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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Compulsory Interest Arbitration

CONCILIATION

Between

**VILLAGE OF SAUGERTIES POLICE
BENEVOLENT ASSOCIATION,**

Employee Organization,

and

VILLAGE OF SAUGERTIES,

Public Employer,

**RE: TERMS & CONDITIONS OF EMPLOYMENT
FROM JUNE 1, 2004.**

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BEFORE: TRIPARTITE COMPULSORY INTEREST ARBITRATION PANEL:

DAVID N. STEIN, ESQ., PUBLIC MEMBER, CHAIRMAN

WILLIAM M. WALLENS, ESQ., VILLAGE MEMBER

MR. ANTHONY V. SOLFARO, PBA MEMBER

APPEARANCES:

**FOR THE VILLAGE OF SAUGERTIES POLICE BENEVOLENT
ASSOCIATION: JOHN K. GRANT, P.C.**

**FOR THE VILLAGE OF SAUGERTIES: ROEMER, WALLENS &
MINEAUX, LLP, BY: ELAYNE G. GOLD, ESQ., OF COUNSEL**

**TIME, DATE & PLACE OF HEARING: 10 A.M, DECEMBER 8, 2005, VILLAGE
HALL, SAUGERTIES, NEW YORK**

PUBLIC MEMBER'S OPINION & COMPULSORY AWARD

Background

The Village of Saugerties Police Benevolent Association (PBA) commenced this compulsory interest arbitration proceeding pursuant to Section 209 of the *New York Civil Service Law* (the Act) after it and the Village of Saugerties (Village) were not able to reach a voluntary agreement on a successor to a collective bargaining agreement

which expired on May 31, 2004. The purpose of this proceeding is to finally resolve for the parties all of the unresolved issues between them which constitute mandatory subjects of negotiations under the Act.

Throughout the course of this proceeding, both the Village and the PBA were represented by counsel, and were afforded a full and fair opportunity to submit information and data, and to present argument in support of their respective positions. An official transcript of the hearing was made in accordance with law, and following receipt of the transcript, each party submitted a brief, after which the record was closed and upon which the panel deliberated in executive session.

The Village is located in Ulster County, New York and has a population of 4,955, according to the 2000 census. The Village provides full-time police services with a uniformed force which consists of ten officers. There are 2 sergeants, seven patrolman and a lieutenant in the bargaining unit represented by the PBA. There is one additional bargaining unit of Village employees comprised of civilian personnel. The civilian unit is represented by the Communications Workers of America (CWA).

What follows comprises my Opinion and Award.

Statutory Criteria

The criteria to be applied by a compulsory interest arbitration arising under Section 209.4(c)(v) of the Act are common to interest arbitration generally, and are set forth below, as follows:

- 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.

The panel is obligated by law to take into account each of the criteria set forth in the statute. The relative weight to be accorded to each of the criteria, however, is for the panel itself to determine in each case.

*Summary of **Proposals of the Parties***

The PBA's Proposals (as summarized in its post-hearing brief)

1. Uniforms – Article 9

The PBA proposes that the Village provide an officer, upon initial employment, all uniforms and equipment required to carry out his/ her duties. The PBA also seeks the replacement of all uniforms and equipment when it ceases to function or be useful, whether through ordinary wear and tear or by damage or destruction in the line of duty. The PBA proposes to increase the uniform allowance from \$725 to \$775.00 (an increase of fifty dollars), effective June 1, 2004, and to \$800.00 (an increase of an additional \$25), effective June 1, 2005.

2. Meal Allowance – Article 17

The PBA proposes an increase from \$11.00 to \$13.00.

3. Workday and Workweek – Article 18

The PBA proposes to add up to ten administrative or “chart “ days off each fiscal year. There are no chart days under the expired agreement, which provided for a 250 day work year. The chart days could not be carried over or accumulated and would be subject to the approval of the Chief of Police, under the proposal.

The chief would be barred from unreasonably denying a chart day. Chart days would be prorated for new hires.

4. Wages – Article 22

An increase in the rate of base wages of 4.75% in each of the two years of the Award.

Increase the rank differentials in the expired agreement, as follows:
The lieutenant's differential would be increased to five percent more than the sergeant's differential from \$1,200.00.

The PBA proposes to change the current longevity system, as follows:

<u>Current</u>	<u>Proposed</u>
Starting year 11 - \$600	Starting year 9 - \$500
Starting year 16 - \$1,100	Starting year 10 - \$1,000
Starting year 21 - \$1,300	Starting year 13 - \$1,500
	Starting year 16 - \$ 2,000
	Starting year 19 - \$2,500

The PBA proposes to increase the shift differential, as follows:

“A” line	6/1/04	\$1.50/ hr.	6/1/05	\$2.00/ hr.
“C” line		\$1.00/hr.		\$1.50/ hr.

The PBA explains that the current shift differential is \$.50 per hour for those working the “C” line (3:00 PM. to 11:00 PM.) and \$.75 per hour for those working the “A” line (11:00 PM. to 7:00 A.M.).

5. Pension, Group Health and Life Insurance – Section 23.4

The PBA proposes to change health care providers from the Mid-Hudson Health Insurance Plan to the Empire Plan. The PBA also seeks to extend to current employees who retire the same individual and dependent health , dental and optical insurance coverage as they enjoyed as active employees with a contribution by the Village towards the premium of fifty percent for the individual and additional 35% toward dependent coverage with the return of of unused sick leave, compensatory time, chart days,

vacation, holidays and/or personal leave days for additional premium contributions paid by the Village based on a schedule to achieve up to 100% of the health insurance premium (individual and family).

