

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Compulsory Interest Arbitration

-between-

LAKE MOHEGAN PROFESSIONAL FIRE FIGHTERS
ASSOCIATION, LOCAL 2956, IAFF, AFL-CIO
Employee Organization,

OPINION

AND

-and-

AWARD

LAKE MOHEGAN FIRE DISTRICT
Public Employer,

PERB Case No.: IA 2009-16; M2009-008

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

Arthur Wilcox
Employee Organization Panel Member

Richard K. Zuckerman, Esq.
Public Employer Panel Member

NYS PUBLIC EMPLOYMENT RELATIONS BOARD

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CONCILIATION

APPEARANCES:

For the Lake Mohegan Professional Fire Fighters Association, Local 2956,
IAFF, AFL-CIO

Meyer, Suozzi, English & Klein, P.C.
By: Richard S. Corenthal, Esq., of Counsel

For the Lake Mohegan Fire District

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 Lake Mohegan Professional Fire Fighters Association, Inc., Local 2956, I.A.F.F. (Union) and the Lake Mohegan Fire District (District).

The District covers approximately 40 square miles in the northern part of Westchester County. It covers parts of the Town of Yorktown and the Town of Cortlandt, as well as the areas of Mohegan Lake, Jefferson Valley, Cortlandt Manor and Yorktown Heights. The City of Peekskill borders a large swath of the District's western edge.

The District provides fire protection to more than 40,000 residents and more than a dozen public schools covering parts of three school districts. The District covers a busy metropolitan area. It has two major shopping malls, numerous strip malls and lots of traffic, particularly during rush hour.

The District's Fire Department operates on a 24/7 basis. It is a combination Fire Department with 24 active career fire fighters, one career lieutenant and one career captain. Remaining coverage is provided by volunteer fire fighters. The Union represents all full-time paid fire fighters employed by the District.

The District's career fire fighters are on duty 24 hours a day, every day of the year at all four of the District's fire stations. The headquarters is usually staffed with two or three career fire fighters at a time and the other three stations are usually staffed with one career fire fighter at a time. The career fire fighters usually are the first responders to alarms in the District. They also respond to most emergency calls as an initial response

(Union Exhibit 42). Career fire fighters are required to work forty hours per week (Union Exhibit 5).

The last collective bargaining agreement between the parties covered the period January 1, 2006 through December 31, 2008. 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, who happens to be the Panel Chair in this case, met with the parties. Mediation was unsuccessful and on September 10, 2009, the Union filed a Petition for Interest Arbitration (Joint Exhibit 4) pursuant to Section 209.4 of the Civil Service Law.

The District filed a response to said Petition on September 30, 2009 (Joint Exhibit 5). Thereafter, the undersigned Public Arbitration Panel (Joint Exhibit 2) 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 District's Jefferson Valley Fire Station on February 4, 2010, February 12, 2010 and March 19, 2010. At all three hearings, the parties were represented by counsel. 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. After significant discussion and deliberations at the Executive Session held on July 6, 2010 and during several telephone conference calls held thereafter, the Panel reached an Award. The Award consists of many compromises induced by the Panel Chair and represents a complete package. Neither of the concurring

Panel members would accept each individual recommendation in isolation. However, as a complete package, this Award has the support of all three members of this Panel.

Accordingly, all references to "the Panel" in this Award shall mean all three members of this Panel.

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 January 1, 2009 through December 31, 2010.

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."

Union Position

The Union contends that its members should be compared primarily with other fire districts in Westchester County, i.e., Fairview, Hartsdale, Greenville and Eastchester. It justifies its universe of comparables by asserting that employees in this universe have unique legal and fiscal characteristics. These include the fact that fire districts, unlike cities, villages and towns, provide a single service. There are no competing service priorities like police, libraries and parks. Unlike cities, which are impacted by changes to economically sensitive revenue sources like mortgage and sales tax, fire districts do not derive revenue from such sources. Finally, in the Union's estimation, the income and wealth levels of the taxpayers are more comparable between fire districts.

The Union stresses that in a 2000 award with these same parties, neutral panel arbitrator Linda Robbins Franklin expressly held that "a consideration of other fire districts could be vital for a number of reasons, one of which is the competitive aspect" (Union Exhibit 20). The Union notes that Arbitrator Franklin also concluded that "some may be more demanding, more hazardous and more stressful than others, but they all have a community of interests, and for that reason alone, a consideration of other districts is warranted."

The Union strenuously objects to the District's assertion that the City of Peekskill Fire Department is the appropriate comparable to the District. It maintains that the District's assertion is faulty because it is based on an outdated 1989 Interest Arbitration Award of Peter Prosper. In the Union's view, many of the factors cited by Arbitrator Prosper in his Award no longer exist. Since 1989, the size of the District's population has markedly increased and is now much larger than the City of Peekskill. The parties have not looked at the City of Peekskill for comparisons in recent rounds of negotiations.

The Union argues that there are numerous other important distinctions between the District and the City of Peekskill that make it abundantly clear that the City of Peekskill is not an appropriate comparable to Mohegan Lake. These distinctions include but are not limited to the following:

- Peekskill only covers five square miles whereas Lake Mohegan covers forty square miles.
- The District has paid officers outside the bargaining unit whereas Peekskill's chief and supervising officers are all volunteers.
- Peekskill handles a very small volume of EMS calls whereas the Fire District handles the highest volume of calls in Westchester County.
- Peekskill provides a variety of municipal services such as police protection, sanitation, water and sewer whereas the Fire District has a much narrower focus.

The Union maintains that these obvious distinctions led Arbitrator Franklin to her to rule as she did. They also led Arbitrator Robert Simmelkjaer to rule in an interest arbitration award between the City of Peekskill and its fire fighters, that the Peekskill PBA, not Lake Mohegan, is the most appropriate comparable (Union Exhibit 19).

