

NY'S 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 Public Arbitration :

- between - :

VILLAGE OF PELHAM MANOR, :

Public Employer, :

- and - :

POLICE BENEVOLENT ASSOCIATION OF
PELHAM MANOR, INC., :

Employee Organization, :

Pursuant to Section 209.4(c) of the
Civil Service Law. :

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PANEL'S
DETERMINATION
AND
BASIS FOR
FINDINGS

Case No.
IA88-14; M 88-043

APPEARANCES

For the Public Employer:

Townley & Updike, Esqs. Counsel
By: John D. Canoni, Esq. Of Counsel
John J. McNamara Police Commissioner

For the Employee Organization:

Raymond G. Kruse, Esq. Counsel
Alice T. Wenz, Esq. Legal Assistant
William Burkhardt President, PBA
James Lauria Vice President, PBA
Paul Cusano Member, PBA
Charles Schula Member, PBA
Robert Boss Member, PBA
Charles Geraci Member, PBA
William P. Grosskopf PBA Committee

The Public Arbitration Panel:

Philip J. Ruffo, Esq. Public Member and Chairman
Richard R. Blessing Public Employer Member
*Maureen McNamara, Esq. Employee Organization Member

*The Public Employment Relations Board (PERB) subsequently designated Maureen McNamara, Esq. as Employee Organization Panel Member by its designation dated September 29, 1988, in place and instead of Raymond G. Kruse, Esq., who was originally designated by the PERB on July 13, 1988.

I

Preliminary Statement

By communications dated July 13, 1988 and September 29, 1988, the New York Public Employment Relations Board designated the above named persons, constituting a Public Arbitration Panel, pursuant to Section 209.4 of the New York Civil Service (Taylor) Law for the purpose of making a just and reasonable determination concerning the dispute between the parties in the above captioned proceeding as to the matters and issues at impasse hereinafter set forth, discussed and determined.

In accordance with the above cited authority, hearings were held on September 26, 29 and October 14, 1988, at the Village Hall, Village of Pelham Manor, New York.

At the hearings, the parties were accorded full opportunity to present data and exhibits relative to the issues in dispute and, in addition, were accorded the opportunity to engage in cross-inquiries regarding the data and exhibits submitted by each side and, further, to present arguments in support of their respective contentions and positions.

The parties agreed to dispense with a transcript.

The record made at the hearings was extensive consisting of 20 pages of handwritten notes taken by the Chairman on legal cap paper; an Appendix submitted by the PBA consisting of 81 exhibits together with a memorandum consisting

of 81 exhibits together with a memorandum consisting of 21 pages explaining the exhibits in the Appendix, including argument in support of the PBA's position; and 50 exhibits submitted by the Village.

The hearings were closed on October 14, 1988. Subsequent to the close of the hearings the Panel met in Executive Session on November 28, 1988 for the purpose of discussing and deliberating all of the issues in the record presented to the Panel for determination.

After due consideration and deliberation of all of the evidence in the entire record, including the documents, exhibits and arguments presented, the Panel's determinations, as hereinafter set forth, are concurred in by a majority vote of its members, i.e., the employer organization member and the Chairman.

II

Statutory Criteria

Consistent with statutory requirement, the Panel adhered to the criteria set forth in Section 209.4(c)(V) of the Civil Service Law to make a just and reasonable determination of the matters in dispute, specifying the basis for the findings, taking into consideration, in addition to any other rele-

vant factors, the following:

(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.

III

The Parties - The Bargaining Relationship

The Police Benevolent Association of Pelham Manor, Inc. (hereinafter "PBA" or "Union") is the exclusive bargaining representative of a bargaining unit consisting of 25 employees employed by the Village of Pelham Manor (hereinafter "Village" or "Employer"). The bargaining unit is composed of 18 Patrol Officers, 1 Detective, 4 Sergeants, and 2 Detective Sergeants. In addition, there are 1 Lieutenant and 1 Police Chief who are not in the bargaining unit for a total police force of 27 constituting the Village's Police Department. Of the 25 bargaining unit members, 22 work a rotating shift in a basic forty hour week. The work day is divided into 3 tours as follows: 8 A.M. to 4 P.M.; 4 P.M. to 12 midnight; and 12 midnight to 8 A.M.

The bargaining relationship has been established through successive collective bargaining agreements, the most recent being a two (2) year agreement, effective June 1, 1986 and terminating May 31, 1988.

The current dispute stems from an impasse in negotiations for a successor collective bargaining agreement effective June 1, 1988. The commencement date of collective bargaining agreements between the Village and the PBA coincide with the Village's fiscal and budgetary year beginning June 1st and ending May 31st of the succeeding year.

IV

The Issues In Dispute

At the hearing the parties advised the Panel that, except for the matters in dispute, all other matters had been agreed to and would be carried over and incorporated into the successor agreement together with those matters in dispute as determined by the Panel.

Since there is an overlap of matters included in the PBA's demands and the Village's counterproposals, the matters at issue which are to be determined by the Panel are identified as follows:

1. Term of Contract.
2. Wages, including:
 - a) ~~Across-the-Board~~ percentage increases;
 - b) Starting salaries;
 - c) Rank differentials:
 1. Sergeants;
 2. Sergeant Detectives;
 3. Detective;
 4. Desk officers;
 - d) Night shift differentials;
 - e) Longevity;
 - f) Termination pay;
 - g) Attendance bonus.
3. Work schedule.
4. Paid time leaves and fringes:
 - a) Personal days;

- b) Vacation;
 - c) Bereavement days;
 - d) Holidays;
 - e) Super holidays;
 - f) Cleaning allowance.
5. Health and Hospitalization:
- a) Health insurance (retirees);
 - b) Optical plan;
 - c) Dental plan;
 - d) Hospitalization and health coverage.
6. Non-economic matters:
- a) Binding arbitration (Article XVIII);
 - b) Physical examination (New) (Article XVI, Section 3(A)).

Ability to Pay

As previously set forth, one of the statutory criteria requiring the Panel's attention and disposition when invoked by the Employer, is: "the interests and welfare of the public and the financial ability of the public employer to pay."

Though the Village does not, as such, plead that it lacks the financial ability to pay a wage increase to the members of its police force, it does submit data indicating a financial posture rendering it difficult to meet the totality of the PBA's demands. The data submitted by the Village indicates a declining population (6,200), an increase in the tax rate

(82.590) which is the 6th highest among the 22 Villages of Westchester County, a tax base (assessed value) that has increased only 4.5% in the past 15 years, increases in Insurance and Pension costs, a paid Fire Department and a lack of federal funding which the Village previously relied upon to meet its budgetary needs. (Village Exhibits 1, 5, 6). The Police Department's share of the 1987-1988 budget was 30%. (Village Ex. 1).

The Village's position is that its financial resources do not permit it to meet its employees' demands beyond a total package which, objectively, is fair and equitable. The Village has, in this respect, recently concluded collective bargaining agreements with two major employee units granting wage increases. The agreement between the Village and the Civil Service Employees Association provides for percentage increases as follows: 4% on 6/1/88; 2.5% on 12/1/88; and 5.5% on 6/1/89. (Village Ex. 27). The agreement between the Village and the Firefighters provides for percentage increases as follows: 4% on 6/1/88; 2.5% on 12/1/88; and 5.5% on 6/1/89. (Village Ex. 28).

Further, there is nothing before the Panel indicating that the Village is unable to meet its financial obligations or that its credit rating is impaired. Finally, less than two years ago, in May, 1987, a Public Arbitration Panel, reviewing the Village's financial ability to pay, stated that the Village

did not interpose its ability to pay as a factor inhibiting a wage increase. In the short span of less than two years this Panel finds no change in circumstances to warrant a different conclusion.

Accordingly, the Panel finds and concludes that the Village of Pelham Manor does have the financial ability to pay the members of its police force, members of the bargaining unit, the wage increases and other benefits as herein determined by this Panel.

1. Term of the Agreement

The PBA requests a one (1) year agreement commencing June 1, 1988 and terminating May 31, 1989. However, the PBA acknowledges that there is sufficient data in the record to warrant a two (2) year agreement. The PBA sets forth its wage increase proposal for a one (1) year agreement. (PBA A18).

The Village counter proposes a three (3) year agreement, setting forth wage increases for a three (3) year period commencing June 1, 1988 and terminating May 31, 1991. (Village Ex. 4).

A studied analysis of the record discloses the presence of factual data and material sufficient to predicate an agreement of two years commencing June 1, 1988 and terminating May 31, 1990. The Panel is of the further view that a one year

agreement is unrealistic and a likely intrusion on the stability of the bargaining relationship.

It may also be noted that the Panel has the statutory authority to determine the period of a collective bargaining agreement not to exceed two years from the termination date of any previous bargaining agreement. (Civil Service Law, Section 209.4(VI)).

Accordingly, the Panel concludes that the agreement between the parties be for the period of two (2) years, beginning June 1, 1988 and terminating May 31, 1990.

2. Wages (Article IV - Schedule A)

a) Across-the-Board Percentage Increases.

The PBA demands a 12% one year across-the-board wage increase, effective June 1, 1988, over and above the wage paid to a 1st grade Patrolman effective June 1, 1987. (PBA Ex. 18). This would represent a dollar wage increase of \$4,121.00 for one year. $(34,319 - 6/1/87 + 4,121 = 38,440 \text{ on } 6/1/88)$. (The parties agree that the salary of a First (top) grade Patrolman is the salary standard to be used for determining and computing a wage increase).

