

**NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD**

In the Matter of the Fact-Finding Between

**THE VILLAGE OF BRIARCLIFF MANOR,
("Village"),**

-and-

**CIVIL SERVICE EMPLOYEES ASSOCIATION,
Local 1000 AFSCME, AFL-CIO, Village of Briarcliff
Manor Rank and File Unit, ("Union").**

**FINDINGS OF FACT AND
RECOMMENDATIONS**

PERB Case No. M-2010-35

BEFORE: Carol M. Hoffman, Esq. Fact Finder

APPEARANCES:

For the Village of Briarcliff Manor:

Richard K. Zuckerman, Esq., Counsel
Alyson Mathews, Esq., Counsel
Adam Michaelson, Esq., Counsel
Philip E. Zegarelli, Village Manager
Robin Rizzo, Village Treasurer
Rhonda Alomar, Senior Account Clerk

For the Civil Service Employees Assn:

Sheila Tyler, CSEA Labor Relations Specialist
Brian Andrews, Unit President
Vittorio Moyla, Unit Vice President
Derrick Strippoli, Unit Secretary
Gino Santucci, Unit Treasurer
Michael J. Mas, Park Foreman

INTRODUCTION

This is the Fact Finders' report in the matter of the impasse between the Village of Briarcliff Manor ("Village") and CSEA, Local 1000 AFSCME, AFL-CIO., Village of Briarcliff Manor Rank & File Unit ("Union") which seek to negotiate renewal terms and conditions of

employment for a collective bargaining agreement (“CBA”) that expired on May 31, 2009. This report provides findings of fact and recommendations for resolution of the parties’ impasse.

The Unit consists of the following job titles: all full-time Village employees in the Public works Department, including Cleaner, Water Meter Reader, Park Groundskeeper, Caretaker, Skilled Laborer, Motor Equipment Operator, Water and Sewer Maintenance Worker, Automotive Mechanic, Sanitation Worker and the Park Groundsmen of the Recreation Department.

The parties met for negotiations on seven (7) occasions on November 24, 2008, June 9, 2009, September 23, 2009, November 17, 2009, November 19, 2009, June 3, 2010 and March 3, 2011. The parties jointly filed a Declaration of Impasse on March 21, 2011 and the State of New York Public Employment Relations Board appointed a Mediator. The parties did not reach an agreement in mediation, and NYS PERB appointed the undersigned as Fact Finder on July 24, 2012. A fact finding hearing was held in Village Hall on September 27, 2012 and February 12, 2013. Illness and unavailability of key participants were the cause for much of the delay between September and February. Both parties were given the opportunity to present documentary evidence and testimony in support of their positions.

At the hearing, the parties submitted factual material and other data. They explained their positions, questioned each other and provided clarification of the history and the current status of certain issues. At the close of the hearing, I left the record open for a limited time for the submission of supplemental exhibits. Post hearing briefs were exchanged on March 15, 2013.

BACKGROUND

It is important to note that we are discussing the renewal of a CBA that expired almost four (4) years ago. The parties have apparently met informally several times in addition to the

seven (7) formal negotiations sessions. Despite multiple attempts to resolve these negotiations, no agreements were made since the parties were engaged in package bargaining. As a result, all items were still on the table and original proposals and demands were attached to the Declaration of Impasse. Nevertheless, during the course of the fact finding hearing, some items were removed from the parties' original lists, and some were resolved. The list of items submitted to fact finding is set forth below.

Section 209 of the New York State Civil Service Law governs the fact finding process in this case, but that section does not set forth standards for a fact finding report. In lieu of statutory standards directly applicable to this case, I looked to the criteria contained in Section 209(4) (c) (v) which governs binding arbitration of contractual disputes:

- a. a comparison with similarly situated employees and employers in similar communities; and
- b. the ability of the employer to pay for the terms of the contract and the impact of the terms on the public interest; and
- c. the terms of collective agreements negotiated in the same or comparable regions and for similar or comparable employees and employers.

ISSUES PRESENTED

For the Union:

1. Term of Agreement – six years
2. Wages – annual salary increases.
3. Longevity increases.
4. Double overtime for work on Sunday.
5. Vacation accrual carry-over.

6. NYS Civil Service Law Section 80 rights for non competitive and labor class.
7. Unit reorganization – Dissolve Unit II and roll back II into Unit I.

