

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Compulsory Interest Arbitration
Between: The Village of Huntington Bay

-and-

FINAL AND BINDING OPINION AND AWARD OF
TRIPARTITE ARBITRATION PANEL

The Huntington Bay Police Benevolent Association
Case No: IA 2005-007
M 2004-225

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The Public Arbitration Panel members are:

PUBLIC PANEL MEMBER & CHAIRMAN: Joel M. Douglas, Ph.D.

PUBLIC EMPLOYEE PANEL MEMBER: William Tricarico
Suffolk County PBA

PUBLIC EMPLOYER PANEL MEMBER: Vincent Toomey, Esq.
Village Labor Counsel

Appearances:

For the Village of Huntington Bay Thomas Marcoline, Esq.
Village Labor Counsel

For the Huntington Bay PBA: Reynold A. Mauro, Esq.
PBA Counsel

Date September 8, 2006

Pursuant to the provisions of Section 209.4 of the Civil Service Law, and in accordance with the rules of the Public Employment Relations Board, an Interest Arbitration panel was designated for the purpose of making a just and reasonable determination on the matters in dispute between the Village of Huntington Bay ("Village") and the Police Benevolent Association of the Village of Huntington Bay ("PBA" or "Association") Hearings were held in Huntington Bay, New York, on January 12, 2006 and March 7, 2006 during which time both parties were represented and were afforded full opportunity to present evidence, both oral and written, to examine and cross-examine witnesses and otherwise to set forth their respective positions, arguments and proofs.

Two executive sessions were held in Lake Success, NY on November 30, 2005 and April 10, 2006 at which time the Panel deliberated on each issue and carefully and fully considered all the data, exhibits and testimony received from both parties. The results of those deliberations are contained in the AWARD that 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 specifically addressed in this AWARD were also carefully considered by the Public Arbitration Panel, but rejected in their entirety. For each issue, the discussion below presents the positions of the parties and the Panel's analysis and conclusion. This Opinion, and its accompanying Award, are based on the record as thus constituted.

In arriving at this Award, the Panel considered the following statutory guidelines contained in Section 209.4 of the Act:

(v) 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, 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 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.

BACKGROUND

The Village of Huntington Bay is located in Suffolk County, NY, and is best described as an "upper-level" community. The Village is residential and somewhat bucolic in nature and contains recreational beach clubs and a marina. The Village lies within the Township of Huntington, has no main roads, is

part of the Suffolk Police District, and operates a Police Department 24 hours /seven days per week. The Village is approximately one square mile and contains some 1600 residents residing in 575 homes and contains no industry within the Village proper.

Huntington Bay Mayor Herb Morrow noted that the population has remained the same since 1970 and that the Village processes some 600 tax bills per year. The Village has developed waterfront property which includes two private membership yacht clubs, both of which are located on Huntington Bay, and several private beach associations. But for the Police Department, the Village does not render any major municipal services. The Village provides road service and snow plowing through outside contractors.

The Police Department consists of five sworn officers [four officers and a Sergeant] four part-time officers and a Chief of Police. The officers work different rotating shifts, i.e., 8-4, 4-8, 12-8, and special [7-3] as needed. The bargaining unit consists of five officers. In addition to the Police Department the Village employs two full time staff people and enlists the services of private contractors and volunteers. The Village does not negotiate with any other bargaining units. The previous CBA covered the period June 1, 2001- May 31, 2003. (PBA X#E)

The major issue at impasse revolves around the twenty-year retirement plan and the fact that upon receipt of the plan in the 1970's the parties agreed that officers, upon achieving twenty-years of service, would continue as at-will employees.¹ The PBA seeks the removal of this language claiming it is antiquated while the village contends that if the clause is to be removed they must receive full and fair value for its deletion.

There are some 32 villages in Suffolk County. The Town of Huntington encompasses four villages including Huntington Bay. As noted by the Mayor, with the exception of Lloyd Harbor, most have no retail base or significant development. The only undeveloped property left in the Village of Huntington Bay, if sub-dividable, may contain room for an additional four homes.

ISSUES AT IMPASSE

At the hearing the parties agreed to submit the following issues for evaluation and decision by the Panel. Where viable, the aforementioned demands and subsequent recommendations have been consolidated to address the needs of both parties. The Opinion constitutes the findings of the Panel, however, the language contained herein is the sole responsibility of the Chairman.

The issues at impasse and submitted to the Panel for an Opinion and Award included:

1. **TERM OF THE AWARD**
2. **BASIC ANNUAL SALARY & LONGEVITY**
3. **HOLIDAY PAY**

¹ The retirement issue was litigated before NYPERB and the legality of same is not before the IA panel.

