

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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	X	
In the Matter of the Interest Arbitration	X	
- Between -	X	
INCORPORATED VILLAGE OF FLORAL PARK AND THE FLORAL PARK POLICE DEPARTMENT,	X	
	X	Interest Arbitration
"Village"	X	Award
- and -	X	IA 2005-042
VILLAGE OF FLORAL PARK POLICE BENEVOLENT ASSOCIATION, INC.	X	
	X	
"PBA"	X	

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APPEARANCES

For the County
RYAN, BRENNAN & DONNELLY, L.L.P.
John E. Ryan, Esq.

For the PBA
CERTILMAN BALIN ADLER & HYMAN, L.L.P.
Michael C. Axelrod, Esq.

BEFORE: PUBLIC ARBITRATION PANEL
VIRGINIA APPEL, VILLAGE MEMBER OF THE PANEL
ROBERT PEDLEY, PBA MEMBER OF THE PANEL
MARTIN F. SCHEINMAN, CHAIRMAN OF THE PANEL

BACKGROUND

The parties are signatories to a Collective Bargaining Agreement which expired May 31, 2004. When negotiations and mediation efforts failed to produce a successor Agreement, the PBA petitioned the New York State Public Employment Relations Board ("PERB") for appointment of a Public Arbitration Panel pursuant to procedures set forth in Section 209.4 of the Civil Service Law of the State of New York ("Taylor Law"). On February 13, 2006, PERB appointed the undersigned as members of the Public Arbitration Panel for the parties' dispute. Thereafter, the parties settled their differences over terms and conditions of employment for the period June 1, 2004 through May 31, 2006. They incorporated their settlement into a written Memorandum of Agreement ("MOA, April 2006"). They agreed the hearing scheduled before this Panel would go forward as an interest arbitration for the term commencing June 1, 2006. The parties further agreed to arbitrate the proposals annexed to their Memorandum of Agreement.

Hearings before the undersigned Panel were held on May 22, 2006, June 26, 2006, and September 25, 2006. In between these sessions, multiple conferences were held. During these hearings, the parties were afforded full opportunity to present evidence in support of their respective

positions. They did so. On September 25, 2006, the parties confirmed to the Panel their resolution of all but two (2) issues. They authorized issuance of a Consent Award reflecting their resolution.

Thereafter, on October 10, 2006, the parties submitted written closing arguments in support of their positions on the two (2) issues still in dispute. Upon receipt of those submissions, we declared the record closed and engaged in Executive Session.

DISCUSSION AND FINDINGS

Issues Resolved

At the hearing held on September 25, 2006, the parties agreed these issues would be resolved on the following terms:

1. Term of Award

The term of this Award shall be June 1, 2006 through May 31, 2010.

2. Wages and Alternate Salary Schedules

Base wages shall be increased as follows:

Effective June 1, 2006 - 4 per cent
Effective June 1, 2007 - 4 per cent
Effective June 1, 2008 - 4 per cent
Effective June 1, 2009 - 4 per cent

3. Night Shift Differential

Effective on the date Chart Orange becomes operative,

unit members who work between the hours of 3:00 p.m. and 7:00 a.m. shall receive night shift differential equal to ten (10) per cent of base salary.

4. Longevity

Effective June 1, 2006, longevity shall be increased by One Hundred (\$100.00) dollars at each step each year.

5. Equipment Allowance

Equipment Allowance shall be increased by Seventy five (\$75.00) Dollars per year effective June 1, 2007, by an additional Seventy five (\$75.00) per year effective June 1, 2008, and by an additional Seventy five (\$75.00) dollars per year effective June 1, 2009.

6. Planned Overtime

Planned overtime shall be equalized pursuant to a book/wheel system. The PBA may consult with the Chief of the Department concerning implementation.

7. 207-c Leave

No officer out on leave provided by General Municipal Law Section 207-c shall lose earned vacation.

8. Life Insurance

The Village's contribution for life insurance shall increase by Five Thousand (\$5,000.00) Dollars to a maximum of Eighteen Thousand (\$18,000.00) per year toward the premium of a life insurance policy selected by the PBA.

9. Holidays

Effective January 1, 2007, Washington's Birthday and Lincoln's Birthday shall be eliminated as holidays, and replaced by Presidents' Day plus a floating holiday.

