

STATE OF NEW YORK PUBLIC EMPLOYMENT RELATIONS BOARD

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In The Matter of The Interest Arbitration Between  
NORTH GREENBUSH POLICE BENEVOLENT ASSOCIATION  
AND  
THE TOWN OF NORTH GREENBUSH  
PERB Case No. IA2003-010; M2002-284  
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FINAL AND BINDING  
OPINION AND AWARD  
OF TRIPARTITE  
ARBITRATION PANEL

The Public Arbitration Panel members are:

PUBLIC PANEL MEMBER AND CHAIRPERSON:

Peter A. Prosper  
P. O. Box 520  
Guilderland, New York 12084

PUBLIC EMPLOYEE PANEL MEMBER:

Richard Stevens, Staff Director  
Council 82, New York State Law Enforcement  
Officers Union, AFSCME, AFL-CIO  
63 Colvin Avenue  
Albany, New York 12206

PUBLIC EMPLOYER PANEL MEMBER:

Elayne G. Gold, Esq.  
Roemer Wallens & Mineaux, LLP  
13 Columbia Circle  
Albany, New York 12203

APPEARANCES: For the North Greenbush Police Benevolent Association

Kevin Casey, Esq.  
Maria B. Morris, Esq.  
Council 66, AFSCME  
63 Colvin Avenue  
Albany, New York 12206

For the Town of North Greenbush

Dionne A. Wheatley, Esq.  
Roemer Wallens & Mineaux, LLP  
13 Columbia Circle  
Albany, New York

NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD  
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COUNSEL

Pursuant to the provisions of Civil Service Law, Section 209.4, Richard A. Curreri, Esq., Director of Conciliation of the New York State Public Employment Relations Board, designated the undersigned on August 4, 2004, as the Public Arbitration Panel for the purpose of making a just and reasonable determination on the matters in dispute between the Town of North Greenbush ("Town") and the North Greenbush Police Benevolent Association ("Association"). The prior Collective Bargaining Agreement between the parties covered the period from January 1, 2000 through December 31, 2002. Although the Agreement expired, it remains in full force and effect pending this Award.

The Town of North Greenbush is in Rensselaer County and has a population of 10,805 as of the 2000 census. The Town Police Department has 20 employees excluding the Chief. The Department operates twenty-four hours per day. Department employees work eight hours per day during a five-day work week among the three shifts. The Unit contains three full-time Police Officer Sergeants, eleven full-time Police Officers, one part-time Police Officer, two full-time Dispatchers and three part-time Dispatchers.

The Town has one other bargaining unit of highway workers represented by the Civil Service Employees Association.

The parties commenced negotiations for a successor agreement on November 6, 2002, and met on several occasions, but were unable to reach agreement, whereupon impasse was declared by the Association on February 10, 2003. The Public Employment relations Board appointed a mediator who met with the parties. When mediation did not result in resolution of the parties' differences, a petition for Compulsory Interest Arbitration was filed by the Association on June 24, 2004. The Town filed its response on July 11, 2004. A hearing was held in North Greenbush, New York on

May 19, 2004, at which all parties were provided opportunity to introduce evidence, present testimony, summon witnesses, cross-examine witnesses, and otherwise support their respective positions on the outstanding issues. The parties filed post hearing briefs which were received in a timely manner on or about July 12, 2004.

All issues which have attendant support submitted by each party were carefully considered, as well as the responses by the opposing party. The Public Arbitration Panel met in executive session on August 19, 2004, September 1, 2004, and November 3, 2004, and deliberated on each of the outstanding issues, carefully and fully considering all the data, exhibits, briefs and testimony of the sworn witnesses who appeared on behalf of both parties. The results of those deliberations are contained in this OPINION AND AWARD, which constitutes the Panel's best judgment as to a just and reasonable solution of the impasse. Those issues presented by the parties that are not contained in this OPINION AND AWARD were also carefully considered by the Public Arbitration Panel, but are remanded back to the parties for further negotiation, and therefore no Award is made on those matters. For each issue, the discussion below presents the positions of the parties and the Panel's analysis and conclusion. The Public Arbitration Panel considered the impact of each item upon the whole, and made its judgment concerning the combination of items that would provide a just and reasonable result for all parties.

In arriving at the determination contained herein, the Public Arbitration Panel has considered the following statutory guidelines with which it was charged by Section 209.4:

- (v) The public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant 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.
- (vi) The determination of the public arbitration panel shall be final and binding upon the parties for the period prescribed by the panel, but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement then for a period not to exceed two years from the date of determination by the panel. Such determination shall not be subject to the approval of any local legislative body or other municipal authority.

## THE ISSUES

The Issues submitted by the Association areas follows:

1) PBA Proposal No. 1:

**Wages.**

Substantial increase one (1) or two (2) year contract.

2) PBA Proposal No 2:

**Shift Differential.**

\$.90 - A Tour, 11:00 p.m. to 7:00 am.

\$.75 - C Tour, 3:00 p.m. to 11:00 p.m.

3) PBA Proposal No.3:

**Quarterly Sick Leave Incentive.**

January	to	March	\$350.00
April	to	June	\$350.00
July	to	September	\$350.00
October	to	December	\$350.00

4) PBA Proposal No. 4:

**Uniform Allowance**

Increase by: \$400 for full-time police

Increase by: \$200 for part-time police

Increase by: \$200 full-time dispatcher

Increase by: \$100 part-time dispatcher

5) PBA Proposal No. 14:

**Sergeants On-call Pay**

\$25.00 per day

6) PBA Proposal No. 17:

**College Incentive Funding**

Increase to \$10,000 per year.

7) PBA Proposal No. 18:

**Sergeants Pay**

Sergeants increase:

Start -	\$6,000
3 years-	\$8,000
6 years -	\$10,000
10 years -	\$12,000

8) PBA Proposal No. 19:

**Longevity**

Full-time, \$500 increase each year  
Part-time, \$350 increase each year

9) PBA Proposal No. 25:

**Health Insurance in Retirement**

Paragraph F, first line, change "20" to "10" on page 20.

The Town of North Greenbush's proposals are as follows:

1) Town Proposal No. 4:

**Article II**

“Definitions.” Section 11, "Grievance" shall be amended to read as follows:

A grievance is defined as an alleged violation or misinterpretation of the provisions of this Agreement.

2) Town Proposal No. 5:

**Article V**

"Association Dues" shall be amended by adding a hold harmless clause to read as follows:

The PBA will indemnify and save the Town harmless against any and all claims, demands, suits, or other forms of liability that may arise out of or by reason of action taken or not taken by the Town in reliance upon dues deduction authorization cards furnished by the employees, and/or PBA with respect to Dues deductions as detailed in this Article V.

3) Town Proposal No. 6:

**Article VI**

Management Rights and Responsibilities"

The Parties should attempt to clean up the language found in Paragraphs A and A(1) such that the specifics of the seniority list should be in a separate seniority section and the specifics concerning the use of part-time officers should likewise be in a section entitled "Part-time Police Officers"

4) Town Proposal No. 7:

**Article IX**

"Grievance Procedure" Section A (second unnumbered paragraph) (p.10) shall be discussed as to its intent.

5) Town Proposal No. 8:

**Article IX**

"Grievance Procedure" shall be amended by deleting the step of the Procedure which is heard before the Police Commission and, thereafter, re-designating all of the stages of the procedure.