The Union notes that Peekskill provides its fire fighters with a pension plan that is much better than the one provided to the District's fire fighters and would cost the District more than \$600,000 to implement. The Union asserts that if the District is going to compare itself to Peekskill, then it should provide the same benefits to its professional fire fighters as Peekskill provides. The District's filing of scope charges against the Union - which prevented the Union from achieving the same pension benefits as those provided to Peekskill's fire fighters - is unfair and illogical. It further shows why the District is wholly different than Peekskill and should be compared to other fire districts in Westchester County.

District Position

The District insists that the only appropriate comparable the Panel should consider is the City of Peekskill. It maintains that there are a number of compelling reasons that support this assertion. The municipalities are adjacent to one another, they both have a small number of paid fire fighters that supplement a large volunteer force and they are similar in terms of the size of the jurisdiction.

The District objects to the short shrift given by the Union regarding the historical significance of the parties' reliance on Peekskill as the most relevant comparable in their negotiations. It notes that the parties have used Peekskill as the most relevant comparable for dozens of years dating back to at least the 1980s. It notes that in his 1989 Award with these same parties, Peter Prosper stated that "Peekskill is the most comparative municipality for these purposes, not only because of size but also proximity to the Lake Mohegan Fire District, plus the fact that both the District and the Association have used

Peekskill for comparison in past negotiations and, indeed, in present negotiations, prior to invoking interest arbitration.” (District Exhibit 15)

The District avers that other interest arbitration awards rendered after Arbitrator Prosper’s award recognize the appropriateness of utilizing Peekskill as the most appropriate comparable with Lake Mohegan. For example, in a 1990 Award between the City of Peekskill and its fire fighters, Arbitrator Robert Simmerkjaer found that “[i]n many respects Lake Mohegan, located in Northern Westchester County with a population of 38,000, a Fire Department with 17 paid employees and a history of referring to Peekskill for wage comparison purposes, serves as the best comparable.” (District Exhibit 15)

Similarly, in 2000, Arbitrator Linda Robbins Franklin found that “the historical pattern of comparability between Lake Mohegan and Peekskill regarding salary, vacations, holidays, sick leave and personal leave and other contractual items remain comparable and unchanged over the years.” Although the District concedes that Arbitrator Franklin noted that a consideration of other Fire Districts was appropriate for comparability purposes, the District maintains that this determination has limited relevance because Arbitrator Franklin’s award was identical to that awarded in Peekskill for that period of time.

The District asserts that there is no genuine support in the record to compare the Union to fire fighters in Eastchester, Greenville, Fairview and Hartsdale. The District notes that Greenville, Fairview and Hartsdale are all located within the Town of Greenburgh. In the District’s view, interest arbitration panels have universally found that the three Greenburgh districts are comparable to one another and to no other fire

department. The District also maintains that these fire districts are not comparable to Lake Mohegan because the compositions of the departments are completely different. Whereas in Lake Mohegan the department is comprised of a large cadre of volunteers and a small pool of paid fire fighters, just the opposite is the case in the other fire districts. The Union's comparables employ a large number of paid fire fighters supplemented by a small volunteer group.

For all of these reasons, the District asks the Panel to reaffirm the City of Peekskill as the most appropriate comparable jurisdiction.

Panel Determination on Comparability

The Panel Chair finds that the City of Peekskill Fire Department continues to be most appropriate comparable jurisdiction to the Lake Mohegan Fire District. A number of reasons persuade lead the Panel Chair to this conclusion. First and foremost, both the parties and neutral panels have recognized the City of Peekskill Fire Department to be the most appropriate comparable jurisdiction for more than twenty years. As far back as 1989, the panel chaired by Arbitrator Prosper ruled this way. This was recognized again some eleven years later by the panel chaired by Arbitrator Franklin in 2000.

The Panel Chair finds that the historical treatment of comparability should not be deviated from so that the parties have consistency and predictability in their labor relations. The District has compared itself to the City of Peekskill for dozens of years and there are no compelling reasons to deviate from this determination.

Notably, the salaries of fire fighters in Lake Mohegan and the City of Peekskill are substantially similar. Other similarities can be found in that both jurisdictions require fire fighters to contribute toward health insurance for active fire fighters and retired fire

fighters. Both bargaining units' vacation, sick leave, holidays and personal leave remain extremely similar as has been the case for at least the past twenty years. When this is considered along with the fact that these jurisdictions are so closely situated to each other geographically and have much in common in terms of the nature of the geographical area, the Panel Chair becomes convinced that the City of Peekskill Fire Department continues at the present time to be the most appropriate comparable.

The Panel Chair recognizes that in 2000, Arbitrator Franklin's panel found that other fire districts in Westchester County should also be considered for comparative purposes. As noted by the Union, those fire districts share similar fiscal characteristics, provide a single service and are not as directly impacted by economically sensitive sources like the sales tax or the mortgage tax. For these reasons, the Panel Chair agrees with Arbitrator Franklin that the fire districts in Westchester County should be considered. However, they should be considered to a lesser extent than Peekskill.

There are several reasons why the Panel Chair finds the fire districts in Westchester are not the most appropriate comparable. These jurisdictions are not geographically proximate to one another as they are more than twenty miles apart. Indeed, if there was a fire district in Westchester that had some similarities to Lake Mohegan and was more geographically proximate to Lake Mohegan, some of the arguments made by the Union could be persuasive. However, the fact is that the three fire districts in the Town of Greenburgh and the fire district in Eastchester are in completely different parts of Westchester County. Lake Mohegan has little in common with them in terms of geographical size, population served, the nature of the geographical area and other economic factors such as assessed valuation. Whereas those fire districts are

comprised of a large cadre of paid fire fighters and a small group of volunteers, the opposite is true with Lake Mohegan. When these facts are coupled with the fact that for forty years the three fire districts in the Town of Greenburgh have never compared themselves to Lake Mohegan and have consistently limited their comparability review to the fire districts of Fairview, Greenville and Hartsdale, it becomes abundantly clear that there is no logical basis to determine that the other fire districts in Westchester are the most appropriate comparable.