The Village counter-proposes with increases of 2.5% and 2.5% for a two year agreement, effective June 1, 1988 and June 1, 1989, respectively.

The Panel has concluded that recent wage settlements in the Villages of Westchester County, and the recent settlements between the Village and other employee units, offer the more realistic and relevant comparative bases to determine a just and reasonable wage increase for the Pelham Manor Patrolman. In analyzing the data submitted, the Panel finds that were the PBA demand to be granted the Pelham Manor Patrolman salary would escalate to the highest salary level in Westchester County. (See Village Exhibits 43 and 44 for 1987 and 1988 Village Salaries). On the other hand, were the Village counter-proposal to be granted the result would be a depressively low wage level placing the Pelham Manor Patrolman next to last on the wage scales for the villages in Westchester County for June, 1988. (The Village of Ossining is last on the 1988 wage scale for the County Villages at \$35,022; the counter-proposal made by Pelham Manor of 2.5% for 1988 over the wage scale for 1987 (34,319) would result in \$35,177 for 1988. (Village Ex. 44).

The percentage wage increases for 19 Westchester County Villages for 1987 averaged 6.32% - approximately .3% over the 6% increase granted in 1987 to the Pelham Manor Patrolman. (Village Ex. 43). The percentage wage increase for 13 reported Westchester County villages for 1988 averaged 5.76%. (Village Ex. 44). The percentage wage increase for 6 reported Westchester County villages for 1989 average 6.0%. (Village Ex. 45).

The combined County average increase for the two year period 1988-1989 is 11.76% and for each of those years is 5.83% which is consistent with the CPI increase of 5.2% for the New York/Northeast New Jersey area for the annual period - September 1987 - August 1988. (See New York Times 10/22/88 reporting U.S. Bureau of Labor Statistics).

The three (3) year agreements recently concluded between the Village and two other major units of its employees (C.S.E.A. and Firefighters), show that for the first two years the wage increases granted to the C.S.E.A. unit were: 5.25% and 5.50%, effective June 1, 1988 and June 1, 1989, respectively. In each settlement the wage increases totaled 10.75% for the two year period from June 1, 1988, terminating May 31, 1990. (Village Ex. 29). If Pelham Manor were to provide a 6.0% increase for 1988-1989 and a 5.5% increase for 1989-1990 it would mean an increase of 11.5%, (11.82% when compounded), which compares with virtually the same average percentage wage increase as the other Westchester County villages at 11.76%.

Increases so granted would result in the Pelham Manor Patrolman receiving \$36,378 ($34.319 \times .06\%$) effective June 1, 1988; and \$38,378 ($36,378 \times 5.5\%$) effective June 1, 1989. The dollar amount increases would be \$2,059 for 1988 and \$2,000 for 1989 or a total of \$4,059 during the two year period ending May 31, 1990.

Accordingly, the Panel determines that the general ~~across-the-board~~ wage increase for the Pelham Manor Patrolman is 6.0% effective June 1, 1988, the annual dollar salary being \$36,378; and 5.5% effective June 1, 1989, the annual dollar wage being \$38,378.*

b) Starting Salary

The Village proposes to freeze the starting salary of Patrolman (5th Grade) at \$21,500 for the first year of the agreement, effective June 1, 1988, for a Patrolman hired after June 1, 1987 which is the current starting salary. (Village Ex. 4).

The PBA opposes the Village proposal contending that the general ~~across-the-board~~ wage increase should apply to all grades, including the 5th grade.

The Panel has reviewed and compared the 1988 starting salaries of eleven reporting Westchester County village. (Village Ex. 26B). Those eleven villages report starting or minimum salaries for the year 1988 showing only two villages (Briarcliff Manor and Larchmont) have higher starting salaries than Pelham Manor.

*For the reasons cited in "b. Starting Salary", the second year wage increase of 5.5% shall not apply to a Patrolman hired after June 1, 1987. Instead the (5th grade) starting salary of \$22,790, as adjusted for the first year of the agreement shall continue to apply during the second year of the agreement to the Patrolman hired after June 1, 1987.

The Panel's analysis leads it to conclude that the interests of the Village, as well as the employees, will be better served if the starting salary were to retain its primacy as a recruitment inducement. Therefore, the general across-the-board percentage wage increase should apply for the first year of the successor agreement raising the starting salary from \$21,500 to \$22,790. Since such an annual starting salary will be substantially higher than eight of the eleven other villages, the Panel's view is that the starting salary of a Pelham Manor Patrolman should be placed in comparative perspective with his colleagues in other villages. Therefore, the annual starting salary of a Patrolman hired after June 1, 1987, adjusted upward to \$22,790 on June 1, 1988, from \$21,500 in 1987, should be frozen for the second year of the agreement commencing June 1, 1989, terminating May 31, 1990.

Accordingly, the Panel determines that the annual starting salary of a 5th grade Patrolman, hired after June 1, 1987, be increased by 6%, i.e., from \$21,500 to \$22,790 and that as so increased, the same salary for that Patrolman be frozen for the second year of the agreement commencing June 1, 1989, terminating May 31, 1990.

c) Rank Differentials

1. Sergeants - 2. Sergeant Detective. Effective

June 1, 1987 the pay of a Sergeant was \$38,031 and that of a Sergeant Detective was \$38,786 representing a percentage differential of 10.8% and 13.01%, respectively, over the 1987 salary of a Pelham Manor First Grade Patrolman of \$34,319 (Joint Ex. 1, Schedule A). The 6% and 5.50% ~~across-the-board~~ wage increase, effective June 1, 1988 and June 1, 1989, respectively, will increase the Sergeant's salary to \$40,312 and \$42,530, respectively. In each instance the percentage differential is the same, that is, 10.8% of a First (Top) Grade Patrolman's wage on June 1, 1988 (\$36,378) and June 1, 1989 (\$38,378).

In the case of the Sergeant Detective, 6% and 5.5% ~~across-the-board~~ wage increases, effective June 1, 1988 and June 1, 1989, respectively, will increase the Sergeant Detective's salary to \$41,113 on June 1, 1988 and \$43,374 on June 1, 1989. In each instance the percentage differentials of a Sergeant Detective will be 13.01% over that of a Patrolman (top grade) on June 1, 1988 (\$36,378) and June 1, 1989 (\$38,378).

The PBA proposes the addition of a new section (Section 4) to Article IV (Wages and Longevity) of the Collective Agreement pursuant to which a Sergeant would receive a 20% increase above the salary of a top grade Patrolman and a Sergeant Detective would receive a 10% wage increase above the salary of a Sergeant, effective June 1, 1988. The PBA contends that the

data for all of Westchester County (villages, towns and cities included), shows that for 1987 the average differential between the Patrolman and the Sergeant rank was 13.5% which represents an annual average wage of \$39,011, or approximately an average wage of \$1,000 over that of the Pelham Manor Sergeant. (PBA Ex. A33-34).

The village's counter-proposal points to prior arbitration awards which continued the practice of increasing the dollar amount of the Sergeant's and Sergeant Detective's salary during each year of the agreement and not to add a new and separate section for the Sergeant category differential. Accordingly, the Village proposes to increase the Sergeant and Sergeant Detective salary to \$150 for each contract year, effective June 1, 1988 and June 1, 1989, over and above the general across-the-board wage increases.

The Village's counter-proposal places the Pelham Manor Sergeant in 14th position of the County's 22 Villages at a median of 10.8 which is below the median level for all villages at 11.85. (Village Ex. V31). The Village's proposal would thus retain the same relative position on the scale of County villages' salaries.

The Panel determines, after an analysis of the data, that the Village's proposal is unacceptable, being short of the

median level and should be adjusted upward to meet that level. Consequently, the Panel has determined to increase the Village's proposal of its \$150.00 by an additional \$150.00 for each of the two years of the agreement so that, in addition to the percentage across-the-board wage increase for each year, as determined by the Panel, there shall be added the sum of \$300. The additional \$300.00 for each year will position the Pelham Manor Sergeant upward from 14th to 11th with the median levels of 11.3 and 11.6 in each of two years over the prior 10.8 median.

Accordingly, the 6% wage increase will be added to the June 1, 1987 Sergeant's wage before the \$300.00 is added. Thus, effective June 1, 1988, the Sergeant's annual salary will be \$40,312 ($38,031 \times .06$) plus \$300.00 for a total of \$40,612.00.

The 1988 annual salary of a Sergeant will be increased by 5.5% effective June 1, 1989, to which will be added \$300.00. Thus, the June 1, 1989 annual salary of Sergeant will be \$42,546 ($40,612 \times .055$) plus \$300.00 for a total of \$42,846.00.

As for the Sergeant Detective the Panel determines that the 6% wage increase will be added to the June 1, 1987 Sergeant Detective's wage before the \$300.00 is added. Thus, effective June 1, 1988 the Sergeant Detective's salary will be \$41,113 ($38,786 \times .06$) to which will be added \$300.00 for a total annual wage of \$41,413. Effective June 1, 1989 the Sergeant Detective's salary will be \$43,691 ($41,413 \times .055$) to

which will be added \$300.00 for a total annual wage of \$43,991. The differential for 1988 is 13.8% and for 1989 the differential is 14.6% above the salary of a first grade Patrolman for 1988 and 1989, respectively.

3. Detectives

The current salary of a Detective (Patrolman), as of June 1, 1987, is \$34,902.

