

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Compulsory Interest Arbitration

-between-

VILLAGE OF BRIARCLIFF MANOR POLICEMEN'S
BENEVOLENT ASSOCIATION, INC.
Employee Organization,

-and-

VILLAGE OF BRIARCLIFF MANOR
Public Employer,

OPINION

AND

AWARD

PERB Case No.: IA 2010-043; M2010-093

NYS PUBLIC EMPLOYMENT RELATIONS BOARD

BEFORE: Jay M. Siegel, Esq.
Public Panel Member and Chairman

John K. Grant, Esq.
Employee Organization Panel Member

Richard K. Zuckerman, Esq.
Public Employer Panel Member

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CONCILIATION

APPEARANCES:

For the Village of Briarcliff Manor Policemen's Benevolent Association
New York State Union of Police Associations, Inc. AFL-CIO
By: John M. Crotty, Esq.

For the Village of Briarcliff Manor
Lamb & Barnosky, LLP
By: Alyson Mathews, Esq., Of Counsel

BACKGROUND

Pursuant to the provisions contained in Section 209.4 of the Civil Service Law, the undersigned Panel was designated by the Chairperson of the New York State Public Employment Relations Board ("PERB") to make a just and reasonable determination of a dispute between the Village of Briarcliff Manor Policemen's Benevolent Association (PBA) and the Village of Briarcliff Manor (Village).

The Village covers nearly 7 square miles in the western part of Westchester County. It is shared between the Town of Mount Pleasant and the Town of Ossining. It has approximately 7,500 residents. Most of its residents have a high degree of property wealth when compared to other communities across Westchester County and the State.

The Village's Police Department operates on a 24/7 basis. It currently has 17 sworn officers in the bargaining unit, five of whom are sergeants.

The last collective bargaining agreement between the parties covered the period June 1, 2005 through May 31, 2009. In 2009, the parties began negotiations for a successor contract but the negotiations were unsuccessful. Thereafter, acting pursuant to the rules of procedure of PERB, a PERB-appointed mediator met with the parties. Mediation was unsuccessful and on February 14, 2011, the PBA filed a Petition for Interest Arbitration (Joint Exhibit 1) pursuant to Section 209.4 of the Civil Service Law.

The Village filed a response to said Petition on March 4, 2011 (Joint Exhibit 2). Thereafter, the undersigned Public Arbitration Panel (Joint Exhibit 3) was designated by PERB, pursuant to Section 209.4 of the New York State Civil Service Law, for the purpose of making a just and reasonable determination of this dispute.

Hearings were conducted before the Panel at the offices of the Village on December 16, 2011 and January 12, 2012. At both hearings, the parties were represented by counsel. A transcribed record was taken at both hearings. Both parties submitted numerous and extensive exhibits and documentation, including written closing arguments. Both parties presented extensive arguments on their respective positions.

Thereafter, the Panel fully reviewed all data, evidence, arguments and issues submitted by the parties. Despite significant discussion and deliberations at multiple Executive Sessions, the Panel was unable to reach consensus on an Award. As a result, this Award represents the determination of the Panel Chair, who was jointed by one or both Panel members on an item by item basis.

The positions taken by both parties are quite adequately specified in the Petition and the Response, numerous hearing exhibits, and post-hearing written submissions, all of which are incorporated by reference into this Award. Such positions will merely be summarized for the purposes of this Opinion and Award. Accordingly, set out herein is the Panel's Award as to what constitutes a just and reasonable determination of the parties' Award setting forth the terms and conditions for the period June 1, 2009 through May 31, 2011.

In arriving at such determination, the Panel has specifically reviewed and considered all of the following criteria, as detailed in Section 209.4 of the Civil Service Law:

- 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 the 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.

COMPARABILITY

Section 209.4 of the Civil Service Law requires that in order to properly determine wages and other terms and conditions of employment, the Panel must engage in a comparative analysis of terms and conditions with "other employees performing similar services or requiring similar skills under similar working conditions with other employees in generally in public and private employment in comparable communities."

PBA Position

The PBA contends that its members should be compared primarily with several Westchester County villages that lie along the Hudson River, along with the Village of Pleasantville, a village that is adjacent to Briarcliff Manor. More specifically, the PBA's comparables would include Ardsley, Buchanan, Croton-on-Hudson, Dobbs Ferry, Elmsford, Hastings-on-Hudson, Irvington, Ossining, Pleasantville, Sleepy Hollow and Tarrytown. It justifies its universe of comparables by asserting that the villages in this universe have similar legal, fiscal, geographic, economic and historical characteristics.

The PBA maintains that the Village's more expanded list of comparables of all Westchester County villages simply is not needed. In the PBA's estimation, the 11

riverfront villages it selected provide the Panel with more than enough jurisdictions within which to do a meaningful and fair comparability analysis.

The PBA asserts that its list is most appropriate because its group of villages share common characteristics of having full-time, full service police departments. Officers in these villages frequently work together in a coordinated manner. To the PBA, its group of comparables are closely aligned. If the Panel expands the universe to include the villages lying much farther south along the Hudson River or Long Island Sound, there will be fewer commonalities among the group of comparables.