For the Village:

- A. Emergency call-in pay.
- B. Overtime before and after regular workday.
- C. Increase threshold for out-of title pay.
- D. Codify claimed past practice re assigning least senior employee to sanitation.
- E. Cross-Training: Village seeks to assign employees to tasks outside current job.
- F. Right to request a doctor's note after one day of leave, if abuse suspected.
- G. Health insurance contribution.
- H. New: Right to refer employee to EAP, based on actions or demeanor.

Three Joint Exhibits, four Village Exhibits (including a comprehensive power point presentation, a binder addressing all proposals and demands, and extensive post hearing submissions), and twelve Union Exhibits, as well as post hearing submissions, were presented in support of the parties' positions. In addition to the exhibits, the parties explained relevant bargaining history, provided an explanation of the context of their respective positions, questioned each other and had a full discussion of the issues. Their comprehensive presentations and candid discussions were very helpful to me in my efforts to make recommendations which, hopefully, will serve to assist the parties in resolving this impasse. All material submitted has been fully examined and considered in the determination of these facts and the development of these recommendations.

ABILITY TO PAY

The Village's presentation acknowledged that the entire country has experienced a severe economic crisis since mid 2008, which has affected almost every municipality, including the Village of Briarcliff Manor. Mr. Zegarelli, the Village Manager, supervises the workforce, handles labor relations, is the chief budget officer, CEO and COO for the Village. He is a former Mayor of Sleepy Hollow and has a background in finance, workouts and loan restructuring. Mr. Zegarelli testified about the cost cutting measures the Village has taken to address the economic downturn, including consolidating jobs, reducing overhead, increasing fees charged to non residents for village services, building reserves and upgrading infrastructure during this time when the economy is slow and prices for work are lower. He testified that the Village budget is \$15 million, with roughly \$10 million coming from tax revenue. The 2% tax cap is on the \$10 million. He testified that retirement costs are heading up again and revenue from sales tax and mortgage tax have dropped significantly.

The Village provided extensive documentation regarding the tax cap, revenue sources, revenue decreases and skyrocketing costs. They explained, for example, that sales tax revenues have steadily declined from 2008 through 2010. For the 2012 calendar year, revenues were only approximately \$50,000 more than the Village received during the 2006 calendar year. (Vill.Exh. 1A@S3.) The Village provided evidence of mortgage tax revenue decreasing as well. (Vill. Exh.1A@ S4). As a result, the Village has been forced to spend monies from its debt service fund to fill budget gaps. As of the 2012-2013 fiscal year, only approximately \$85,000 remains, which reflects a \$615,000 decrease since the 2008-2009 fiscal year (Vill.Exh.1A at S5). As a result, the Village argues that it must find alternative means to cushion its budget.

COMPARABILITY

The CSEA submitted data relating only to Westchester County Villages, arguing that other village contracts are more relevant to this fact finding, since Briarcliff Manor is a village and not a town or a city. They provided information based on their review of the contract terms of the Villages of Elmsford, Irvington, Larchmont, Mamaroneck, Ossining, Pelham, Pleasantville, Port Chester and Tarrytown. The Village maintains that all towns and villages in Westchester County are comparable and as authority for that proposition, they cite Fact Finder Korn's 2005 report, in which he found that all Westchester town and villages were comparable to the Village of Briarcliff Manor for purposes of determining appropriate comparisons of terms and conditions of employment.

The parties both provided extensive source material to support the data summaries contained in their exhibits. Whenever possible, they provided the entire CBA's and multiple memoranda of agreements. I thank both of them for their diligence in providing the source material to back up their claims since that data provides a proper context in which to evaluate the proposals and develop recommendations.

As such, I find, as did Fact Finder Korn, that all the contracts for municipalities in Westchester County are fair comparisons for purposes of developing recommendations for the resolution of this impasse.

POSITIONS OF THE PARTIES AND RECOMMENDATIONS

UNION ITEMS #1-7

1. Term of Agreement

After much discussion and in view of the long standing nature of this dispute, the CSEA proposes a six (6) year agreement, commencing on June 1, 2009 through May 31, 2015. The Village has no objection to the CSEA's demand for a six year term. Although this had been an open item at the beginning of the hearing, the parties are in agreement and I recommend its inclusion in the parties' new contract.

Recommendation: Six year agreement covering June 1, 2009-May 31, 2015.