6) Town Proposal No. 10:

**Article X**

"Work Time," Section A 2 (p. 12) shall be amended to be consistent with Article VI, Section A.1 (d) found at p. 7 and should read as follows:

No employee may work more than sixteen (16) continuous hours. After working sixteen (16) continuous hours, an employee must have an 8-hour rest period before receiving any further assignments. However, in the event there is a catastrophe, (as determined by the Chief of Police or Town Board), the Chief may order any person to work more than sixteen (16) hours during any period.

7) Town Proposal No. 12:

**Article X**

"Work Time." Section D, "Overtime," paragraph 2. a shall be amended by reducing the compensatory time accumulation cap to 60 hours.

8) Town Proposal No. 13:

**Article XIII**

"Earned Vacation," paragraph A (p. 16) shall be amended as follows:

All full-time employees hired after January 1, 2003 shall accrue vacation from the employee's first date of appointment, as follows:

Full-time EmployeesVacation Time Due

1-3 years of service  
 4- 10 years of service  
 11-15 years of service  
 16 or more years of service

1 week (5 days)  
 2 weeks (10 days)  
 3 weeks (15 days)  
 4 weeks (20 days)

9) Town Proposal No. 14:**Article XV**

"Health, Medical and Dental Insurance," shall be amended at paragraph F such that anyone hired after January 1, 2003, will not be entitled to Health Insurance upon retirement.

10) Town Proposal No. 15**Article XVIII**

"Training and Education," shall be amended such that the Chief of Police may alter an employee's schedule for training purposes.

11) Town Proposal No. 16:**Article XIX**

"Responsibility, Liability and Indemnification," shall be amended at Sections A and B to specifically note that employees will be indemnified and held harmless provided that the employees act within the scope of employment and participates in any defense set up by the Town.

12) Town Proposal No. 17:

The Agreement shall be amended by adding a new Article entitled "Policy and Procedure for the Implementation of General Municipal Law §207-c" to read as follows:

**Procedure for the Implementation  
of General Municipal Law, Section 207-c**

**Section 1. INTENT**

- (a) In order to insure that determinations arising by virtue of the administration of the provisions of Section 207-c of the General Municipal Law satisfy the interest of those potentially eligible for its benefit, the Town of North Greenbush, and the public, the following procedure shall be utilized to make determinations in regard to benefits authorized by section 207-c.
- (b) This procedure is intended to be a supplement to the express language of Section 207-c of the General Municipal Law and is not intended to reduce any benefits pursuant to Section 207-c of the General Municipal Law.
- (c) The term "Officer," as used herein, shall include all full-time sworn members of the Police Department who perform police duties.

**Section 2 NOTICE OF DISABILITY OR NEED FOR MEDICAL OR HOSPITAL TREATMENT**

- (a) An Officer who claims a right to benefits under Section 207-c of the General Municipal Law, either because of illness or injury or the recurrence of a prior illness or injury, shall make, personally or through his representative, written notice and application for those benefits to the Chief, or his designee, within ten (10) working days of when the Officer reasonably should have known that the illness or injury would give rise to the claim on the form which is made a part of this procedure. The ten (10) working day period can be excused for good cause shown.
- (b) The Officer shall provide authorization for the Town to obtain copies of his medical records for treatment from his treating physician or other health care provider and relating to the injury or illness giving rise to the disability and the body part involved and the Town will provide the Officer, without cost, a copy of the records and reports produced by any physicians or other experts who examine the Officer on behalf of the Town.
- (c) Confidentiality

Medical authorizations and/or medical records provided by the Officer or the Officer's treating and/or Town's examining physician shall be used solely by the Town to carry out its rights and obligations under GML 207-c, administering the contractual 207-c procedures, or where release is authorized by law. Such authorization and/or medical records shall be kept

and maintained strictly confidential and shall not be disclosed to or discussed with any persons other than the Chief and other persons involved' in and responsible [or making, or assisting in the making, and/or litigating determinations of eligibility for GML 207-c benefits. Toward that end, such records and/or documentation shall be placed in a sealed envelope, delivered to the Chief and maintained in a medical file which is separate and distinct from the Officer's personnel file and located in a separate locked cabinet. If necessary in order to make a determination as to eligibility for 207-c benefits or return to light or full duty, the Chief may examine the medical records and/or documentation received; however, such inspection shall be conducted in private and outside the presence of other police department personnel.

### Section 3. STATUS PENDING DETERMINATION OF ELIGIBILITY FOR BENEFITS

- (a) The Officer shall be placed on sick leave pending determination of his eligibility for Section 207-c benefits. The determination shall be made within the time provided in Section 4 of this procedure. If the Officer has no available sick leave he may use vacation, personal leave, or compensatory time to remain on the payroll. In the event that a timely determination is not made, the Officer shall be continued in pay status until a determination is made. Time spent on the payroll beyond the initial date for making a determination shall not be charged to the employee if it is determined that he is ineligible for the 207-c benefit.
- (b) In the event that it is determined that the Officer is entitled to Section 207-c benefits, the Town shall credit back to him all leave which he expended prior to the determination.
- (c) In the event that it is determined that the Officer is not entitled to Section 207-c benefits, he will be permitted to use accrued sick leave, vacation, personal leave, and compensatory time provided he remains medically unable to perform the duties of his position.

### Section 4. BENEFIT DETERMINATIONS

- (a) The town shall, promptly review an Officer's application for Section 207-c benefits and shall determine his eligibility within fifteen (15) working days after the Chief receives the application.
- (b) In determining the application the Town may require a more detailed statement from the Officer than that contained on the application. The Town may take statements from witnesses and may send the Officer to a physician or physicians of its choice for examination at the Town's expense.

- (c) The determination of the Chief will be made in writing to the Officer, setting forth the basis for the determination. In the event that the application is denied, the Town will simultaneously provide the Officer, without cost, a copy of all medical information produced or acquired by it in connection with the Officer's application and determination for Section 207-c benefits. The Town will continue to provide the Officer with additional medical information subsequently produced or required.

#### Section 5.

As authorized by the provisions of Subdivision 3 of Section 207-c. the Department, acting through the Chief or the Chief's designee, may assign a disabled Officer specific light duties, consistent with his/her status as an Officer. The Chief, or the Chief's designee, prior to making a light duty assignment, shall advise the Officer receiving benefits under Section 207-c that his/her ability to perform a light duty assignment is being reviewed. Such an Officer may submit to the Chief or the Chief's designee, any document or other evidence in regard to the extent of his/her disability. The Chief, or the Chief's designee, may cause a medical examination or examinations of the Officer, to be made at the expense of the Employer. The physician selected shall be provided with the list of types of duties and activities associated with a proposed light duty assignment and shall make an evaluation as to the ability of the disabled Officer to perform certain duties or activities, given the nature and extent of the disability. Upon review of the medical assessment of the Officer's ability to perform a proposed light duty assignment and other pertinent information, the Chief or the Chief's designee, may make a light duty assignment consistent with medical opinion and such other information as he or she may possess. An Officer ordered to light duty shall be provided with a copy of the detailed light duty statement and the medical report supporting the order to light duty. Further, if an officer is ordered to light duty and he/she fails to provide medical documentation contesting said light duty, his/her benefits will cease until a determination is made pursuant to Section 7 of this procedure with regard to the Officer's physical ability to perform the light duty assignment. In the event the Officer provides medical documentation to contest the light duty order, the benefits of 207 will continue until a hearing, pursuant to Section 7 of this procedure is held. It is understood that assignment to light duty is in the nature of a "make work" assignment and that an Officer so assigned does not have any entitlement to a continued light duty assignment for an indefinite duration of time.