Accordingly, the Panel Chair finds that pursuant to the statutory criteria, the comparable having the greatest influence over the Panel is the Peekskill Fire Department. The Panel Chair also finds that other fire districts in Westchester County should be given some consideration.

ABILITY TO PAY

Union Position

The Union's evidence of the District's ability to pay was based on the testimony and exhibits presented by Economist Kevin Decker. The Union asserts that the evidence offered through Mr. Decker conclusively establishes that the District has the ability to pay for a substantial increase in salary and benefits. According to the Union, Mr. Decker's presentation should be accorded great weight because his testimony was un rebutted. Among other things, Mr. Decker found that:

- The District's Real Property Tax Levy has actually been reduced over the past five years.
- The District's full value tax rate is far and away the lowest of Westchester County fire districts.

- The District ended 2008 with a healthy fund balance in its General Fund of over \$1.7 million, which is over 31% of General Fund expenditures.
- If the Fire District increased its taxes by 10%, the average resident would incur a tax increase of less than \$50 annually.
- The District's 2010 budget reflects no outstanding debts. It has already budgeted money for planned equipment purchases.

The Union maintains that the fundamental economic conditions of the District are outstanding. They can easily provide the Union with the salary and benefits it is requesting. Its taxes are low, its debt is non-existent and its fund balances could not be better. For this reason, after analyzing the costs of the Union's economic proposals, Mr. Decker reasonably determined that the District has the ability to pay for the Union's economic proposals.

The Union objects to the District's assertion that the national fiscal crisis in 2008 should impact this Award. The Union maintains that, unlike some municipalities that are genuinely facing budget shortfalls, the facts in this case simply do not support the notion that the District does not have the ability to pay for a wage increase. In the Union's view, the fact that the District has reduced its real property tax levy over the past five years, yet still enjoys a robust fund balance, shows that its taxpayers can absorb the modest tax increase that its proposed salary and benefit improvements would cost.

The Union insists that the Panel is statutorily required to evaluate the District's financial condition during the term of the Award. In the Union's estimation, the budget deficits and economic problems of jurisdictions with no relevance to the District should be wholly disregarded by the Panel. The Union cites several recent interest arbitration

awards where panels have awarded salary increases in the range of 3.5% to 4% despite evidence of economic malaise in some jurisdictions. According to the Union, this shows that when the jurisdiction in question is healthy economically, that panels have provided fair and appropriate increases because the specific jurisdiction in question had the ability to pay. For the very same reasons, the Union urges the Panel to find that the District has the ability to pay for its economic proposals.

District Position

The District insists that the Panel cannot ignore the fact that the District 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 District's view, the Panel must be sensitive to the District's taxpayers because the proposals sought by the Union are well beyond the District's ability to pay.

The District stresses that the towns it is located in, Cortlandt and Yorktown, are experiencing serious budget shortfalls as a result of the recession. The District notes that Yorktown laid off 12 employees since 2007 and has frozen all non-union employees' salaries. The Town of Cortlandt continues to struggle as well. It has experienced a 35% decrease in mortgage tax collections and has a \$2 million dollar deficit in its General Fund for 2010.

In the District's estimation, these economic realities make it patently unfair to require it to fund the Union's economic proposals. It notes that it has remained in a sound financial condition by making difficult decisions and tightening its belt. It has opted not

to fill four vacancies and has been able to hold the amount of taxes collected at the 2006 level.

The District argues that it remains in a precarious financial position. It maintains that its interest earnings and returns from other revenue sources have significantly dropped. For example, whereas interest earnings in 2008 were \$50,957, it projects only \$6,500 in interest earnings in 2010. At the same time, the District has also experienced large increases in the cost of social security and pension. This has required the District to cut its budget in other areas and to use its unreserved fund balance.

The District has gone to great lengths to avoid increasing taxes because it recognizes that its taxpayers are suffering. According to the District, Westchester's 2009 unemployment rate of 7.1% was more than double the rate a decade earlier. The District maintains that this proves that any tax increase will have a devastating effect on many of its taxpayers.

The District stresses that since Union members already receive a generous wage and benefit package, it is completely unfair to drive the taxpayers out of their homes just so fire fighters can earn more money. Thus, while the District concedes that it has the ability to pay for a fair and reasonable award, it insists that the Union's proposals are excessive and do not remotely resemble a fair and reasonable award.

Panel Determination on the District'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 District has done an excellent job of managing its resources. The Panel Chair is confident that the District's prior fiscal management will allow it to maintain a strong position despite the difficult economy. The Panel Chair finds that the District 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

Union Position

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

District Position

The District stresses that the Panel is obligated to consider the fact that this Award will directly affect the citizens and taxpayers of the District and the economic future of the District for years to come. It must also consider the fact that citizens in the District are struggling with increased unemployment, increased tax burdens and declining values of their homes. 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 Public Employer 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 Union's argument that the public benefits by having a competitively compensated staff of professional fire fighters 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 District and beneficial to the public for its firefighters to be competitively compensated.

At the same time, the Panel Chair has rejected the Union's demand for increased contributions to its active members' health insurance as well as retiree health insurance because he is concerned about the detrimental effect that any increases in this area can

have. The District's taxpayers would be exposed to tremendous financial burdens if the Union's retiree health insurance demand was awarded by the Panel. This is not in the interest of the public and it was rejected by the Panel primarily for this reason.

COMPARISON OF PECULIARITIES OF THE FIRE FIGHTING PROFESSION

The Panel has also carefully considered the statutory criteria regarding the comparison of the fire fighting 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 Union asserts that the fire fighting 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 fire fighting work and the unique training, skills and pressures that fire fighters face each day. The Panel finds that the peculiarities of the profession mandates a direct comparison with professional fire fighters.