2. Wages

The Union demand and the Village offer for a wage increase are as follows:

	<u>Union</u>	<u>Village</u>
Effective June 1, 2009	2%	0
Effective June 1, 2010	2%	0
Effective June 1, 2011	2%	0
Effective June 1, 2012	2%	0
Effective June 1, 2013	2%	2%
Effective June 1, 2014	2%	2%

The Village contends that it is in no position to fund the Union's demand for 2% a year retroactive to June 1, 2009. It calculates the cost of the wage demand as \$489,112, or a 21.73% increase over a six year period (Vill. Exh. 4 at Tab 45). It also calculates the increased cost for retroactive overtime alone as \$106,897. (Vill. Exh. 4 at Tab 46). The Village points with specificity to the Town of Somers contract, which provided for a 1.5% increase in 2012 and 2013(Vill. Exh. 4 at Tab 44), and to the Village of Elmsford contract at 1% for 2012 and 2013;

and the Town of New Castle at 1%, 1% and 1.5% for 2013, 2014 and 2015, respectively. They cite these contracts as the basis for their claim that municipal contracts are receiving less than 2% per year as wage increases. The Village is adamant that it cannot fund retroactive payments for the first 4 years of a new six year contract. They agree to a 2% wage increase, (up from their 1.5% position) in the last two years of the contract if there is a contract in place for June 1, 2013.

The CSEA on the other hand, argues that 2% a year is the fair raise in the context of other municipal contracts and that all 6 years should either be retroactive, or compensated by a lump sum payment, and they will agree to limit the applicability of the raises to unit members on payroll at the time of the execution of this agreement. The CSEA cites Elmsford at 1% for 2012 and 2013; Irvington at \$700 lump sum payment on 6/1/09 2009, 1% on 10/1/09 2009, 2% on 6/1/10, \$700 lump sum on 6/1/11, 2.75% on 6/1/13, and 2.5% on 6/1/13 and 2.24% on 6/1/14; Larchmont at 1.5% for each of three years 2010,2011 and 2012; Mamaroneck at 2%,2% and 2.5% for three years 2011,2012 and 2013; and Ossining at 3.75%, 1%,2.5%,2.5%,2.75% and 2.75% for 2008, 2009, 2010, 2011, 2012 and 2013. (CSEA Exh. 7) They also point out the two-tiered system negotiated in the Village of Pleasantville, whereby employees hired prior to 6/1/12 were given a higher raise than employees hired on or after 6/1/12, by 2.75%, as follows:

<u>Employees hired prior to 6/1/12</u>	<u>Employees hired on/after 6/1/12</u>
6/1/12 – 0%	6/1/12 – 0%
6/1/13 – 2.75%	6/1/13 – 0%
6/1/14 – 2%	6/1/14 – 2%
6/1/15 – 2.75%	6/1/15 – 2.75%
6/1/16 – 2%	6/1/16 – 2%

The Union argues they are “not trying to get to the top of the mountain”, but they do want and need a fair increase to acknowledge a job well done and to compensate them appropriately for the positions they fill and their contribution the Village.

The CSEA provided information on the Village of Port Chester contract which split the years by giving a 0% raise on 6/1/08, 1% raise on 1/1/09 (not retroactive) and a 1% raise on 6/1/09 (retroactive), another 1% raise on 12/1/09 (retroactive) and a 2.5% raise on 6/1/10 (retroactive), Finally, they provided the contract information on the Village of Tarrytown at 3.5%, 3.5%, 3.8% and 4.0% for 2008, 2009, 2010 and 2011, respectively. (CSEA Exh.7) Essentially, the CSEA argues that 2% a year should be paid to these employees in some form, whether by lump sum or salary schedule increase.

The CSEA’s offer to accept a lump sum in lieu of retroactivity would have the effect of no raise in the salary schedule for 4 years. In order to compensate for that long a period of frozen salary, the lump sum payment must make up for some of the lost ground, particularly in the context of the health insurance contribution increase which is dictated by the comparability data. Accordingly, my recommendation is for a four year freeze, a substantial lump sum payment within 30 days of ratification and a raise that will increase the salary schedule over the last two years of this six year agreement. There is no retroactivity and the lump sum payment only applies to unit members on payroll as of the date of signing this agreement.

Recommendation:	Effective June 1, 2009	No increase on salary schedule
	Effective June 1, 2010	No increase on salary schedule
	Effective June 1, 2011	No increase on salary schedule
	Effective June 1, 2012	No increase on salary schedule
	Eff w/in 30 days of signing	Lump sum payment equal to 3% of salary

only for members on payroll at signing.