#### Section 6. TERMINATION OF BENEFITS

- (a) Salary or wages provided by Section 207-c of the General Municipal Law shall terminate upon the employee being retired pursuant to a service retirement, an accidental disability retirement, or a performance of duty disability retirement, as set forth in the Retirement and Social Security Law.

(b) Any other termination will be subject to review pursuant to Section 7 of this Procedure.

#### Section 7. DISPUTE RESOLUTION PROCEDURE

In the event that the Town denies an application for Section 207-c benefits, seeks to discontinue Section 207-c benefits, or there is a dispute about whether an Officer is capable of performing a specific light duty assignment, the matter will be submitted directly to an arbitrator mutually selected by the parties. In the event the parties cannot agree, the matter will be submitted to PERB and the parties agree to use PERB's arbitration procedure. The party seeking to utilize this Dispute Resolution Procedure shall forward to the other the Demand for Arbitration. The determination of the arbitrator shall be final and binding on the Town and the Officer, but shall not preclude further review at a subsequent date based upon new or supplemental medical or other information. The parties will divide the cost of the arbitration equally.

#### Section 8. DISABILITY RETIREMENT

Consistent with Section 207-c, the Town may file an application on the Officer's behalf or retirement under Sections 363 or 363-c of the New York State Retirement and Social Security Law.

#### Section 9. CONTINUATION OF CONTRACT BENEFITS

While on leave pursuant to Section 207 -c. for a period of three (3) months or less, an Officer shall continue to accrue all economic fringe benefits (i.e., holiday pay, clothing allowance, leave accruals, etc.) provided by the Collective Bargaining Agreement. After three (3) months in any calendar year or continuous period of time, the Officer receiving 207-c benefits shall be entitled only to the payment of salary, longevity and health insurance,

APPENDIX

Medical Release

I do hereby authorize any physician, nurse, or other health care provider who has attended, examined or treated me in connection with injuries or illness sustained or incurred on or in connection with an incident occurring on or in connection with any prior treatment or care for previous injuries to the same body parts which were injured in such incident, or any hospital at which I have been examined or treated in connection with such injury or illness, to furnish the Town of North Greenbush, information which may be requested regarding treatment rendered for such injuries or illness and the body part involved.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Printed name of Officer

\_\_\_\_\_  
Date

Date of Incident: \_\_\_\_\_

Body Part Affected: \_\_\_\_\_

New York State Policemen's &  
Firemen's Retirement System  
Governor Smith State Office Building  
Albany, New York 12244

To: The Comptroller of the State of New York

In compliance with Section 363 and Section 363-c of the Retirement Law instructing me to notify your department of any and all injuries sustained in the line of duty as a member of the Town of North Greenbush Police Department, I hereby submit the following report:

\_\_\_\_\_  
Name of injured Police Officer

\_\_\_\_\_  
Registration Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date of Incident

\_\_\_\_\_  
Time of Incident

\_\_\_\_\_  
Description of injury

\_\_\_\_\_  
Medical care required

\_\_\_\_\_  
Remarks

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Witness to injury

\_\_\_\_\_  
Date

**Town of North Greenbush Police Department  
General Municipal law Section 207-c**

**Application**

1. \_\_\_\_\_  
Name of officer

2. \_\_\_\_\_  
Address

3. \_\_\_\_\_  
Telephone Number

4. \_\_\_\_\_  
Age

5. \_\_\_\_\_  
Name of supervisor

6. \_\_\_\_\_  
Current job title

7. \_\_\_\_\_  
Occupation at time of injury/illness

8. \_\_\_\_\_  
Length of employment

9. \_\_\_\_\_                      \_\_\_\_\_                      \_\_\_\_\_  
Date of incident                      Day of week                      Time

12.a \_\_\_\_\_  
Name of witness( es)

b. \_\_\_\_\_

c. \_\_\_\_\_

13.a \_\_\_\_\_  
Names of co-employees at the incident site

b. \_\_\_\_\_

c. \_\_\_\_\_

14. Describe what the officer was doing when the incident occurred. (Provide as many details as possible. Use additional sheets if necessary. \_\_\_\_\_  
\_\_\_\_\_

15. Where did the incident occur? Specify. \_\_\_\_\_

16. How was the claimed injury or illness sustained? Describe fully, stating whether injured person slipped, fell, was struck, etc., and what factors led up to or contributed. Use additional sheets if necessary. \_\_\_\_\_  
\_\_\_\_\_

17. When was the incident first reported? \_\_\_\_\_

To whom? \_\_\_\_\_ Time \_\_\_\_\_

Witness (if any) \_\_\_\_\_

18. Was first aid or medical treatment authorized? \_\_\_\_\_

By whom? \_\_\_\_\_ Time \_\_\_\_\_

19. Name and address of attending physician \_\_\_\_\_  
\_\_\_\_\_

20. Name of hospital \_\_\_\_\_

21. State nature of injury and part or parts of body affected \_\_\_\_\_  
\_\_\_\_\_

22. Will the officer be returning to duty? \_\_\_\_\_

When? \_\_\_\_\_

\_\_\_\_\_  
Date of report

\_\_\_\_\_, New York

\_\_\_\_\_  
Signature of Injured Officer

State of New York )  
County of Rensselaer) ss.:

\_\_\_\_\_, being duly sworn, deposes and says that he/she has read the foregoing notice and knows the contents thereof; that the same is true to the knowledge of deponent except as the matters therein stated to be alleged upon information and belief; and that as to those matters he/she believes to be true; any false statements herein may subject the deponent to the penalties of perjury.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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NOTARY PUBLIC-COMMISSIONER OF DEEDS

13) Town Proposal No. 18:

**Article XVIII**

"Training and Education," Section C.3 shall be amended at subparagraph "c" by adding a new first sentence to read as follows:

Any employee approved for tuition reimbursement and seeking said reimbursement must submit the voucher to the Town no later than November 15th of each year.

**POSITION OF THE PARTIES**

**Duration of the Award**

The parties agree to a two (2) year Award which shall be effective January 1, 2003 through December 31, 2004.

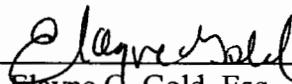
Based on agreement by the parties, the Interest Arbitration Panel makes the following

**AWARD**

**The term of this Award shall be from January 1, 2003 through December 31, 2004.**

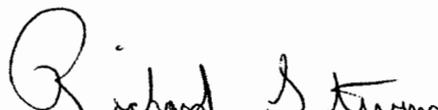
I  (concur) ~~(do not concur)~~ with the above Award

Date: 11-9-04

  
Elayne G. Gold, Esq.  
Employer Panel Member

I  (concur) ~~(do not concur)~~ with the above Award

Date: 11/11/04

  
Richard Stevens  
Employee Organization Panel Member

## **WAGES**

The Association proposed a five (5.0) percent wage increase each year for the two year Agreement. The Town offers three (3.0) percent wage increase in each year of the proposed two-year agreement.

Both parties presented documentary evidence and argument supporting their positions on the issue, bringing into evidence a comparison of wages and other benefits in other comparable jurisdictions, including those with similar skills, the employer's ability to pay, an analysis of wages and other benefits negotiated by the parties in the past. Special emphasis was placed on a comparison of wages of North Greenbush police and police in other jurisdictions and the employer's ability to pay.