Under existing terms and conditions of employment, bargaining unit members do not have entitlement upon retirement to any health, dental and optical benefits, although officers may use accumulated sick days (which are accumulated to a maximum of 150) by converting two days for one month retiree health insurance, and a maximum of one hundred hours of compensatory time, at two days of compensatory time for one month of health insurance, until the accumulation is exhausted, if the police officer retires with at least ten years of service.

Those hired prior to January 1, 1975 (in other words, with over thirty years of service), are provided with six months of individual retiree health insurance for every year of service up to twenty years for a maximum of three years in addition to the use of accumulated sick leave and compensatory time as described in the preceding paragraph. This group, if any officers with thirty years of service remain, may accumulate leave up to 250 days.

The PBA also seeks removal of the cap on accumulated sick leave.

With the exception of the PBA proposal on uniform allowance, the Village opposes the PBA's proposals.

The Village's Proposals

Proposal No. 2 – Probationary Term

Amend Article 3.2 of the Agreement to require that the probationary term of an officer be in accordance with the Civil Service Law and Rules.

Proposal No. 3 – Personal Days

Amend Article 16.1 so that any use of personal days in excess of four will be deducted from annual leave, rather than sick leave.

Proposal No. 4 – Overtime

Overtime to be offered to patrolman, ten sergeants and lieutenants on a rotating basis. Sergeant's overtime to be initially offered to sergeants, then to the Lieutenant.

Argument

PBA's Position

Comparability

The PBA submits that all of the communities in Ulster County (the County) which employ full-time police officers. This excludes the Town of Plattekill because all of its officers are part-time and the Town does not supply 24 hour police service, the PBA argues. On the other hand, the PBA reasons, the Towns of Shawangunk and Rosendale are both relevant communities because, although they do not provide 24 hour police services, they employ a complement of full-time police officers.

The PBA continues that the Village is one of only three in the County: Ellenville and New Paltz. It notes, however, that police services for the Village of New Paltz is provided by the Town. Thus, the PBA emphasizes, there is only one other village in the County which provides full-time police coverage: Ellenville.

The PBA notes that the municipalities with a population close to the Village's population (4,955) are Ellenville (4,130), Rosendale (6,352), Woodstock (6,241) and Marlborough ((8,263). The PBA points out that the Village falls within the boundaries of the Town of Saugerties which has a population of (19,868).

The PBA divides the police forces within the County into three groups: small,

medium and large. It defines a small force as one with 15 or fewer full time members. It identifies Ellenville (12 full-time), Saugerties (10 full-time), Rosendale (4 full-time), the Town of Saugerties (14 full-time), Shawangunk (14 full-time), Lloyd (8 full-time), Marlborough (4 full-time) and Woodstock (ten full-time).

The PBA reasons that it would be inappropriate to limit the Village to a single pattern, that of the Village of Ellenville, the only other Village in the County with a full-time force, because of similar population sizes. The PBA envisions the possibility that Ellenville may not have settled or received an award each time the PBA in the Village of Saugerties and the PBA are looking for one. The PBA offers, as an alternative to a single pattern setter, identified the municipalities designated by a panel chaired by Professor Joel Douglas, in the most recent interest arbitration between these parties, as follows:

The parties were unable to agree to area comparables with the Village arguing that a wider net must be cast to include in addition to Saugerties, Hoosic Falls and South Glens Falls. The PBA argued in opposite claiming that bargaining history, past practices and custom has always dictated that comparability was traditionally limited to Ulster County. Geographical proximity is a critical element of comparability. The comparability position articulated by the PBA is persuasive in this matter (See PBA Exhibit 34 A).

The Douglas panel examined the terms and conditions of employment of police officers in the towns of Ulster and Woodstock, the Villages of Ellenville and Saugerties and the City of Kingston, the PBA points out.

The PBA charges that the municipalities relied upon by the Village are inappropriate. For instance, the PBA notes, the Village advances the Village of Catskill as an appropriate comparable, although, as its points out, the Village of Catskill is not located within Ulster County and is many miles to the north in Greene

County. The PBA stresses that when a municipality which is less extensive than a County is involved in a public sector interest arbitration, the relevant comparable communities fall within the county of the municipality involved in the dispute, absent particularly compelling circumstances not shown to exist here, citing *Village of Bronxville*, 1A – 95 – 001.

Ability To Pay and the Interest and Welfare of the Public.

The PBA stresses that at the outset of the hearing, the Village conceded that it had the ability to fund a fair and reasonable wage increase for its police officers. The PBA construes what it characterizes this concessions as admirable and interprets it as admitting the ability to afford an increase in the range of those provided by comparable communities within the County.

The PBA also relies on the expert testimony offered by its expert analyst, Kevin Decker, who presented his findings on the record. The PBA cites the following data which Decker reported: the Village's full value tax rate has been increasing by an average of 35% annually while tax rates have remained stable; the Village has an unappropriated fund balance of about \$150,000 in the General Fund and massive reserves in the related water and sewer funds of about \$403,000 and \$423,000 as of May, 2005. These are a very high 45% of the Village's expenses, Decker concluded. The PBA emphasizes that the Village has reserved the right to transfer these sums among its funds in order to apportion administrative cost sharing.