10. Travel Time

Effective January 1, 2007, an officer shall be paid his or her actual travel time to work when called into work up to a maximum of one (1) hour.

11. Union Release Time

Upon establishment of a new chart providing twelve (12) hour shifts, the PBA shall be permitted twenty (20) days off for use by any PBA officer at the PBA's discretion, provided only one (1) officer per day is released. Release of more than one (1) officer per day shall require agreement of the Chief of the Department or his designee. For purposes of this paragraph, "day" shall mean "twelve (12) hour shift".

12. Sick Leave Policy

Upon establishment of a new chart providing twelve (12) hour shifts, the Village shall adopt and implement the sick leave policy adopted by the Nassau County Police Department. Up to three (3) personal days may be used for family sick leave, subject to confirmation and in accordance with current practice. If any are used, they will be deducted from the employee's personal leave bank. For purposes of

the foregoing, "day" shall mean "twelve (12) hour shift". However, for bargaining unit members working eight (8) hour shifts, up to four (4) personal days of eight (8) hours each may be used for family sick leave. Either party may reopen and return to the Arbitration Panel for resolution of any problems over implementation of such Policy.

Issues Unresolved

The parties identified the following two issues as open and unresolved:

1. **Adoption of a twelve (12) hour work chart and**
2. **Elimination of mandatory overtime for sergeants who voluntarily work the tour of another sergeant out on a personal day or compensatory leave day.**

Stipulation

The parties stipulated whatever work chart is awarded by this Panel would be in effect for a period of one (1) year commencing January 1, 2007. They also stipulated either party may ask to reopen that issue as of November, 2007 for the period commencing January 1, 2008, with the Panel retaining jurisdiction to hear and decide the issue of what chart should be awarded as of January 1, 2008.

Relevant Contract Language

June 1, 2002 - May 31, 2004 Agreement¹

ARTICLE III

HOURS OF WORK

Section 1 - Tour Schedules, Meal Periods and Changing Tours

(a) Duty shifts and hours of work shall be as scheduled by the head of the Department provided such schedule shall not exceed four (4) eight hour days during any seven (7) consecutive day period except for changing duty shifts, a public emergency, or special event declared by the head of the Department. PBA agrees that the patrolmen and officers will arrive at the station house in sufficient time, prior to roll call, to prepare themselves for their tour of duty.

(b) The tour schedule of Members assigned to regular patrol shall be as follows: A Member shall be assigned to the 7:00 a.m. to 3:00 p.m. tour for four (4) successive days, with seventy-two hours off. A member shall then be assigned to the 3:00 p.m. to 11:00 p.m. tour for four (4) successive days, with seventy-two (72) hours off. A Member shall then be assigned to the 11:00 p.m. to 7:00 a.m. tour for four (4) successive days, with seventy-two (72) hours off. This Member will thus work twelve (12) days in a nineteen (19) day cycle.

(c) Detectives and lieutenants shall work a two hundred thirty-two (232) day schedule. A Detective shall be paid on an eight (8) hour day, with any work in excess of that day to be compensated as overtime. Lieutenants shall work flexible tours of duty between the hours of 7:00 a.m. and 11:00 p.m., Monday through Friday, except as may otherwise be deemed necessary by the Department in cases of emergency or shortages of personnel, in which such event, however, the recall provisions of the contract shall apply. The Village may schedule a sergeant (known as a swing sergeant) to work Monday through Friday, 10:00 a.m. to 6:00 p.m. with alternate Fridays off except as the swing sergeant

¹In effect through May 31, 2006 per April, 2006 MOA.

shall otherwise be scheduled to work the tour schedule set forth in (b) above in accordance with past practice which shall include vacation, extended illness, injury on the job, and attendance of a newly appointed Sergeant at Supervisors School. The Village may require a "swing" sergeant to cover for another sergeant who is excused from either the 7:00 a.m. to 3:00 p.m. tour or the 3:00 p.m. to 11:00 p.m. tour during the "swing" sergeant's 10:00 a.m. to 6:00 p.m. tour.

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ARTICLE X

OTHER BENEFITS

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Section 4 - Personal Leave/Compensatory Leave

(a) Each Member shall be granted five (5) personal leave days per year. Personal leave days and compensatory leave shall be non-cumulative and shall be scheduled in advance subject to the approval of the head of the Department in consideration of the effect of such requested leave on existing work schedules and the overriding responsibility of maintaining adequate patrol force on duty.