### **Wages Paid In Comparable Jurisdictions**

The Association chose the following Towns for its analysis of comparable wages and other benefits: Town of Bethlehem, Town of Colonie, Town of East Greenbush, Town of Guilderland and Town of Schodack. The Town of North Greenbush chose the following Towns for its comparisons: Town of Coeymans, Town of East Greenbush, Town of Glenville, Town of Stillwater, and Town of Schodack. The parties had only two towns in common: Town of East Greenbush and the Town of Schodack.

### **The Associations Comparable Communities**

The Association states that the Towns of East Greenbush and Schodack are closest in population and size to the Town of North Greenbush, and admits that the Towns of Bethlehem, Colonie and Guilderland are "somewhat larger" and are suburban towns of the City of Albany.

The Association argues that all five towns in its comparison demonstrate significant similarity. First, the median household income among the five towns is quite similar. Excluding the town of Colonie and the Town of Bethlehem, the Towns of East Greenbush, Guilderland and Schodack have a median income spread of less than \$5,000, within which North Greenbush fits.

The Association points out that per capita income is similar to that of the Town of East Greenbush when excluding the Towns of Schodack (low) and Bethlehem (high).

As its last comparison, the Association examined median value of owner-occupied homes. It states that excluding the low amount for East Greenbush and the high amount for Bethlehem, the three remaining towns are very similar in amounts to those of North Greenbush. The Association also examined vacant housing units, median age of residents, number of persons in the labor force, and the number of families below poverty level, and found that all five comparison towns were roughly comparable to those of North Greenbush.

The Association also reviewed crime statistics of the five towns and found them comparable to those of North Greenbush. It compared crime rates per one thousand population. It notes that the Towns of Guilderland and Colonie report significantly higher property crime totals than the other comparable towns.

The Association concludes that a review of the data clearly indicates that while East Greenbush and Schodack are the closest towns to North Greenbush in terms of population and department size, the remaining comparable communities are quite similar to North Greenbush in all relevant economic and environmental aspects.

### The Town of North Greenbush Comparable Communities

The Town states that it selected the following jurisdictions based on population, income, poverty levels, bargaining unit size, and terms and conditions of employment: Town of Coeymans, Town of East Greenbush, Town of Glenville, Town of Stillwater, Town of Schodack.

The Town stresses Police Officers' salaries between it and the five comparable jurisdictions. In 2000, the last year all of the comparable towns had a contract, an average of the five town's Police Officers' was \$28,309. The Town of North Greenbush paid a minimum Police Officer's salary of \$30,443, which was \$2,124 more than the average minimum salary. Similarly, the Town's maximum average salary for three years' service was \$36,520, while the average salary of the five towns was \$35,098. The Town claims that it cannot be said that the Town pays its employees unfairly when compared with the five comparable towns. If the Panel adopts the Town's proposed wage increase of three percent for the years 2003 and 2004, the Town of North Greenbush will still be above the average salaries of other comparable jurisdictions.

The Town compares other financial benefits to its Police Officers, such as uniform allowance, longevity payments, shift differential, sick leave, etc., and finds that the Town of North Greenbush's Police Officers are highly compensated.

### Discussion

Obviously, both parties chose comparable towns that are in close proximity and also those which favor their individual points of view. Both the Town of North Greenbush and the Association chose the Towns of East Greenbush and Schodack. With the exception of the Town of Bethlehem which has a larger police force and a substantially wealthier community, the other jurisdictions are

relatively comparable. The analysis below considers all relevant factors of the comparable towns when making decisions on wages and other economic benefits.

### **Town of North Greenbush Ability to Pay**

#### **Position of the Association**

The Association presented testimony by Michael Messina, a Senior Labor Economist employed by AFSCME. He testified that he analyzed financial data of localities and various states and municipalities across the nation. Mr. Messina testified that revenues for the Town have steadily increased from year to year beginning in the year 2000 and continuing through 2003. In 2000 there was an excess of revenues over expenditures of \$197,620. Adding this amount to the \$297,180 of the fund balance at the beginning of the year, it results in an ending fund balance of \$494,800 for fiscal year ending 2000. The unreserved fund balance for the year 2000 was \$398,248, which is 15.8 percent of total revenues. The Government Finance Officers Association recommends an unreserved fund balance of between five and fifteen percent. The New York State Comptroller recommends a "reasonable" fund balance.

The Association argues that the Town has an increasingly healthy financial position. The ending fund balance in 2001 was \$641,107; in 2002 it was \$828,503; and in 2003 it was \$966,807. The unreserved fund balance was between 25 and 30 percent of total revenues.

The Association states that the Town's financial witness concluded that the Town was able to pay its proposed wage increase of three percent, but did not have the ability to pay the Association's proposed five percent increase. Tyler Sawyer, Comptroller for the Town of North Greenbush, testified that there were certain pressures on the Town budget, but his testimony was

uncertain and speculative. Mr. Sawyer testified that there was a potential for legal costs relative to development. Costs would be incurred relative to Defreesville.

Finally, the Association concludes that in each of the last three years the Town budgeted deficits, and in reality there was an operating surplus. The operating surplus could defray much, or even all of the cost of the Association's proposals before ever touching the fund balance.

#### Position of the Town

The Town's major financial witness was Comptroller Sawyer. He testified that there are several autonomous funds such as the General Fund, Highway Fund and Special funds. The General Fund is the primary operating fund of the Town and the only fund out of which police officers' salaries and benefits are paid. He testified that the Police Department budget in 2002 made up 39.2 percent of the General Fund budget; in 2003 it made up 30.8 percent of the budget and the estimate for 2004 is 37.645 percent.

Mr. Sawyer testified that in 2003 the Town received revenues that are not normally included due to the uncertainty of receipt. In particular he noted that a \$95,000 revenue contributed by the County of Rensselaer to help subsidize an environmental impact study represents revenue that will not materialize again. Another unforeseen or fluid revenue included in the 2003 budget were building permits totaling \$79,703 of which \$40,000 were directly connected to the Oak Hill Development Project. He added that mortgage tax is another revenue that is fluid because it is economy driven and tied to interest rates. If there is a decline in the purchase of homes in the Town or if people stop refinancing existing mortgages, this revenue will decrease.

Mr. Sawyer testified that the Town of North Greenbush is financially healthy but cautioned that the 2003 unappropriated fund balance should not be viewed as a blank check available to pay

wage increases proposed by the Association. Mr. Sawyer distinguished between an unappropriated fund balance and a "surplus." He also testified that it is the Town's obligation to keep taxes low. In past years, he testified, the Town has used a portion of the unappropriated fund balance to maintain a flat tax rate to keep taxes low.

Mr. Sawyer also testified that the Town is facing substantial anticipated expenditures that would require appropriating funds from the 2003 unappropriated fund balance. One imminent need is the Town's requirement to relocate the Police Department to a larger facility. Further, he testified that the Town recently purchased four new police cars at a cost of \$112,000. Another reduction in the fund balance which is likely is the Town's liability for the Federal and State transportation project for the Interstate 90 connector for Route 4 and Hudson Valley Community College.

Comptroller Sawyer testified that when one considers the above factors, the deductions would leave just \$216,807 in the 2003 unappropriated fund balance.

Mr. Sawyer concluded by stating that a three percent increase in wages was fair and reasonable. He stated that the Town has one other bargaining unit, the Civil Service Employees Association, and the current contract for the time period January 1, 2001 to December 31, 2004, includes a three percent wage increase over the past two years. In 2004, non-union full-time employees received a three percent wage increase.