4. VACATION ACCRUALS
5. SICK LEAVE
6. DENTAL PLAN - HEALTH INSURANCE
7. 20-YEAR RETIREMENT PLAN & CHART
8. UNIFORM AND CLEANING ALLOWANCE
9. PERSONAL LEAVE

**ISSUE NUMBER ONE
TERM OF THE AWARD
DISCUSSION AND AWARD**

The instant **OPINION** and **AWARD** concerns a successor Agreement to the previous Collective Bargaining Agreement which covered the period June 1, 2003 thru May 31, 2004. Unless agreed to by the parties and Awarded by the Panel, the instant Award would cover the period June 1, 2004 thru May 31, 2006. (JX #1)

In its determination the Panel was guided by the appropriate statutory criteria:

- (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 arguments in favor of an extended Award are well known to the parties and were set forth by the undersigned in the executive session. An extended Award was not possible without the written permission of the parties; however, once such authorization was obtained the following is awarded. Written permission was obtained from both the PBA and Village labor counsel for the issuance of a five-year Award and accordingly, based on the record the following is awarded.

1. The term of this Award is from June 1, 2003 to May 31, 2008.

**ISSUE NUMBER TWO
BASIC ANNUAL SALARY
DISCUSSION AND AWARD**

The PBA was seeking annual wage increases of 6.00 %per year for each year of the successor contract

and adjustments in the night shift differential. This proposal was later reduced to five and subsequently four percent. The PBA also originally proposed a night differential of ten % of base pay. The PBA also sought the increase of \$1500.00 per officer in the payment of the night differential.

The Village submits that they are fiscally sound and can pay reasonable increases but are seeking a modified salary schedule with three additional steps for new hires. Additionally, with respect to overtime compensation, the Village has proposed that training time conducted outside of regularly scheduled work hours be compensated at straight time.

Both parties relied upon the testimony of expert financial witnesses to support their position. The testimony of PBA witness Edward Fennell, [government finance consultant] was admitted into the record. His report detailed the financial condition of the Village and was utilized in the formulation of the instant *Opinion and Award*. [See PBA X#1] Fennell concentrated on the Village's duly adopted budget, tax margin statements, reports submitted to the Office of the NYS Comptroller, private audits, and Village debt statements. According to Fennell the Village currently has exhausted some 18.9 % of its allowable tax-base and, as contended by him, there is significant property wealth within the Village to fund the PBA demands. (PBA X#1) The presence of significant per capital wealth coupled with a low use of the tax-limit is viewed by Fennell as having the "the ability to pay fair and just wages." In addition, Fennell argued that the Village has the appropriate accounting policy and has acknowledged their ability to accommodate compensated absences as an unfunded liability. ²

The issue of financial comparability according to Fennell was difficult to establish. Since the Village is completely residential and lacks a commercial tax-base it is difficult to establish a basis of comparison. ³ His testimony was credited. He noted that in the instant matter the impact of State Aid to municipalities was small and that the former revenue sharing is now formulated as State Aid and has decreased relative to expenditures.

The Village did however raise concerns over the rising costs of health insurance and the future directions of the Government Accounting Standards Board. Village Mayor Herb Morrow testified as to the finances and the overall economics condition of the Village. Morrow prepared the annual budget and described the process involved in the preparation of final reports. The original Village proposal was based on a new salary schedule which would include three additional steps for new police officers. Furthermore, the Village sought a modification in the overtime provision which would permit training time conducted outside of regularly scheduled work hours to be compensated for at straight time.

Morrow described the Village tax rate structure and noted that from 1994 -1999 there were minimal

² There was some discussion at the hearing as to the financial impact if the Village decided to disband the Police Department and turn the function over to the Suffolk County Police Department; however, the parties agreed that there could be a tax increase of unknown proportions. For further information see Police District Fund (page 244) of the FY 2004 Suffolk County Budget.

³ The PBA cited the Village of Lloyd Harbor as a comparable; however the Panel Chairman takes no position on that claim.

increases with a one year tax reduction of two percent.⁴ This occurred at a time when there were also declining interest rates; however, he noted that “ bigger hits” were expected as the last two years included increases in the Village tax rate of 6.5 % and 9.0%.