Village Position

The Village insists that all villages in Westchester should be deemed comparable to Briarcliff Manor. The Village contends that this would permit the Panel to consider the villages proposed by the PBA as well as the villages of Bronxville, Larchmont, Mamaroneck, Pelham Manor, Pelham, Port Chester, Rye Brook and Tuckahoe.

The Village observes that three of the villages in the PBA's supposed list of Hudson River waterfront comparables are not even contiguous to the Hudson River. Moreover, the Village contends that there is a wide disparity in the workload of the PBA's proposed list of comparables. For example, whereas 19 crimes were reported in the Village in 2010, the number of crimes in Croton-on Hudson (72), Dobbs Ferry (142), Hastings-on-Hudson (146) and Sleepy Hollow (113) were vastly higher.

The Village contends that all police officers working for villages throughout Westchester County have the same job description, the same training and must take the same Civil Service examination that leads to their employment. There is also no similarity in the size of departments among the PBA's proposed list of comparables.

Since there is no precedent supporting the PBA's proposed list and there is no legitimate set of commonalities amongst the PBA's proposed list, the Village avers that the Panel should consider the entire landscape of Westchester County villages in determining a just award.

Panel Determination on Comparability

The Panel Chair finds that the villages of Westchester County are the most appropriate group of comparables. A number of facts lead the Panel Chair to this conclusion. First and foremost, there is nothing that truly ties together the group of comparables proposed by the PBA. Although they somewhat share geographic proximity to the Village, the fact remains that some of the villages on the list of proposed comparables are just as far away from Briarcliff as some of the villages that are left off the list. The PBA's proposed list of comparables also does not share the commonality of being Hudson River communities. Equally important, the jurisdictions in the PBA's proposed list of comparables have varying degrees of size and varying degrees of crime.

Since there are no truly compelling reasons to justify the PBA's proposed list of comparables, the Panel Chair finds that most appropriate comparables are all villages in Westchester County. These villages all share the same job description and officers in these villages become eligible to become officers by taking the same Civil Service exam. All of the villages have the same form of government and face similarities insofar as their budgeting and funding is concerned for items such as sales tax. To the Panel Chair, the Panel is best served by having the broad group of Westchester County villages.

ABILITY TO PAY

PBA Position

The PBA stresses that tales of gloom and doom and how the now ended recession has affected the private and public sectors has little relevance to this dispute. The PBA points out that Briarcliff Manor is not Flint, Michigan, the State of Minnesota or Lehman Brothers. The PBA maintains that the ability to pay analysis is not a global one. What is relevant here is that Briarcliff is not poor. Its residents are not struggling and are not overtaxed.

The PBA's evidence of the Village's ability to pay was based on the testimony and exhibits presented by Economist Kevin Decker. The PBA asserts that the evidence offered through Mr. Decker conclusively establishes that the Village has the ability to pay for a substantial increase in salary and benefits. According to the PBA, Mr. Decker's presentation should be accorded great weight because he is an expert in municipal finance and his testimony was largely un rebutted.

The PBA asserts that Briarcliff does not remotely resemble one of the municipalities that are struggling to stay afloat and that any claims of that nature are ludicrous. The PBA maintains that the elected officials may have chosen to do the same with more or less for political reasons. However, this is not a justification for denying PBA members the increase in salary and benefits they deserve.

The PBA stresses that much of Mr. Zegarelli's financial claims on behalf of the Village are simply irrelevant. To the PBA, the fact that private sector compensation has decreased relative to public sector compensation is wholly irrelevant. The PBA contends that private sector compensation never sets the standard for pay and benefits in the public

sector market. Indeed, when times are good in the private sector, municipalities have never been known to provide private sector-like raises to municipal employees. When one reviews the Village's financial presentation it becomes quite evident that its demand for concessions is not being made because they are needed. Rather, the Village is simply attempting to achieve a higher bond rating and stay within the 2% tax cap.

The PBA insists that Mr. Decker's analysis is objective and filled with compelling economic statistics that make it abundantly clear that the Village has the ability to pay for a fair and reasonable increase to salary and benefits. Among other things, Mr. Decker found that:

- From 2007 to 2012, the Village's Purpose Tax Levy has increased on average by the rate of 1.69%. This is the second lowest increase to the tax levy among the PBA's list of comparables.
- The Village's weighted tax rate ranks lowest among the PBA's list of comparables.
- The Village's use of constitutional debt limit ranks last among the PBA's list of comparables. At 21.6% of the limit the Village has a tax margin in excess of \$34 million.
- The per capita income real property wealth of Village residents is \$250,000, the highest real property wealth among the PBA's comparables.
- The Village had an operating surplus as high as \$687,960 for the fiscal year ending May 31, 2010.

- For the fiscal year ending May 31, 2011, the Village had a healthy fund balance in its General Fund of over \$2.3 million, which is over 17% of General Fund expenditures.
- The Village's bond rating is Aa2, the third best rating given by Moody's Investor's Service.

The PBA maintains that the fundamental economic conditions of the Village are excellent. It can easily provide the PBA with the salary and benefits it is requesting. Its taxes are low and its fund balance is robust. For this reason, after analyzing the costs of the PBA's economic proposals, Mr. Decker reasonably determined that the Village has the ability to pay for the PBA's economic proposals.