The PBA demands a 10% differential between the salary of a Detective and a First Grade (Top) Patrolman and that a new section 4, Article IV (Wages and Longevity) be included in the successor agreement. The PBA contends that the Detective differential in Pelham Manor is "unconscionably low", stressing that the average Detective wage in Westchester County (towns, villages and cities) is \$2,000 higher than Pelham Manor. (PBA Exhibit A 34, page 7 PBA memorandum).

Essentially, the Village's counter-proposal is the same as its proposal for the Sergeant rank for which the Panel finds little support in the record. If accepted the Village's proposal would result in the following wage scale for the Detective rank:

\$35,924 (34,902 X .025 + 150) effective June 1, 1988;

\$36,972 (35,924 X .025 + 150) effective June 1, 1989.

The salary differential, as of June 1, 1987, was

1.7%. (The difference between the Detective wage (\$34,902) and the Patrolman wage (\$34,319) was \$583 or a 1.7% differential).

The Panel determines that the Detective annual salary should be adjusted upward, consistent with the same formula as the Panel has applied to the Sergeant and Sergeant Detective ranks.

Accordingly, the Detective salary is granted as follows:

Effective June 1, 1988: 6% of \$34,902 (the Detective wage as of June 1, 1987) resulting in \$36,996 to which will be added \$300.00 for a total annual wage of \$37,296.

Effective June 1, 1989: 5.5% of \$37,296 (the Detective wage as of June 1, 1988) resulting in \$39,347 to which will be added \$300.00 for a total annual wage of \$39,647.

4. Desk Officers

The PBA proposes that a new section 4 be added to Article 12 (Wages and Longevity) providing that a "Desk Officer" shall be paid at a differential of five (5%) percent above the top grade of Patrolman. (PBA petition and Schedule A).

The predecessor collective bargaining agreement con-

tains the ranks of Sergeant Detective, Sergeant, Patrolman Detective and Patrolman. (Joint Ex. 1). The agreement is silent and does not mention the classification or title of "Desk Officer". Therefore, in the absence of any evidence establishing the need for a separate classification or title, the Panel is not persuaded that such a classification or title should be created by adding a new section 4 to Article IV. On the other hand, the Panel perceives occasions when a police officer is assigned duties to the desk, i.e., desk duties. Under such circumstances there does not appear to be any supporting evidence warranting a differential in pay and the Panel awards none. Instead, the Panel is of the view that a police officer assigned to desk duties shall receive the same pay that he is receiving consistent with the rank he holds. However, the Panel's determination is not intended to interfere with any present practice which, for example, now grants a Patrolman the pay of a Sergeant while performing desk duties if the present practice is to assign a *Patrolman* to perform desk duties *at a Sergeant's salary rate*.

d) Night Shift Differentials (New)

In its petition the PBA proposes to add a new section 3, Article IV (Wages and Longevity) providing for a 10% shift differential between the hours of 1500 (3 P.M.) and 0800 (8 A.M.). The PBA's proposal is linked to the stress factor which it contends is inseparable from the job of a

policeman and, therefore, the night shift differential is a reasonable measure to compensate a policeman for the stress he is subjected to by working irregular hours.

The Village opposes a night shift differential pointing to the refusals to grant the differential in prior awards and the custom and tradition of rotating shifts as an inseparable part of a policeman's job without additional compensation. All policemen are treated alike.

An analysis of the data persuades the Panel that the payment of a night differential is not a prevalent practice in police work where rotating shifts are common. Similarly, the data submitted by the PBA (PBA Ex. 40) shows that of the seven jurisdictions that do grant a night shift differential, only two are villages, the other five being cities and the County. On the other hand, of the 25 villages in Westchester County, 22 have rotating shifts.

Accordingly, the PBA's proposal for a night shift differential is denied.

e) Longevity (Article IV)

Effective June 1, 1987, the collective bargaining agreement (Schedule A) provided the following schedule:

<u>Consecutive Years Of Service Completed</u>	<u>Longevity (Cumulative)</u>
Ten (10 years)	\$600
Fifteen (15) years	\$750
Twenty (20) years	\$925

In addition to the applicable wage scale the PBA proposes the following changes effective June 1, 1988:

<u>Consecutive Years Of Service Completed</u>	<u>Longevity (Cumulative)</u>
Five (5) years	2%
Ten (10) years	4%
Fifteen (15) years	6%
Twenty (20) years	8%
Twenty-five (25) years	10%

The Village proposes several changes regarding the Longevity factor. They are (i) the mobility of seniority within Westchester County based on consecutive years of service; (ii) Longevity payments not to be included as part of the annual salary in determining holiday pay; and (iii) the application of longevity payments to employees hired after June 1, 1988, as follows: (Village Exs. 2 and 3)

<u>Consecutive Years Of Service Completed</u>	<u>Longevity (Cumulative)</u>
Ten (10) years	\$400
Fifteen (15) years	\$600
Twenty (20) years	\$800

The data submitted does not indicate longevity payments after five years of completed service and, therefore, is not recommended by the Panel.

The data submitted demonstrates that Pelham Manor's longevity payments compare favorably with the County's 22 villages. (Village Ex. 21). Pelham Manor is in 6th position regarding longevity payments to its police officers after 10 years; 6th position after 15 years; and 8th position after 20 years. Further, total longevity payments to PBA members in 1987 exceeded total longevity payments to village firefighters by approximately \$800 after 20 years of service and by approximately \$1,050 over C.S.E.A. members after 20 years of service. Under the circumstances, except in one instance, there is no need to increase longevity payments, or to change the longevity structure in terms of the intervals between payments.

The Panel determines that the longevity benefit be as follows:

(i) The longevity payments under the present longevity structure remain the same, except that the longevity payments after 20 years of completed service be increased from \$925 to \$1,000, effective June 1, 1988. The upward adjustment will place Pelham Manor in 6th position from 8th with respect to longevity payment after 20 years of service. It may also

be noted that the additional longevity payment of \$75 will affect 6 police officers for a total cost to the Village of \$450 which, when divided among 25 unit members, will mean an additional cost to the Village of \$18 per unit member. Further, in determining longevity, credit shall be given to a police officer's completed service with any other County village or town who joins the Pelham Manor police force.

(ii) Longevity payments are intended to supplement wages constituting a form of bonus for long and faithful service. As such, longevity payments are ~~not~~ to be included as part of the annual base salary for the purpose of determining holiday pay or "super holiday" pay. PJR

(iii) The Village's proposal for a two-tiered longevity structure, dependent on a June 1, 1988 hiring date, is denied.

f) Termination Pay. (Article IX)

In its petition, the PBA proposes an amendment to Section 4, Article IX (Pensions) so that: "Upon service retirement or upon a retirement qualifying for accidental, ordinary or job related disability, an employee shall receive a total of thirty (30) days termination pay at the then prevailing rate of straight time pay".

The Village opposes any change in the present en-

titlement for termination pay as now provided for in Section 4, Article IX, pointing out that this is a new benefit which, for the first time, was included in the predecessor agreement terminating May 31, 1988.

No persuasive data has been submitted which demonstrates that an upward adjustment in termination pay justifies the increased cost that the Village would be required to absorb. The prior award, upon which the immediate predecessor agreement was based, pointed out: "Over the years, the parties will be able to enrich this provision if they agree that such action is desirable". (V 37, p. 12). In this respect the Panel notes that the termination pay benefit is a newly gained benefit scarcely a little more than two years old. Under the circumstances, the Panel is of the view that the termination pay benefit should remain as is for the duration of the successor agreement, terminating May 31, 1990, and the Panel determines that there is to be no change in Section 4, Article IX (Pensions) as provided in the predecessor agreement terminating May 31, 1988.

g) Attendance Bonus (New)

The Village has proposed to provide a bonus payment to unit members who have outstanding attendance records. There is no opposition by the PBA to the Village's proposal.

Accordingly, a new Section 4(A) is added to Article

XVI in the following language:

"Effective January 1, 1989, employees who are employed for the full calendar year 1989 or subsequent calendar years and who have taken zero (0) or one (1) sick days during said calendar year shall receive a lump sum attendance bonus of four hundred (\$400) dollars for zero (0) sick days taken or two hundred (\$200) dollars for one (1) sick day taken. Such attendance bonus shall be paid on or before January 15th at the next succeeding calendar year.

The intent of this provision is to reward individuals who have outstanding attendance records. Absences due to line of duty injuries shall not be treated as sick leave for purposes of this paragraph 4(A) unless those absences, when added together, exceed six (6) months or more during said calendar year. Employees who are relieved of duty due to illness or injury during a shift shall not be charged with a sick day for purposes of this paragraph 4(A)."

3. Work Schedule (Policy-Practice)

The Village's current work schedule, involving 22 of 25 members of the police force is as follows: A work year consisting of 255.7 days (2,046 hours) working, basically, an 8 hour day, 40 hour week, in 3 rotating shifts of 4 days on - 1 day off; 5 days on - 2 days off; and 5 days on - 3 days off. (4-1; 5-2; 5-3). The shift hours are: 8 A.M. to 4 P.M., 4 P.M. to 12 midnight, and 12 midnight to 8 A.M.

The PBA demands a reduction in the work year from the current 255.7 days to 231 days. (PBA Ex. A 17). On the basis of the reduced work year the 3 rotating shifts would then be: 4 days on - 2 days off; 4 days on - 2 days off; and

4 days on - 3 days off. (4-2; 4-2; 4-3). The result would provide the 22 police officers with 10 full week-end days off. (PBA Ex. 67).