The Mayor noted that the NYS retirement plan costs them now 11% of payroll and while retirement costs were negligible in 1990's, they are now significant. Therefore, he noted that because of pensions, any salary increases of 4% have a real cost of 6% and that the net impact on the Village budget is greater then described by Fennell. Additionally the Mayor wants to have the annual budget fund compensate absences on an annual basis and not defer as done in the past. (See Village Exhibits Tab #1, #2)

The Village fund balance was also considered as there was much discussion between the “expert witnesses” as to what constitutes a prudent fund balance. The PBA notes that the present balance exceeds recommended percentages. Village Trustee Jay Meyer testified as to the questions regarding the fund balance. He stated that the fund balance is what left over if assets exceed liabilities. Designed in part to sustain an economic downturn, Meyer added that it is often referred to as an “equity balance” and that approximately 20% fund equity is necessary to sustain a viable fund balance. The Village fund balance has experienced a decrease and when asked why, Meyer replied that it was due to Village operations and an excess of expenditures. He projected that based on decreases the fund balance was down to \$53,695.00[three percent of the total budget] and his projection for the end of FY 2006 would be a fund balance of zero or a deficit. (See Village Exhibit Tab #8) Meyer concluded by stating that yet every budget is an estimate until the last day of the FY.

The Village also notes that while it retains certain ability to pay rational and balanced salary increases, and is not arguing an inability to pay, that recent increases to retirement system contributions along with increases in health care premiums mandates a more cautious approach. The 2005-2006 Village budget was set at \$1,566,700.00. (Village Tab #4) Of this amount some 71% or \$1,113,3500.00 goes to expenses for the Police Department. This reflects an increase from 64% in 2002-2003 budget.

As I have often written in the past, wage and salary determination is far from an exact science; however, the undersigned was guided by the criteria set forth in the Taylor Law. Among other factors these included the:

. . . 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 employees generally in public and private employment in comparable communities. Section 209.4 of the Act:

Additional criteria included:

... (b) the interests and welfare of the public and the financial ability of the public employer to pay. (Section 209.4 of the Act)

⁴ The Mayor noted that the Village fiscal year is June 1 - May 31.

As is so frequently the case, negotiated benefits obtained at the bargaining table by either party were afforded presumptive preservation.

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. (Section 209.4 of the Act)

The Panel has considered all the cited statutory criteria and first addresses the comparability standard. The parties were unable to agree to area comparables with so few in the eligible pool to select from. Geographical proximity is a critical element of comparability. The Panel has considered local settlements and county-area comparables and notes that with respect to wages, settlements and Awards in Suffolk County for full-time salaried police departments have ranged in the area of the recommended four percent set forth herein.

The Panel further considered the role that CPI has played in Interest Arbitration. Since 1990 the parties have either negotiated or been the recipient of salary adjustments higher than the CPI. In the instant Award, the awarded raises were greater or in the range of the CPI for the referenced period. Since 1997 the CPI increases as contrasted with the salary increases has reflected a trend whereby the wage increase exceeded the CPI. For example, in 1998 CPI was 1.60% with wages at 4.0%, in 1999 the CPI was 2.0% with wages at 4.25%, in 2000 CPI was at 3.1% with wages at 4.5%, in 2001 CPI was at 2.5% with wages at 4.25%. The 2003 CPI was set at 3.1% with the 2004 CPI at 3.5%. The four per cent increases set forth herein again exceed the CPI. (See Village Exhibit Tab #9)

Furthermore the recent trend in Police Department CBA is the addition of salary steps. This is attributable to the maturation of many Police Department and the desire to build various salary incentives into the profession. (See Village Exhibit Tab #11 and #13.) In Huntington Bay a Police Officer reaches top grade in five years which appears to be somewhat below the County average. (See Village Exhibit Tab #13)

There is no demonstrated inability of the Village to pay the awarded increases. Indeed the opposite exists. The record documents that with wage increases of 4% the Huntington Bay force will be similar in wages with Lloyd Harbor, Amityville and the Suffolk County Police force. As of June 2007 the Huntington Bay force will have a top salary of \$97,554 as contrasted with Suffolk County of \$97,958, Lloyd Harbor of \$96,988 and Amityville of \$97,958. The average percentage salary increases for all Suffolk County municipalities with a Police Department reflect the following: 2000 - 4.13%, 2001 - 4.03%, 2002 - 4.00%, 2003 - 4.12%, 2004 - 4.02%, 2005 - 3.97%, 2006 - 4.05%, 2007 - 3.97%, 2008 - 4.07% and 2009 - 4.20 %. (See Village Exhibit Tab #12)

The members of the Interest Arbitration Panel have extensively discussed the issue of a salary schedule in the context of new employees. The Award herein is retroactive to June 1, 2003. A new hire in fact was made on October 31, 2004. In computing the salary schedule, it is the desire of the arbitration panel to create a realistic, meaningful and well-coordinated salary schedule of steps. It appears that the single new employee hired during the period of this Award will be substantially affected by this new salary schedule. It also appears that the officer has several years of prior police experience with the NYPD. So as to lessen the impact of the new salary schedule on his prior employee and in recognition

of that employee's prior years of service and experience, that employee shall be moved effective October 31, 2006, one step on the salary schedule, that is, whatever step the employee has reached as of the date of the Award, he shall be advanced one step. (E.g., an employee currently on Step 3 shall be advanced to Step 4.) This move in salary step is limited to this employee and limited to the unique circumstances created by the establishment of the new salary schedule with additional steps.