(b) Subject to the availability of other sergeants, the Village shall permit a sergeant to take a personal day or compensatory leave day. If another sergeant or supervisor is available to work that tour, he or she shall be paid overtime only for replacing said sergeant unless requested to report before his or her regularly scheduled tour of duty in which event recall shall apply.

Effective June 1, 1999, a Sergeant may replace another Sergeant and be paid overtime, pursuant to this Section, up to a maximum of twelve full tours, or 24 half tours, per year during which no Lieutenant is on duty. A replacement of less than one-half ($\frac{1}{2}$) a tour shall be deemed a replacement of one-half ($\frac{1}{2}$) a tour and a replacement of one-half ($\frac{1}{2}$) a tour or more shall be deemed a replacement of one (1) whole tour. In addition, Sergeants may request

additional tour replacements. The decision to grant those requests shall reside in the sole discretion of the Commissioner of Police and may not be arbitrated.

On or about June 1, 2001, either party may petition to have an Interest Arbitration Award issued with respect to this provision, which Award shall be effective June 1, 2001, or on such date, as the parties may agree.

* * * * *

Positions of the Parties

The PBA claims for adoption of its proposed Twelve Hour Steady Tour Chart ("Chart C-4"). It contends its chart provides a just and reasonable resolution of the parties' dispute over hours of work.

The PBA asserts most police agencies within the County of Nassau work twelve (12) hour or extended hour work charts. It points to the Villages of Kings Point, Great Neck Estates, Lake Success, Port Washington, Sands Point, Old Brookville, Malverne, Freeport, the City of Glen Cove, and Nassau County, as agencies using twelve (12) hour tours for police officers.

The PBA argues twelve (12) hour tours have been successful in the Nassau County Police Department. For comparison purposes, it provides an analysis of the "Chart Orange" used by the Nassau County Police Department, but does not advocate its adoption in Floral Park. Instead, the

PBA argues for adoption of its proposed Chart C-4. It urges C-4 respects recognized "circadian principles" by which rest and rejuvenation cycles are taken into account. The PBA predicts C-4 will produce substantial benefits to its officers and to the Village, including improved sleep quality when off duty, increased alertness on the job, reduced fatigue, reduced absenteeism, increased employee happiness, and positive morale. It points to research where similar benefits were reported after changing to steady work tours such as C-4. The PBA insists its chart C-4 should be implemented on a trial basis, to enable both parties to gauge its impact.

In the PBA's view, the Village is not opposed to changing to an extended tour chart. However, the PBA opposes adoption of the Old Brookville chart favored by the Village. The PBA urges its chart C-4 requires less manpower to operate than the Old Brookville model. It maintains C-4 requires twenty five (25) police officers plus five (5) sergeants, as compared to Old Brookville's twenty six (26) police officers plus six (6) sergeants. The PBA claims adoption of the Old Brookville model would burden its members with ninety-two (92) hours of payback time and shortened "swings", diminishing the benefits that would otherwise flow from adoption of the C-4 chart. In short,

the PBA insists its proposed C-4 chart provides the maximum benefit to its members, while also benefitting the Village, and should be adopted.

The PBA disputes the Village's proposal to eliminate the existing provision of mandatory overtime for sergeants who voluntarily work the tour of another sergeant out on a personal day or compensatory leave day. It notes earlier provisions giving sergeants the right to overtime when covering another sergeant's tour of duty were later limited by an Interest Arbitration Award providing such overtime would be paid up to a maximum of twelve (12) tours of duty per year when no lieutenant is on duty. It also notes creation of the "swing sergeant" position was later authorized by an Interest Arbitration Award, giving the Village discretion to utilize the swing sergeant to cover certain shifts of the sergeant on leave during the swing sergeant's 10:00 a.m. to 6:00 p.m. tour.

The PBA acknowledges the Village's rationale in seeking elimination of this provision is reduction of overtime costs. However, it contends the Village's "excessive overtime" claims, contending they are exaggerated. The PBA insists the Village has not shown undue overtime costs for tour switches by sergeants. It points to many instances in 2003 when, it asserts, sergeants took time off but no

overtime was incurred. The PBA recognizes there will be times when sergeants take time off for legitimate reasons. However, it argues the use of lieutenants and the swing sergeants to cover the absent sergeant's duty have saved the Village overtime costs that would otherwise be incurred. For these reasons, the PBA insists no persuasive justification has been shown to eliminate the provision.

