mandatory or non-mandatory nature of matters. In any event, the parties specifically stipulated to submit to this panel for substantive consideration all items before us. Moreover, I find nothing in the record to substantiate the deletion of this provision which was negotiated between the parties. On these bases, I dissent.

Dated: New York, New York  
July 22, 1987

  
Thomas F. DeSoye, Esq.  
Employee Panel Member