In further recognition of the overall impact of the new salary schedule and to address the Village's concerns and other costs relating to this Award, effective June 1, 2006 there shall be a further amendment to the salary schedule by the creation of a new entry level step to be known as the Academy/Training step. That Step shall be in the amount of \$44,770 and shall be effective for a period of six (6) months after the initial hiring date of any employee hired on or after the execution date of this Award.

Based on the record and the statutory criteria, including the Village ability to pay, it is the opinion of the Panel that the salary AWARD herein is fair and equitable. In full consideration of the evidence and arguments presented, the Panel awards the following salary adjustments in Article III(A) and (B):

- A) For the period June 1, 2003 through May 31, 2004 the current police officers' salary schedule shall be increased by 4.00 percent retroactive to June 1, 2003.
- B) For the period June 1, 2004 through May 31, 2005 the current police officers' salary schedule shall be increased by 4.00 percent retroactive to June 1, 2004.
- C) For the period June 1, 2005 through May 31, 2006 the current police officers' salary schedule shall be increased by 4.00 percent retroactive to June 1, 2005.
- D) The new employee hired during the formulation of this Award shall be moved effective October 31, 2006, one step on the salary schedule, that is, whatever step the employee has reached as of the date of the Award, he shall be advanced one step. (E.g., an employee currently on Step 3 shall be advanced to Step 4.) This move in salary step is limited to this employee and limited to the unique circumstances created by the establishment of the new salary schedule with additional steps.
- E) Effective June 1, 2006 there shall be a further amendment to the salary schedule by the creation of a new entry level step to be known as the Academy/Training step. That Step shall be in the amount of \$44,770 and shall be effective for a period of six (6) months after the initial hiring date of any employee hired on or after the execution date of this Award.
- F) For the period June 1, 2006 through May 31, 2007 the current police officers' salary schedule shall be increased by 4.00 percent retroactive to June 1, 2006
- G) For the period June 1, 2007 through May 31, 2008 the current police officers' salary schedule shall be increased by 4.00.

The PANEL has also revised the salary schedule to reflect the following step change:

Article III(A) and (B) – Salary

Revised Steps in Salary Schedule: Two one-year salary steps shall be added to the existing salary schedule, such that there will be a total of seven (7) one-year salary steps. The new Step 2 shall be set at the existing Step 1 rate plus one-half of the difference between existing steps 1 and 2; The new Step 3 shall be set at the existing Step 1 rate plus three-quarters of the difference between existing Steps 1 and 2; The new Step 4 shall be equal in amount to Step 2 of the existing step schedule. The new Steps 5, 6 and 7 shall be equal in amount to Steps 3, 4 and 5, respectively, on the existing step schedule. Police officers hired on or after June 1, 2003 shall be paid on the revised salary step schedule.

The Panel also Awards the following increases in the Article III (D) – Night Differential. Modify Article III (D) – Night Differential to provide that night differential shall be increased by:

- A. \$250 effective June 1, 2005;**
- B. \$350 effective June 1, 2006; and**
- C. \$250 effective June 1, 2007.**

The PBA has proposed annual longevity increases of \$25.00 per year in each year of the successor agreement. The CBA presently provides for longevity payments of \$1450.00 in the beginning of an officer's seventh year. For each year of continuous service beyond si full years the officer receives an additional \$150.00. The longevity base was modified on June 1, 2002 when the \$1,500 threshold was put into place. In full consideration of the evidence and arguments presented, the Panel awards the following longevity adjustments in Article III C:

- 1. The present longevity system will be modified to reflect the following annual longevity payment shall be increased by:**
 - A) \$25 effective June 1, 2004.**

**ISSUE NUMBER THREE
HOLIDAY PAY
DISCUSSION AND AWARD**

The PBA is seeking a provision whereby “ all employees scheduled to work a tour beginning on a holiday shall receive an additional four (4) hours at straight pay, provided the employee completed that tour of duty.” [See PBA position to arbitration.] The Village has proposed adding Presidents' Day as a holiday and the deletion of both the Lincoln and Washington birthday holiday.

The record documents that the instant unit possesses some twelve holidays appears, an amount within the County range of from 12 - 13. There is no reason in the record to either increase or decrease this amount. (See Village Exhibit Tab #16) However, the majority of the police units do receive some form of additional pay for working a holiday, the majority of which receive one and one half pay for all holiday hours worked.