The PBA's demand is linked, principally, to the stress inherent in the job of a policeman and, therefore, the need for more intervals of rest and repose between work shifts.

The Village opposes any change in the present work schedule for the following reasons: The effect of the PBA's proposal would mean a work week reduction from 39.2 hours to 35.64 hours for a total of a 78.32 reduction in hours covering 22 authorized police positions. Replacing the reduction in hours with more policemen in terms of overtime would cost the Village approximately \$169,000 a year at the current wage rates. This would be equivalent of a 9.08% percent wage increase. Alternatively, the reduced work schedule would require the hiring of two additional police officers at an additional cost of \$46,000 each. (Village Ex. 50).

An analysis of the data submitted demonstrates that the Pelham Manor work schedule is one of the five highest out of the 22 County villages. That such a schedule should be reduced, particularly in light of the need for more time to relieve the police officer from stress, should be further

probed in negotiations between the parties in terms of a quid pro quo involving the wage structure. Realistically, a reduction in work time is translated into a corresponding wage increase and a proliferation of other economic benefits. The wage increases herein granted, as well as the improvements in other benefits, are based upon the present work schedule. Realistically, reducing the Pelham Manor work schedule would have required the Panel to consider a lesser wage increase, as well as reconsidering the other benefits herein granted, which the Panel believes would have been counterproductive. The grant of more time with less income money to spend is no improvement. Considering the collective bargaining agreement in terms of a total monetary package, there is reasonable margin for a reciprocal exchange of positions which could be of further benefit to both sides.

Accordingly, the Panel has determined to deny the PBA's proposal for a reduction in the work schedules which will continue for the term of the successor agreement.

4. Paid Time Leaves and Fringes

a) Personal days (Article XVI)

In its petition the PBA proposes to amend Section 5, Article XVI (Sick and Personal Leave) by increasing personal leave days from five to six.

The data submitted by the PBA and the Village demonstrate a slight difference in the average number of personal leave days granted to police force members in Westchester County in 1987. There is, however, no disagreement that the present 5 personal leave days now granted to Pelham Manor police officers slightly exceeds other villages (PBA Ex. A 72) and ranks the Village in 4th position out of 20 villages reporting personal leave days. Thus, the number of personal leave days granted compare favorably with other villages in the County. It is noted that under the present agreement there is no requirement to give any reason for requesting a personal leave day and, in addition, additional personal leave may be granted in an emergency. Thus, the personal leave benefit has added attractions.

It is further noted that the Village's firefighters are granted 3 personal leave days and that CSEA unit members are granted discretionary leave only. (Village Ex. 30).

Accordingly, there is no basis for an improvement in the personal leave day benefit and, accordingly, the Panel denies the PBA proposal.

b) Vacations (Article VII)

The PBA proposes changes to several sections of Article VII (Vacations) as follows:

Delete Section 1A which is the section establishing a separate vacation schedule for police officers hired on or after June 1, 1986.

Amend Section 2 so as to grant Sergeants 8 additional holidays instead of the 4 additional holidays they now have.

Delete the first sentence in Section 8 and amend it so that the qualifying date for vacations for all employees hired after June 1, 1982 "shall continue in accordance with past practice."

Also, eliminate the word "such" in the third line of Section 8, consistent with the deletion of the first sentence of Section 8, so that all employees will be treated alike in accordance with past practice as to the qualifying date for vacations.

Amend Section 1 setting forth the vacation schedule.

The present vacation schedule and the schedule proposed by the PBA are as follows:

<u>Present Vacation Schedule</u>		<u>PBA Proposed Schedule</u>	
<u>Length Of Service</u>	<u>Number Of Working Days</u>	<u>Length of Service</u>	<u>Number Of Working Days</u>
6 months	5	During 1st year of service	15
1 year	10	During the 2nd year of service through the 7th year	20
3 years	15	During the 8th year of service through the 15th year	25
6 years	18	During the 16th year of service and onward	30
8 years	18		
10 years	20		
11 years	21		
14 years	22		
16 years	22		
18 years	23		
20 years	24 (effective 1/1/88)		

The Village's counter-proposal is to improve the present vacation benefit consistent with the median for all villages in Westchester County. (Village Ex. 24). The Village also points out that the Pelham Manor vacation benefit for Sergeants is superior to that granted to Sergeants in other villages, Pelham Manor being one of 5 communities that grant extra vacation days to Sergeants as a function of rank.

The Panel notes that the PBA's proposal is based upon 40 jurisdictions composing all of Westchester County (towns, villages and cities) (PBA Exhibits A 69, 70, 71) while the Vil-

lage's counter-proposal offers comparisons based on existing vacation benefits in other Westchester County Villages and other Village employee units. (Village Ex. 24). Further, the Village also points to the fact that the PBA vacation benefit exceeds that of the vacation benefit agreed to between the Village and the Unions representing the Village's two other employee units. (Firefighters and CSEA - Village Exhibit 30, p. 2).

As previously indicated, the Panel's analysis of all of the submitted data has led to the conclusion that comparisons with other Westchester County villages, and settlements with other Pelham Manor village employee units, offer the more realistic and relevant bases for comparisons.

Accordingly, the Panel determines that the Village's counter-proposal is just and reasonable and, therefore, denies all proposals advanced by the P.B.A.

Effective January 1, 1990, the Pelham Manor vacation structure and benefits, except as noted below, shall be as follows:

<u>1. Years of Service</u>	<u>Number of Working Days</u>
1 year (effective 1/1/89)	12
2 years	14
3 years	15
4 years	16
6 years	20
11 years	21
12 years	22
15 years	23
16 years	24
18 years	25

It will be noted that the above vacation structure and benefit eliminates the prior two tier structure and will add an average of 1 day per unit member over the prior structure and benefit. Depending upon the years of service some employees will receive 2 more vacation days than they previously received under the predecessor agreement. Further, it is determined that the vacation benefit now applicable to Sergeants will also improve commensurately. Thus, the four (4) additional days to which Sergeants were entitled, over and above other unit members, will continue so that, for example, a Sergeant who is now entitled to 27 days of vacation (23 + 4 under the predecessor agreement), will, commencing January 1, 1990, receive 29 vacation days (25 + 4) for 18 years of service. Most of the Sergeants will now derive the benefit of the 4 additional vacation days.

2. The Panel also determines that the Village's counter-proposal (Village Ex. 4) with respect to unit members who have less than one (1) year of service is just and reasonable. Accordingly, the following provision shall be incorporated in the successor agreement as part of Article VII (Vacations):

"Notwithstanding the foregoing, for employees with less than one (1) year of service, vacations shall accrue at the rate of five-sixths (5/6) work day for each full month of continuous service completed as of the end of the calendar year of hire. However, no employee shall be entitled to take any vacation accrued hereunder until after six (6) months of satisfactory service has been completed."

c) Bereavement Days (Article XI)

The PBA proposes to increase funeral (bereavement) leave days from 3 to 5 and by adding "aunt and uncle" in the definition of deceased relatives.

The Village proposes an increase in bereavement days from 3 to 4.

The data submitted, relative to the 22 villages of Westchester County, reveals that 4 villages have 5 bereavement days; 8 villages have 3 bereavement days; and 10 villages have 4 bereavement days. Thus, the majority of the villages, 14 out of 22, have 4 or 5 bereavement days. Most of the villages (10) grant 4 bereavement days.

The Panel finds that the data submitted supports 4 bereavement days and, therefore, warrants an increase from the present 3 to 4 bereavement days. Further, with respect to the relatives whose death invokes the application of Article XI, Section 3, the Panel concludes that no comparative data exists to expand the circle of deceased relatives.

Accordingly, the Panel determines that, effective January 1, 1989, the number of bereavement days in Section 1, Article XI, shall be increased from three (3) to four (4) days.

d) Holidays (Article VI)

In its petition the PBA proposes an additional holiday (Yom Kippur) between Labor Day and Columbus Day thus increasing the number of holidays from 13 to 14. Further, the PBA proposes that any employee who works on any of the designated holidays (super holidays) shall receive regular pay plus an additional day's pay.

At the present time additional pay is paid for four of the designated holidays (Fourth of July, Thanksgiving, Christmas, and New Year). Otherwise the 13 holidays are paid for whether worked or not at the end of the year.

The Village proposes to reduce the number of holidays from 13 to 12 by deleting 2 days (Lincoln and Washington birthdays), and substituting one day (President's Day - effective 1989). (Village Ex. 3).

The data submitted by both sides shows there is agreement that the number of paid holidays among 22 County villages averages 12.6. Only two of those villages (Buchanan and Bronxville) have more than 13 paid holidays; 9 have less; and Pelham Manor, along with 10 other villages, have 13 paid holidays. (Village Ex. 19, PBA Ex. A 76).

The data submitted demonstrates that the Pelham Manor police officers are in a median position on the County's scale of paid holidays and, comparatively, are in a better position than 9 other villages being exceeded by only two villages, one of which has 14 paid holidays and another has 15 paid other holidays. In addition, it is noted that the Village's firefighters are granted 12 paid holidays and that C.S.E.A. unit members are granted 13 paid holidays. Thus, all Village employees are on approximately the same benefit level as to paid holidays. (Village Ex. 30).

Accordingly, the PBA's proposal to increase the number of paid holidays from 13 to 14 and the Village's proposal to decrease the number of paid holidays from 13 to 12 are denied.