### Discussion

There is no doubt that the Town of North Greenbush has found itself with several rather large fund balances in the past few years. The Town not only acknowledges this, but also states that it is not claiming an inability to pay wage increases. It, however, does not want to pay a wage increase above three percent because it asserts that it would be financially unwise to do so. In

arguing for the three percent wage increase, the Town points out to several potential expenditures that might occur in the future. Expenditures such as relocation of the Police Department, Interstate 90 interconnect, may or may not occur in the current year. Comptroller Sawyer points to increased pension contributions, re-zoning issues, and the possible secession of Defreesville Village from the Town as potential expenditure increases. Again, these are expenditures that might or might not occur. While it is unwise to grant wage increases without taking into consideration these factors, it is questionable whether it is wise to reduce employees' wage increases in anticipation of expenditures that may not occur.

The goal of the Town to maintain tax rates, or to reduce them, is a laudable effort. But to do so at the expense of Police Officers may not be wise. Police Officers in the Town of North Greenbush protect the citizens of the Town and should be remunerated in amounts comparable with other jurisdictions in the area. To have police in the Town fall behind departments in nearby towns creates the problem of attrition, that is, police officer may leave the Town for better paying jobs in the area. The award below seeks to maintain the relative level of wages of police officers of the Town of North Greenbush with police officers in comparable jurisdictions, while at the same time maintaining the Town's solvent financial position.

The Award below takes into consideration all the arguments presented by both parties. The salary increase Award below also factors in financial and other benefits awarded to the Association elsewhere in this document.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

**AWARD**

**The salary schedule shall reflect a two (2.0%) percent retroactive increase on January 1,2003, and a two (2.0%) percent retroactive increase on July 1, 2003.**

**The salary schedule shall reflect a two (2.0%) percent increase retroactive on January 1,2004, and a two (2.0%) percent retroactive increase on July 1, 2004.**

I (concur) ~~(do not concur)~~ with the above Award

Date: 11/9/04

Elayne G. Gold  
Elayne G. Gold, Esq.  
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 11/11/04

Richard Stevens  
Richard Stevens  
Employee Organization Panel Member

**SERGEANTS' STIPEND**

The expired Collective Bargaining Agreement provides additional payments for sergeants added to their base pay in three steps. The starting payment is \$3,000.00. In the fifth year the sergeant would receive an additional \$1,500.00, bringing the payment to \$4,500.00. In the tenth year the sergeant would receive an additional \$1,500.00, bring his total stipend to \$6,000.00. The Association seeks to increase the number of step and to increase not only the base amount, but increases in the steps as well.

### Position of the Association

The Association states that the added payment to Sergeants helps recognize that Sergeants are second in command in this Police Department, in that there are no Lieutenants or Captains. In the absence of the Chief, Sergeants are in command. Because there are no Lieutenants or Captains, there are no promotional opportunities to recognize growth and experience of the Sergeants. As is currently the case, any increase in money will not be placed on the base salary.

The Association argues that Sergeants in comparable jurisdictions receive equal or greater stipends and salary than do Sergeants in North Greenbush.

### Position of the Town

The Town states that a review of the Town's comparable study indicates that no other municipality offers its Sergeants a three-tier payment during the employees tenure as Sergeant. A review of the Association's comparables show that the Town of North Greenbush's Sergeants differential payments equal or exceed that of the Towns of Bethlehem, Colonie and Guilderland. The Town asserts that the Association has presented no justification for this proposal.

### Discussion

The Association makes a cogent argument for a payment differential between Patrol Officers and Sergeants, especially in this Town where there are no Lieutenants and Sergeants. The award below not only considers those arguments, but also takes into consideration other monetary proposals of the Association, including the wage proposal.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

**AWARD**

**Sergeants shall receive as part of their base pay, an additional payment each year:**

<b>\$3,000.00</b>	<b>Starting Sergeant's Pay</b>
<b>\$4,500.00</b>	<b>Fifth Year As Sergeant</b>
<b>\$6,000.00</b>	<b>Tenth Year As Sergeant</b>
<b>\$7,500.00</b>	<b>Twelfth Year As Sergeant</b>

I (~~concur~~) (do not concur) with the above Award

Date: 11/9/04

Elayne Gold DONOT CONCUR  
Elayne G Gold, Esq.  
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 11/11/04

Richard Stevens  
Richard Stevens  
Employee Organization Panel Member

**ON-CALL PAY**

The Association seeks a twenty-five (\$25.00) per day on-call payment for Sergeants. There is currently no provision in the Collective Bargaining Agreement for on-call pay.

**Position of the Association**

The Association states that there is a Sergeant on call 365 days per year. On rare occasion the Chief will stand in for a Sergeant on call, but that is an exception. The Association avers that there are only three Sergeants in the North Greenbush Police Department so therefore one Sergeant is on call for a one-week period every three weeks. The Town clearly benefits from having a Sergeant on call because it protects the Town in having a more experienced individual supervising road patrol. Further, it prevents the Chief from receiving direct calls on patrol level issues. Being on call adversely impacts the Sergeants' utilization of their personal time, restricting their travel and leisure activity. The Town has provided pagers to Sergeants which impinges on the Sergeants' personal time.

The Association points out that the Towns of Colonie and East Greenbush have on call provisions in their agreements, and the Towns of Schodack, Stillwater and Glenville all have positions of greater authority than the Sergeant other than the Chief of Police.

**Position of the Town**

The Town states that the Sergeants position, by definition is a higher rank position with supervisory responsibilities and the pay differential reflects that. When employees accepted the position of Sergeant, they knew that they were expected to be on call without additional compensation. On call duties primarily consist of receiving telephone calls from officers about "quick questions" and rarely require a Sergeant to respond to a scene. The Town pays for the Sergeants'

paggers, and the Chief has never denied a Sergeant's request to leave the immediate Capital District area while on call. The Town states that contrary to the Association's assertion, this proposal does not benefit the Town by reducing the amount of on-call inquiries regularly submitted to the Chief. Rather, the proposal seeks to force the Town to pay Sergeants for an inherent job duty that admittedly does not restrict them for pursuing personal activities. Further, very few municipalities provide on-call pay for Sergeants.

#### Discussion

While it is conceded that being on call for a week every three weeks carries some inconvenience for Sergeants, nonetheless they have paggers, are able to leave the Capital District upon request, and are seldom called away from their activities. The major responsibility has been to receive telephone calls and respond to those calls by telephone. Considering the Sergeants stipend and other emoluments received, it is not considered necessary to provide an on call payment. Further, since the date of the hearing, the position of Captain has been created and filled, which will relieve much of the burden formerly placed on sergeants.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

**AWARD**

**There shall be no award of on-call payments. The Association's proposal is denied.**

I  (concur)  (do not concur) with the above Award

Date: 11/9/04

Elayne Gold  
Elayne G. Gold, Esq.  
Employer Panel Member

I  (concur)  (do not concur) with the above Award

Date: 11/11/04

Richard Stevens  
Richard Stevens  
Employee Organization Panel Member

**UNIFORM ALLOWANCE**

The current clause in the Collective Bargaining Agreement provides an amount of eight hundred (\$800.00) dollars per year for uniform allowance, and four hundred (\$400.00) dollars per year for part-time police officers. The Association proposes an increase of four hundred (\$400.00) dollars for full-time police officers and two hundred (\$200.00) dollars per year for part-time police officers.

Position of the Association

The Association argues that the current allowance does not provide for normal wear and tear replacement. The amount provided is for both replacement and cleaning. Uniforms should be

professionally dry cleaned. The current amounts do not cover wear and tear, and certainly do not cover the costs of dry cleaning. An increase is appropriate.