In full consideration of the evidence and arguments presented, and based on the record, the Panel awards the following modification in Article VII – Holiday Pay:

- 1) **Modify Article VII, Section E to provide that Employees who work at least four (4) hours on a holiday shall receive an additional four (4) hours of straight-time pay, provided that they work their full 8-hour tour that includes the holiday.**

**ISSUE NUMBER FOUR
VACATION ACCRUALS AND CAP
DISCUSSION AND AWARD**

The PBA seeks to change the present vacation paradigm and establish a system whereby employees would have the right to accrue vacations to a maximum of ninety days. The present system permits an accrual balance of up to sixty days. (See Village Exhibit Tab #17)

The Village seeks to modify and reduce the vacation schedule whereby vacation would be apportioned as follows: after one year - 10 working days, after two years - 15 working days, after seven years - 18 working days, and after ten years - 22 working days. They would further modify the vacation schedule by the deletion of the final two vacation steps and reduce the maximum vacation accumulation from sixty days to twenty-one days. The record documents a variety of approaches to this issue ranging from an eight days plus annual year accrual in Southhold to 120 days of accrual in Amityville. (See Village Exhibit Tab #17, #18)

In full consideration of the evidence and arguments presented, and based on the record, the Panel awards the following modification in Article VIII (E) VACATION ACCRUAL:

Article VIII(E) – Vacation Accrual Modify to provide that the cap on accrual of unused annual vacation time shall be increased by:

- 1) **5 days effective June 1, 2005;**
 - 2) **5 days effective June 1, 2006; and**
 - 3) **5 days effective June 1, 2007.**
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**ISSUE NUMBER FIVE
SICK LEAVE
DISCUSSION AND AWARD**

The PBA is seeking language whereby there would be an increase in the payout of sick leave to one day for every two days paid to a maximum of 200 days for 400 days of such accumulation. The Village seeks to modify the accumulation set forth in paragraph A to provide fifteen days per year and modify paragraph D to provide five days. The present CBA allows for 24 sick days per year with a total maximum accrual of 480. Upon retirement an officer may receive pay for 1 for 2 up to 360 days of accruals with a maximum of 18- days. (See Village Exhibit Tab #19)

The record does not support the PBA proposal to increase the sick leave payout. Nor does the evidence support the Village proposal to reduce earned sick leave.

While several of the PBA's arguments are of interest, the record does not document that a problem exists with the present system. Absent any documented issues with the present system, or a compelling reason to modify same, no such recommendation is forthcoming.

In full view of the consideration given the PBA and the Village demands for modifications in "Sick Leave" are rejected. Thus, the Panel Awards the following:

1. The PBA and Village proposals to modify "Sick Leave" are rejected.

**ISSUE NUMBER SIX - HEALTH INSURANCE
DENTAL PLAN
DISCUSSION AND AWARD**

The PBA is seeking language which would remove the existing contractual caps for the Dental plan. The Village opposes this demand and proposes that Article XIII (A) be modified as of May 31, 2003 to limit the Village's contribution to eighty-five % of the health insurance premium. The record indicates that every Suffolk County Municipal Police Department pays 100% of the current cost of the health insurance premium for its officers. (See Village Exhibit Tab #20) Additionally, the Village of Huntington Bay pays 100% of the health insurance premiums for retirees set at the rate in effect after the first retirement of an officer after the execution of the 2001-2003 CBA. (See Village Exhibit Tab #20) There is no reason in the record to now reduce the current employer health insurance premium contribution.

The employer contribution tuion to dental coverage in Huntington Bay is \$40.00 per month individual and \$105 per month for a family plan. While three of the 15 Police Departments cited in the Suffolk County comparables have no payments for dental insurance whatsoever, eight others pay the full amount of the coverage. (See Village Exhibit Tab #21)

In full consideration of the evidence and arguments presented, and based on the record, the Panel awards the following modification in Article XIV - -DENTAL INSURANCE:

Article XIV – Dental

Modify to provide that the cap on the monthly dental coverage premium paid by the Village shall be increased by:

- a. \$5 for individual coverage and \$15 for family coverage effective January 1, 2003;**
- b. \$5 for individual coverage and \$15 for family coverage effective January 1, 2004; and**
- c. \$5 for individual coverage and \$15 for family coverage effective January 1, 2005.**

**ISSUE NUMBER SEVEN
TWENTY-YEAR RETIREMENT & CHART
DISCUSSION AND AWARD**

The retirement issue is at the crux of the instant impasse. The PBA is seeking the removal of the “employment- at-will” element of the present twenty-year retirement plan. The Village submits that since its inception it has paid an additional \$312,000.00 to fund the twenty-year retirement plan and to bargain it away the Village would need something of equal value. It appears that during the prior round of bargaining the parties accepted a two-year agreement with the understanding that they would revisit the retirement issue during the instant round of bargaining.