The PBA submits that the Village's taxing limit is at a comfortable fifty percent of its limit. The PBA adds that its expert calculates that there is a contingency appropriation in the Village's budget of about \$50,000 in the general government

category. As it computes that a one percent increase for members of the bargaining unit represented by the PBA. will cost about \$3,840. Thus, it concludes that the Village has the resources to afford a wage and benefit package sufficient to make the Village's officers comparable to officers employed by other Ulster County communities.

In terms of the "public interest" apart from the Village's ability to pay, the PBA asserts that, as in all municipalities, the citizens of Saugerties have a strong interest in a professional, well-trained police department, staffed with qualified and experienced police officers. The PBA reasons that this means that the terms and conditions of employment offered to prospective, as well as incumbent officers, be sufficient to recruit and retain personnel sufficient to comprise an outstanding department.

Peculiarities of the Police Profession

The PBA points out that Section 209.4(c)(v)(c) requires a panel in a compulsory public safety interest arbitration to compare the attributes of the police profession with other professions or trades. The PBA submits that panels of police compulsory interest arbitration have consistently held the only comparable profession to policing is policing. Thus, panels have traditionally looked at the attributes of policing which are peculiar to the profession itself, the PBA argues.

The Terms of Agreements Previously Negotiated Agreements Between the Parties

The PBA urges the panel to carefully weight those provisions of the expired agreement which the Village has asked be altered as part of its proposals. The PBA examines them below.

Uniforms – Article 9

The PBA notes that the parties have traditionally agreed on increase of \$25 to

\$50 annually in their agreements in order to combat the erosion of the benefit due to increases cleaning and maintenance costs.

Meal Allowance

The PBA points out that since 1992, the meal allowance has risen from ten to twelve dollars. As the meal allowance is granted under limited circumstances (as set forth in Section 17.2 of the Agreement), the PBA reasons that the Village's exposure is extremely limited. Officers are limited to the allowance where they have performed four continuous hours of service after his or her eight hour shift.

The PBA asserts that its proposal is eminently reasonable and should be granted in light of the customary increase in the cost of food.

Workday and Workweek – Article 18 – Chart Days

The PBA notes that Village police officers work a 5-2 schedule which produces a 260 day work year. The PBA maintains that this constitutes a longer work year than worked by most officers employed in municipal Ulster police departments. The PBA insists that such officers usually work 243 to 252 days annually. The PBA concedes that the officers employed by Ellenville, Lloyd and Shawangunk all work a 260 day year. However, the work year of officers in the remaining municipalities within the County produce work years of a shorter duration, the PBA submits.

Wages

The PBA insists that its proposal to increase base wages by 4.75% in each of two years is modest and well within the Village's ability to pay. The PBA submits that the increase will allow the Village to keep pace with wage increases granted by other departments in the County to police under their jurisdiction. Unfortunately,

the PBA contends, the proposed increases will still relegate the Village's officers to their current relatively low standing in the County. The increase will favorably impact the relative lifetime earnings of the Village's officers when compared to the lifetime compensation earned by other officers who work in the County, the PBA calculates.

The Village's officers' proposal for a wage increase must be weighed in light of the fact that these officers work a 260 day work year which is longer than the work year of most officers employed by municipalities employed by the County, the PBA reasons. Moreover, the PBA adds, the starting salaries for the Village's officers are currently the County's lowest . This remains true for the Village's officers after three and five years of employment when compared to officers employed by departments in the County which provide for 24 hours of service, the PBA stresses.

When compared to the compensation received by an officer in Ellenville, the most comparable community in the County, an officer employed by the Village fares poorly, the PBA claims. For instance, it points out, over a twenty year career, an officer in Ellenville will earn \$107,000 more than his/ her counterpart in Saugerties, the PBA points out. Over the same period, the PBA continues, the Saugerties officer will work almost an additional year.

The sergeant's position receives a ten percent differential over the compensation of a top-step police officer and the Lieutenant receives a \$1,200 differential over sergeant's pay, the PBA notes. The PBA charges that a Village lieutenant is prejudiced by this limited differential and argues that the lieutenant's differential from a sergeant should be the same as the sergeant's differential over an

officer. The PBA insists that the difference in the relative responsibilities of a lieutenant and a sergeant warrants a larger differential than \$1,200.

The PBA continues that the modest improvements that it seeks in the longevity program will do little to close the differences in compensation which exist between officers employed by the Village and officers who work elsewhere in the County.

Nonetheless, the PBA urges that its longevity proposal be granted as a relatively less expense method of funding a start to increasing the relative compensation level of the Village's officers.

The PBA points out that the relationship between base wages and shift differential will be undermined if the differential is not increased with the increase in wages ordered by the Panel.

Health Insurance Upon Retirement

The PBA underscores the fact that the continuation of health insurance upon retirement is of deep and abiding concern to public employees, including police officers. The PBA adds that the Village has successfully resisted making any commitment to retiree health coverage, despite the fact that it is commonly made available by other public employers, including municipalities within the County.

The PBA cites Ellenville, Shawangunk, Marlborough, New Paltz, , Ulster and Woodstock as municipalities which cover a portion, or in the case of Kingston -- all, of a retired police officer's health insurance. The PBA notes that Ellenville contributes 50% of the cost of individual and an additional 50% of the difference between family and individual coverage. upon retirement for members with up to ten years of service and increases the coverage to 60% for fifteen years of service and seventy percent for twenty

years of service.

The PBA adds that the Town of Shawangunk recently agreed to increase its contribution toward retiree health coverage by an additional 35%, respectively, for individual and family coverage. The PBA points out that Marlborough, New Paltz (for employees with ten years of service), Ulster and Woodstock all continues healthcare coverage upon an officer's retirement.