The Village, on the other hand, opposes adoption of the PBA's C-4 Chart. It alleges that chart has never been utilized by any police department, and as such, is untested. The Village criticizes C-4 as providing unduly large gaps of days off at least eight (8) times during the year, with six (6) days off followed by nine (9) days off. It argues no police department on Long Island has such large gaps in tour of duty charts. The Village asserts such large gaps provide potential for abuse of time when sick leave is taken between the gaps.

The Village asserts the Nassau County Police Department, assessing its own experience with a shorter, four (4) day gap in its Chart Orange, criticized even the four (4) day gap as causing some officers to lack initiative or return to work tired because of involvement in off-duty employment. It also notes the Nassau County Police Department criticized such gap for causing investigative

interruptions regarding automobile accidents and arrests. The Village argues it can expect even more detrimental effects if C-4 is adopted, because of the large gaps of days off available under C-4. The Village asserts C-4 does not provide fixed rotations, and will undermine flexibility of scheduling and generate increased overtime costs.

The Village recognizes "Chart Orange" has been used by the Nassau County Police Department, but insists it will not work for Floral Park. It asserts the Nassau County Police Department, with 2500 officers, is far larger. It emphasizes even the PBA does not advocate adoption of Chart Orange for Floral Park. It contends Chart Orange provides no relief sergeants or relief police officers, making it difficult to schedule coverage for vacations, illness, and training. The Village claims Chart Orange will lead to new hires being on night tours for twenty (20) years, because scheduling under Chart Orange is, according to the Village, based on seniority, with assignments to steady days or steady nights. It asserts this system will lead to night tours being filled only with junior officers having the least experience.

The Village objects that Chart Orange can create a "day/night" police department, and permits investigative interruptions when an officer is off on a four (4) day

swing. It criticizes Chart Orange for providing no training days nor flexibility for management.

The Village argues Chart Orange's squad system has the same officers and supervisors working together constantly, creating what the Village views as an unhealthy administrative condition. It contends these and other criticisms have already been noted by the Nassau County Police Department where such chart is in force.

The Village asks for the adoption of the Old Brookville chart. It asserts the Old Brookville chart has been used for ten (10) years without problem. The Village contends the Old Brookville police force is the same size as Floral Park. It argues the Old Brookville chart will provide greater flexibility in scheduling and provision of training days than C-4 or Chart Orange. The Village asserts Old Brookville does not provide the large swings of days off such as those found in C-4. According to the Village, Old Brookville officers work two (2) tours "on", then have three (3) tours "off". It contends officers are not "frozen" in the same tour for an extended period of time because all officers rotate through the chart. The Village urges opportunity to earn night pay differential is equalized under Old Brookville.

The Village emphasizes Old Brookville's chart provides two (2) relief sergeants and two (2) relief officers, giving the Department greater flexibility to assign where special needs arise. This feature is a distinct advantage over C-4 and Chart Orange, neither of which provide relief sergeants or relief officers, according to the Village. It asserts, further, Old Brookville's provision of relief sergeants will facilitate scheduling of sergeants' time off. The Village maintains the Old Brookville chart affords benefits to police personnel comparable to C-4 and will best meet the Department's needs. In short, the Village argues the Old Brookville chart should be adopted.

The Village argues in favor of its proposal to eliminate mandatory overtime for sergeants voluntarily work the tour of another sergeant out on a personal day or compensatory leave day. It insists this provision is unique to Floral Park and should be eliminated because of "ongoing abuse", generating unnecessary overtime costs. It also alleges for elimination because the provision's original purpose (to afford sergeants coverage for days off) will, in the Village's view, be rendered academic upon adoption of twelve (12) hour fixed tours, which, the Village asserts, will require sergeants make fewer appearances giving them more days off.