#### Position of the Town

The Town argues against any increase in uniform allowance. The cost of providing the Association's proposal is \$16,800 for the fourteen full-time police officers. Adding the cost of part-time officers and full-time dispatchers results in a cost increase of \$2,000.00.

A review of the comparables indicates that the Town far exceeds many of the other comparable jurisdictions that provide uniform allowances. The Town of Bethlehem has no uniform allowance; the Town of Colonie provides \$400.00 a year to some officers; the Town of Guilderland provides \$350.00 uniform replacement cost. The Association has no justification to propose a change to the current uniform allowance.

#### Discussion

It is clear that costs to all individuals are rising, although not as fast as in the past. The cost of uniforms and of dry cleaning has risen in the past several years. It is imperative that police officers maintain clean and well-pressed uniforms when they are on duty, for they meet the public constantly. A modest increase in uniform allowance will offset some of the price rise.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

**AWARD**

**Uniform allowance shall increase by fifty (\$50.00) dollars retroactive to January 1, 2003, for full-time employees and by twenty-five (\$25.00) dollars for part-time employees.**

**Uniform allowance shall increase by fifty (\$50.00) dollars retroactive to January 1, 2004, for full-time employees and by twenty-five (\$25.00) dollars for part-time employees.**

I (concur) ~~(do not concur)~~ with the above Award

Date: 11/9/04

Elayne Gold  
Elayne G. Gold, Esq.  
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 11/11/04

Richard Stevens  
Richard Stevens  
Employee Organization Panel Member

**SHIFT DIFFERENTIAL**

The Association proposes the introduction of a shift differential for Police Officers working on the A and C shifts. The A shift is from 11 :00 p.m. to 7:00 a.m., and the C shift is from 3:00 p.m. to 11 :00 p.m. The Association proposes that personnel on the A shift receive a shift differential of \$0.90 per hour and \$0.75 per hour for the C shift.

### Position of the Association

The Association argues that the stress of having to work less desirable shifts and the unnatural sleep patterns and social disruptions would be partially compensated by the payment of a shift differential. It states that of all the Departments with which it compares itself, only the Town of Schodack doesn't have a shift differential of some sort, and Schodack does not run a 24-hour police department. The Association also points out that shifts are bid purely by seniority, so there is no way for a junior officer to displace a senior officer on the more desirable shifts.

### Position of the Town

The Town states that a major purpose of a shift differential is to provide an incentive to encourage more senior employees to bid on the less desirable shifts. It argues that the Association did not provide evidence that senior employees did not want the A or C shifts. Shifts are bid three times a year based on seniority. The Town further states that only one jurisdiction (in its comparable jurisdictions), the Town of East Greenbush provides a shift differential. It states that the Towns referred to by the Association have shift differentials substantially lower than those proposed by the Association. The Town opposes any shift differential.

### Discussion

While shift differentials are usually provided to encourage more senior employees to bid on the less desirable shifts, the Association provides no data to establish that the less desirable shifts are populated mainly by less senior employees. In fact, there are many reasons why more senior employees might wish to work the A or C shifts. For example, a Police Officer may desire the A shift in order to permit his wife to attend school or to be employed in a full-time job. Some individuals

prefer the later starting hour. Others may have recreational activities that they wish to pursue during the daytime hours. Whatever the reason, money is not the only reason to bid for either the A or C shifts.

The Union has not supported its proposal sufficiently to justify a shift differential for the employees of the North Greenbush Police Department.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

**AWARD**

**There shall be no award of a shift differential. The Association's proposal is denied.**

I concur (~~do not concur~~) with the above Award

Date: 11/9/04

Elayne G. Gold  
Elayne G. Gold, Esq.  
Employer Panel Member

I ~~concur~~ (do not concur) with the above Award

Date: 11/11/04

Richard Stevens  
Richard Stevens  
Employee Organization Panel Member

## **LONGEVITY PAYMENTS**

The Association seeks to increase the longevity payment by five hundred (\$500.00) dollars each year for full-time employees and by three hundred-fifty (\$350.00) dollars each year for part-time employees.

### Position of the Association

Association witness Sergeant Durivage testified that longevity payments were designed to increase a wage schedule that has a limited number of steps and to assist in providing salary growth potential given the fact that there is a lack of promotional opportunities within the Department. He further testified that the longevity payments are not included in the base salaries and therefore the value of those payments do not increase with each annual salary percentage increase. The Association compares its longevity payment schedule to those jurisdictions with which it compares itself and finds that most of its comparable communities have a longevity schedule more favorable than that applicable to the Officers of the North Greenbush Police Department.

### Position of the Town

The Town argues that the Association's assertions that it is necessary to bring wages up to be comparable with other jurisdictions is not supported by the documentary evidence. The Town states that longevity payments for Town of North Greenbush Officers are greater than four of the five municipalities with which the Town compares itself.

Discussion

After hearing arguments by both parties concerning comparables, it is concluded that each party is correct in its argument when using their own comparables. Taking into consideration financial items addressed elsewhere in this document, a modest increase in longevity is deemed appropriate.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

**AWARD**

**Longevity payments beginning January 1,2004, shall be increased as follows:**

<u>Full-time Police Officers</u>		<u>Part-time Police Officers</u>	
<u>Years of Service</u>	<u>Longevity payment</u>	<u>Years of Service</u>	<u>Longevity Payment</u>
4	\$1,820.00	4	\$ 965.00
8	\$2,351.00	8	\$1,230.00
12	\$2,763.00	12	\$1,436.00
16	\$4,000.00	16	\$1,642.00

I (concur) ~~(do not concur)~~ with the above Award

Date: 11/9/04

Elayne G. Gold  
Elayne G. Gold, Esq.  
Employer Panel Member

I (concur) ~~(do not concur)~~ with the above Award

Date: 11/11/04

Richard Stevens  
Richard Stevens  
Employee Organization Panel Member

**ARTICLE XVIII - TRAINING AND EDUCATION**

The Town proposed an amendment to Article XVIII, Section C, subparagraph c to read as follows:

Any employee approved for tuition reimbursement and seeking said reimbursement must submit the voucher to the Town no later than December 1 of each year.

At the time of the hearing, no agreement on the date of submission was agreed upon. Subsequently, the parties agreed to the above paragraph.

**AWARD**

**Article XVII C. 3.c shall be included in the Collective Bargaining Agreement the following sentence:**

**An employee approved for tuition reimbursement and seeking said reimbursement must submit the voucher to the Town no later than December 1 of each year.**

I  (concur) ~~(do not concur)~~ with the above Award

Date: 11/9/04

Elayne G. Gold, Esq.  
Elayne G. Gold, Esq.  
Employer Panel Member

I  (concur) ~~(do not concur)~~ with the above Award

Date: 11/11/04

Richard Stevens  
Richard Stevens  
Employee Organization Panel Member

**ARTICLE V - ASSOCIATION DUES**

The Town seeks to amend the article by adding a hold harmless clause. The Association opposes on the grounds that the Town offered no evidence of any problems that it has encountered in this function.