Effective June 1, 2013 2.75% increase

Effective June 1, 2014 2.75% increase

3. Longevity Increase

Currently the longevity clause of the parties CBA provides as follows:

After 7 years: \$976

After 12 years: \$1,093

After 17 years: \$1,377

After 20 years: \$1,566

The CSEA provided data on longevity clauses in its hearing exhibit number 5. As justification for the proposed increase, they listed the benefit provided for in Elmsford (which is not comparable because in that contract longevity payments are cumulative); Irvington, Larchmont Ossining and Pleasantville (all of which have lower longevity payments than the Village), and Mamaroneck, Pelham, Port Chester and Tarrytown; which have higher payments than the Village. In fact, Port Chester's longevity payments are less than the Village at some steps except that they have two additional categories, 24 and 26 years, which do not exist in the Village contract.

The Village argues that there is no justification for an increase in the longevity payment because the contract already contains longevity payments that are comparable to those received by other employees in Westchester County. In this instance and based on the data, I agree with the Village and do not recommend an increase in the longevity payment.

Recommendation: No change in the current contract on longevity.

4. Double overtime for work on Sunday

The CSEA is requesting that unit members be paid double time for Sunday work. Currently, Article 2 paragraph 4 provides as follows: “Time and one-half shall be paid for work performed on Saturday and Sunday, if an employee has already worked forty hours in said week.” They claim that practically all of the Westchester County villages pay double time on Sundays, thus, such compensation is reasonable and comparable in the community. They cite Elmsford, Irvington, Larchmont, Mamaroneck, Ossining, Pelham, Pleasantville, Port Chester and Tarrytown as examples of contracts which provide double time for Sunday work, some of these contracts, do not limit double time pay for overtime worked on Sunday. The Village contract is clearly for hours worked beyond forty hours in one week.

The Village contends that only six of the 18 Westchester County villages include the same benefit without any other limitations. They claim that the demand is cost prohibitive in that it would cost the Village \$58,324, over just two years. (Vill. Exh. 4 at Tab 57. Both parties make compelling arguments in this regard. My recommendation is that this benefit not be extended at this time.

Recommendation: No change in the current contract on Sunday work.

5. Vacation Carry Over Period

The CSEA seeks to increase the length of time its members are permitted to use accrued vacation days from six months to nine months. Article 6 Vacations paragraph 5 provides as follows, “Employees may carry over into the first six months of the following calendar year up

to ten days of vacation.” Their rationale at the hearing was that the employees are restricted from using the days at the time when most families are available to take vacations. At the hearing there was some discussion about the Village being flexible on this issue in the context of a contract with no retroactivity on wages, no double time for Sunday work and no longevity increases. Accordingly, I recommend the requested change.

Recommendation: Change the vacation carry over period to the first nine months of the following calendar year.

6. Extension of Civil Service Law Section 80 Rights

In this demand, the CSEA seeks to extend Civil Service Law bumping and retreat rights to non competitive and labor class employees. Currently, competitive class employees have these rights by statute. Their rationale is that non competitive class and labor class employees who are promoted to positions of higher responsibility could end up unemployed if there is a layoff and they do not have the ability to bump a less senior employee from their position. The Village claims this extension of the rights of competitive class employees is rare in Westchester County with only 2 units, Town of Lewisboro and Town of New Castle Highway, having the benefit, (Vill. Exh. 4 at Tab 65).

In any event, the NYS Legislature saw fit to provide this benefit to those employees whose positions are subject to competitive class requirements, such as taking a civil service test for the position. Taking a promotional position often comes with the risk of a new probationary period or other factors which the employee must take into consideration before agreeing to take the job with more responsibility and more pay.

Recommendation: No change in the contract regarding extending Section 80 rights.

7. Dissolve CSEA Unit II into Unit I

In this last of its items, the CSEA seeks to resolve a long discussed issue with regard to unit composition. Unit II has all but one of the Public Works titles in it. Unit I is a singleton unit, having only one employee. Both parties appear to want to resolve this unit composition issue and have had discussions which culminated in a draft memorandum of agreement on the issue. A fair reading of CSEA's Exhibit 8, which was submitted at the hearing, seems to indicate substantial agreement with the terms of the Village's draft memorandum. The Village contends that this issue is best left to the parties to resolve. I encourage the parties to resolve this issue and believe that there is a desire on both parties' part to consolidate the units. However, I will refrain from making a recommendation for consolidation of the unit in the hope that both parties will see fit to resolve it themselves along the lines they have outlined.