The PBA insists that the Village's isolation as the sole police employer without any benefit for retiree health coverage be ended.

Change Health Insurance Provider to the Empire Plan

The PBA seeks to change health insurance providers from the Mid – Hudson Insurance Plan to the Empire Plan for both active and retired employees in order to achieve preservation of the same benefits with greater predictability on costs to both the Village and its officers.

Response to Village's Proposals

The PBA opposes the Village's proposals as a retreat from the progress which the parties have achieved during previous rounds of either negotiations or compulsory interest arbitrations. Each of the Village's demands, the PBA charges, would, to varying degrees, decrease or eliminate separation pay, clothing allowance, sick leave benefits, personal leave and health insurance and would lower the safety standards affecting officers by subjecting the replacement of equipment to the Chief's sole discretion.

The PBA claims that the Village has failed to justify any of its proposals In light of the statutory criteria which must be applied by the panel: comparability, the Village's need to save money to foster an ability to pay, or the public interest

and welfare. Consequently, the PBA asks the Panel to deny each of the Village's proposals.

Village's Position

Comparability.

The Village vehemently disagrees with the offer by the PBA of Ulster towns as comparable public employers. The Village insists that towns may *never* serve as comparables for villages, and that villages may not serve as comparable for towns. Factors such as area, population, tax structure, render the two forms of local government incomparable, the Village insists. For example, it notes, the towns lack a constitutional tax limit borne by villages and generally encompass larger areas and have larger populations.

While conceding that villages and cities have similar tax structures, the Village does not concur with the PBA that the City of Kingston is an appropriate public employer with which to compare it for purposes of collective bargaining and/or interest arbitration. The Village stresses that Kingston has a population of 23,456 with 76 sworn police officers. It collects a sales tax and has broader responsibilities to its population than the Village has to its citizenry, the Village argues.

Ability to Pay and the Welfare and Interest of the Public

The Village adduced its case on its ability to pay with the testimony of its Treasurer Julie Dunn. Ms. Dunn, at the time of her testimony, had been Treasurer for two and a half years, had twenty years of experience in financial management and had worked as an assistant comptroller of the Village. The Village's budget is prepared by the Village's Mayor and its Treasurer. A summary of the Treasurer's presentation

follows.

The Village points out that although property values have remained stable for 2000 to 2001 through the 2003-2004 fiscal years. Yet, the Village adds, the property tax increased five percent from fiscal 200-2004 to 2004- 2005. The Village emphasizes that Ms. Dunn attributed the increase in taxes to sharply increasing cost of health insurance and increases in payments to State Pension Funds. The tax increase ran contrary to the Village`s goals, which Dunn identified, as follows:

We`d like to keep the tax on the same level . . . because . . . the Town is increasing the rates, the school rates are increasing, and if we increase our tax rate, we`d have a mutiny on our hands. People are already crying they are already paying too many taxes.

Currently, the Village maintains, the Village enjoys relative fiscal health, and it desires to hold the line. For instance, the Village notes, the Village Funds enjoy a balance which meets State recommended limits. Nonetheless, the Village continues, there has been a general decline in fund balances over the past few years.

Village`s Response to PBA`s Proposals (As Briefed by the PBA)

Uniform Allowance

With the exception of the Village of Ellenville, the Village emphasizes that police in Saugerties enjoy the highest uniform allowance in the County. It therefore opposes the PBA`s proposal to increase the uniform allowance.

The Village points out that the PBA has failed to justify its proposal to remove the one thousand dollar cap for new hires on the uniform and equipment allowance. The Village asserts that there is no *rationale* to support the same allowance for employees who have made intensive use of their uniforms and equipment and new

hires who have not yet used them.

Elimination of Ten Year Floor of Service (10 Years) To Use Accumulated Sick Leave Upon Retirement

The Village charges that the PBA has failed to justify the removal of the ten year service floor for eligibility to convert accumulated sick leave to either a cash or health care benefits upon retirement. The Village contends that the current service requirement rewards a career of service to the Village and serves as an incentive for officers to make a career in police work in its employ.

The Village adds that the elimination of the service requirement would increase its exposure without adding any offsetting benefit to it.

Provide for 100% Reimbursement of Accumulated Sick Leave On Retirement

The Village opposes increasing the percentage of accumulated sick leave an officer can convert upon retirement to one hundred percent. Currently, the Village notes, officers are reimbursed at one hundred percent for accumulated sick leave of one hundred or more accumulated sick leave to a maximum of 250 days (for most employees the maximum is 150 days.). The Village calculates that there are two employees who would be eligible for this benefit. However, the Village computes that were the PBA's proposal granted, it would exponentially expand its exposure to cash out accumulated sick leave. The Village does not calculate that this increase would be offset by increased productivity through the reduced use of sick days.

Accumulation of Leave Time

The Village points out that the PBA has proffered several items which are addressed to issues of leave accumulation. In the case of annual and personal leave, the Village notes that the expired contract was silent as to what occurs when an employee

does not use some of his annual and/ or personal leave during the year in which he is credited for it. In each of these cases, the Village asserts that the PBA has failed to support its proposals with either data or justification for granting these proposals.

The Village also opposes increasing the cap on the number of sick days an officer can accumulate. The Village emphasizes that increasing the accumulation will produce an increased contingent liability which the Village for which it must plan without establishing that there will be an offsetting increase in productivity which the Village needs.