While it is unknown at what age police officer eligible to retire actually do so, it appears that many are not leaving the job as soon as theoretically eligible. Many are remaining on the job for longer periods of time and while officers may retire at different stages of their professional life, the present Village plan converts officers who have successfully completed their twenty-years on the job to at-will-employees. It is this concept that is behind the PBA demand to remove the twenty-year at will provision.

PBA President Corey McGrath [16 years of service] testified to the overall job requirements but focused primarily on the retirement issue. McGrath works 232 days per year and claims there is minimal supervision but there is reciprocal back up with neighboring and County police units. McGrath noted that while there is some “swing-time” involved on the job, there is no contractual language providing for the same and it is apparently based on the discretion of the Chief of Police.

Pertaining to the issue of retirement, McGrath stated that no one, with the exception of Officer Neil Ramirez, works or has worked beyond twenty-years. P. O. Neil Ramirez retired approximately two years ago and since no replacement was found he remained as a Police Officer for a specified period of time. During this time he was originally compensated at one and one half pay per shift and then eventually at double time per shift. This arrangement lasted approximately for four months. (PBA X#V)

Sergeant Emil Guirgis testified that the Union “signed off” on the Ramirez retirement arrangement. P. O. Jay Verme testified that the Chief of Police does not have the twenty-year retirement “at will”

requirement. (See, PBA X#W and PBA X#X) With respect to the Ramirez retirement, Mayor Morrow testified that in June 2004 he arranged the “post-retirement package.” At that time the Morrow noted they had staffing problems, it was the summer recreation season and in essence stated “ I had no other options.”

Clearly the retirement clause has a discreet value to the Village and in order to support its removal, a position articulated by the PBA, the Village is entitled to equal value in return. [See Village Chart #27] As a result the issue of the work chart and the number of required work days was factored into this equation. The record documents that the present CBA does not contain a duty chart but that by practice officers work 232 tours per year. The issue of annual tours of duties was characterized by the Village as a productivity issue. They note that the present annual 232 is on the low side as many municipalities in Suffolk County work anywhere from 228 - 245 tours per year. (See Village Exhibit Tab #14)

The present at-will employment conversion is a vestige of past and is not found in any other CBA submitted by either party. Indeed it is questionable if it exists anywhere else in New York State. Absent a compelling reason, the Panel Chair is reluctant to Award its continuation. However, the arguments of the Village that one does not simply give away a provision that the Village has repeatedly funded in exchange for nothing are persuasive. While the Village seeks equal value in exchange for the elimination of the “at-will-employment-status” provision, the record is unclear as to precisely what equal value might be. The Village has proposed that as an equitable solution that Article VI - Tours of Duty - be modified to reflect the fact that a tour may be changed on seven day notice without additional compensation and that an officer works 245 tours per year. This demand was later reduced to 238 tours per year.

In full consideration of the evidence and arguments presented, and based on the record, the Panel awards the following modification in Article XVII RETIREMENT and ARTICLE VI TOURS OF DUTY:

1. The PBA proposal for the removal of the retirement at-will-employment provisions of the CBA is granted.
2. Sections C and D of Article XVII – Retirement is to be deleted.
3. Insert new paragraph @ [Article VI – Tours of Duty] providing that effective as of the date of this Award each bargaining unit member hired on or after on or after June 1, 2003 shall be required to work two hundred and thirty-eight (238) tours of duty per officer per year.

**ISSUE NUMBER EIGHT
UNIFORM AND CLEANING ALLOWANCE
DISCUSSION AND AWARD**

The PBA is seeking to increase the present uniform and cleaning allowance by some twenty-five dollars per year in each year of the successor agreement. The Village has proposed the continuation of the

status quo. The CBA provides that officers receive an allowance of \$1200.00 to be used toward the purchase and maintenance of uniforms. The previous CBA provided that said amount be increased by \$10.00 per year in each year of the CBA. The continuation of the \$10.00 increase appears reasonable and within the statutory criteria to be so awarded.

In full consideration of the evidence and arguments presented, and based on the record, the Panel awards the following modification in Article XVIII:

1. \$10 effective June 1, 2003;
2. \$10 effective June 1, 2004;
3. \$10 effective June 1, 2005;
4. \$10 effective June 1, 2006; and
5. \$10 effective June 1, 2007.