The Village contends by contract, use of personal leave by police officers is subject to the approval of the Department. However, the Village asserts no such approval is required for use of personal or compensatory leave by sergeants. In the Village's view, sergeants' unfettered exercise of such leave rights causes increased overtime costs, because the Village is bound to pay overtime to covering sergeants under this provision. The Village emphasizes in 1995-1998, sergeants' overtime nearly doubled, causing a later Public Arbitration Panel to add a provision limiting the number of sergeant "switches" to twelve (12) per year without having to obtain approval from the Department. Since that time, the Village asserts abuse of the tour "switch" provision has continued. The Village argues in the six (6) years from 2000-2001 to 2005-2006, its sergeants all used the maximum twelve (12) tour switches allowed under the Agreement for times when no lieutenant was on duty. It insists a pattern exists whereby all sergeants exhaust the maximum twelve (12) tour switches when no lieutenant is available. This pattern costs the Village in excess of Fifty Thousand (\$50,000) Dollars per year. It claims during those six (6) years, no sergeant switched a tour when scheduled to work with a lieutenant on duty, despite the fact, claimed by the Village, lieutenants are on

duty and available to cover for sergeants at least forty (40%) percent of the annual tours. In the Village's view, sergeants time their tour switches for days when lieutenants are off duty, to assure themselves the overtime benefit provided by the contract.

The Village further argues from 2003-2004 through 2005-2006, the majority of switches occurred in the last month of the Village's fiscal year (May) when sergeants were looking to use up their switches. The Village asserts what started as a provision to help assure sergeants would be able to find replacements when they needed to go out on personal leave, has become a matter of "entitlements" whose abuse has generated unnecessary overtime costs. The Village insists the limit of twelve (12) switches has not stemmed the abuse. In short, the Village argues the provision should be wholly eliminated.

DISCUSSION AND FINDINGS

Some preliminary comments are appropriate. The Panel's authority, and the factors which must guide our decision, are codified in Section 209(4)(c)(v) of the Taylor Law, which states:

- (v) **the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination the panel shall specify the basis for its findings, taking into consideration,**

in addition to any other relevant factors, the following:

- a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.
- b. the interests and welfare of the public and the financial ability of the public employer to pay;
- c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;
- d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

We are thus bound to arrive at a just and reasonable determination of the matters in dispute, under the foregoing statutory criteria.

We have fully and thoroughly considered the entire record and the parties' arguments in support of their respective positions. We find the first unresolved issue should be determined by awarding a twelve (12) hour work chart according to the Chart Orange currently used by the Nassau County Police Department. The parties have made it

clear a twelve (12) hour steady tour chart will benefit the Village's police force, and its delivery of police services. Yet, they disagree on what that chart should look like. We recognize the PBA advocates adoption of its proposed C-4 chart. However, on the record of evidence before us, we find such chart has yet to be utilized by any police force in the Nassau County area. We are unwilling to award a tour chart never before tested.

On the other hand, the Old Brookville chart championed by the Village has not been shown to be in widespread use. Since it is not prevalent in the County, we see no justification for its adoption, especially given the PBA's resistance to that Chart.

On balance, we find Chart Orange should be adopted. Chart Orange has been successfully used by the Nassau County Police Department over a number of years, in a countywide community with a broad array of social conditions and policing needs. We are guided by the statutory requirement we consider comparable hours and conditions of employment of other employees performing similar services under similar working conditions. Having done so, we conclude Chart Orange is a tour chart successfully tested over a period of years in the police agency, whose members face conditions broad enough to include conditions similar to those existing

in the Village.

In short, we find it is just and reasonable to award implementation of Chart Orange for the Village, on a trial basis, commencing no later than February 1, 2007 through December 31, 2007. The period from now until February 1, 2007, shall be used by the parties to prepare for and implement Chart Orange, and to determine how best to extrapolate its provisions onto the Village's Police Department. The chart shall incorporate all elements of Chart Orange as used by the Nassau County Police Department, including the sick leave control policy in effect in the Nassau County Police Department. If issues arise over how to implement or apply Chart Orange, either party may petition this Panel to resolve such disputes. During the trial period, should disputes arise over the Chart's implementation, either party may petition this Panel for resolution. Pursuant to the parties' stipulation, we shall direct as of November 1, 2007, either party may move to reopen the issue of what chart should be awarded as of January 1, 2008. We shall retain jurisdiction to determine that issue.