Meal Allowance

The Village opposes the PBA's proposal to increase the meal allowance from twelve to thirteen dollars. Municipalities within the County either lack any provision like this in their agreements or provide for a comparable sum. Thus, the Village reasons that there is no justification for the PBA's proposal to increase the meal allowance.

Retiree Health Insurance

The Village opposes this new benefit as beyond its ability to afford, and without any justification or support from the PBA. The Village stresses that active officers do not contribute toward the Villages cost for providing them with health insurance coverage. The Village identifies this area as one which could be used to fund retiree health insurance, although there is no proposal on employee contribution currently before the panel. Absent any offsetting increase in productivity, the Village charges that the addition of retiree health insurance would not be prudent at this time.

Change Health Insurance Providers From the Mid-Hudson to the Empire Plan

The Village maintains that this switch would aggravate its already increasing healthcare costs without addressing any need for the change specified by the PBA.

The Village also stresses that most officers in comparable jurisdictions are contributing toward healthcare, which Saugerties Village officers do not.

Reduce Work Week and Work Year

The Village insists that this proposal is unworkable and, if granted, would Provide for more time off for officers without increase a manner to fund it without increasing revenues through taxation. The Village projects that awarding more time off would require it to increase the number of officers it employs or to use more overtime.

Increase Wages

The Village characterizes the PBA's proposed increase of 4.75% per year in each of two years as excessive. The Village maintains that comparable jurisdictions awarded increases of two to four percent annually, and that it provided a three year contract to its civilian employees who are represented by the CWA of 3.75% in each of the first two years and a 2/2% split in the final year (this has a one year cash cost of three percent, but has a going out and future cost slightly exceeding four percent, due to compounding).

The Village opposes the increase in the lieutenant's differential as lacking in substance, i.e. justified by a comparison to lieutenants' compensation in comparable jurisdictions.

The Village asserts that the PBA's longevity proposal is unduly expensive, and seeks its rejection. The Village points to the feature of the PBA's plan as

commencing this benefit after only seven years of service. The Village charges that seven years of service is certainly a premature benchmark for the award of a longevity benefit, which serves as a recognition of committed service to a municipality. While the Village acknowledges that many comparable jurisdictions offer longevity earlier in service than the Village provides to its officers, none recognize the length of service as early as the PBA's proposal.

The Village charges that the PBA's longevity proposals are prohibitively expensive. The Village calculates the cost of the PBA's longevity proposal as one percent per year.

Likewise, the Village estimates, the PBA's proposal to increase the shift differential would average at cost of 1.5% annually, with a larger proportion during the first year ("up front"). The Village insists that the only comparable community in the County which provides for a shift differential is the Town of Saugerties.

The Village's Proposals

Probationary Period

Conform the probationary period in the expired agreement to the probationary period required by the Ulster County Civil Service Rules. The Village argues that this change is mandated by law, citing *County of Fulton v. CSEA*, 14 A.D. 3rd 771 (Third Dept., 2005).

Personal Leave Use

The Village seeks to charge annual leave for excessive use of personal leave, rather than sick to leave as currently practiced under the expired agreement, to annual leave. The Village insists that sick leave be limited to cover an officer's illness,

rather than for purposes which are not related to his/ her illness. The current system permits this misuse, the Village alleges. The Town of Ulster is the sole jurisdiction in the County which reflects the village's current practice, the Village stresses.

Change the Process of Overtime Assignment

Overtime, the Village points out, is currently offered to bargaining unit members by bargaining unit seniority, and employees receive payment based on rank. Thus, if the senior officer also has a higher rank than patrolman, as is often the case, he/ she will be compensated at premium pay according to his/ her rank, regardless of whom she/he were replacing.

The Village adds that despite the current practice, the expired agreement was silent as to whether overtime can be rotated. Moreover, the Village adds that if a lieutenant or sergeant is absent, he must be replaced by a senior employee, who may or may not be a patrolman. As a patrolman may not have the responsibility of a sergeant or lieutenant, the Village reasons it is placed in an awkward position. The Village submits that these apparent anomalies would be resolved if its proposal to rotate overtime and to substitute for absent officers by rank were granted.

Discussion and Decision

Comparability

There are two sources for data upon which those neutrals involved in interests disputes rely: internal settlements between the public employer involved and the exclusive negotiating agent(s) of bargaining unit(s) of other public safety or civilians

employed by the public employer. The second source of data are the terms and conditions of employment, including recent resolutions and settlements, between similar public employers and labor organizations representing similar employees to the ones involved in this dispute.

The Village negotiates with only one additional labor organization : the CWA, which represents its civilian employees. The Village and the CWA have in place a collective bargaining agreement covering the period which will be governed by this Award. In addition, a relationship appears to have developed between the civilian settlements negotiated by the CWA and the increases received by the Village's uniformed force where the latter has exceeded the former by from .25% to one percent annually. Village Exhibit F which illustrates this point provides, as follows:

Labor Org.	6/1/00	6/1/01	6/1/02	6/1/03	6/1/04	6/1/05	6/1/06
PBA	3.25%	3.50%	6/1- 2.0%				12/1-2.0%
CWA	3.0%	3.0%	3.0%	3.0%	3.5%	3.5%	6/1-2.0% 12/1-2.0%

While patterns are often followed over many years, each round of negotiations should permit the parties to offer differing comparables as particular to the round. The Legislature did not evince any intent that one panel's finding as to applicable comparables or the existence of a pattern should extend beyond the round over which the panel has been provided with jurisdiction. In fact, the panel's jurisdiction is limited to a two year period, unless otherwise agreed by the parties and ratified by the public employer's legislature. A panel should avoid prejudicing the outcome of possible future impasses which are not before it.