The PBA objects to the Village's assertion that the national fiscal crisis in 2009 should impact this Award. The PBA maintains that, unlike some municipalities that are genuinely facing budget shortfalls, the facts in this case simply do not support the notion that the Village does not have the ability to pay for a wage increase. In the PBA's view, the fact is that the Village and its residents came through the recession in excellent shape. The Village is one of the most desirable communities in the State in which to live and there is nothing in the record to reflect that any of this has changed as a result of the recession.

For all of the reasons above, the PBA urges the Panel to find that the Village has the ability to pay for its economic proposals.

Village Position

The Village insists that the Panel cannot ignore the fact that the Village is suffering the effects of one of the greatest economic recessions in this country's history.

It asserts that its ability to pay has been adversely affected by forces outside its control such as frozen credit markets, low interest rates on investments and a shattered housing market. In the Village's view, the Panel must be sensitive to the Village's taxpayers because the proposals sought by the PBA are well beyond the Village's ability to pay.

The Village stresses the threat of double-dip recession's looms as a genuine reality. Thus, instead of ignoring the adverse economic forces, the Village is tightening its belt so it does not become one of the municipalities that are forced to shut down.

The Village notes that its taxpayers are facing astronomical decreases in their real property values. Thus, Village residents are unable to cash in on their purported real wealth. This is also evident by the fact that Mr. Zegarelli testified that Village homes are not selling. The Village points out that the undisputed objective evidence supports Mr. Zegarelli's testimony because from 2006 to 2012, the Village's mortgage tax collections plummeted to an all time low.

The Village stresses that Departmental income will not fund this Award. Departmental income is a small portion of the Village's revenues and it has not increased in real value in the past five years. Equally important, the Village maintains that several programs supported by the Village are running at a deficit.

Similarly, sales tax receipts will not help fund the Award. According to the Village, since 2008 sales tax receipts have dropped below the amount received in 2005.

The Village argues that the Village has real restrictions on its ability to increase revenues due to the 2% property tax cap. The Village stresses that its Board of Trustees is committed to staying within the 2% cap and that it will not override this pursuant to the

statutory exceptions. Hence, to the extent that increases to the PBA contract exceed the 2% tax cap, the Village will simply cut services.

The Village contends that its revenues simply cannot keep pace with its ever-increasing expenses and that this cannot be ignored. Although the Village has taken several actions to contain costs, the fact remains that increases to health insurance and pension alone are taking a substantial bite out of the Village's tax levy. Indeed, from 2006 to 2011, 13% of the tax levy was used to fund health insurance obligations. This percentage increased to 15% in 2012.

The Village insists that the fact that it has not reached its constitutional debt limit is not demonstrative of an ability to pay. Courts have previously rejected the notion that a municipality has the ability to pay when it has not exhausted its debt limit. Even Mr. Decker acknowledged that no municipality would want to get anywhere near its limit as this would not be financially prudent.

The Village contends that the PBA's economic presentation glossed over some of the most challenging economic issues facing the Village. The presentation failed to account for the rapidly declining Water Fund as well as the non-existent Debt Service Fund.

In the end analysis, since in two of the past five years, the Village's General Fund has ended the fiscal year in a deficit, it is abundantly clear that the PBA's rosy picture of the Village's finances cannot be given any credence. Taxpayers are nearly over the edge. To the Village, the Panel needs to make a determination that takes their need for fiscal prudence into consideration. Thus, while the Village concedes that it has the ability to

pay for a fair and reasonable award, it insists that the PBA's proposals are excessive and do not remotely resemble a fair and reasonable award.

Panel Determination on the Village's Ability to Pay

The Panel Chair has carefully considered the statutory criteria regarding ability to pay as provided through the positions of the parties from the testimony, exhibits and post-hearing briefs filed, forming the record in this matter.

The Panel Chair is cognizant that during the term of this Award, the national, New York State and local economy went into a tailspin unlike anything seen in recent history. Revenues went down and unemployment substantially increased. The housing market dipped significantly for the first time in years and numerous companies went out of business or struggled to stay afloat. New York and its municipalities have clearly been affected by the uncertainties caused by this recession.

On the other hand, the Panel Chair finds that the record establishes that the fundamental economic conditions of the Village are strong. The Village has done an excellent job of managing its resources. The Panel Chair is confident that the Village's prior fiscal management along with its favorable economic conditions will allow it to maintain a strong position despite the challenging economy. The Panel Chair finds that the Village has the ability to pay for this Award and that the wage and other increases awarded herein constitute a fair and reasonable Award.

THE INTERESTS AND WELFARE OF THE PUBLIC

PBA Position

In the PBA's view, this consideration encompasses the fact that the Village's taxpayers benefit from having a professional, well-trained police department. In the PBA's estimation, this can only happen when its members' wages are benefits are competitive so that the Village can attract and retain quality police officers. The PBA opines that the Panel must issue an Award that allows its members to retain its competitive ranking compared to other police officers in Westchester so as to assure that its police officers will not leave the Village for other positions in the County.

Village Position

The Village stresses that the Panel is obligated to consider the fact that this Award will directly affect the citizens and taxpayers of the Village and the economic future of the Village for years to come. It must also consider the fact that citizens in the Village are struggling with increased tax burdens and concerns about the ability of its Village government to remain on sound financial footing. These considerations, along with the fact that the economic forecast is not bright, mandate that the Panel exercise its power with great care and caution while fashioning its Award.