**ISSUE NUMBER NINE
PERSONAL LEAVE
DISCUSSION AND AWARD**

The Village seeks to alter the existing Personal Leave schedule and provide that each officer receives four personal days per year. The PBA has proposed continuation of the status quo which is currently at seven days per year. The record reflects that the seven annual PL days is the highest in the County for any municipal Police Department. No other department has seven or six days per year with the average approximating 4.5 annual PL days. There is no reason in the record why the instant unit should enjoy a benefit that no other police unit in the County does. (See Village Exhibit Tab #15)

In full consideration of the evidence and arguments presented, and based on the record, the Panel awards the following modification in Article X Personal Leave:

1. Modify Article X [Personal leave] to provide that effective June 1, 2006 all bargaining unit members shall receive five (5) personal days per year.

SUMMARY

In recapitulation we have carefully considered and weighed all of the relevant statutory criteria, as well as the types of standards traditionally evaluated in interest arbitrations of this kind, in reaching our findings above. In our view, they balance the rights of the members of the bargaining unit to fair

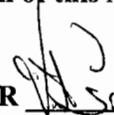
improvements in their terms and conditions of employment with the legitimate needs of the Village to judiciously apportion its economic resources.

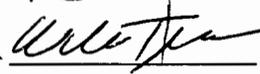
The benefits provided in this Award shall be deemed retroactive. Furthermore, all provisions and language contained in the prior Agreements are hereby continued, except as specifically modified in this Award.

A-W-A-R-D

1. TERM OF THE AWARD

- a. The term of this Award is from June 1, 2003 to May 31, 2008.

CONCUR  DISSENT _____

CONCUR  DISSENT _____

2. BASIS ANNUAL SALARY

- a. For the period June 1, 2003 through May 31, 2004 the current police officers' salary schedule shall be increased by 4.00 percent retroactive to June 1, 2003.
- b. For the period June 1, 2004 through May 31, 2005 the current police officers' salary schedule shall be increased by 4.00 percent retroactive to June 1, 2004.
- c. For the period June 1, 2005 through May 31, 2006 the current police officers' salary schedule shall be increased by 4.00 percent retroactive to June 1, 2005.
- d. The new employee hired during the formulation of this Award shall be moved effective October 31, 2006, one step on the salary schedule, that is, whatever step the employee has reached as of the date of the Award, he shall be advanced one step. (E.g., an employee currently on Step 3 shall be advanced to Step 4.) This move in salary step is limited to this employee and limited to the unique circumstances created by the establishment of the new salary schedule with additional steps.
- e. Effective June 1, 2006 there shall be a further amendment to the salary schedule by the creation of a new entry level step to be known as the Academy/Training

step. That Step shall be in the amount of \$44,770 and shall be effective for a period of six (6) months after the initial hiring date of any employee hired on or after the execution date of this Award.

- f. For the period June 1, 2006 through May 31, 2007 the current police officers' salary schedule shall be increased by 4.00 percent retroactive to June 1, 2006
- g. For the period June 1, 2007 through May 31, 2008 the current police officers' salary schedule shall be increased by 4.00 percent.

Article III (A) and (B) – Revised Steps in Salary Schedule:

Two one-year salary steps shall be added to the existing salary schedule, such that there will be a total of seven (7) one-year salary steps. The new Step 2 shall be set at the existing Step 1 rate plus one-half of the difference between existing steps 1 and 2; The new Step 3 shall be set at the existing Step 1 rate plus three-quarters of the difference between existing Steps 1 and 2; The new Step 4 shall be equal in amount to Step 2 of the existing step schedule. The new Steps 5, 6 and 7 shall be equal in amount to Steps 3, 4 and 5, respectively, on the existing step schedule. Police officers hired on or after June 1, 2003 shall be paid on the revised salary step schedule.

Modify Article III(D)–Night Differential to provide that night differential shall be increased by:

- a. \$250 effective June 1, 2005;
- b. \$350 effective June 1, 2006; and
- c. \$250 effective June 1, 2007.

Concur [Signature]

In full consideration of the evidence and arguments presented, the Panel awards the following longevity adjustments in Article III C:

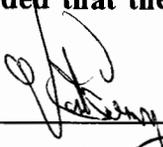
- a. The present longevity system will be modified to reflect the following annual longevity payment shall be increased by:
 - 1) \$25 effective June 1, 2004.