In this case, the Village's voluntary settlements with the CWA reflect its perception of its ability to pay in the context of the constitutional tax limit which regulates villages, but does not regulate towns. Moreover, the potential rigidity caused by the existence of only one other village in the County (Ellenville) which provides full-time police services is decreased with the use of the internal pattern, as well as the terms and conditions of employment of the police officers employed by the Village of Ellenville. Other factors, such as area and population, which renders the towns less relevant as comparables, are not raised with the use of the internal pattern which has been developed by the CWA and the Village.

The only other Village in the County similarly situated to Saugerties is also the Village of Ellenville. The Village employs ten full-time police officers in its Department, while Ellenville employs twelve. The Village has a population of 4,955 compared to Ellenville's population of 4,130. Nonetheless, Ellenville currently appears to be less prosperous than the Village of Saugerties.

For instance, as demonstrated in Village Exhibit V, the Village's *per capita* income, median household income, and median family income all exceed Ellenville's by substantial amounts. In the same vein, the Village enjoys a poverty level which is more than fifty percent lower than Ellenville's. Yet, as can be seen in Village Exhibit V, the base salary and longevity earned by the Village's officers are significantly lower than the base salary and longevity earned by officers in Ellenville. Only a portion of this disparity can be explained by the fact that officers in Ellenville contribute either ten percent (family coverage) or five percent (individual coverage) toward the cost of health insurance. It should be noted that Ellenville is covered by the

Empire Plan, which the Village depicts as a more expensive provider than the Mid-Hudson Plan provided by the Village to its police officers.

The wage increases achieved by officers in Ellenville have been, as follows:

2002	2003	2004	2005	2006
2.5%	3.375%	2% 6/1 1.75% 12/1	2% 6/1 2% 12/1	

My finding that Ellenville presents the single most relevant external comparable for the Village is not unlike the findings of many arbitrators who have held that the similarities between Nassau and Suffolk Counties, as well as a series of settlements and/or compulsory interest arbitration awards covering their police have established a unique and consistent pattern between them which renders other settlements and awards virtually irrelevant.

Therefore, I find that for this round, the comparable jurisdictions for the Village are both itself and the Village of Ellenville. I do not concur that municipalities outside the County are comparable, as reliance on municipalities and school districts from counties other than the one in which the public employer is found, is not traditionally favored by compulsory interest arbitrators and fact finders functioning under the Act.

The City of Kingston and the towns in the County are not relevant Jurisdictions, in my view, because of larger geographical and population size and the absence of a constitutional tax limit.

Ability to Pay and Interest and Welfare of the Public; Previous Contracts

In my view, it is significant that at the outset of the hearing, the Village stipulated that it had the ability to pay for a fair and reasonable settlement. I construed this concession to comprise that an award reflecting a pattern or

patterns found in settlements and awards governing police in comparable communities or the Village's civilian employees represented by the CWA could be financially accommodated without posing a threat to the community's fiscal stability.

Nonetheless, as various jurisdictions have required interests adjudicators to make an affirmative finding that a public employer has an ability to fund an award or fact finding recommendation, I am satisfied that the record contains sufficient evidence that the Village has the ability to pay for a fair and reasonable award which is consistent with terms and conditions of employment of relevant employees in comparable jurisdictions or in the Village itself.

Telling evidence of the Village's ability to pay is its voluntary settlement with the CWA governing civilian employees, who are not eligible for compulsory interest arbitration under the statute. The Village's agreement with the CWA provided for wage increases which were in excess of the increases in the cost-of-living during the period covered by the Village's previous contract with the CWA. This underscores the Village's perception that it has the resources to afford a reasonable award covering the members of the bargaining unit represented by the PBA.

The economic analysis of the PBA's expert witness, Kevin Decker, was not contradicted in the testimony of the Village's Treasurer, nor was the former's report (PBA Exhibit 33). Decker pointed out that the Village possessed an unappropriated fund balance of about \$149,000 in the General Fund and large reserves in the water and sewer funds in excess of \$420,000 as of May, 2005. (The Village has the right to transfer sums from one fund to another to apportion administrative cost sharing.) Moreover, the Village had a contingency appropriation of \$50,000 in the general government

category for 2006. As it is undisputed that each increase of one percent in the wages of bargaining unit members has a cost of \$3,840, there is more than sufficient funding available to support a "going rate" settlement plus some resources to support a catch-up in an area which is deficient when compared to relevant jurisdictions.

Of course, the increasing costs of pension and health premiums must be weighed. These costs are common to all of the municipalities in the County and State, however. There is no evidence that the impact of increased benefit costs has been any greater on the Village than on any other municipality within the County.

The interests and welfare of the public in an efficient, professional and committed police force favor settlements and awards which keep pace with officers in relevant jurisdictions and other employees of the Village. It is clear from this record that the compensation and health care benefits the Village has been providing to bargaining unit members have fallen behind comparable employees in the most relevant comparable municipality, Ellenville, although that community appears to be somewhat less prosperous than the Village (this conclusion partially accounts for the fact that Ellenville's officers contribute toward health insurance, while the Village's officers do not.) There is no longer any justification for this difference, if any existed previously, other than the important goal of carefully and prudently constraining increases in the Village's personnel expenses.

The peculiarities and the terms of collective agreements negotiated by the parties in the past should be reflected in the existence of a so-called "uniform differential" which in recent years has been one percent more (in rate) than the increases the Village has negotiated for its civilian employees. This "differential" reflects the

differences in characteristics of employment of public safety and civilian employees: risk, statutory coverage and protection, and job security.