BASE WAGES

Union Position

The Union is seeking a 7% salary increase in each year to the existing schedule. The Union maintains that its current starting salary of \$38,894 is substantially below the starting salary of fire fighters in all of the other Westchester County fire districts. The Union notes that the District has proposed no salary increase for each year of the agreement even though the City of Peekskill, the jurisdiction it claims is the appropriate comparable, provided 4.25% wage increases in 2009 to its fire fighters.

The Union stresses that despite the District's claims of gloom and doom, it has already provided salary increases to the captain and lieutenant, the only non-union professional fire fighters in the District. Notably, for 2009, the District increased the lieutenant's salary from \$97,000 to \$100,000 and increased the captain's salary from \$116,654 to \$120,000.

The Union argues that salaries must be increased by at least 4% to 4.5% to allow Lake Mohegan's fire fighters to remain anywhere near the salaries paid to fire fighters in the other Westchester County districts. The Union points out that in 2008, salaries in the Hartsdale Fire District ranged from a starting salary of \$55,788 to a maximum salary of \$84,667. Lake Mohegan's 2008 salaries pale in comparison, ranging from \$38,894 to \$76,444.

Similarly, all of the recent settlements with fire districts in Westchester County have called for increases of at least 4% per year. In Hartsdale, the most recent settlement is 4.5% in 2008, 4% in 2009 and 4% in 2010. In Fairview, the most recent settlement is 4% in 2008, 4% in 2009 and 4.5% in 2010. Finally, in Greenville the most recent settlement calls for 4% increases in 2010, 2011 and 2012. This shows that without a substantial salary increase, Lake Mohegan's fire fighters will slip even further behind similarly situated employees in other fire districts in Westchester County.

In the Union's estimation, an increase beyond the going rate is also warranted because its fire fighters have a much greater workload than fire fighters in other fire districts and Peekskill. According to the Union, staffing shortages have become a serious problem in Lake Mohegan with no replacements hired for the five unit members who have left the District since 2004. Whereas in Fairview there are typically ten fire fighters

assigned to a tour, there are usually only five fire fighters assigned to cover the District's four stations in Lake Mohegan. Lake Mohegan's fire fighters also cover the largest geographical area with the lowest manning of all the fire districts in Westchester while handling more non-EMS calls than the other fire districts except for Eastchester.

The Union insists that the severe understaffing of the District has increased job hazards and the workloads for its members. Since the Union's fire fighters are often alone when they arrive at a fire, they must wait for volunteers to show up. Since volunteers often are working their regular jobs fire fighters cannot get to the fires in the first few minutes which is the key stage in fighting a fire. Thus, Lake Mohegan's fire fighters are often in the dangerous position of starting to fight a fire alone or they must waste precious time while volunteers arrive. In the Union's view, both scenarios are unacceptable for its members and for the public.

The Union vigorously objects to the District's characterization that its members average approximately one hour per shift responding to calls. The Union maintains that this statistic completely distorts their lifesaving work, noting that they are paid to be on duty so they can respond to fire and EMS calls in lightning speed. When they are not responding to calls the fire fighters are involved in training as well as maintaining of equipment.

The Union insists that the increased workload of its fire fighters, coupled with their increased safety risks, makes it abundantly clear that their pay is grossly inadequate. It maintains that all of the facts and data strongly support salary increases of 7% for both 2009 and 2010. At a minimum, raises of 4% to 4.5% per year should be granted so unit members keep pace with other fire districts in Westchester.

District Position

The District maintains that the Panel should deny the Union's salary proposal. While acknowledging the tremendous lifesaving work that fire fighters perform, the District asserts that the Union's proposal should be wholly rejected because the fire fighters are already among the highest compensated employees in the region.

~~In the District's estimation, the Union's proposed salary increase of 7% is~~ outrageous in this economic climate. The Union's proposal also should be rejected because unit members' wages have outpaced inflation over the past several years. The District urges the Panel to consider the fact that each unit member on average costs the District more than \$135,000 per year while only appearing at work 132 days on average per year and spending only approximately one hour per shift responding to calls.

The District claims that the Peekskill fire fighters wage increase of 4.25% should not be accepted by this Panel because the Peekskill settlement occurred in 2007, long before the economic downturn. When this is considered along with the fact that the Peekskill fire fighters received a wage freeze in 2001, it becomes abundantly clear that it would be consistent with the historical pattern between the two comparables for the Panel to award a wage freeze or something close to that.

The District claims that the total cost of the Union's salary demand is \$288,002, which is the equivalent of a 14.37% increase. The District avers that an exorbitant increase such as this would not be appropriate even in robust economic times. The District also asserts that salary increases of this nature are not warranted as the District has opted not to fill vacant positions in the past and has no plans to fill positions in the future.

The District rejects the Union's argument that understaffing has caused unit members to work harder. The District opines that people in all walks of business are being required to do more with less. The District notes that fire fighter employment decreased in New York State by 2.9% from 2008 to 2010 and that the New York State Department of Labor projects very few new fire fighter positions being created in the Hudson Valley region over the next several years.

The District argues that the Union failed to show that any purported staffing shortages actually increased unit members' workload. In the Districts' view, although the Union demonstrated that unit members handle a significant number of calls, the Union failed to refute the District's evidence that unit members spend a mere one hour per shift responding to incidents. The District believes that this proves that unit members spend a great majority of their day performing work that is not dangerous and is unrelated to fighting fires. Hence, the Union's salary proposal is unjustified.