The Panel determines that the number of paid holidays, now at 13, is just and reasonable and is to be carried over in the successor agreement effective June 1, 1988.

e) Super Holidays (Article VI)

The same data submitted by both sides for the paid holidays, in addition to the data submitted by the Village (Village Ex. 20) has been analyzed by the Panel.

The data submitted shows that of 21 Westchester County villages, 5 villages, including Pelham Manor, have 4 super holidays; 4 have more super holidays than Pelham Manor; and 12 have less super holidays than Pelham Manor.

However, the Panel has concluded that an additional paid super holiday would constitute an economic improvement which, on balance, has merit and will provide the Pelham Manor police officers with additional compensation. Considering, however, that 5 paid super holidays means 40 hours of additional pay, to approximately three-quarters of the police force, i.e., 8 hours more than previously, the cost to the Village will increase. For that reason the Panel has decided to defer the implementation of the added super holiday to June 1, 1989, during the second year of the successor agreement.

Accordingly, it is determined that the super holidays are increased from 4 to 5 days, effective June 1, 1989, during the second year of the successor agreement. The PBA's proposal to increase super holidays to 13 is denied as is the Village's proposal to retain the present 4 super holidays. It

is also determined that the additional super holiday shall be scheduled on any of the present holidays that the Village deems appropriate.

f) Cleaning Allowance (Article XVII)

Section 6, Article XVII, grants each unit member \$400 a year for uniform replacement. No allowance is currently provided for uniform cleaning and maintenance.

The PBA demands \$1,000 to cover both the cost of uniform replacement and cleaning and maintenance.

The Village counter-proposes with \$50 per year for each unit member for uniform cleaning and maintenance allowance in addition to retaining the \$400 for uniform replacement. (Village Ex. 4). The total sum for both purposes is \$450.

The data submitted by the PBA includes cities, towns and villages within Westchester County. (PBA Ex. A 79, A 80). The data submitted by the Village is limited to the County's 22 villages. (Village Ex. 23). The Village's data shows that out of 22 County villages, Pelham Manor would rank ninth with a combined total cost of \$450, including uniform replacement and cleaning and maintenance. Five villages provide no uniform replacement allowance. Seven villages provide no uniform allowance for maintenance. The average cost for uniform allowance and maintenance for the 22 villages is \$430 per pol-

ice officer, per year. According to the PBA, none of the jurisdictions, including cities, towns and villages within Westchester County, grant any allowance for uniform replacement and maintenance which approximates the actual cost to the police officers. (PBA Exs. 77A and 78A).

Under the circumstances the Panel decides to be guided by village comparisons. Having analyzed the data submitted, the Panel concludes that the grant of a cleaning and maintenance uniform allowance, above that proposed by the Village, is warranted.

Accordingly, the Panel determines that, in addition to the \$400 uniform allowance now granted, the Village grant to bargaining unit members the following sums for uniform cleaning and maintenance:

1. The sum of Seventy-Five (\$75.00) Dollars, effective January 1, 1989; and
2. The additional sum of Twenty-Five (\$25.00) Dollars effective January 1, 1990.

Thus, the combined sums for uniform replacement and for cleaning and maintenance will total \$500, exceeding the average for the 22 County villages by the end of the term of the successor agreement and, simultaneously, advance the position of Pelham Manor police officers above ninth place on the

County scale, where it now is, to seventh place.

In all other respects the proposals of the Village and the PBA are denied.

5. Health and Hospitalization (Article VIII)

a) Health Insurance (Retirees)

Both the Village and the PBA propose several changes to Article VIII. One such change relates to Section 1(B) and the Village's obligation to contribute for employees who retired on or prior to May 31, 1988, the expiration date of the predecessor agreement. The Village's contribution was 100% of the premium covered by the New York State Empire Plan (or a substitute plan if available) for individual coverage and 50% for family coverage during the employee's retirement.

The PBA proposes that the Village contribute 100% of the premium for both individual and family coverage to the Empire Plan (or a substitute plan should the Empire Plan become unavailable) for all retired members.

Section 1(B), as described above, interrelates with Section 1(A) covering the Village's continued obligation to retirees provided they were active village employees as of the execution date of the predecessor agreement or as of the execution date of any successor agreement. The Village's current

obligation under Section 1(A) is to continue to make payments under any provision of the agreement but "only during the term of the agreement". The PBA opposes the foregoing limitation, demanding the deletion of the phrase in quotes.

The parties' proposals and counter-proposals, framed against the Village's obligation to retired employees, qua retirees, requires a disposition better left to the parties. Suffice to say that Section 1(B) provided employees with continued coverage, as retirees, if they retired on or prior to May 31, 1988, the expiration date of the predecessor agreement. To continue the Village's obligation by fixing a new retirement date beyond May 31, 1988, would, in effect, create a continuing obligation on the part of the Village to retired employees as a class.

Under the circumstances, the Panel determines to deny the PBA's demands with respect to any change in Sections 1(A) and 1(B), Article VIII, of the predecessor agreement. The Panel further determines that Section 1(A) shall remain as is and carried over into the successor agreement and that the phrase "Should for any reason, said State Plan become unavailable" be deleted from Section 1(B) and, except for the said deletion, the provisions of Section 1(B) shall be carried over into the successor agreement.

b) Optical Plan (New)

The PBA proposes to add a new Section 4 to Article VIII requiring the Village to provide an Optical Plan for employees and their families at the Village's sole cost or to reimburse the employee for optical related expenses.

The Panel has reviewed the data submitted and finds that such data lacks any comparable information as to other villages to form a conclusion imposing an additional and new cost burden upon the Village. Accordingly, the PBA demand for an employee Optical Plan to be fully funded by the Village, or reimbursable, is denied.

c) Dental Plan (Section 2, Article VIII)

Currently, the Village's Dental Plan provides a maximum of \$280, annually, per employee or his family, depending upon the employee's marital status. The dental plan is required to be approved by the Village.

The PBA proposes that the Village fund the full cost of a Dental Plan (or reimbursement) for "all dental work incurred by the employee and his family". (PBA petition).

The Village counter-proposes to increase its contribution to the Dental Plan from \$280 to \$300 effective June 1, 1989 and to \$315 effective June 1, 1990. The Village's coun-

ter-proposal equates to that granted to its firefighters and exceeds that granted to its C.S.E.A. unit members for the same time period. (\$255 for 1989 and \$285 for 1990). (Village Ex. 30).

The Panel determines that some improvement in the Village's counter-proposal is warranted.

Accordingly, the Village's contribution or payment to the Dental Plan shall be as follows:

\$300 effective June 1, 1988;

\$325 effective June 1, 1989.

d) Hospitalization and Health Coverage

Under Section 1 the Village currently pays the full cost of the present Empire State Plan. However, police officers hired on or after June 1, 1980 are required to pay 35% of the costs of the Plan until such time as newly hired police officers become Patrolman First Grade, i.e., after four years as a Patrolman.

The PBA proposes that the Village pay the full cost of the Empire State Plan for all police officers, including police officers from the date of hire.

The Village counter-proposes with a continuation of Section 1, including the obligation to pay 100% of the cost of

the Empire Plan after a police officer achieves first grade status as a Patrolman and 35% until that status is achieved. Further, in the event transfers occur from other police departments in Westchester County to Pelham Manor, the Village would have the transferees make contributions to the insurance plan for the first four years of employment with the Village. Further, the Village proposes that it be granted the right to switch insurance ~~plans~~ provided such new plan provides benefits at least comparable to those benefits being provided by the present health plan. The Village suggests that the foregoing proposal, if granted, should be exercised upon 30 calendar days' advance notice with a copy of the proposed plan to be submitted to the PBA for review. The Village's foregoing proposal is suggested as a new Section 1(D) to be added to Article VIII.

The data submitted by both sides indicates that some improvement is required so that the Village will contribute more than it now does to a health insurance plan without, however, disturbing the basic obligation of hirees and transferees making contributions to the plan.

In this respect, prior awards demonstrate that the principle of employee contribution is firmly established for new hirees throughout Westchester County. (Village Exs. 25, 37, 41 and PBA Ex. 46). Indeed, it may be noted that employee

contributions to health plans has proliferated since the dramatic increase in medical and hospitalization costs have made it financially difficult for many employers to absorb alone without some contribution from employees. As for other Village employee units, the firefighters contribute 50% to an insurance plan until they achieve top grade status after 4 years, and C.S.E.A. unit members contribute 50% for the first six years of employment. Transferees to both of those units must also make contributions to the insurance plan for the first four years of employment with the Village.

Accordingly, the Panel determines as follows:

1. Effective January 1, 1989, the employees will pay 25% of the cost of insurance premiums for individual coverage and 35% for family coverage on behalf of those police officers who have not achieved first grade status as of January 1, 1989. The Village thus will pay 75% and 65%, respectively, for individual and family coverage representing an improvement.
2. Transferees to the Pelham Manor Police Department will make the same contributions as above for the first four years of their employment with the Village.
3. Effective June 1, 1988, the Village shall have the right to designate a new health insurance *plan* provided

such new *plan* provides benefits at least comparable to those benefits being provided by the present health *plan*. . . In the event the Village does designate a new *plan*, the Village shall give the PBA 90 calendar days' advance notice, together with a copy of the proposed plan for review by the PBA.