As to the second unresolved issue, we find a modification of the existing overtime provision for sergeant switches is called for. On two (2) prior occasions, the

Village sought to eliminate this provision entirely, citing burgeoning overtime costs. On April 1, 1999, an earlier Public Arbitration Panel chaired by Arbitrator Howard C. Edelman, Esq. found:

... compelling evidence which demonstrates that such swapping of tours has increased dramatically, resulting in substantial overtime cost. The record reveals that Sergeants' overtime has nearly doubled from 1995 to 1998. Indeed, the amount of overtime paid to the Village's six Sergeants is almost equal to the amount of overtime paid to the remaining twenty-nine Police Officers. (Page 27, April 1, 1999 Panel Award).

On that finding, the Panel awarded a cap of twelve (12) tour switches per year when no lieutenant is working, all at the discretion of the sergeants involved. On May 4, 2004, another Public Arbitration Panel, also chaired by Arbitrator Edelman, considered the Village's proposal to modify the provision to give the Department the same discretion to approve or deny sergeant switches as it has with personal and compensatory days for police officers. The Village argued since the cap of twelve (12) tours was awarded in 1999, "all sergeants have utilized this maximum, resulting in additional overtime costs exceeding \$50,000 per year." (Page 9, Panel Award of May 4, 2004). The second Edelman Panel declined to award the Village the discretion it sought, but stated:

The 'twelve switch maximum' was newly included in the Award issued in 1999. The Panel is not convinced that an additional change is justified so soon after the provision was first awarded. However, we are constrained to remind all concerned that the purpose of permitting these switches is not to build up overtime but to adjust schedules as personal commitments require. Frankly, were the maximum utilization to continue until such time as an Interest Arbitration Panel is convened to address terms and conditions of employment after May 31, 2004, it might well look favorably upon such a proposal. Nonetheless, it cannot be awarded at this time. (Pages 21-22 of May 4, 1999 Panel Award)

Having carefully considered the evidence, we find the Village has shown its sergeants continue to take the maximum twelve (12) switches for which overtime is currently payable under this provision. The Village's unrefuted submissions establish during the six (6) year period from 2000-01 through 2005-06, almost one hundred per cent of its sergeants took the maximum twelve (12) switches when no lieutenant was on duty.² This regular and consistent maximum usage over a sustained period of years may well be permitted

²There were a few exceptions which do not change our conclusions. For the last six (6) years, one (1) sergeant took twelve (12) switches per year under this provision in the first three years, then eleven (11) per year in the last three (3) years. Another sergeant took ten and one-half (10 & ½) switches in one of the six (6) years but the maximum twelve (12) in each of the other years. Others took the maximum twelve (12) throughout.

under the existing provision. However, it has the effect of imposing overtime costs on the Village that the Village did not order.

Frankly, the current provision is difficult to justify under comparisons we are required to perform under the Taylor Law. No other jurisdiction comparable to Floral Park has been shown to have such a provision in its contracts, by which police department employees are paid overtime for tour switches without prior approval of the the employer. Nor has such a provision been shown to exist for other employees generally in communities comparable to this Village. The interests of the public are generally served by use of managerial discretion to determine when overtime will be authorized, balancing the need for manpower in a given situation against the increased cost to the public when overtime is paid.

On the other hand, the parties bargained this provision years ago, defining their earlier agreement on accommodation of tour switches for sergeants. Weighing the merits of both positions, we conclude wholesale elimination of the provision would be unduly abrupt and disruptive to the workplace. We shall reduce the cap on switches eligible for overtime under this provision from twelve (12) to nine (9). Additional switches beyond nine (9) may be requested, and

granted or denied by the Police Commissioner, or his or her designee, in his or her sole discretion which may not be arbitrated.

In the Panel's view, reducing the cap from twelve (12) to nine (9) should have little or no adverse impact on sergeants' ability to utilize personal leave or compensatory leave, for at least two (2) reasons. First, the record shows sergeants have not yet taken full opportunity of scheduling personal or compensatory leave on days when lieutenants are available to cover. The record establishes lieutenants have been available more than forty (40%) percent of tours. Most sergeants have not fully utilized the opportunity to take personal or compensatory leave on days when lieutenants are available. Increasing their use of this option should assist sergeants in utilizing leave, while reducing the Village's overtime costs.

Second, both parties recognize adoption of Chart Orange will provide a greater number of days off for personnel, reducing the need for sergeants to switch tours at all, as greater off-duty time becomes available to attend to personal commitments.

We concur in the observation of the 1999 Panel the purpose of this provision is "... not to build up overtime, but to allow for adjustment of switches as personal

commitments require." Continued maximizing of overtime under this provision might well justify further curtailment of this provision in the future. However, we decline to do so at this time.