## Discussion

While there apparently have been no problems with this section, the Town seeks the Amendment to prevent any problems. There are no apparent costs or problems to the Association associated with the proposed addition.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

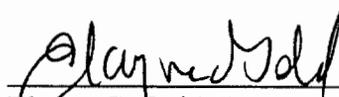
**AWARD**

**The following clause shall be added to Article V, Association Dues:**

**The PBA will indemnify and save the Town harmless against any and all claims, demands, suits or other forms of liability that may arise out of or by reason of any action taken or not taken by the Town in reliance upon dues deduction authorization cards furnished by the employees and/or PBA with respect to dues deductions as detailed in this Article V.**

I (concur) ~~(do not concur)~~ with the above Award

Date: 11/9/04

  
 Blayne G. Gold, Esq.  
 Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 11/11/04

  
Richard Stevens  
Employee Organization Panel Member

**NEW CONTRACT ARTICLE**

The Town seeks a new article to be entitled "Policy and Procedures for the Implementation of General Municipal Law §207-c."

Position of the Town

The Town states that it believes that to ensure uniform application for all employees seeking General Municipal Law § 207-c benefits, standard procedures must be adopted. §207-c benefits are not automatic and it is the municipality's obligation to first determine an employee's eligibility for benefits.

Position of the Association

The Union avers that the Town offered no evidence with respect to how the proposed §207-c policy differs from current policy and practice or why it seeks to make changes to the current policy or practice. The Association contends that substantive issues frequently arises with respect to light duty assignments, seniority, dispute resolution, etc.

Discussion

Many, if not most, Municipal Police Departments have a section of their collective bargaining agreement which contains provisions for §207 -c. The Association argues that substantive issues may arise under § 207 -c. It is opined that more severe issues may arise in the absence of such a clause. The Union has not provided sufficient rationale in opposition to the new section.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

**AWARD**

**The following new article shall be added to the Collective Bargaining Agreement:**

**Procedure for the Implementation  
of General Municipal Law, Section 207-c**

**Section 1. INTENT**

- (a) **In order to insure that determinations arising by virtue of the administration of the provisions of Section 207-c of the General Municipal Law satisfy the interest of those potentially eligible for its benefit, the Town of North Greenbush, and the public, the following procedure shall be utilized to make determinations in regard to benefits authorized by section 207-c.**
- (b) **This procedure is intended to be a supplement to the express language of Section 207-c of the General Municipal Law and is not intended to reduce any benefits pursuant to Section 207-c of the General Municipal Law.**
- (c) **The term "Officer," as used herein, shall include all full-time sworn members of the Police Department who perform police duties.**

**Section 2 NOTICE OF DISABILITY OR NEED FOR MEDICAL OR HOSPITAL TREATMENT**

- (a) **An Officer who claims a right to benefits under Section 207-c of the General Municipal Law, either because of illness or injury or the recurrence of a prior illness or injury, shall make, personally or through**

his representative, written notice and application for those benefits to the Chief, or his designee, within ten (10) working days of when the Officer reasonably should have known that the illness or injury would give rise to the claim on the form which is made a part of this procedure. The ten (10) working day period can be excused for good cause shown.

- (b) The Officer shall provide authorization for the Town to obtain copies of his medical records for treatment from his treating physician or other health care provider and relating to the injury or illness giving rise to the disability and the body part involved and the Town will provide the Officer, without cost, a copy of the records and reports produced by any physicians or other experts who examine the Officer on behalf of the Town.

- (c) Confidentiality

Medical authorizations and/or medical records provided by the Officer or the Officer's treating and/or Town's examining physician shall be used solely by the Town to carry out its rights and obligations under GML 207-c, administering the contractual 207-c procedures, or where release is authorized by law. Such authorization and/or medical records shall be kept and maintained strictly confidential and shall not be disclosed to or discussed with any persons other than the Chief and other persons involved' in and responsible [or making, or assisting in the making, and/or litigating determinations of eligibility for GML 207-c benefits. Toward that end, such records and/or documentation shall be placed in a sealed envelope, delivered to the Chief and maintained in a medical file which is separate and distinct from the Officer's personnel file and located in a separate locked cabinet. If necessary in order to make a determination as to eligibility for 207-c benefits or return to light or full duty, the Chief may examine the medical records and/or documentation received; however, such inspection shall be conducted in private and outside the presence of other police department personnel.

### **Section 3. STATUS PENDING DETERMINATION OF ELIGIBILITY FOR BENEFITS**

- (a) The Officer shall be placed on sick leave pending determination of his eligibility for Section 207-c benefits. The determination shall be made within the time provided in Section 4 of this procedure. If the Officer has no available sick leave he may use vacation, personal leave, or compensatory time to remain on the payroll. In the event that a timely determination is not made, the Officer shall be continued in pay status until a determination is made. Time spent on the payroll beyond the initial date for making a determination shall not be charged to the employee if it is determined that he is ineligible for the 207-c benefit.

- (b) In the event that it is determined that the Officer is entitled to Section 207-c benefits, the Town shall credit back to him all leave which he expended prior to the determination.
- (c) In the event that it is determined that the Officer is not entitled to Section 207-c benefits, he will be permitted to use accrued sick leave, vacation, personal leave, and compensatory time provided he remains medically unable to perform the duties of his position.

**Section 4. BENEFIT DETERMINATIONS**

- (a) The town shall, promptly review an Officer's application for Section 207-c benefits and shall determine his eligibility within fifteen (15) working days after the Chief receives the application.
- (b) In determining the application the Town may require a more detailed statement from the Officer than that contained on the application. The Town may take statements from witnesses and may send the Officer to a physician or physicians of its choice for examination at the Town's expense.
- (c) The determination of the Chief will be made in writing to the Officer, setting forth the basis for the determination. In the event that the application is denied, the Town will simultaneously provide the Officer, without cost, a copy of all medical information produced or acquired by it in connection with the Officer's application and determination for Section 207-c benefits. The Town will continue to provide the Officer with additional medical information subsequently produced or required.

**Section 5.**

As authorized by the provisions of Subdivision 3 of Section 207 -c. the Department, acting through the Chief or the Chief 's designee, may assign a disabled Officer specific light duties, consistent with his/her status as an Officer. The Chief, or the Chief's designee. prior to making a light duty assignment. shall advise the Officer receiving benefits under Section 207-c that his/her ability to perform a light duty assignment is being reviewed. Such an Officer may submit to the Chief or the Chief's designee, any document or other evidence in regard to the extent of his/her disability. The Chief, or the Chief's designee, may cause a medical examination or examinations of the Officer, to be made at the expense of the Employer. The physician selected shall be provided with the list of types of duties and activities associated with a proposed light duty assignment and shall make an evaluation as to the ability of the disabled Officer to perform certain duties or activities, given the nature and extent of the disability. Upon review of the medical assessment of the Officer's ability to perform a proposed light duty assignment and other pertinent information, the Chief or the Chief s designee, may make a light duty assignment consistent with medical opinion and

such other information as he or she may possess. An Officer ordered to light duty shall be provided with a copy of the detailed light duty statement and the medical report supporting the order to light duty. Further, if an officer is ordered to light duty and he/she fails to provide medical documentation contesting said light duty, his/her benefits will cease until a determination is made pursuant to Section 7 of this procedure with regard to the Officer's physical ability to perform the light duty assignment. In the event the Officer provides medical documentation to contest the light duty order, the benefits of 207 will continue until a hearing, pursuant to Section 7 of this procedure is held. It is understood that assignment to light duty is in the nature of a "make work" assignment and that an Officer so assigned does not have any entitlement to a continued light duty assignment for an indefinite duration of time.

#### **Section 6. TERMINATION OF BENEFITS**

(a) Salary or wages provided by Section 207-c of the General Municipal Law shall terminate upon the employee being retired pursuant to a service retirement, an accidental disability retirement, or a performance of duty disability retirement, as set forth in the Retirement and Social Security Law.