Under Section 1(C) employees who are covered by an equal or better health insurance plan than the Empire Plan, effective December 1, 1987, have the option to decline or waive all or part of the Village's plan by notifying the Village on a Village form. The Village will then pay an employee, by December 15th of the same year the waiver notice was sent by the employee, either 20% of the premium costs the Village would have incurred in the preceding twelve months or the following amounts, whichever is smaller:

- | | |
|---------------------------------------|-------|
| (1) Single coverage declined/waived | \$250 |
| (2) Family coverage charged to Single | \$250 |
| (3) Family coverage declined/waived | \$500 |

Section 1(C) further provides that the employee may, upon written notice to the Village, resume coverage under the Village Plan by repaying a pro-rata portion of the cash previously received by the employee for the waiver.

The Village proposes to: (1) modify the language of Section 1(C), consistent with the modification in Section 1,

so that the waiver exercised by an employee may be from the Empire Plan "or a comparable health insurance plan designated by the Employer pursuant to Section 1(d) below"; and (2) to increase the amounts for the coverages set forth above from \$250 to \$400; from \$250 to \$400; and from \$500 to \$800, respectively.

The PBA proposes that the increased amounts proposed by the Village are inadequate and, instead, proposes that the Village pay the employee fifty (50%) percent of the premium cost the Village would have incurred during the 12 months beginning on December 1st absent the employee's declination and waiver of the Village's plan.

The Panel has reviewed the data submitted and finds that there is merit to the PBA's proposal. For example, an analysis of the same declination and waiver feature, applicable to the Village's other employee units, shows there is a need to improve the position of PBA unit members. For the coverages described above the firefighters are, following waivers sent to the Village, paid the sums of \$500/\$500/\$1,000, respectively, and C.S.E.A. unit members are paid \$450/\$450/\$900, respectively. Thus, the PBA unit members, compared to their Village coworkers, are placed in a lower position with respect to a potential benefit they may invoke to their advantage. By passing 50% of the premium paid by the Village, to the employee, it is estimated that the savings

to the police officers could be as high as \$950/\$950/\$1,200. This is a substantial difference from the amounts which may be paid to the police officers under the current arrangement and exceeds the increased amounts proposed by the Village.

Accordingly, the PBA proposal is granted and the Village proposal is denied. Effective December 1, 1988, Section 1(C) is amended as follows:

1. After the words "Empire Plan" in the first sentence there shall be added: "or a comparable health insurance plan designated by the Employer pursuant to Section 1(D) below".

2. Effective December 1, 1988, the Village will pay to an employee, who executes a declination and waiver in accordance with Section 1(C), 50% of the premium cost the Village would have incurred during the 12 months beginning on December 1st, absent such declination and waiver by the employee.

3. Except as so modified, as above, Section 1(C) shall remain the same in all respects.

The Village proposes to add a new Section 1(D), the purpose of which is to serve as an omnibus provision making plain the Village's right to switch health insurance *plans*: provided such new *plan* provides benefits at least comparable to the benefits being provided by the present health insurance *plan* and, further, provided the Village sends 90

days advance notice to the PBA together with a copy of the new proposed plan for review.

The Panel determines that the Village's proposal, for the reason given, is reasonable and, therefore, is granted, effective December 1, 1988.

6. Non-Economic Matters

a) Binding Arbitration (Article XVIII)

Under the predecessor agreement an unresolved grievance may be submitted to arbitration which is advisory only and not final and binding. (Section 5).

The PBA demands "binding" arbitration.

The Village does not, as such, object to binding arbitration if a procedural aspect which it deems essential is included; that is, a rotating panel of designated arbitrators for the term of the successor agreement as in the case of the firefighters' and C.S.E.A. unit members agreement. (Village Exs. 28 and 27, respectively). In this respect, the Village's position is that the number and composition of such panel members should be negotiated directly between the parties and thus reasonably assure a balanced panel.

The Panel is of the view that final and binding arbitration accords with the conventional process in the

resolution of contract disputes involving the interpretation and application of contract language, and whatever other dispute the parties may agree to submit for determination by neutral third parties. Under such circumstances the parties may agree to the formation of a rotating panel of arbitrators for the term of the contract.

Accordingly, the Panel determines that ^{effective June 1, 1988} Section 5, Article XVIII (Grievance Procedure) be amended so as to substitute the phrase "final and binding" in place and instead of "Advisory" on the third line of the first sentence and, as so amended, Section 5 shall be carried over and incorporated in the successor agreement, as is, provided, further, that the parties negotiate the number and composition of an arbitration panel whose members shall be designated by name and, likewise, be included in the successor agreement. The Panel determines that the grant of final and binding arbitration herein is subject and conditioned to the parties agreeing to an arbitration panel as hereinabove described.

b) Physical Examination (New, Article XVI, Section 3(A))

The Village proposes a new Section 3(A) to Article XVI which would authorize the Village, in its discretion, to schedule a physical examination once in every 12 months absent unusual circumstances, for any employee covered by the agreement. The contractual right, as aforesaid, would be in addition

to a public employer's rights under Section 72 of the Civil Service Law and Section 207(c) of the General Municipal Law. The proposal further requires that the employee who is examined must agree in advance to release the results of the examination. Should an employee be certified as not fit for duty as a result of the examination, the employee may be suspended subject to and in accordance with applicable laws.

The PBA opposes the proposed contractual provision, contending that the subject matter of physical examinations is adequately covered by applicable statutes.

Section 207-c of the General Municipal Law pertains to policemen applying to the employer for benefits (salary included), by reason of line of duty injury or illness in which case the statute permits the employer to subject the policeman to an examination by the employer's physician.

Section 72 of the Civil Service Law provides the mechanics by which an employee can be placed on an involuntary leave of absence "when in the judgment of an appointing authority an employee is unable to perform the duties of his or her position by reason of a disability other than a disability resulting from occupational injury or disease as defined in the workers' compensation law, the appointing authority may require such employee to undergo a medical examination to be conducted by a medical officer selected by the

civil service department or municipal commission having jurisdiction."

Obviously, both statutes, separately read, permit the employer to subject the policeman to a physical examination to determine his fitness to continue on duty whether the injury or illness is job related or not.

Under the circumstances there appears no need for a contractual mechanism when there are statutory supports for the physical examination of a policeman. The proposal submitted by the Village appears, in some respects, to relate to procedures applicable to a physical examination which, in the Panel's view, should be directly negotiated.

Accordingly, the Panel determines to deny the Village's proposal for a new section 3(A) to Article XVI.

In making the various determinations throughout this Award the Panel has also taken into consideration other economic benefits granted to PBA unit members under the predecessor agreement and which will be continued under the successor agreement. For example, the PBA unit members are granted unlimited sick leave which, while granted to nine other County villages, are not granted to police officers of 12 other villages whose sick leave days are limited. The value of unlimited sick leave is substantial, though its benefit is merited. Also, Pelham Manor is one of ten County villages that covers

its police officers with a life insurance policy whose face value (\$100,000) is one of the highest; twelve villages have no separate provision for life insurance. (Village Ex. 33). This, too, is a benefit to the police officers whose cost os borne solely by the Village.

Conclusion

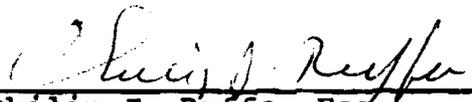
All other matters in the collective bargaining agreement, terminating May 31, 1988, whether or not addressed herein, disposed or submitted to the Panel, shall be carried over and incorporated into the successor agreement, effective June 1, 1988.

In rendering the several determinations herein, the Panel has made a good faith effort to understand and weigh the financial posture of the Village of Pelham Manor and the services rendered by its police officers to the Village. In this respect the Panel notes the testimony of the Police Commissioner expressing pride in the Village's Police Department and the job done by its police officers. The Panel has concluded that: (a) The Village does have the financial ability to pay the wage increases and other benefits herein granted; and (b) such wage increases and benefits constitute a just and reasonable determination of all issues submitted to the Panel based upon all of the facts and circumstances, supported by a rational

analysis of the data contained in the record.

The final note is that it is in the interest of the Village's taxpayers to have a well organized and properly motivated police force whose compensation meets the objectives of fairness, equity, justness and reasonableness.

Dated: November 28, 1988


Philip J. Ruffo, Esq.
Chairman, Public Member

Concurs:


Richard R. Blessing
Public Employer Member

Dissents:

Maureen McNamara, Esq.
Employee Organization Member

ACKNOWLEDGMENTS

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER) SS:

On this 28th day of November, 1988, before me personally appeared PHILIP J. RUFFO, to me known and known to me to be the Chairman, Public Member, described in and who executed the foregoing Panel's Determination and Basis for Findings and he duly acknowledged to me that he executed the same.

Mary T. Barnett
Notary Public

MARY T. BARNETT
Notary Public, State of New York
No. 4527482
County of Westchester
My Commission Expires ~~March 30, 1990~~
Dec 31, 1988

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER) SS:

On this 28th day of November, 1988, before me personally appeared RICHARD R. BLESSING, to me known and known to me to be the Public Employee Member described in and who executed the foregoing Panel's Determination and Basis for Findings, and he duly acknowledged to me that he executed the same.

Mary T. Barnett
Notary Public

MARY T. BARNETT
Notary Public, State of New York
No. 4527482
County of Westchester
My Commission Expires March 30, 1990
Dec 31, 1988

STATE OF NEW YORK)
) SS:
COUNTY OF WESTCHESTER)

On this 28th day of November, 1988, before me personally appeared MAUREEN McNAMARA, to me known and known to me to be the Employee Organization Member described in and who executed the foregoing Panel's Determination and Basis for Findings, and she duly acknowledged to me that she executed the same.