Panel Determination on Interests and Welfare of the Public and Financial Ability of the Public Employer to Pay

The Panel has carefully considered the statutory criteria regarding the interests and the welfare of the public and financial ability of the Village to pay, as provided through the positions of the parties from the testimony, exhibits and post-hearing briefs forming the record in this matter. In looking at this specific issue, the Panel Chair finds

that the PBA's argument that the public benefits by having a competitively compensated staff of police officers must be given credence. It influences the Panel Chair's determination on the issues of the overall wage adjustment and on some of the other wage-related economic issues. The Panel Chair's Award in the area of salary and related issues is premised on the recognition that it is prudent for the Village and beneficial to the public for its police officers to be competitively compensated.

At the same time, many of the other economic proposals advanced by the PBA have been rejected by the Panel Chair because he is concerned about the detrimental effect that any new long-term financial commitments may have on the Village's bottom line. It is not in the interest of the public to significantly augment the economic package provided to police officers as this could have a detrimental impact on the Village's budget.

COMPARISON OF PECULIARITIES OF THE POLICE PROFESSION

The Panel has also carefully considered the statutory criteria regarding the comparison of the police profession with other trades or professions, including specifically: (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; and (5) job training and skills. The PBA asserts that the police profession is so unique that no other useful comparison can be made with other trades or professions.

The parties do not dispute the fact that appropriate weight must be given to the especially hazardous nature of police work and the unique training, skills, pressures and dangers that police officers face each day. The Panel Chair finds that the peculiarities of the profession mandate a direct comparison with police officers.

BASE WAGES

PBA Position

The PBA is seeking a \$2,000.00 increase to the Academy rate (Step 1) and a 4.25% salary increase to Steps 2 through 6 effective June 1, 2009 and again on June 1, 2010. The PBA maintains that the reasonableness of the PBA's proposal can be seen from charts showing wage adjustments to police officers in the universe of comparables. To the PBA, the data clearly demonstrates that its proposed raises would be consistent with the market and reasonable. Among other settlements, the PBA takes note of the fact that officers in the Village of Dobbs Ferry received a 4.3% increase in 2009. Officers in the Village of Elmsford received the equivalent of 4.1% in 2009 and 4.65% in 2010. Officers in the Village of Sleepy Hollow received the equivalent of 6% in 2009 followed by an increase of 2.5% in 2010 while officers in the Village of Tarrytown received salary increases of 3.5% in 2009 and 3.5% in 2010.

The PBA concedes that some of the jurisdictions from the list of comparables received far less than 4.25% in 2009 and 2010. However, the PBA stresses that the salary increases for these units in those specific years cannot be read in isolation because most of them involve multi-year collective bargaining agreements ranging from lows of 2.5% to highs of 4%. For example, Croton-on-Hudson's increases ranged from a low of 2.75% in 2009 and increase each year up to 4% in 2012 and 2013. Irvington's increases ranged from a low of 2.25% in 2009 and increase each year up to 4% in 2013.

The PBA insists that the Village's wage proposal to freeze everyone but top grade officers at June 1, 2008 rates is absurd as is its proposal of 1% effective June 1, 2009

followed by a 2% increase eighteen months later on December 1, 2010. In the PBA's view, the Village has no claim that its financial condition is worse than any of the PBA comparables, let alone all of them. The Village is arguably in the best shape of the entire group of comparables. Thus, the Panel must reject the Village's wage proposal.

The PBA recognizes that its officers are not underpaid relative the market. The PBA maintains that its wage proposal is justified because its officers deserve salary increases, just as they were deserved by their counterparts working in the neighboring municipalities. The PBA argues that salaries should be increased by 4.25% to allow its officers to maintain their relative standing vis-à-vis the other officers in the universe of comparables.

Village Position

The Village maintains that the Panel should deny the PBA's salary proposal. While acknowledging the tremendous law enforcement work that police officers perform, the Village asserts that the PBA's proposal should be wholly rejected because its officers are already among the highest compensated employees in the region.

In the Village's estimation, the PBA's proposed salary increase of \$2,000.00 to the Academy rate 4.25% is completely excessive in this economic climate. The PBA's proposal also should be rejected because unit members' wages have outpaced inflation over the past several years.

The Village claims that the proposed wage increases are far above the so-called going rate. The Village cites the fact that officers in Buchanan and Hastings-on-Hudson received 2% salary increases while Irvington's officers received a 2.25% increase and a 2.5% increase.

The Village contends that virtually all of the higher salary settlements or awards in the universe of comparables (i.e., the settlements with 4% salary increases) were negotiated or issued prior to the time that the recession impacted the region. To the Village, the settlement in the Village of Larchmont is more emblematic of what is and should be happening. Larchmont's officers agreed to a settlement of 1.5% for each year covering the period of June 1, 2011 to May 31, 2014.