In our view, the changes awarded, herein, properly balance the interests of the parties and conform with the statutory standards set forth in the Taylor Law. They are so awarded.

AWARD

1. Term of Award

The term of this Award shall be June 1, 2006 through May 31, 2010.

2. Wages and Alternate Salary Schedules

Base wages shall be increased as follows:

Effective June 1, 2006 - 4 per cent
Effective June 1, 2007 - 4 per cent
Effective June 1, 2008 - 4 per cent
Effective June 1, 2009 - 4 per cent

3. Night Shift Differential

Effective on the date Chart Orange becomes effective, unit members who work between the hours of 3:00 p.m. and 7:00 a.m. shall receive night shift differential for hours actually worked equal to ten (10) per cent of base salary.

4. Longevity

Effective June 1, 2006, longevity shall be increased by one hundred (\$100.00) dollars at each step in each year.

5. Equipment Allowance

Equipment Allowance shall be increased by Seventy five (\$75.00) dollars per year effective June 1, 2007, by an additional seventy five (\$75.00) per year effective June 1, 2008, and by an additional seventy five (\$75.00) dollars per year effective June 1, 2009.

6. Planned Overtime

The parties shall equalize overtime opportunities, other than overtime from arrests and court appearances, pursuant to a book/wheel system. The PBA may consult with the Chief of the Department concerning implementation.

7. 207-c Leave

No officer out on leave provided by General Municipal Law Section 207-c shall lose earned vacation.

8. Life Insurance

The Village's contribution for life insurance shall increase by five thousand (\$5,000.00) dollars to a maximum of Eighteen Thousand (\$18,000.00) per year toward the premium of a life insurance policy selected by the PBA.

9. Holidays

Effective January 1, 2007, Washington's Birthday and Lincoln's Birthday shall be dropped as holidays, and replaced by Presidents' Day plus a floating holiday.

10. Travel Time

Effective January 1, 2007, an officer shall be paid his or her actual travel time to work when called into work up to a maximum of one (1) hour.

11. Union Release Time

Upon establishment of a new chart providing twelve (12) hour shifts, the PBA shall be permitted twenty (20) days off for use

by any PBA officer at the PBA's discretion, provided only one (1) officer per day is released. Release of more than one (1) officer per day shall require agreement of the Chief of the Department or his designee. For purposes of this paragraph, "day" shall mean "twelve (12) hour shift".

The current language in Article XVI, Section 3c shall continue, which states:

Members, who are also members of the PBA Negotiating Committee, shall be granted leave with pay at straight time rates while actually involved in fact-finding, mediation and arbitration during their regular duty hours.

12. Sick Leave Policy

Upon establishment of a new chart providing twelve (12) hour shifts, the Village shall adopt and implement the sick leave policy adopted by the Nassau County Police Department. Up to three (3) personal days may be used for family sick leave, subject to confirmation and in accordance with current practice. If any are used, they will be deducted from the employee's personal leave bank. For purposes of the foregoing, "day" shall mean "twelve (12) hour shift". However, for bargaining unit members working eight (8) hour shifts, up to four (4) personal days of eight (8) hours each may be used for family sick leave. Either party may reopen and return to the arbitration panel for resolution of any problems over implementation of such policy.

13. Hours of Work and Tour Schedules

Article III of the Agreement shall be modified to provide Nassau County's Chart Orange shall be implemented on a trial basis in the Village's Police Department as its tour chart, effective no later than February 1, 2007 through December 31, 2007. The period from now until February 1, 2007 shall be used by the parties to prepare for and implement Chart Orange, and determine how best to extrapolate its provisions onto the Village's Police Department. The chart shall incorporate all elements of Chart Orange as used by the Nassau County Police Department, including the sick leave control policy in effect in the Nassau County Police Department. All daily accruals shall be reduced to correspond with twelve (12) hour shifts. If issues arise over how to implement or apply Chart Orange to the Village's Police Department, either party may petition this Panel to resolve such disputes. During the trial period, should disputes arise over the Chart's implementation, either party may petition this Panel for resolution. On or after November 1, 2007, either party may move to reopen the issue of what chart should be awarded as of January 1, 2008 with the understanding twelve (12) hour shifts shall continue. We shall retain jurisdiction to determine that issue.