Notary Public

CONFIDENTIAL

SUMMARY OF AWARD

Having concluded that the Village of Pelham Manor has the financial ability to pay the wage increases and benefits determined to be just and reasonable, set forth below is a summary of the Award regarding matters addressed and determined by the Panel:

1. Term of Contract: Two (2) years, from June 1, 1988 to May 31, 1990.

2. Wages:

a) Patrolman: 6% effective June 1, 1988 over and above the wage in effect on June 1, 1987; and 5.5% effective June 1, 1989 over and above the wage in effect on June 1, 1988.

b) Starting Salary: 6% effective June 1, 1988 for a Patrolman hired after June 1, 1987 and a freeze of ^{starting} salary during the second year of the agreement commencing June 1, 1989.

c) Rank Differentials:

1. Sergeant: Same percentage increases as Patrolman on same dates plus \$300 as part of base pay on June 1, 1988, and \$300 as part of base pay on June 1, 1989.

2. Sergeant Detective: Same percentage

increase as Sergeant on the same dates plus \$300 as part of base pay on June 1, 1988, and \$300 as part of base pay on June 1, 1989.

3. Patrolman Detective: Same percentage increase as Patrolman on the same dates plus \$300 as part of base pay on June 1, 1988 and \$300 as part of base pay on June 1, 1989.

4. Desk Officers: PBA proposal for 5% wage differential above Patrolman is denied.

(All computations, including salaries fixed on effective dates of increases, appear in text of Award).

d. Night Shift Differential: PBA proposal for night shift differential is denied.

e. Longevity: Effective June 1, 1988 increase from \$925 to \$1,000 after 20 years of completed service and in all other respects the present longevity schedule and benefits to remain the same. Also, longevity payments are ~~not~~ to be included as part of annual base salary for the purpose of determining holiday pay or "super-holiday" pay. Two-tiered longevity structure ^{proposed by Village} is not granted.

f. Termination Pay: No change in the present provision for termination pay.

g. Attendance Bonus: Village's proposal for attendance bonus, as an incentive for good job attendance is granted. Effective January 1, 1989, \$400 is granted if no sick days are taken and \$200 is granted if one (1) sick day is taken. Bonus payable on or prior to January 15th of the succeeding year.

3. Work Schedule: Present work year of 255.7 days remains the same for the term of the successor agreement.

4. Paid Time Leaves and Fringes:

a. Personal Days: No change in present five (5) personal leave days.

b. Vacations: Effective January 1, 1990, the present vacation schedule of benefits increased to an average of one (1) day depending on years of service and the two-tier vacation structure is eliminated. Also, the additional four (4) vacation ~~days~~ granted to Sergeants, in recognition of rank, will remain in the successor agreement. Further, police officers with less than one (1) year of service entitled to a pro-rata number of days.

(Vacation structure and days granted for completed service, from one (1) to eighteen (18) years, appear in text of Award).

c. Bereavement Days: Effective January 1, 1989, bereavement days increased from three (3) to four (4) days.

d. Holidays: Present thirteen (13) holidays remain. PBA proposal to increase and Village's counter-proposal to decrease is denied.

e. Super Holidays: Effective June 1, 1989 super holidays increased from 4 to 5 days. Village has right to schedule ^{the fifth} super holiday on any day presently designated a holiday.

f. Cleaning Allowance: Uniform cleaning and maintenance allowance introduced as a new benefit. Effective January 1, 1989 the sum of \$75 granted annually and increased another \$25 effective January 1, 1990.

5. Health and Hospitalization

a. Health Insurance (Retirees). The Village's obligation, under Sections 1(A) and (B) of Article VIII of the predecessor agreement, to employees who retire during the term of the predecessor agreement, on or prior to May 31, 1988, shall continue in the successor agreement of the same rate of contributions by the Village for individual and family coverage. Further, the phrase "should for any reason, said State plan become unavailable" is to be deleted from Section 1(B).

b. Optical Plan: Not granted.

c. Dental Plan: Effective June 1, 1988, Village's payment to Dental Plan increased from \$280 to \$300 and to \$325 effective June 1, 1989.

d. Hospitalization and Health Coverage:

Effective January 1, 1989, the employees will pay 25% and 35% for individual and family coverage, respectively, representing an improvement over the prior 35% payment for individual coverage. Such payments are to be made by employees for a period of 4 years after hire or after transfer from another police department to the Pelham Manor Police Department. Also, effective June 1, 1988, the Village has the right to designate a new health insurance *plan*, whose benefits are at least comparable, upon 90 days notice to the PBA together with a copy of the proposed plan for PBA review.

Further, Section 1(C) is amended so that, effective December 1, 1988, language is introduced granting the Village the right to designate a comparable insurance *plan*. Further, whatever saving is derived by the Village as a result of an employee declining and waiving coverage under the Village's plan shall be passed on to the employee at the rate of 50% of such saving which is what the PBA proposed.

In all other respects, Section 1(C) remains the same.

Section 1(D) is also added to Article VIII granting the Village the right to switch health insurance *plans* whose benefits are at least comparable to the present carrier on 90 days' notice to the PBA together with a copy of

the new proposed plan for PBA review. Section 1(D) serves as an omnibus provision regarding the Village's right to switch *plans* under the limitations described.

6. Non-Economic Matters:

a. Binding Arbitration: Granted provided the parties negotiate and agree on a rotating panel of arbitrators. *Effective June 1, 1988*

b. Physical Examination: Proposed by the Village. Not granted. Section 207-c of the General Municipal Law, pertaining solely to police officers with respect to line of duty injury or illness, and Section 72 of the Civil Service Law, pertaining to employees generally, with respect to disability resulting from non-related job injury or disease, are adequate statutory authorizations granting public employers the right to subject employees to physical examinations. Section 72, CSL, authorizes such examination "when in the judgment of an appointing authority an employee is unable to perform the duties" of the employee's position.

Under the circumstances a contractual provision is unnecessary.

All other matters in the collective bargaining agreement terminating May 31, 1988, whether addressed or not, as well as matters not herein addressed, disposed or submitted to

the Panel are to be carried over and incorporated into the successor collective bargaining agreement, effective June 1, 1988.

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

-between-

VILLAGE OF PELHAM MANOR,

Public Employer,

-and-

POLICE BENEVOLENT ASSOCIATION OF
PELHAM MANOR, INC.,

Employee Organization,

EMPLOYEE PANEL MEMBER
DISSENTING OPINION

Case Nos. IA88-14;
M88-043

Pursuant to Section 209.4(c) of the Civil
Service Law.
-----X

Section 209 of the Taylor Law provides for a three member public arbitration panel and clearly intends that each of the three members of the public arbitration panel have, at the very least, the right to input into the determination. At the very least, it intends that the Chairman, as the intended neutral, allow each of the other members of the panel the opportunity to express their opinions and listen to the opinions of the other panel members prior to the Chairman closing his mind on the issues in dispute.

There was no deliberation by this public arbitration panel. Instead, the Chairman of the Panel scheduled a sham "Executive Session" for November 28, 1988. Without any prior deliberations or discussions among the panel members, immediately upon the commencement of the "Executive Session" the Chairman handed me, as the employee panel member, a folder. In the folder was a letter signed

by the Chairman dated the same date, November 28, 1988, addressed to the representatives of the parties, a copy of which is attached hereto. In the letter the Chairman wrote to the parties' representatives: "Copies of the Award have been received by Mr. Richard R. Blessing, the Employer Panel Member, and Maureen McNamara, Esq., the Employee Organization Panel Member whose dissent to the Award has been noted.

Further, a copy of the Award has been forwarded to the New York State Public Employment Relations Board, Albany, New York.

Also enclosed is my bill for services rendered."

The Chairman wrote this letter prior to my ever having seen the "Award" or ever having the opportunity to discuss the issues in dispute with either the Chairman or the Public Employer Member.

Also in the folder handed to me by the Chairman was the attached "Panel's Determination and Basis for Findings" ("Award").

On page 3 of the "Award", prior to the "Executive Session", and prior to my having ever seen this document, the Chairman had already written:

"... Subsequent to the close of the hearings the Panel met in Executive Session on November 28, 1988 for the purpose of discussing and deliberating all of the issues in the record presented to the Panel for determination.

After due consideration and deliberation of all of the evidence in the entire record, including the documents, exhibits and arguments presented, the Panel's determinations, as hereinafter set forth, are concurred in by a majority vote of its members, i.e., the employer organization member and the Chairman."

Those words of the Chairman, designed to allege that this Panel complied with its obligations, were false. The Award was

written by the Chairman prior to any deliberations: the Chairman made it clear from the commencement of the "Executive Session" that his determination was already final, and would not be changed unless the Employer Panel member refused to sign his Award.

As the Award was originally presented to me, Page 54 indicates "Concurs: Richard R. Blessing, Public Employer Member" and "Dissents: Maureen McNamara, Esq., Employee Organization Member".

After I had merely looked at the front page of the "Summary of Award" document also handed to me by the Panel Chairman, I told the Chairman that I hoped that he was open to reconsideration of this document and the Chairman indicated that since he had spent a lot of time on it, he considered it final. He told me he didn't want to start "nitpicking" through the Award. The Chairman obviously had the intent of merely coming to the executive session to collect the Employer Panel Member's signature. In fact, one of his first actions was to ask the Employer Panel member whether there was a notary available to notarize the signatures on the Award.