The Village asserts that the recently negotiated settlements in Ardsley and Sleepy Hollow should not be used to justify the PBA's excessive wage proposal. The Village avers that those officers historically receive higher salary increases than those provided to the Village. Moreover, Ardsley's police officers agreed to increase their contributions toward health insurance. They also made concessions on retiree health insurance and decreases in the compensatory time cap. Sleepy Hollow's settlement was also achieved by having certain benefits reduced to achieve cost savings. Moreover, even though the Ardsley and Sleepy Hollow settlements exceed what the Village considers to be a reasonable amount, the Village stresses that these settlements demonstrate the downward trend in settlements as well as the trend of unions recognizing the need to pay for salary increases through concessions.

For all of these reasons, the Village urges the Panel to reject the PBA's demand.

Panel Determination on Base Wages

The Panel Chair has carefully considered the statutory criteria balancing the reasonable economic needs of the Village's police officers, with the obligations of the Village in the context of what is fair and reasonable in a more challenging economy.

Wages are one of the most important elements in any labor agreement. Employees have the utmost concern about the wages they will be paid, and wages represent the greatest expenditure for the Village.

The record contains data that supports both parties' positions. The Village faces genuine economic concerns. It has had to contend with flat revenue streams and an economy that is more fragile than has been seen in this area for many years. These are genuine issues that cannot be ignored.

The general state of the economy and the overall tax burden faced by taxpayers, whose burden has increased substantially in recent years, leads the Panel Chair to conclude that the wage proposal made by the PBA must be moderated. Although there are some police units that received wage adjustments in the range of 4% in 2009 and 4% in 2010, the Panel Chair notes that virtually all of these increases were agreed upon prior to the time that the economy faltered. Indeed, the evidence establishes that the average increase in the universe of comparables for settlements and awards issued prior to 2009 was approximately 4.1% in 2009 and 3.7% in 2010. Settlements or awards achieved in 2009 or later from the universe of comparables average 2.83% in 2009 and 2.75% in 2010. In the Panel Chair's view, the changed economy requires an award that is considerably less than 4% so that the Village can manage its resources carefully and limit the impact of this Award on its taxpayers.

The Panel Chair finds that a wage increase that is consistent with the average increase of settlements since 2009 (i.e., since the economy faltered) is the most appropriate way to handle salary increases for this unit at this time. Hence, the Panel

Chair is awarding increases of 2.85% effective June 1, 2009 and 2.75%, effective June 1, 2010.

The wage increases awarded by the Panel will allow Village officers to retain their relative standing vis-à-vis the universe of comparables. The Panel Chair finds it to be important for Village officers to maintain their standing relative to other officers in the universe of comparables. If the Panel awarded the salary increase proposed by the Village, which is well below the average amount received by officers in the universe of comparables, the Panel could jeopardize the relative standing of the Village's police officers.

In reaching the conclusion that salary schedules shall be increased by 2.85% effective June 1, 2009 and 2.75% effective June 1, 2010, the Panel Chair finds that the Village has the ability to pay for a fair increase in wages overall.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON BASE WAGES

ARTICLE 4- BASE WAGE

Effective June 1, 2009 Steps 1-6 of the June 1, 2008 salary schedule shall be increased by 2.85%. Effective June 1, 2010 Steps 1-6 of the June 1, 2009 salary schedule shall be increased by 2.75%.


Concur
John K. Grant, Esq.

Dissent


Concur
Richard K. Zuckerman, Esq.

Dissent

LONGEVITY

PBA Position

The PBA proposes to adjust the years of service steps when longevity would be paid and to increase the longevity rates.

The PBA asserts that its currently longevity schedule lags the market substantially at all of the service levels. It maintains that its officers rank 11th among the PBA's 11 comparables at the 10th year longevity and 9th among the PBA's comparables at the 15th, 20th and 25th year longevities. In the PBA's estimation, its proposal should be accepted by the panel because the evidence demonstrates that longevity starts later than it should in Briarcliff and the money paid is well below market rates.

Village Position

The Village insists that the PBA has failed to present any support for this demand. It asserts that its police officers receive competitive longevity payments and that there is no compelling reason to further increase these payments. It points out that in Buchanan, an officer with eight years of experience receives \$450 compared to the \$650 received by officers in Briarcliff. Similarly, a Croton-on-Hudson officer with 15 years of experience receives \$1,100 while his Briarcliff counterpart receives \$1,225. In the Village's view, increases to longevity are unwarranted in these difficult economic times. Since longevity payments add up over time, the Village stresses that the Panel should not increase the Village's liability on this already expensive payment

Panel Determination on Longevity

The Panel Chair finds clear support in the record for an increase to longevity. Police officers in Briarcliff earn the same or less than many of their counterparts in

neighboring villages. Thus, a modest increase is warranted so PBA members can maintain their relative standing.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON LONGEVITY

ARTICLE 5– Longevity will be modified by increasing the amounts paid effective 6/1/08 by \$25.00 at all levels effective June 1, 2010.

<u>Years of Service</u>	<u>Effective 1/1/10</u>
Starting 8 th through 11 th year	\$675.00
Starting 13 th through 14 th year	\$975.00
Starting 15 th through 17 th year	\$1,250.00
Starting 18 th and Above	\$1,450.00


Concur
John K. Grant, Esq.

Dissent


Concur
Richard K. Zuckerman, Esq.