In the end analysis, the District argues that it should not be required to pay for the increases sought by the Union. It maintains that the proposed increases are out of touch with the District's ability to pay and are unwarranted due to the fact that unit members already receive a generous wage and benefit package. When the dismal local, state and national economy is added to this picture, it becomes clear that this is the time for the Panel to reject the Union's proposal. The District stresses that these times warrant a greater focus on taxpayers who are losing their jobs and homes in record numbers. Thus, if any wage increase is awarded by this Panel, the District maintains that it is the unit members, and not the local taxpayer, who should pay for the adjustment in the form of genuine economic concessions.

Panel Determination on Base Wages

The Panel Chair has carefully considered the statutory criteria balancing the reasonable economic needs of the District's fire fighters, with the obligations of the District in the context of what is fair and reasonable in the changed 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 District.

The record contains data that supports both parties' positions. The District faces genuine economic concerns. It has had to contend with recent decreases in revenue 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 Union must be moderated. Although the Peekskill fire fighters received wage adjustments of 4% in 2008 and 4.25% in 2009, the Panel Chair notes that these increases were agreed upon prior to the time that the economy faltered. In the Panel Chair's view, the changed economy requires an award that is less than 4% per year so that the District can manage its resources carefully so as to have as limited an impact as possible on its taxpayers. The wage increase of 3.5% effective January 1, 2009 and 3.5%, effective January 1, 2010 is also appropriate because, while allowing the District to better manage its limited resources, it also allows fire fighters to enjoy increased buying power due to the moderate increases in the CPI over the past couple of years.

The wage increases awarded by the Panel will also allow Lake Mohegan's fire fighters to remain in a strong position vis-à-vis their most comparable jurisdiction in the City of Peekskill. Notably, this award will allow the District's officers to be paid several more thousand dollars at comparable years of service than City of Peekskill fire fighters as has been the case in the past.

The Panel Chair finds it to be important for District fire fighters to maintain their standing relative to the City of Peekskill officers. If the Panel awarded a salary increase well below the amount received by City of Peekskill fire fighters, the Panel would jeopardize the relative standing of the District's fire fighters. The historical placement of District fire fighters vis-à-vis their most comparable jurisdiction cannot be ignored as it has played and should continue to play an important role in the wages provided to District fire fighters.

The Panel Chair also finds it to be important for District fire fighters to maintain some semblance of competitiveness relative to other fire districts in Westchester. The other Westchester fire districts pay their fire fighters more than Lake Mohegan pays its fire fighters and there is no compelling reason to deviate from this historical treatment. However, it is important for the District's fire fighters to stay somewhat competitive with other Westchester County fire districts as there are some genuine similarities among all of the fire districts in Westchester. Since three of the Westchester fire districts have already received wage adjustments of at least 4% per year for the some of the years covered by this award, the Panel Chair finds that an increase of 3.5% will allow District fire fighters to maintain their relative standing vis-à-vis other Westchester fire districts.

In reaching this conclusion, the Panel Chair finds that the District has the ability

to pay for a fair increase in wages overall. When considering base wages, the Panel Chair finds clear support for its determination that a fair increase in wages is justified in order to keep District fire fighters at or near their present position. The adjustments of 3.5% effective January 1, 2009 and 3.5% effective January 1, 2010 on all steps are necessary in order to allow unit members' base wages to remain competitive.

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 III – SALARIES

Effective January 1, 2009 each step on the salary schedule shall be increased by 3.5%. Effective January 1, 2010 each step on the salary schedule shall be increased by 3.5%.

LONGEVITY

Union Position

The Union proposes an increase of \$200 per increment as noted by the following chart:

<u>Years of Service</u>	<u>2008 Amount</u>	<u>Proposed Increase</u>
5 Years	\$350	\$550
10 Years	\$700	\$900
15 Years	\$1,050	\$1,250
20 Years	\$1,400	\$1,600
25 Years	\$1,750	\$1,950

The Union asserts that its proposed increase of \$200 is reasonable in comparison with other comparable fire fighters. It notes that the City of Peekskill, the unit the District

relies upon as its main comparable, provides far greater longevity to its fire fighters than the District, (e.g., \$800 after 8 years of service, \$1,000 after 12 years of service, and \$1,400 after 16 years of service). It points out that Eastchester's fire fighters receive \$200 per year on their fifth anniversary, an additional \$500 per year on their 10th anniversary, an additional \$750 per year on their 15th anniversary and an additional 4% of their base salary after 16 years of service. According to the Union, the Fairview fire fighters receive 1% of gross pay in their 11th through 15th years of service and an additional 2% of their gross pay in their 16th year and beyond. Hence, the proposed increase will help in reducing the gap in pay between the Lake Mohegan fire fighters and those in other Westchester County fire districts.

District Position

The District insists that the Union has failed to present any support for this demand. It asserts that its fire fighters receive competitive longevity payments and that there is no compelling reason to further increase these payments. In the District's view, increases to longevity are unwarranted in these difficult economic times when taxpayers are demanding wage freezes. Since longevity payments add up over time, the District stresses that the Panel should not increase the District'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. The City of Peekskill currently offers its fire fighters greater longevity than Lake Mohegan after 8, 12 and 16 years of service. An increase of \$100 per year is appropriate because it will allow Lake Mohegan fire fighters to remain competitive in the area of longevity.

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 IV – Longevity will be modified as follows

<u>Years of Service</u>	<u>Effective 1/1/09</u>	<u>Effective 1/1/10</u>
5 Years	\$450	\$550
10 Years	\$800	\$900
15 Years	\$1,150	\$1,250
20 Years	\$1,500	\$1,600
25 Years	\$1,850	\$1,950

EMT STIPEND

Union Position

The Union states that the EMT stipend is compensation for emergency rescue calls. The Union asserts that EMT work has increased markedly over the years and is an increasing larger percentage of the work performed by fire fighters. The Union contends that its members respond to the largest number of calls in Westchester County.