Nevertheless, I persisted in attempting to have the Chairman act as a neutral and actually deliberate in the manner intended by the Legislature when it mandated three member arbitration panels. I pointed out obvious factual errors in the Panel's Award. For example, on page 14 of the Award, the Chairman wrote "... the Panel's view is that the starting salary of a Pelham Manor Patrolman should be placed in comparative perspective with his colleagues in other villages." The Chairman then proceeded to take the extra-

ordinary step of awarding a freeze of the 5th grade (starting salary) for an entire year based on the premise that the starting salary in Pelham Manor were much higher and not comparable to the other Villages' starting salaries. However, in fact, this view is not supported by any evidence in the record. In our discussions, it became apparent that the Chairman misread Village Exhibit 26B and did not realize it was to be read in conjunction with Village Exhibit 26A. In Village Exhibit 26B, the salaries listed under the 1987 column were the 1986-87 salaries and the salaries listed under the 1988 column were the 1987-88 salaries. This information was shown by the expiration dates on Exhibit 26A. When read correctly, the Village exhibits, in fact, showed that the Pelham Manor fifth grade officers were paid a below average salary. Exhibit 26B indicates that in 1987-88, Briarcliff Manor police were earning \$27,669, Bronxville \$22,000, Croton \$20,721, Dobbs Ferry \$18,500, Elmsford \$20,630, Larchmont \$25,000, Tuckahoe \$22,370, Pleasantville \$21,534, and the same chart shows other municipalities for which 1987-88 salaries were not listed but listed salaries for the previous year (1986-7) that were already substantially higher than Pelham Manor's, including Buchanan's starting salary of \$31,267, Irvington's salary of \$25,652, Rye Brook's salary of \$22,689. The Pelham contract showed a 12/1/87 salary of \$22,687 and the 12/1/88 salary of \$24,048 (see Village Exhibit 38). Pelham Manor's starting salary for 1987-8 was \$21,500, substantially below many of the other departments.

Even after the Chairman acknowledged he had misread the exhibits, and thus his stated justification for freezing the fifth grade salary was based on his failing to accurately read the exhibits, he remained steadfast in his refusal to reconsider his determination, even though his conclusions were unsupported in the record.

The Chairman, instead of deciding to make a fair determination on the issue, told me that the starting salaries were not a main concern. The Employer member, who had remained silent through most of the discussions, then stated that if starting salaries became non-competitive, the Village would change them. The Chairman and the Employer member both signed the award knowing that the "factual" basis stated in the award for the starting salaries was not "factual". The Taylor Law gives the employee organization the right to have the public arbitration panel make a fair and just award on the issues in dispute. An assertion by the Employer Panel member, who is the Village Administrator, that the Village might voluntarily make salary changes in the future is not a substitute for a fair and just determination by the Panel of the issues.

The Award issued by the Chairman was irrational in its evaluation of the evidence, made inaccurate "factual" assertions and was contradictory within itself. I was not afforded the opportunity for a meaningful discussion regarding any of the issues with the other members of the Panel and I will cite, as examples, a few of the problems with the Award.

Wages

Throughout the Award, the Chairman repeatedly refers to the Pelham Manor Fire and CSEA agreements to support the Village's position, without realistically citing the contracts. In fact, the fire fighter's contract was a three year package with the third year being the highest raise. The fire salaries increased 21.4% over the three years, or an average of over 7% a year when a compounding factor is considered.

The Chairman's granting of 6.0% and 5.5% for a two year package is thus not a fair and equitable reflection of the fire fighters salary increase.

Personal Leave

In denying the PBA's request for an additional personal leave day (pages 28-29), the Chairman again compares the police to the fire fighter's contract, noting that the fire fighters are granted three personal leave days. But the average length of the fire fighters workday is 12 hours. By having three personal leave days, the fire fighters thereby receive about 36 hours of time off per year, and will receive 42 hours off if all are used on the night shift. The PBA made a thorough presentation on the fire fighter's work schedule. The presentation was at night and the Chairman appeared to be getting sleepy. Unfortunately, he failed to deliberate with the other panel members and thus had no opportunity to have his memory refreshed. Had he done so; a fair and equitable settlement in this case may have evolved.

Vacation

In analyzing the vacation schedule, the Chairman also notes that the Village points to the fact that the PBA vacation exceeds the vacation benefits agreed to between the Village and the other employee units. Yet, the Chairman ignores the fact that when the Village representative presented his chart, (Village Exhibit 30), he acknowledged that to get a fair comparison to the police vacation schedule, the fire fighter's schedule on Exhibit 30 would have to be multiplied by one and one-half to get the equivalent time off. Thus, Village Exhibit 30, page 2, indicates that in fact the fire fighters in Pelham Manor often receive greater vacation than the PBA members. For example, in the 15th year, the fire contract provides 18 days, which when multiplied by the one and one-half factor is the equivalent of 24 police work days off and yet the police officers in their fifteenth year receive only 22 days. The Chairman apparently forgets the presentation of both the Village and PBA representatives in which the fire department's working hours and work chart was discussed. Since the Chairman refused to have any Panel deliberations, prior to his writing his award, he did not enjoy the benefit of the other Panel members reminding him of the evidence.

Cleaning Allowance

Again, the Chairman misconstrues the evidence. He states on page 39 of the Award "According to the PBA, none of the jurisdictions, including cities, towns and villages within Westchester County, grant any allowance for uniform replacement and maintenance

which approximates the actual cost to the police officers." In fact, quite to the contrary is true. The irrefutable fact is that there are some departments which pay 100% of the cost of uniforms and maintenance.

To quote from the PBA's Hearing Memorandum, "Some departments in Westchester County provide the total cost of the initial uniforms, replacements and cleaning, and even provide an allowance for shoes. Other departments bear the total expense of uniform purchase and replacement and provide a separate cleaning allowance to the officers. A chart showing the provisions for uniforms is in the Appendix on page A79. However, the dollar amounts on the charts must be evaluated together with the other provisions, such as whether the municipality provides the cleaning or replacement of the uniforms, in order to draw an apples to apples comparison." (Page 26 of PBA's Hearing Memorandum).

On page 38 of the Award, the Chairman writes "The Village's data shows that out of 22 County villages, Pelham Manor would rank ninth with a combined total cost of \$450, including uniform replacement and cleaning and maintenance. Five villages provide no uniform replacement allowance. Seven villages provide no uniform allowance maintenance." In fact, when the representative of the Village presented Village Exhibit 23, he acknowledged that the five villages which Village Exhibit 23 shows as providing no uniform replacement allowance, in fact, pay 100% of the entire cost of uniform replacement. Likewise some of the villages which do not provide a uniform

allowance for maintenance, in fact pay the entire cost of the cleaning service. For the Chairman to take the position that when a Village pays the entire cost of replacing or maintaining uniforms, it should be considered as representing a zero dollar benefit to the employee is the height of irrationality and is completely contrary to any and all evidence submitted at the hearing.

Hospitalization and Health Coverage

On page 44, the Chairman writes "In this respect, prior awards demonstrate that the principle of employee contribution is firmly established for new hirees throughout Westchester County." Village Exhibit 25 indicated that only 4 of the other 21 villages in Westchester County require contributions to health insurance. One can hardly rationally assert that the principle of employee contributions is firmly established when it exists in only a small minority of villages.

Additionally, the Chairman awarded that transferees to the Pelham Manor Police Department will make contributions during their first 4 years of employment with the Village. However, in my opinion, this part of the Award is illegal and in violation of the Westchester County Police Act.

Binding Arbitration

The Award provides for binding arbitration but makes it "subject and conditioned to the parties agreeing to an arbitration panel and as here and above described". Such an award is incomplete and irrational.

The matters discussed above are just a few examples of the numerous inaccuracies and irrational conclusions that form this Award.

This Award of the Public Arbitration Panel has been issued in violation of the statutory criteria. Section 209(4)(v) of the Civil Service Law provides: "The public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at its determination the panel shall specify the basis for its findings ..."

There was no panel deliberation prior to the Chairman's writing this Award. The Chairman made it clear that he had reached his Final Determination prior to meeting with the Panel, without in any way discussing the issues with me as the employee organization member. When the Chairman handed me the folder at the commencement of the "Executive Session", the folder also contained his bill for services (copy attached). The Chairman's bill included "Study, Analysis of Record, Research, Drafting Panel Determination in Final Form: November 12, 14, 15, 16 and 17, 1988." [emphasis added].

The Chairman drafted the Award in "final form" without ever meeting or discussing the issues with the Panel - in violation of the rights of the parties to a fair and equitable determination of the issues by an arbitration panel.

The Chairman arrived at the Panel meeting with a finished document which stated flat out that "The Panel's determinations ... are concurred in by a majority vote of its members, i.e., the

employer organization member and the Chairman". How could the neutral panel member have known prior to the first panel meeting that the employer member would concur in the award? No discussion whatsoever took place in my presence which would have given the Chairman, or anyone else for that matter, any inkling that the employer member would concur. The wording of the award gives every appearance that bilateral discussions took place between the Chairman and the employer member to the complete and illegal exclusion of the employee member.

Maureen McNamara
MAUREEN MCNAMARA,
EMPLOYEE ORGANIZATION PANEL MEMBER

State of New York) ss:
County of Rockland)

On this 21st day of January 1989, before me came Maureen McNamara to me known to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.

LINDA HOPPENTHALER
Notary Public, State of New York
No. 4838549
Qualified In Rockland County
Commission Expires March 30, 1989
May 31

Linda Hoppenthaler
Notary Public