Dissent

HEALTH INSURANCE FOR ACTIVE EMPLOYEES

PBA Position

The current Agreement between the parties requires active unit members hired after June 1, 1991 and before June 1, 2007, to pay \$500 per year for coverage until they reach Step 6 of the salary schedule. Employees hired on or after June 1, 2007, pay \$1,000 for coverage for the first five years of service with the Village, regardless of whether they have any credited police service with another agency.

The Village proposes to cap its payment for all employees with five or more years of service at \$7,400 annually for individual coverage and \$16,000 annually for family.

coverage. Effective June 1, 2010, the Village proposes that employee contributions for the first five years increase to \$2,000 annually for individual coverage and \$3,000 annually for family coverage.

The PBA insists that all of the Village's health insurance proposals should be rejected. It asserts that the demands ignore the Village's strong economic position and represent a dramatic and unduly burdensome cost shift on the backs of police officers. While healthcare concessions may be appropriate in municipalities that are struggling, there is no evidence that the Village is suffering financially.

The PBA contends that the health insurance model proposed by the Village does not exist anywhere. The Village's proposal also should be rejected because it would gut the current CBA and ignore the parties' long history of negotiations over healthcare. Indeed, New York State Union of Police Associations President Anthony Solfaro testified that healthcare was changed several times over the past rounds of negotiations all to provide the Village with greater flexibility so it could achieve savings.

The PBA points out that the Village's healthcare proposals are so extreme that they would wipe out any anticipated wage increase provided by the Panel. Employees will be going backwards, a circumstance that is unjustified and untenable in the PBA's view. The PBA contends that the Village does not need the healthcare concessions. It simply wants them. Since the Village's healthcare proposals are not justified and would have devastating effects on each police officer's bottom line of take home pay, the PBA urges the Panel to reject the Village's proposal.

Village Position

The Village proposes to cap its payment for all employees with five or more years of service at \$7,400 annually for individual coverage and \$16,000 annually for family coverage. Effective June 1, 2010, the Village proposes that employee contributions for the first five years increase to \$2,000 annually for individual coverage and \$3,000 annually for family coverage.

The Village stresses that it has been suffering from ever-escalating health insurance costs. It asserts that total Village health insurance costs have skyrocketed over the past several years and that these exorbitant costs cannot be ignored. Over the last 11 years, the Village contends that health insurance rates have increased between 2% and 13% each year. To the Village, this trend must be addressed by having all employees contribute a much greater share than they are currently contributing. This is the case in the private sector and numerous municipalities and there is no reason why it should not be the case in Briarcliff.

The Village insists that the PBA's argument that it should be insulated from concessions because of its previous concessions should be rejected. To the Village, the PBA's claims were not supported by any data. The Village contends that the only real concessions are the current contributions made by officers and that these are far less than the market. To this end, the Village observes that Pelham officers contribute 50% for their first four years. Tarrytown officers hired after March 14, 1994, contribute 25% until they reach Police Officer 1st Grade at which point they contribute 1% of base salary (1.5% of base salary for officers hired after June 1, 2008). In the Village's estimation,

these contributions and the many other examples in the record show that the current contributions levels are grossly inadequate.

Panel Determination on Health Insurance for Active Employees

Health insurance continues to be one of the most difficult and contentious labor-management issues due to its importance to employees and their families, and its cost, which has been increasing over the past several years.

The Panel Chair agrees with the Village that the health insurance increases over the past few years have been staggering and that there is no reason to believe this will change in the future. There is no doubt that if some form of greater premium contribution is not implemented at some point in the near-term, it will have an adverse effect on the Village's budget and its ability to deliver services in the future. The Village's arguments are compelling and lead the Panel Chair to conclude that an increase toward premium contributions for new hires is reasonable.

However, there are compelling factors that persuade the Panel Chair that it is not just and reasonable to impose premium contributions that are proposed by the Village. First and foremost, is the fact that the Panel is obligated under Section 209.4 of the Civil Service Law to look at the benefits that comparables are receiving.

The fact is that no village requires its police officers to fund as substantial amount toward premiums as is being proposed by the Village. At the same time, the clear trend evident from the record is that more and more municipalities are requiring officers to contribute a more substantial amount toward the cost of health insurance than has been the case in the past. The Panel Chair concludes that new hires should be required to contribute not only a percentage of the cost of health insurance because this will yield

greater savings to the Village. New hires should also be required to continue contributing until the time they retire, i.e., for their entire working life. Both of these changes should have a real positive effect on the Village's bottom line down the road.

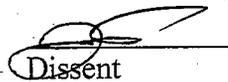
Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON HEALTH INSURANCE FOR ACTIVE EMPLOYEES

ARTICLE 16 (4) – Add the following:

Effective for any employee hired after May 31, 2011, the Village shall pay 85% of the premium for individual coverage, with the employee contributing 15% and the Village shall pay 90% of the premium for family coverage with the employee contributing 10%. These contributions are effective for all years the employee is working for the Village.

Concur
John K. Grant, Esq.


Dissent



Concur
Richard K. Zuckerman, Esq.