(b) Any other termination will be subject to review pursuant to Section 7 of this Procedure.

#### **Section 7. DISPUTE RESOLUTION PROCEDURE**

In the event that the Town denies an application for Section 207-c benefits, seeks to discontinue Section 207-c benefits, or there is a dispute about whether an Officer is capable of performing a specific light duty assignment, the matter will be submitted directly to an arbitrator mutually selected by the parties. In the event the parties cannot agree, the matter will be submitted to PERB and the parties agree to use PERB's arbitration procedure. The party seeking to utilize this Dispute Resolution Procedure shall forward to the other the Demand for Arbitration. The determination of the arbitrator shall be final and binding on the Town and the Officer, but shall not preclude further review at a subsequent date based upon new or supplemental medical or other information. The parties will divide the cost of the arbitration equally.

#### **Section 8. DISABILITY RETIREMENT**

Consistent with Section 207-c, the Town may file an application on the Officer's behalf or retirement under Sections 363 or 363-c of the New York State Retirement and Social Security Law.

#### **Section 9. CONTINUATION OF CONTRACT BENEFITS**

**While on leave pursuant to Section 207 -c. for a period of four (4) months or less, an Officer shall continue to accrue all economic fringe benefits (i.e., holiday pay, clothing allowance, leave accruals, etc.) provided by the Collective Bargaining Agreement. After three (3) months in any calendar year or continuous period of time, the Officer receiving 207-c benefits shall be entitled only to the payment of salary, longevity and health insurance,**

**APPENDIX**

**Medical Release**

**I do hereby authorize any physician, nurse, or other health care provider who has attended, examined or treated me in connection with injuries or illness sustained or incurred on or in connection with an incident occurring on or in connection with any prior treatment or care for previous injuries to the same body parts which were injured in such incident, or any hospital at which I have been examined or treated in connection with such injury or illness, to furnish the Town of North Greenbush, information which may be requested regarding treatment rendered for such injuries or illness and the body part involved.**

\_\_\_\_\_  
**Signature of Officer**

\_\_\_\_\_  
**Printed name of Officer**

\_\_\_\_\_  
**Date**

**Date of Incident:** \_\_\_\_\_

**Body Part Affected:** \_\_\_\_\_

**New York State Policemen's &  
Firemen's Retirement System  
Governor Smith State Office Building  
Albany, New York 12244**

**To: The Comptroller of the State of New York**

**In compliance with Section 363 and Section 363-c of the Retirement Law instructing me to notify your department of any and all injuries sustained in the line of duty as a member of the Town of North Greenbush Police Department, I hereby submit the following report:**

\_\_\_\_\_  
**Name of injured Police Officer**

\_\_\_\_\_  
**Registration Number**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**Date of Incident**

\_\_\_\_\_  
**Time of Incident**

**Description of injury** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Medical care required** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Remarks** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Signature of Officer**

\_\_\_\_\_  
**Witness to injury**

\_\_\_\_\_  
**Date**

**Town of North Greenbush Police Department  
General Municipal law Section 207-c**

**Application**

1. \_\_\_\_\_  
**Name of officer**

2. \_\_\_\_\_  
**Address**

3. \_\_\_\_\_  
**Telephone Number**

4. \_\_\_\_\_  
**Age**

5. \_\_\_\_\_  
**Name of supervisor**

6. \_\_\_\_\_  
**Current job title**

7. \_\_\_\_\_  
**Occupation at time of injury/illness**

8. \_\_\_\_\_  
**Length of employment**

9. \_\_\_\_\_  
**Date of incident                      Day of week                      Time**

12.a \_\_\_\_\_  
**Name of witness( es)**

b. \_\_\_\_\_

c. \_\_\_\_\_

13.a \_\_\_\_\_  
**Names of co-employees at the incident site**

b. \_\_\_\_\_

c. \_\_\_\_\_

14. **Describe what the officer was doing when the incident occurred. (Provide as many**

details as possible. Use additional sheets if necessary. \_\_\_\_\_

15. Where did the incident occur? Specify. \_\_\_\_\_

16. How was the claimed injury or illness sustained? Describe fully, stating whether injured person slipped, fell, was struck, etc., and what factors led up to or contributed. Use additional sheets if necessary. \_\_\_\_\_

17. When was the incident first reported? \_\_\_\_\_

To whom? \_\_\_\_\_ Time \_\_\_\_\_

Witness (if any) \_\_\_\_\_

18. Was first aid or medical treatment authorized? \_\_\_\_\_

By whom? \_\_\_\_\_ Time \_\_\_\_\_

19. Name and address of attending physician \_\_\_\_\_

20. Name of hospital \_\_\_\_\_

21. State nature of injury and part or parts of body affected \_\_\_\_\_

22. Will the officer be returning to duty? \_\_\_\_\_

When? \_\_\_\_\_

\_\_\_\_\_  
Date of report

\_\_\_\_\_, New York

\_\_\_\_\_  
Signature of Injured Officer

State of New York )  
County of Rensselaer) ss.:

\_\_\_\_\_, being duly sworn, deposes and says that he/she has read the foregoing notice and knows the contents thereof; that the same is true to the knowledge of deponent except as the matters therein stated to be alleged upon information and belief; and that as to those matters he/she believes to be true; any false statements herein may subject the deponent to the penalties of perjury.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC-COMMISSIONER OF DEEDS

I (concur) (~~do not concur~~) with the above Award

Date: 11/9/04

Elayne G. Gold  
Elayne G. Gold, Esq.  
Employer Panel Member

I (concur) (~~do not concur~~) with the above Award

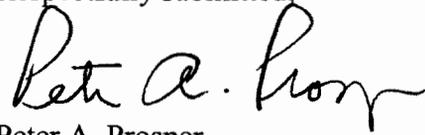
Date: 11/11/04

Richard Stevens  
Richard Stevens  
Employee Organization Panel Member

As stated above, those issues presented by the parties that are not contained in this OPINION AND AWARD were also carefully considered by the Public Arbitration Panel, but are remanded back to the parties for further negotiation, and therefore no is made on those matters.

Date: 11/12/04

Respectfully submitted,



Peter A. Prosper  
Public Panel Member and Chair

STATE OF NEW YORK )  
COUNTY OF Albany ) SS:

On this 17 day of November, 2004, before me personally came and appeared PETER A. PROSPER, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

MADELYN E. KRUG  
Notary Public, State of New York  
No. 01KR6017823  
Qualified in Albany County  
Commission Expires Dec. 21, 2006

*[Signature]*  
\_\_\_\_\_  
Madelyn E. Krug

STATE OF NEW YORK )  
COUNTY OF Albany ) SS:

On this 9<sup>th</sup> day of November, 2004, before me personally came and appeared ELAYNE G. GOLD, ESQ., to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

ANDREA R. ROSEMAN  
Notary Public, State of New York  
No. 4773541  
Qualified in Albany County  
Commission Expires 10/31/06

~~Signature~~ Andrea Roseman  
\_\_\_\_\_

STATE OF NEW YORK )  
COUNTY OF ) SS:

On this 11<sup>th</sup> day of Nov., 2004 before me personally came and appeared RICHARD STEVENS, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

ANDREA R. ROSEMAN  
Notary Public, State of New York  
No. 4773541  
Qualified in Albany County  
Commission Expires 10/31/06

Andrea Roseman  
\_\_\_\_\_