The Union argues that Greenville's fire fighters respond to less than one-fifth of the calls than fire fighters in Lake Mohegan. However, Greenville fire fighters earn at least \$3,000.00 per year, depending on their years of experience. In the Union's view, this shows that the \$2,800 stipend paid to Lake Mohegan Fire Fighters is inadequate. It needs to be remedied in the way proposed by the Union, namely, a \$200 increase to \$3,000 in 2009 and another \$200 in 2010 bringing the stipend up to \$3,200 that year.

The Union has also proposed eliminating contract language that denies the EMT stipend to members who are injured in the line of duty. The Union cites a specific

example of a unit member who was injured during an EMS call and is now deprived of the EMT stipend. The Union insists that this inequity must be remedied because its members handle such a high volume of work on the job.

District Position

The District avers that the Union failed to offer any evidence justifying any increase to the EMT stipend. It maintains that there was simply no evidence presented that unit members' EMT-related responsibilities increased to the extent that would justify the 14% increase to the stipend proposed by the Union.

The District wholly objects to the Union's demand to delete the language requiring unit members to actually work at least one-half of their regular scheduled days/nights in a month to be eligible for the EMT stipend. The District recognizes that this provision usually impacts fire fighters who are injured on the job and placed on General Municipal Law 207-a leave. The District states that it just recently started enforcing this provision. The Union objected to this enforcement. Arbitrator Brown found that the District was properly enforcing the contract. In the District's view, the Panel has no reasonable basis to undo that alleged violation which has now been resolved.

Panel Determination on EMT Stipend

The evidence establishes that unit members spend a considerable amount of time handling emergency calls and that unit members spend more time handling emergency calls than all of the other fire departments noted in the record. Based on the evidence presented, an increase of \$100 per year is warranted.

The Panel will not make any of the other changes proposed by the Union. While the Panel Chair recognizes the importance of the benefits provided by Section 207-a of the General Municipal Law, Arbitrator Brown's recent Award on this issue should stand as the final decision on this issue until the parties mutually agree otherwise through the collective bargaining process.

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 EMT STIPEND

ARTICLE VII

Section 2 of the provision shall be modified by increasing the EMT stipend to \$2,900 effective January 1, 2009 and to \$3,000 effective January 1, 2010. No other changes shall be made to the provision.

HEALTH INSURANCE FOR ACTIVE EMPLOYEES

Union Position

The current Agreement between the parties requires active unit members to pay 7.5% of the cost of health insurance premiums with the District paying 92.5% of the cost of the premium. The Union states that its members agreed to contribute toward the cost of health insurance for the first time in 2008. It argues that the Union had no choice but to agree to this change because the District was refusing to give the unit members the ability to exchange shifts with one another unless they agreed to the health insurance premium contribution.

The Union insists that its proposal to return back to the District making a 100% contribution for the health insurance premium cost for active employees is justified for a number of reasons. First and foremost, its comparability analysis shows that Fairview, Hartsdale and Greenville fire districts all contribute 100% toward the cost of health insurance and that the Eastchester fire district only requires its fire fighters hired after July 1995 to contribute toward the cost of health insurance during their first four years of employment. From the standpoint of competitiveness, it is critically important for its members to maintain this benefit as an overwhelming majority of fire fighters in fire districts in Westchester County do not contribute toward the cost of health insurance.

The Union argues that there is no logical reason why the District would pay 100% of the cost of health insurance for the captain, lieutenant, secretary and treasurer of the department, yet refuse to do the same for the people risking their lives each and every day for the safety of the community. In the Union's estimation, the District is grossly exaggerating the cost it would incur by providing health insurance. Since the District has the ability to pay, the Panel should render an award requiring the District to pay 100% of the cost of health insurance for active employees.

District Position

The District proposes an increase to the health insurance premium contribution from 7.5% to 25%. The District stresses that it has been suffering from ever-escalating health insurance costs. It asserts that total District health insurance costs have skyrocketed over the past several years and that these exorbitant costs cannot be ignored.

The District contends that there is nothing unique about fire fighters contributing toward health insurance at double-digit percentage amounts. It notes that at least seven

other Westchester municipalities require their fire fighters to contribute at higher rates than Lake Mohegan. Most notably, Peekskill's fire fighters contribute far more than Lake Mohegan's fire fighters.

The District rejects the notion that the Union was forced to agree to premium contributions during the last round of negotiations. The District insists that the Union's agreement to commence premium contribution was typical of any negotiation with give and take on both sides. The District states that the Union wanted the right to exchange vacations and the District wanted premium contribution in return. Both parties made concessions to get something in return.

In the end analysis, the District asserts that the unprecedented economic challenges it is facing require aggressive solutions such as decreased benefit costs. The District's proposal will go a long way toward helping the District survive the economic downturn and should be granted.

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 District 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 during the term of the CBA, it will have an adverse effect on the District's budget and its ability to deliver services in the future. The District's arguments

are compelling and lead the Panel Chair to conclude that an increase toward premium contributions is reasonable.

However, there are compelling factors that persuade the Panel Chair that it is just and reasonable to impose premium contributions on unit members that are less than those proposed by the District. 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 the City of Peekskill requires its fire fighters to contribute an amount in actual dollars that is greater, but not significantly greater, than the amount that Lake Mohegan's fire fighters are required to contribute. In other words, a contribution increase from 7.5% to 10% will keep Lake Mohegan's fire fighters in the same range of premium contribution as its most comparable jurisdiction. This fact is highly compelling to the Panel Chair as the statute mandates that the Panel compare terms and conditions of employment with other employees performing similar skills and services.

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 IX (A) – Add the following:

Effective on the date the Panel Chair executes this Arbitration Award, the District shall pay 90% of the premium.

DENTAL PLAN

Union Position

The Union proposes increasing the family dental benefit from \$600 to \$1,500 per year and the individual dental payment from \$400 to \$1,000. The Union insists that this increase is warranted because the current amount does not cover nearly enough of their annual dental coverage due to the increased cost of dental care. It also maintains that its benefit will still be substantially less than the dental benefit paid in most other fire districts even if the Panel grants the Union's proposal in total.