Dissent

**SALARY AND BENEFITS FOR EMPLOYEES INJURED IN THE LINE OF
DUTY ON GML SECTION 207-c LEAVE**

Village Position

The current CBA allows anyone on GML Section 207-c status to receive his or her benefits such as uniform allowance, sick leave, personal leave and holiday pay, for a period of six months following which the benefits cease. The Village states that an arbitrator interpreted this provision to mean that the six month recurs, i.e., an employee who is out for more than one year receives his/her benefits for six months and then receives no benefits for six months, with the cycle repeating itself in future years.

Although this provision makes no sense to the Village, it is the current law of the contract.

The Village proposes that it be changed because it is illogical. The Village stresses that many police contracts contain these types of restrictions. Since this proposed change is logical, comports with the market and will save the Village nearly \$20,000 per year, the Village urges the Panel to award its proposals.

PBA Position

The PBA states that the Village's proposals would modify the important arbitration award which led to the status quo and would lead to the reduction of compensation that injured officers currently receive. In the PBA's view, it is extremely important for the Panel to reject this proposal so that officers have accruals on the books when they return to work after an injury on the job. The PBA stresses that injured police officers need these benefits to support their families while they are recovering. Since GML 207-c does not prohibit employers from providing these benefits, there is no logical or fair reason to single out police officers for adverse treatment on account of their disabilities.

Panel Discussion Regarding Salary and Benefits for Employees Injured in the Line of Duty on GML Section 207-a Leave

The Panel Chair greatly respects the importance of GML Section 207-c benefits and the important role they play in providing income protection to police officers who are injured while they are engaged in the important work they do. At the same time, the Panel Chair recognizes that these economic times require moderation in the area of benefits so that this economic package can be fair and balanced to both unit members and the

Village. With this in mind, the Panel Chair finds justification to make some changes to benefits so that any officer on GML 207-c status will receive his or her benefits such as uniform allowance, sick leave, personal leave, vacation and holidays after an employee is out on a leave of absence pursuant to GML 207-c for a total of six months for an injury or work illness. In other words, the Panel Chair feels this is the time to eliminate the provision allowing an employee to have these benefits recur every six months in each year. The changes imposed by the Panel Chair are appropriate in this economic climate and still far better than the minimum that is required to be provided to injured officers out on GML 207-c leave. This change does not change in any way the status quo of wages and other benefits including health insurance that officers are provided while on GML 207-c leave.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON REDUCTION OF SALARY AND BENEFITS FOR EMPLOYEES

INJURED IN THE LINE OF DUTY ON GML SECTION 207-c LEAVE

Modify Article 24, Section 2(e) by inserting after the third sentence the following:

Effective May 31, 2011, a full-time employee receiving Section 207-c benefits shall continue to accrue or be credited with their respective cleaning or purchasing of work clothing and all paid leaves such as sick, vacation, holiday and personal leave as set forth in the collective bargaining agreement for a total period of six (6) months.

Concur
John K. Grant, Esq.


Dissent



Concur
Richard K. Zuckerman, Esq.

Dissent

TRAINING DAY FOR PATROL OFFICERS

The Village proposes a non-substantive editorial change to the CBA regarding one training day for patrol officers each year that is not compensatory. The evidence establishes that in 1996 the parties reached an agreement to reduce the number of work hours worked by patrol officers each calendar year. As part of that agreement, the parties agreed that each patrol officer would work one uncompensated training day per year not to exceed 10 hours. Since 1996, patrol officer have attended firearms and range training on their own time. Superior officers, including sergeants, are paid for this training time.

The Panel Chair finds the Village's proposal to be appropriate because it is consistent with the status quo and it should be incorporated into the CBA.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON TRAINING DAY FOR PATROL OFFICERS

The first paragraph of Article 7 shall be revised to read as follows:

Effective October 1, 2007, the tours of duty for all patrol employees shall be as follows:

"A" line tour of duty	11:00 p.m. to 7:00 a.m.
"B" line tour of duty	7:00 a.m. to 3:00 p.m.
"C" line tour of duty	3:00 p.m. to 11:00 p.m.

The work schedule and rotation for all patrol employees shall be as set forth in Appendix "B" attached hereto and made a part of this Agreement. Each patrol employee (excluding superior officers) will work one uncompensated training day per year, not to exceed 10 hours.

Concur
John K. Grant, Esq.


Dissent


Concur
Richard K. Zuckerman, Esq.

Dissent

PERSONAL LEAVE FOR SERGEANTS

The Village proposes a non-substantive editorial change to the CBA regarding personal leave for sergeants. The CBA currently provides a provision regarding sergeants' personal time that the parties previously agreed to delete. Since the parties previously agreed to delete this language and the language is inconsistent with the Village's operations (i.e. sergeants no longer have varying lengths of tours), the proposal shall be granted.

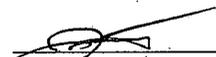
Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON PERSONAL LEAVE FOR SERGEANTS

Delete the following two sentences from Article 13:

Personal Leave for Sergeants shall be changed to an hour for hour basis due to the varying lengths of their tours, but not less than the length of an entire tour. Effective October 1, 2007, the last sentence shall be deleted.

Concur
John K. Grant, Esq.



Dissent



Concur
Richard K. Zuckerman, Esq.