14. Sergeants' Overtime

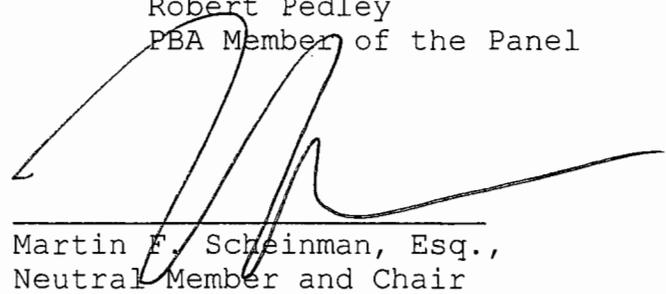
Article X(4)(b) of the Agreement shall be modified to provide effective June 1, 2007, a sergeant may replace another sergeant and be paid overtime, pursuant to this Section, up to a maximum of six (6) full tours, or nine (9) half tours, per year during which no lieutenant is on duty. The balance of Article X(4)(b) shall remain in effect. ³

15. Other Proposals

Any other proposals not disposed of by this Award are rejected.

Concur Dissent _____
Virginia Appel, Village Member
Interest Arbitration Panel

Concur Dissent _____
Robert Pedley
PBA Member of the Panel



Martin F. Scheinman, Esq.,
Neutral Member and Chair

³This reduction incorporates the reduction in days occasioned by moving from eight (8) hour tours to twelve (12) hour tours.

MAYOR
PHIL GUARNIERI

TRUSTEE
KEVIN J. GREENE

TRUSTEE
GERARD M. BAMBRICK

TRUSTEE
THOMAS J. TWEEDY

TRUSTEE
JAMES E. RHATIGAN



VILLAGE ADMINISTRATOR
VIRGINIA APPEL

VILLAGE CLERK
YVONNE R. BLABER

SUPERINTENDENT PUBLIC WORKS
KENNETH J. TYMECKI

SUPERINTENDENT BUILDINGS
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January 2, 2007

Martin F. Scheinman, Esq.
38 Arden Lane
Sands Point, NY 11050

Dear Mr. Scheinman:

As the Village Member of the Interest Arbitration Panel, I concur in part and dissent in part to the Interest Arbitration Award. Specifically, I comment upon two items: the provision regarding "sergeant switches" and the adoption of the Chart "Orange" work schedule.

With respect to the "sergeant switches", while I concur with the Award insofar as it reduces further the number of times the Sergeants can utilize this provision, it is the Village's position that this provision should be eliminated entirely from the Collective Bargaining Agreement. The Award traces the rather tortured history of this provision, which is unique to this Village. It has and will continue to be a source of abuse, causing unnecessary overtime costs for the Village. Particularly in light of the adoption of the 12-hour tour, there simply is no justification for the continuation of the practice of "sergeant switches."

With respect to the adoption of Chart "Orange," I am compelled to dissent. This chart originated with the Nassau County Police Department, which has some 2,500 officers. Because our Village police force is significantly smaller and, in particular, is staffed by only six (6) sergeants, Chart "Orange" will result in substantial manpower shortages and, therefore, increased overtime expense. There is no provision under Chart "Orange" for any relief sergeants, thereby making it difficult to schedule coverage for vacations, illness and training. There are no training days or any type of other "give back" time under Chart "Orange."

The Village had proposed adoption of the tour chart that has been utilized by the Village of Old Brookville for the past ten years without any problems. The Old Brookville police force is identical in size to our Village police force. This chart allows greater flexibility in scheduling,

particularly for training days. The Old Brookville Chart provides for two (2) relief sergeants and two (2) relief police officers. Such tour support will allow lateral movement of officers and greatly ease the scheduling of sergeants. As a result, the overtime costs that will be incurred under Chart "Orange" are avoided with the Old Brookville Chart.

With respect to our Village, the Old Brookville chart is far superior to Chart "Orange." The PBA has not articulated any specific or legitimate opposition to the Old Brookville Chart in our Village.

For these reasons, I am compelled to dissent from that portion of the Award imposing Chart "Orange" on the Village.

Sincerely,

INC. VILLAGE OF FLORAL PARK

A handwritten signature in black ink, appearing to read "Virginia Appel", written over a horizontal line.

Virginia Appel
Village Administrator

VA/sk

cc: Village Attorney