District Position

The District asserts that its limited resources should not be used to fund any benefit increases in this economic climate. It asserts that the Union's proposal is an increase of more than 150% and would cost the District the equivalent of a .84% wage increase.

This is not only excessive but it is also unwarranted. The District stresses that the City of Peekskill provides dental benefits that are equivalent to the amount paid by the District. Since the current contribution is consistent with what the only relevant comparable contributes toward dental insurance, the Union's proposal should be rejected.

Panel Determination on Dental Plan

The Panel Chair finds that an increase toward dental insurance is warranted so that unit members' dental benefits can become more consistent with the benefit provided to the City of Peekskill's fire fighters. Notably, City of Peekskill fire fighters receive a \$900 annual contribution toward a welfare fund that purchases dental insurance.

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 DENTAL PLAN

ARTICLE IX(B)

Modify the provision by increasing the District's contribution effective January 1, 2010 to \$600 for individual coverage and \$900 for family coverage.

AGENCY SHOP PROVISION

Union Position

The Union has proposed an agency shop provision that is in conformity with New York State Civil Service Law Section 208. Consistent with Section 208 of the Civil Service Law, the Union's proposal would establish a contractual procedure that would require present or future employees who are not members of the Union to make a contribution to the Union for its work in administering the CBA between the parties. The Union's proposal also has a provision holding the District harmless for any claims asserted related to the use of such fees, as well as provision requiring a refund procedure to employees who do not join the Union.

The Union argues that there is no legitimate reason for the District to object to this proposal. Although the Union concedes that this is a statutory right, the Union stresses that most public sector contracts include this kind of provision.

District Position

The District maintains that there is no justification for this proposal. In the District's estimation, the Union already has the right to collect dues from non-union

members pursuant to Section 208 of the Civil Service Law. The District asserts that there is no reason to duplicate this benefit, particularly when one considers the fact that Peekskill, the most comparable jurisdiction, does not have this provision.

Panel Determination on Agency Shop Provision

The Panel Chair finds that it is appropriate to grant the Union's proposal. The District will not incur any additional costs by having the Union's proposed language added to the CBA. It simply provides the Union with the contractual right to collect dues from employees who are not members of the Union in a manner that is consistent with Section 208 of the Civil Service Law.

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 AGENCY SHOP PROVISION

The Union's proposed Agency Shop provision, as set forth in Joint Exhibit 4, will become effective December 31, 2010.

AMENDMENT OF RECOGNITION CLAUSE TO EXCLUDE LIEUTENANTS

FROM THE BARGAINING UNIT

District Position

The District asserts that the parties' practice is to exclude lieutenants from the bargaining unit. The District states that in 1995, PERB designated now Captain Strauss as a managerial employee and the two lieutenants at the time as confidential employees. The

District maintains that the District's current lieutenant performs the same duties as the lieutenants previously designated by PERB.

The District argues that the parties agreed to exclude lieutenants from the bargaining unit as part of their 1995-1997 negotiations but that such agreement was never codified in the CBA. The District also maintains that the union president has conceded that the lieutenant is not part of the unit. For this reason, as well as the parties' history, the District urges the Panel to adopt its proposal.

Union Position

The Union asserts that the lieutenant actually functions as a working foreman. He responds to fire calls and works alongside other fire fighters. In the Union's view, the lieutenant has a greater community of interest with the bargaining unit members because he has few, if any, confidential duties. For these reasons, the District's proposal should be rejected and the lieutenant should be added to the bargaining unit.

Panel Determination on Proposal to Exclude Lieutenants from the Bargaining Unit

The Panel Chair finds that the District's proposal should be granted. The parties have at least a fifteen year history of treating lieutenants as non-bargaining unit members. Although lieutenants work with fire fighters, since they perform essentially the same duties as the lieutenants who were designated by PERB as confidential, the Panel Chair is convinced that the CBA should conform to the parties practice by expressly recognizing that lieutenants are excluded from the bargaining unit.

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 EXCLUDING LIEUTENANTS FROM THE BARGAINING UNIT

ARTICLE I:

Modify the provision by excluding lieutenants from the bargaining unit.

EMT CERTIFICATION

District Position

New unit members currently have the ability to obtain EMT certification within their first year of employment. The District proposes to change this by requiring new employees to have EMT certification immediately upon being hired. Since EMS is one of the District's major responsibilities it is operationally important for all employees to be EMT-certified as soon as they are hired. This is not only a practical proposal but would also relieve the District of the financial burden of having to train new hires who lack such certification.

Union Position

The Union rejects the District's EMT certification demand. It argues that the District follows the Westchester County Civil Service Rules. Such rules do not require EMT certification as a condition for being hired. The Union opines that this is not a requirement because it is too expensive for an individual to obtain this certification. As such, it surmises that there may not be candidates available who possess this certification. The Union also urges the Panel to reject this demand because it is unaware of any contracts that have this requirement.

Panel Determination on EMT Certification

The Panel Chair finds that this proposal is warranted. Since EMT certification is a condition of employment it is reasonable for the District to expect new hires to have this certification at the time they begin their employment at the District. The Panel Chair also adopts this proposal because the EMS is one of the District's major activities. For productivity and future cost saving reasons, it is reasonable to require all new hires to have EMT certification. After all, they spend a significant amount of time working in EMS work and this will save the District future training costs.

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 with regard to employees hired on or after the date the Panel Chair signs this Award:

AWARD ON EMT CERTIFICATION

ARTICLE VII(1)(b) – Add the following to the provision:

All employees hired on or after the date the Panel Chair signs this Award shall, as a condition of initial employment, and in lieu of the provisions of paragraphs (1)(b-d), be required to have and maintain current certification as a New York State EMT

REDUCTION OF SALARY AND BENEFITS FOR EMPLOYEES INJURED IN

THE LINE OF DUTY ON GML SECTION 207-a LEAVE

District Position

The District proposes to prohibit employees on a leave of absence from accruing vacation, sick leave, or holiday time during the time of absence. It also proposes to add a provision to the CBA limiting compensation for employees on GML Section 207-a to

forty hours in a week so that during their 207-a leave such employees do not receive overtime they receive when they are working.