Dissent

HOUSEKEEPING CHANGE REGARDING OVERTIME LANGUAGE

The current CBA states that each employee shall have the option of accruing up to five (5) days (40 hours) of accumulated overtime as compensatory time off. The Village proposes to delete the reference to five (5) days because the parties have a longstanding practice of allowing employees to accumulate up to 40 hours of accumulated overtime as

compensatory time off. Since the Village's assertion is consistent with the currently mutually recognized interpretation of the Collective Bargaining Agreement, this proposal is granted.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON OVERTIME LANGUAGE

Revise the first sentence of Article 6 (3) by eliminating the reference to "5 days" so that it is as follows:

Each employee shall have the option of accruing up to 40 hours each year of accumulated overtime as compensatory time off, which shall be taken at such times as approved by the Chief of Police or designee, but scheduled so as not to result in overtime.

Concur
John K. Grant, Esq.



Dissent



Concur
Richard K. Zuckerman, Esq.

Dissent

HOUSEKEEPING CHANGE REGARDING VACATION LANGUAGE FOR EMPLOYEES HIRED BEFORE JANUARY 1, 1993

For the past several years, employees hired on or before January 1, 1993, have received their annual vacation allotment on January 1 each year. The Village proposes to clarify the vacation language to reflect this practice. Since this change is non-substantive and consistent with the parties' practice, this change shall be made

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON VACATION LANGUAGE

Revise Article 11(2) to read as follows:

An employee hired on or before June 1, 1993 shall be entitled to vacation pursuant to the following schedule:

<u>Classification</u>	<u>Vacation</u>
Police Officer 5 th & 4 th	10 work days on January 1 each calendar year.
Police Officer 3 rd	15 work days on January 1 each calendar year.
Police Officer 2 nd and higher	20 work days on January 1 each calendar year.

After the completion of fifteen (15) years of service, each employee shall receive an additional five (5) work days on January 1 each calendar year, for a total of twenty-five (25) work days.



Concur
John K. Grant, Esq.

Dissent



Concur
Richard K. Zuckerman, Esq.

Dissent

REMAINING ISSUES

The Panel has reviewed in great detail all of the demands of both parties, as well as the extensive and voluminous record in support of those demands. The fact that those demands have not been specifically addressed in this Opinion and Award does not mean that they were not closely studied and considered in the context of terms and benefits by the Panel members. In interest arbitration, as in collective bargaining, not all proposals are resolved, and not all contentions are agreed with. The Panel, in reaching what it has determined to be fair result, has not made an Award on all of the demands submitted by each of the parties.

AWARD ON REMAINING ISSUES

Except as set forth in this Award, the Village's demands are hereby rejected.

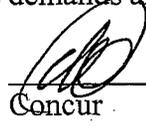
Except as set forth in this Award, the PBA's demands are hereby rejected.



Concur

John K. Grant, Esq.

Dissent



Concur

Richard K. Zuckerman, Esq.

Dissent

RETENTION OF JURISDICTION

The Panel Chairman hereby retains jurisdiction of any and all disputes arising out of the interpretation of this Award.



Concur

John K. Grant, Esq.

Dissent



Concur

Richard K. Zuckerman, Esq.

Dissent

DURATION OF AWARD

Pursuant to the agreement of the parties and the provisions of Civil Service Law Section 209.4(c)(vi) (Taylor Law), this Award is for the period commencing June 1, 2009 through May 31, 2011. The terms of this Award shall be effective on such dates as set forth herein and payable to any unit member working during such award term. Payment of any retroactive wage and/or longevity adjustment shall be made no later than 60 days after the execution of this Award.

Accordingly, the Panel, after consideration of the record evidence and after due consideration of the statutory criteria, executes this instrument which is our award.



JAY M. SIEGEL, ESQ.
Public Panel Member and Chairman

4/2/13
Date



RICHARD K. ZUCKERMAN, ESQ.
Employer Panel Member

3/28/13
Date



JOHN K. GRANT, ESQ.
Employee Organization Panel Member

4-2-13
Date

STATE OF NEW YORK)
COUNTY OF PUTNAM) ss. :

On this ^{2nd} ~~March~~ ^{April} day of March 2013 before me personally came and appeared Jay M. Siegel, Esq., to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

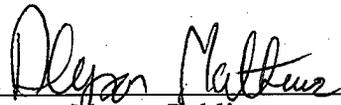


Notary Public

KATHLEEN DUFFETT
Notary Public, State of New York
No. 02DU6128192
Qualified in Putnam County
Commission Expires 06/06/20 13

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss. :

On this ²⁸ day of March 2013 before me personally came and appeared Richard K. Zuckerman, Esq. to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

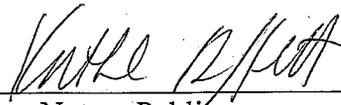


Notary Public

ALYSON MATHEWS
NOTARY PUBLIC - STATE OF NEW YORK
NO. 02MA6123825
QUALIFIED IN SUFFOLK COUNTY
COMMISSION EXPIRES MARCH 14, 20 17

STATE OF NEW YORK)
COUNTY OF ORANGE) ss. :

On this ^{2nd} ~~March~~ ^{April} day of March 2013 before me personally came and appeared John K. Grant, Esq. to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.



Notary Public

KATHLEEN DUFFETT
Notary Public, State of New York
No. 02DU6128192
Qualified in Putnam County
Commission Expires 06/06/20 13