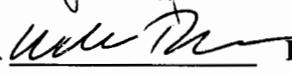
CONCUR *[Signature]* DISSENT _____

CONCUR *[Signature]* DISSENT _____

3. HOLIDAY PAY

- a. **Modify Article VII, Section E to provide that Employees who work at least four (4) hours on a holiday shall receive an additional four (4) hours of straight-time pay, provided that they work their full 8-hour tour that includes the holiday.**

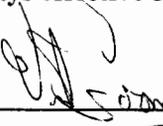
CONCUR  DISSENT _____

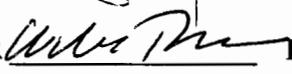
CONCUR  DISSENT _____

4. VACATION ACCRUALS AND CAPS

- a. **Article VIII(E) – Vacation Accrual Modify to provide that the cap on accrual of unused annual vacation time shall be increased by:**

1. **5 days effective June 1, 2005;**
2. **5 days effective June 1, 2006; and**
3. **5 days effective June 1, 2007.**

CONCUR  DISSENT _____

CONCUR  DISSENT _____

6. HEALTH INSURANCE - - DENTAL PLAN

- a. **Article XIV – Dental**

Modify to provide that the cap on the monthly dental coverage premium paid by the Village shall be increased by:

1. **\$5 for individual coverage and \$15 for family coverage effective January 1, 2003;**
2. **\$5 for individual coverage and \$15 for family coverage effective January 1, 2004; and**
3. **\$5 for individual coverage and \$15 for family coverage effective January 1, 2005.**

CONCUR  DISSENT _____
CONCUR  DISSENT _____

7. 20-YEAR RETIREMENT PLAN & CHART

- a. The PBA proposal for the removal of the retirement at-will-employment provisions of the CBA is granted.
- b. Sections C and D of Article XVII – Retirement is to be deleted.
- c. Insert new paragraph @ [Article VI – Tours of Duty] providing that effective as of the date of this Award each bargaining unit member hired on or after on or after June 1, 2003 shall be required to work two hundred and thirty-eight (238) tours of duty per officer per year.

CONCUR  DISSENT _____
CONCUR  DISSENT _____

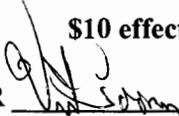
8. UNIFORM AND CLEANING ALLOWANCE

- a. Article XVIII – Uniforms -- The PBA proposal to increase uniform allowances is granted as follows:

Modify to provide that the uniform allowance shall be increased by:

- 1. \$10 effective June 1, 2003;
- 2. \$10 effective June 1, 2004;
- 3. \$10 effective June 1, 2005;
- 4. \$10 effective June 1, 2006; and

5. \$10 effective June 1, 2007.

CONCUR  DISSENT _____

CONCUR  DISSENT _____

9. PERSONAL LEAVE

1. Modify Article X [Personal Leave] to provide that effective June 1, 2006 all bargaining unit members shall receive five (5) personal days per year.

CONCUR  DISSENT _____

CONCUR  DISSENT _____

THOSE ISSUES PRESENTED BY THE PARTIES THAT ARE NOT SPECIFICALLY ADDRESSED IN THIS AWARD WERE ALSO CAREFULLY CONSIDERED BY THE PUBLIC ARBITRATION PANEL, BUT REJECTED IN THEIR ENTIRETY.

AFFIRMATION

Pursuant to Article 75 of the Civil Practice Law and Rules, I hereby affirm that I executed the foregoing as and for my Award in this matter.



Joel M. Douglas, Ph.D.
Public Panel Member and Chairman
Dated: 12/3/06

Pursuant to Article 75 of the Civil Practice Law and Rules, I hereby affirm that I executed the foregoing as and for my Award in this matter.



William Tricarico
Employee Panel Member
Dated: 12-20-06

Pursuant to Article 75 of the Civil Practice Law and Rules, I hereby affirm that I executed the foregoing as and for my Award in this matter.



Vincent Toomey
Employer Panel Member
Dated: 12/1/06

AWARD AFFIRMATION

STATE OF NEW YORK
COUNTY OF WESTCHESTER

On this 3rd day of Dec 2006 before me personally came Joel M. Douglas to me personally known and known to me to the same person described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same:

*C. J. MAHER
#487 3574
exp 12/31/07
[Signature]*

STATE OF NEW YORK
COUNTY OF SUFFOLK

On this 20th day of Dec 2006 before me personally came William Tricarico to me personally known and known to me to the same person described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same:

Hazel Roberts

HAZEL ROBERTS
Notary Public, State of New York
No. 01RO6137882
Qualified in Suffolk County
Commission Expires December 05, 2009

STATE OF NEW YORK
COUNTY OF NASSAU

On this 12th day of December 2006 before me personally came Vincent Toomey to me personally known and known to me to the same person described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same:

Barbara Falla

BARBARA FALLA
NOTARY PUBLIC, State of New York
No. 01FA6082116
Qualified in Nassau County
Commission Expires May 12, 2007