Terms of the Award

Wages

The application of the Village's civilian pattern plus the customary uniform differential would justify an increase for 2004 and 2005 of 4.5% per year. However, because the Village's officers have identified the award of a new benefit (for them) of retiree health insurance, as a priority, and its addition to the Village's new costs associated with the benefit, this award will divert the differential to support the new benefit I am awarding in the area of retiree health.

The increase of 3.5% still keeps pace with the settlement negotiated for civilian employees by the CWA (who do not enjoy retiree health benefits) and with the increases achieved in the most relevant external jurisdiction, Ellenville. I might well have awarded a larger increase were bargaining unit members contributing toward the cost of health insurance, as in Ellenville. However, bargaining unit members have successfully elected over the years to enjoy fully funded health insurance.

I do not find that the PBA's proposal to increase longevity is prudent at this time. By moving the inception of longevity from the tenth to the seventh year, the PBA has sought to increase the Village's payment for longevity by fifty percent, the Village has calculated (Village Ex. U). Instead, I will support an increase which is consistent with the increases awarded in base pay. Each longevity level shall be increased by \$25.00 effective June 1, 2005.

The record does not support an increase in the lieutenant's differential from

the current \$1,200 to five per cent. However, the differential should be increased by a modest amount of \$25, effective June 1, 2004 and an additional \$25, effective June 1, 2005.

Health Insurance On Retirement

The evidence (PBA Exhibit 16) indicates that every municipality in the County provides this benefit to retiring full-time police officers, save the Village. The PBA notes that Ellenville currently pays fifty percent of the health insurance premium or the retiree with an additional fifty percent of the difference in cost between individual and family coverage for members who retire with a minimum of ten years of service. Ellenville's plan escalates the percentage contributed by that village after fifteen and twenty years of service to 60% and seventy percent, respectively, with the latter including an additional fifty percent for family coverage totaling 85% of coverage. With Ellenville comprising the most comparable of Ulster County police jurisdictions, the Village should have the goal of matching its retiree health benefit, particularly as the current state of Ellenville's profile is less prosperous than the Village's.

The Village's relatively healthy fiscal profile when compared to the other municipalities in the County no longer warrants the status of the Village's officers as the only full-time police officers in the County who do not enjoy retiree health benefits. Any additional cost of the benefit will be offset by the savings generated by the difference between the greater pay of a retiring officer than the compensation paid to a rookie. This savings would be accelerated by any bubble or retirements which could result from the availability of the new retiree health benefit. The Village's analysis of the costs associated with retiree health benefits did not account for this so-

called breakage between the salary of a retiring officer and a new one.

Nevertheless, as the retiree health benefit will be new to the Village, I believe some experience with its cost should occur before it is increased from a minimum level of fifty percent individual or family coverage when an officer retires with a minimum of ten years of service as calculated by the State Retirement System, as proposed by the PBA. Employees should continue to be able to convert their accumulated sick leave to pay for the uncovered portions of their health insurance after retirement. The ten year minimum service requirement should not pertain to those officers who retire with a disability retirement pension under the Retirement and Social Security Law.

Ceiling On Sick Leave Accumulation

The record shows that Ellenville allows officers to accumulate 150 days of unused sick leave. Thus, there is no compelling basis to increase the ceiling on accumulation currently permitted by the parties.

Uniform Allowance

The uniform allowance should be increase in order to keep pace with increasing maintenance costs as reflected by the recognition of a higher allowance provided by the most comparable police employer in the County: the Village of Ellenville. Ellenville provides a uniform allowance of \$775 annually in October with an additional \$750 maintenance paid in September (a total of \$1,525 annually). Although no allowance is paid during an officer's first year of service, the Village of Ellenville supplies uniforms and equipment to each officer.

By increasing the allowance by \$25.00 annually, the Village's uniform allowance will increase to the allowance in Ellenville. The fact that the Village pays

an additional sum toward an officer's initial equipment is more than matched by the additional \$750 annually an Ellenville officer receives for "maintenance" which Saugerties does not provide.

The PBA's proposal to exchange the officer's right to have loss or damage to an officer's uniform due to normal wear and tear borne by the Village for the right to replacement of a uniform lost in the performance of duty should be granted. Normal wear and tear is addressed by the right to a uniform allowance, while the loss of the uniform in the course of duty is not addressed by the allowance (it is a total loss) and is not a result of routine duties.

Meal Allowance

The expense for food is always increasing. A modest increase to thirteen dollars effective with the second year of the Award will address this problem.

Shift Differential

Effective with the first day of the second year of this Award, the shift differential shall be increase by \$.10 per hour for the "A" and "C" lines.

The Village pays the differential only to those officers who actually work the shift. The increase is warranted to ensure that the differential retains its value when weighed against increases in longevity and base wages.

Probationary Period

This is not the forum to determine whether a provision of the parties' expired Agreement violates public policy. However, there is no rationale explanation for the parties to enforce a probationary period which differs from the one which exists pursuant to the Civil Service Rules, if there is a substantial possibility that the difference may

provoke future litigation which will lead to a judicial declaration that the former provision is invalid as a matter of law.

To avoid prejudice to any current officer, I will award the Village's proposal to eliminate the contractual basis for a probationary period, effective May 31, 2006.