Recommendation: No change in unit composition.

VILLAGE ITEMS A-H

A. Emergency Call-in Procedures

The Village seeks two changes to Article 3 of the contract regarding emergency call-in. First they seek to impose a penalty of the one hour travel pay for those employees who are called in and do not respond to work within one hour. Second, they seek to delete the requirement that the Village consider seniority when calling in employees. It argues that the Village should not have its hands tied by seniority in the event of an emergency. I recommend no change as part of the fact finding. These issues are better left to the parties to resolve by mutual agreement after discussion and attempts to resolve whatever incidents may underlie the Village's request.

Recommendation: No change in the contract regarding call in response time and seniority.

B. Elimination of OT before/after scheduled workday and 3 hour minimum

The Village seeks to eliminate the requirement to pay travel pay to an employee who is called into work two hours prior to his/her starting time. They argue there is no reason why the Village should have to compensate an employee for travel time when he/she was already scheduled to appear at work that day. They also seek to delete the three hour minimum call-in pay and pay only for those hours actually worked. They claim it is unpalatable for the public to pay employees premium pay for a set minimum of hours bearing no relationship to the number of hours worked.

The CSEA on the other hand, claims that minimum hours of work for being called in to work before or after the regular workday is a common and appropriate benefit. They submitted data in their CSEA Exh. 12, which shows a 4 hour call in time in Elmsford; a 2 hour minimum call in pay in Irvington which also provides for a 4 hour minimum pay for emergency work beyond 8 hours in a 24 hour period; a 4 hour minimum in Larchmont; a 2 hour call in pay Monday through Friday and a 3 hour call in pay for holidays; a 4 hour call back pay in Pleasantville and Port Chester; a three hour emergency call in provision along with double time for Sunday call in work in Tarrytown. Accordingly, I find no justification for the requested change at this time.

Recommendation: No change in the contract on call in minimums and call in travel pay.

C. Increase in time requirement for eligibility for Out-of Title Work Pay

The Village seeks here to increase the minimum work requirement for out of title work pay. Currently, the contract provides out of title work pay whenever the assignment to a position

in a higher classification is for a period of 4 or more hours. They propose to increase the four hour minimum to five days. They argue that it is unreasonable to expect taxpayers to pay more each time an employee performs work outside his/her job title just because another employee is absent. They provided data showing that several villages and towns have a higher minimum for out of title pay, as follows: Ardsley 4 hours, Bronxville 3 hours, Croton on Hudson 3 hours, Ossining 3 days, Pelham 8 hours, Pleasantville 8 hours and Tuckahoe 1 day. They also referenced 5 contracts which have no minimum requirement, as such the out of title pay either begins at the time of the assignment or is retroactive to the time of the assignment. (Vill. Exh 4 at Tab 13).

The CSEA indicated a willingness to compromise on this issue. Specifically, the four hour rule would remain in place for employees working out of title in the Sanitation Department, and, for all other out-of-title situations, the minimum would be increased to 8 hours. The Village claims that this counterproposal is insufficient because the sanitation department is the impetus for their demand. Nevertheless, since the data does not support the drastic change proposed by the Village, I recommend acceptance of the Union's counterproposal on this issue.

Recommendation: No change in the 4 hour rule for employees working out-of-title in the Sanitation Department, and, for all other out-of-title situations, the minimum is increased to 8 hours.

D. Change contract language to provide that Village may assign the least senior employee to replace an absent sanitation department laborer

The Village seeks here to codify what it claims is the existing past practice of replacing a laborer in the Sanitation Department with the least senior employee. They claim that the Union's

failure to refute the claimed past practice at the hearing is a basis for changing the language. Since confirmation of the past practice appears to be pending, I will not make a recommendation for the change in language. The parties are free to incorporate the change, once they agree on whether the past practice is in existence.

Recommendation: No change in the contract regarding assignments to sanitation work.

E. Cross-Training. Village seeks new language allowing reassignment of employees.

The Village seeks to add new language to Article 4 of the contract as follows:

“The Village promotes cross-training of all employees. The Village reserves the right to assign any employee in Public Works to be assigned to various tasks outside of the departments they were originally hired in or current position. Employees may be assigned to any of the following departments in Public Works: Highway Department, Water Department, Parks Department, Sanitation Department, or Vehicle Maintenance Department.” (Vill. Exh 2)

This proposal by the Village may serve its purpose is achieving flexibility with its work force, however, it runs afoul of the out-of-title provisions discussed above. Nevertheless, the parties may find a way to allow for cross training in those occasions where it is mutually beneficial. I will leave that to the parties to resolve but do not find this initiative to be appropriate for my recommendations. Accordingly, I will not recommend new language in this regard.