The District maintains that it is illogical and unfair to give employees who are not working the same benefits as those who are working. The District notes that the law only requires that employees receive their regular salary and wages. The District points out that the City of Peekskill fire fighters receive only holiday accruals during their first six months on leave and none of the other benefits during the time they are on a leave of absence. Since there is no legal requirement to provide these benefits and this proposal could save the District the equivalent of more than 1% in wages per year, the District opines that this is the time for the Panel to implement this proposal.

Union Position

The Union states that the District's proposals would modify longstanding practices and would lead to the reduction of compensation that injured fire fighters currently receive. In the Union's view, it is extremely important for the Panel to reject this proposal due to the fact that the District's understaffing is resulting increased injuries to its unit members at alarming rates. The Union stresses that injured fire fighters need these benefits to support their families while they are recovering. Since GML 207-a does not prohibit employers from providing these benefits, there is no logical or fair reason to single out fire fighters for adverse treatment on account of their disabilities.

Panel Discussion Regarding Reduction of 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-a benefits and the important role they play in providing income to fire fighters 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 the unit members and the District. With this in mind, the Panel Chair rejects the proposal made by the District to limit compensation to forty hours per week for employees on GML 207-a leave. The Panel Chair also rejects the District's proposal to eliminate the accrual of sick leave for employees injured on the job. However, the Panel finds justification to make some changes to accruals of personal leave, vacation and holidays after an employee is out on a leave of absence pursuant to GML 207-a for one consecutive year. The changes imposed by the Panel are appropriate in this economic climate and still place unit members in a more favorable position than City of Peekskill fire fighters regarding the accrual of benefits during GML 207-a 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-a LEAVE

Add the following to Article XXIV:

Effective December 31, 2010, employees who have been absent from work on Section 207-a leave for one consecutive year, shall not accrue vacation, personal leave or holidays, but shall continue to accrue sick leave. Benefits will be pro-rated for employees who return to work on a date that is different than the anniversary of the commencement of their leave. In addition, vacation will be available to employees returning from leave in accordance with Article VIII of the CBA. Any other benefits that employees currently receive while out on 207-a are unaffected by this Award and remain unchanged.¹

¹ This Award does not affect whatever health insurance benefits have previously been provided to fire fighters on 207-a leave because the parties did not submit that issue to the Panel. Thus, this Award does not

DECISIONS MADE IN CAPTAIN'S ABSENCE

District Position

Currently, there a number of areas in the CBA that authorize the captain to make certain decisions. The District is concerned about its operations in the absence of the captain. It argues that the references in the contract should be changed from "captain" to "District's designee." This will allow the District to have an individual to back up the captain when he is not available.

Union Position

The Union expresses concern about the broad nature of the District's proposal. It states that its members have a good working relationship with the captain. They respect his decisions and know where to go whenever there are managerial issues that need to be addressed. For this reason, it urges the Panel to reject the District's proposal.

Panel Determination on Decision's Made in Captain's Absence

Upon review, the Panel Chair finds that the District's proposal has merit to some extent. The District needs to have the ability to assure that managerial decisions can be made in the captain's absence.

However, the Union expresses legitimate concern about the broad nature of the District's proposal. It is prudent to craft the District's proposed change to allow the captain to designate an individual to make decisions in his absence so that captain or the authorized individual can appropriately manage the department.

affect whatever practices which may exist regarding health insurance benefits provided to fire fighters on 207-a 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 DECISIONS MADE IN THE CAPTAIN'S ABSENCE

Change "Captain" to "Captain or Captain's designee" throughout the contract except for Article I.

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 District's demands are hereby rejected.

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

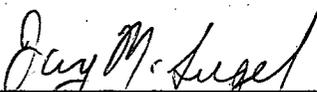
RETENTION OF JURISDICTION

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

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 January 1, 2009 through December 31, 2010.

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



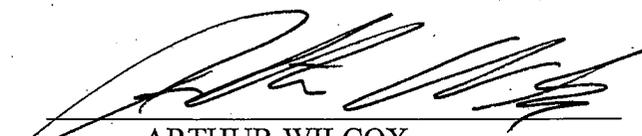
JAY M. SIEGEL, ESQ.
Public Panel Member and Chairman

11/26/10
Date



RICHARD K. ZUCKERMAN
Employer Panel Member

11/24/10
Date



ARTHUR WILCOX
Employee Organization Panel Member

11/22/10
Date

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

On this 26th day of November 2010 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

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

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

On this 24 day of November 2010 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.



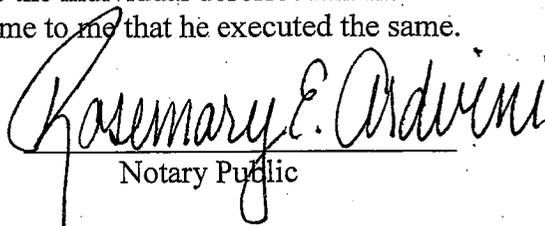
Notary Public

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

ALYSON MATHEWS
NOTARY PUBLIC - STATE OF NEW YORK
NO. 02MA6123825
QUALIFIED IN SUFFOLK COUNTY
COMMISSION EXPIRES MARCH 14, 20 13

On this 27th day of November 2010 before me personally came and appeared Arthur Wilcox 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.

ROSEMARY E. ARDUINI
Notary Public, State of New York
No. 5003798
Qualified in Saratoga County
Commission Expires Nov. 2, 12 2014



Notary Public