Article V

The parties do not dispute that the procedures for negotiations set forth in this provision of the expired agreement are superfluous in light of the provisions of the Act, and therefore concur that this provision should be eliminated from the terms and conditions of employment governing the parties' relationship.

Housekeeping

The parties agree that the following PBA proposals should be granted as so-called "housekeeping" or clarifications, i.e. that no increased or decreased rights or costs are intended.

Remaining Proposals & Existing Terms & Conditions

While each party has advanced cogent arguments in support of proposals not addressed above, I find that application of the statutory *criteria* do not warrant the inclusion of any of these items in this Award, and they are therefore returned to the parties for further discussion.

All provisions of the expired agreement which are not altered by this Award shall be continued unchanged for the term of this Award or any agreement incorporating its terms.

Therefore, consistent with this Opinion, as the Public Member of the Panel in this interests dispute, I render the following Compulsory Arbitration

A W A R D:

1. Article 5 of the parties' Expired Agreement shall be deleted.
2. The Uniform allowance set forth in Article 9 of the Expired Agreement shall be increased by \$25 effective 6/1/04 to \$750 and by an additional \$25 effective 6/1/05 to \$775.00.
3. The PBA's proposal to substitute its proposal as a substitute for the second sentence of Article 9.5 shall be granted as follows: "The loss or damage to the uniform and/or equipment in the performance of duty, other than normal wear and tear, shall be replaced by the Village at no cost to the employee."
4. Insert the term "work" before "day(s)" in Article 14 – Sick Leave, Sections 14.4, 14.5 and Bereavement Leave, Section 15.1 of the existing language in the Agreement.
5. The Meal allowance shall be increased to \$13.00 effective 6/1/05.
6. Base Wage schedule in Appendix C shall be increased by 3.5% per year in Starting and Years 2-7, effective 6/1/04 and an by an additional 3.5% per year, effective 6/1/05. The Sergeant's differential (Base Wage) shall be ten percent over and above the Base Wage of a Year 7 police officer. The Lieutenant's differential (Base Wage) shall be increased from \$1,200.00 over and above the Sergeant's differential to \$1,225.00 effective 6/1/04 and to \$1,250.00 effective 6/1/05. All retroactive pay shall be paid to any employee who worked during the expired Agreement and shall be paid within sixty (60) calendar days of my execution of this Award and the concurrence of at least one member of this Panel, whichever is later. The Village shall supply within a reasonable period of time of submission of a request therefor explanatory worksheets of the sums Paid pursuant to this paragraph 6.
7. Effective 6/1/05, Longevity shall be paid, as follows:

<u>Years of Service</u>	<u>6/1/05</u>
Start 11-15	\$625.00
Start 16-20	\$1,125.00
Start 21 +	\$1,325.00

The above amounts are not cumulative, and shall be paid annually. The longevity amount shall be included in the employee's hourly rate of pay for purpose of overtime, and in the payment of paid leaves (i.e., vacation, holiday, etc.).

- 8.. Effective 6/1/05, a shift differential shall be paid to each employees who works the following shifts:

"A" line (11:00 PM. to 7:00 A.M.) +.\$85/ hour (ten cent per hr. increase)

“ C “ line (3:00 PM. to 11:00 PM.) + \$.60/ hour (ten cent per hour increase)

9. Effective June 1, 2004, employees who retire with at least ten years of service shall be provided with health insurance in the plan(s) available to active employees with the same level of benefits. The Village will pay fifty percent of the individual and/or family health insurance cost. In the event of a disability retirement, the ten years of service shall be waived. Employees eligible for this benefit will continue to have the option of defraying their portion of the cost of coverage with accumulated sick leave and compensatory time as set forth in the existing Agreement.

10. Each employee shall move on the Base Wage and Longevity Schedule on his/ her anniversary date (date of hire). However, employees Rea Laquidara, Mayone and Carrado shall have anniversary dates of June 1 for purposes of movement herein.

11. Replace the first sentence of Article 3,2 “Probation”, as follows: “ Effective May 31, 2006, the probationary period of a newly appointed employee shall be in accordance with the Civil Service Law and Rules of the County as proposed by the Village.

12. All proposals of either party not specifically addressed by this Award are denied and returned to the parties for further negotiations.

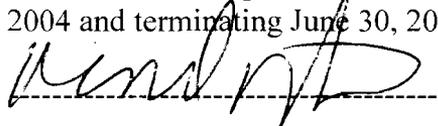
13. Existing terms and conditions memorialized in the most recently expired agreement And which are not expressly deleted or modified herein are to remain in full force and effect.

Dated: April , 2007



DAVID N. STEIN, ESQ.
PUBLIC MEMBER
CHAIRMAN

DAVID N. STEIN, ESQ., affirms in accordance with law that the foregoing Instrument is his Opinion and Award in a Compulsory Interest Arbitration between the Village of Saugerties and the Village of Saugerties PBA concerning terms and conditions of employment commencing June 1, 2004 and terminating June 30, 2006.



AWARD OF MR. ANTHONY V. SOLFARO, PBA DESIGNATED PANELIST

I dissent or concur with the Award of the Public Member, David N. Stein, Esq.,

as follows:

Paragraph	Concur	Dissent
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MR. ANTHONY V.
SOLFARO
PBA ARBITRATOR

AWARD OF WILLIAM WALLENS, ESQ., VILLAGE DESIGNATED
PANELIST

I concur or dissent with the Award of the Public Member, David N. Stein, Esq.,

as follows:

Paragraph	Concur	Dissent
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WILLIAM WALLENS, ESQ.,
VILLAGE ARBITRATOR