Recommendation: No new language on cross training to be added to the contract.

F. Doctor’s note after one day if Village feels there is a pattern of abuse.

In this instance the Village seeks to add the following language to Article 8 paragraph 2:

“The Superintendent of Public Works reserves the right to request a physician’s statement after one consecutive day of sick leave if he feels there is a pattern of sick [leave] abuse.”

The Village Manager testified that the unit is down to 28 employees and absenteeism causes a problem with such a small staff. The Union’s position is that the Village already has all the authority it needs to request a doctor’s note in paragraphs 2, 4 and 5 of Article 8. Paragraph 2 requires a doctor’s note after three consecutive days of sick leave. The Union contends that, in the past, whenever there has been a problem with an employee, the parties met and they agreed to the Village’s decision to require a doctor’s note every day for a sick leave abuser. Further, the Union argues that paragraph 4 addresses eligibility for sick leave use in cases of absence from work because of accident or sickness disability; and, finally, paragraph 5 allows the Village to bring a disciplinary action against an employee who is found to be using sick leave for other purposes. In light of the above, I do not find sufficient basis to recommend a change in the contract language on sick leave use.

Recommendation: No change in the language regarding doctor’s notes for use of sick leave.

G. Increase in Health Insurance Contribution

The Village has submitted a two part proposal on this very significant issue:

- 1) New employees to contribute 10%, until they reach full salary, then 15%, and
- 2) All current employees to contribute 5%, retroactive to June 1, 2009.

The Village provided extensive data on health insurance cost increases. They summarize their data as follows:

“Over the last 11 years, the premiums for individual coverage have annually increased by between 2.3% and 13.8% or a total increase of 139% (Vill. Exh 4 at Tab 22). Family coverage premiums have annually increased by between 1.9% and 13.7% for a total increase of approximately 153% (id.at Tab 23).”

The Village also provided extensive data showing the contributions made by employees in other municipalities in Westchester County, as did the Union. That data reflects that contributions in the Village are far outpaced by other municipalities in the County.(Vill. Exh 4 at Tabs 24-32 and CSEA Exh.11).

In recognition of that fact, the Union modified its position on health contributions and made the following counterproposal:

- 1) Effective June 1, 2013, current employees to contribute \$1,000 annually, while keeping the 100% benefit in retirement; and
- 2) New employees (hired after ratification) to contribute the lesser of 15% or 4% of base salary; while keeping the 100% benefit in retirement.

Considering all of the extensive information provided by both parties, and in recognition of the cost of the benefit to both the Village and the unit members, I recommend as follows:

Recommendation:

- 1) Effective June 1, 2013, current employees pay 5%,**
- 2) New employees hired after ratification of this agreement pay 10%, until they reach full pay, at which point the contribution will increase to 12%.**

In addition, I recommend that the changes required by NYSHIP to the Health Insurance Buy Out provisions be incorporated into Article 10 of the CBA.

H. Employee Assistance Plan

The Village proposes to add new contract language as follows:

“The Village has implemented an Employee Assistance Plan (EAP) for the benefit of its employees in dealing with numerous conflicts at home or in the workplace. The Superintendent of Public Works reserves the right to send an employee to the EAP for needed help, based on the employee’s actions or demeanor. Failure of this employee to meet with the Village EAP organization could result in disciplinary action and possible termination. EAP personnel will make recommendations to the employee for his/her benefit and may require attendance at subsequent meetings.”

The CSEA is willing to consider this proposal, if the Village is required to articulate a reason for the referral to the EAP.

Recommendation: The Village proposal to adopt an EAP is recommended with the condition that the second sentence be amended as follows: “The Superintendent of Public Works has the right to send an employee to the EAP for help, based on the employee’s actions or demeanor, as set forth in a statement of reasons to the employee.”

Conclusion

It is my desire as the Fact Finder to see this impasse brought to a conclusion. It is a long standing dispute, and the parties are ready for a period of labor peace. The Village’s presentation included the statement that “The Village is proud to have these folks, and we are proud of the job they do, and we pay them fairly and provide a good benefit package.” Nevertheless, the Village asserts that its taxpayers are bound by a 2% cap from the State and these times in general

