

IN THE MATTER OF AN INTEREST MEDIATION ARBITRATION
POLICE SERVICES ACT

B E T W E E N

BRANTFORD POLICE SERVICES BOARD

(“Board”)

and

BRANTFORD POLICE ASSOCIATION

(“Association”)

Re: 2021 – 2025 Collective Agreement

BEFORE

James Hayes, Sole Arbitrator

APPEARANCES

For the Board

Seann McAleese, Counsel

For the Association

Nini Jones, Counsel

A hearing was held by Zoom on November 30, 2021.

AWARD

Introduction

1. This interest arbitration was convened pursuant to the *Police Services Act*, R.S.O. 1990, c. P. 15 ("PSA"). Both the uniform and civilian collective agreements expired on December 31, 2020. This award pertains to the uniform collective agreement.
2. The parties engaged in collective bargaining over many months, followed by mediation on October 12, 2021 and this arbitration on November 30th. Both parties filed lengthy briefs.
3. The parties reached agreement on a number of issues and closed the gap on others over the course of the mediation-arbitration. I have set out those agreements below, along with my determination of those remaining. In deciding those issues, I have been guided by the requirements of the *Police Services Act*, the principles of replication and comparability, and the parties' submissions made in their briefs and during what was an active mediation-arbitration process assisted by accomplished counsel.

4. *Term*

January 1, 2021, to December 31, 2025

5. *Article 4: Vacation and Statutory Holidays*

The following amendments shall be made to the collective agreement:

4.08 Effective January 1, 2022: An employee with 26 years of continuous service shall be entitled to seven (7) weeks' vacation with pay in the year in which 26 years of service is completed, and each subsequent year unless hereinafter provided.

I heard argument about the inclusion of Truth and Reconciliation Day as a statutory holiday under this Collective Agreement. I decline to add it now. However, if at any time in the future, the Province of Ontario should make Truth and Reconciliation Day, or its equivalent, a statutory holiday, the members of the bargaining unit shall receive the

holiday and it shall be added to Article 4.16. Language reflecting this eventuality should be added to the collective agreement.

6. *Overtime*

The following amendment shall be made to the collective agreement:

6.09 Subject to Article 6.08, all accumulated overtime shall be paid at the current rate of pay at the time it was earned and shall be computed and paid in the month following the month in which it was accrued unless the employee directs the accumulated overtime to their lieu bank, which cannot be transferred back. Employees may elect to carry up to 80 hours of accumulated overtime into the next period, and must do so in writing to the Chief's designate, failing which all accrued time will be paid out.

The parties raised the circumstances of two members with large overtime banks. I direct that both of those members be exempted from the foregoing to the extent of their current banks. Instead, those two members must use their current banks as time off in order to bring their overtime banks into compliance with the limit set out in the above Article by December 31, 2025.

7. *Article 7.01: Clothing Allowance*

The following amendments shall be made to the collective agreement:

7.01 (a) The Board shall allow employees who are full-time plainclothes employees an annual clothing allowance of up to \$1300, such allowance includes any shoe allowance, on a reimbursement basis upon providing a receipt. Effective January 1, 2022, the clothing allowance shall be increased to \$1400.

8. *Article 9.04: Part-time President*

The following amendments shall be made to the collective agreement:

Effective December 6, 2021, The President of the Association shall receive ten (10) hours per week off from regular duties for the purpose of carrying on the business and affairs of the Association without loss of pay or benefits.

Effective January 1, 2025, the President of the Association shall receive twenty (20) hours per week off from regular duties for the purpose of carrying on the business and affairs of the Association without loss of pay or benefits. In this regard, the Association agrees to reimburse the Service the cost of five (5) hours of the President's regular straight time salary.

The Chief of Police reserves the right to assign the President to available duties in order to minimize disruption to the Service. In this regard, the Chief of Police shall not act in an arbitrary and discriminatory manner or in bad faith.

The President's hours shall be in addition to any other entitlements under this article.

Considering the foregoing, I decline to increase the amount of additional Association time set out in Article 9.04(a).

9. *Spousal Benefits After Death*

Article 10.06 shall be amended to reflect that the benefit entitlement shall last for a period of 10 years.

10. *Article 11.03: Long Term Disability Benefits*

The parties made various submissions regarding the current cap on LTD benefits and the Association's proposal to raise it to \$7,500 effective January 1, 2023. I order that to occur. However, I remit the implementation of the issue to the parties, and specifically to the Board, to identify a reasonable solution to the implementation issues that it raised before me. These issues must be addressed within 120 days of the date of this award and an agreement sought with the Association. I will remain seized of this issue, should the parties be unable to resolve this in that time frame or within any such longer time to which they may agree.

11. *Article 13.01*

This Article shall be amended as follows:

13.01 (b) In this article, "continuous active service" means, for employees hired prior to October 22, 2006, previous service as a sworn member of an accredited municipal, first nations or provincial police service and/or the RCMP, including time as a cadet. For employees hired on or after October 22, 2006, "continuous active service" shall mean continuous active service with the Brantford Police Services Board. A break in service not exceeding one year will not be considered to interrupt continuous active service for any employee.

12. *Article 13.02: Specialty Pay*

The following amendments shall be made to the collective agreement:

13.02 Effective January 1, 2022, an employee assigned to the duties of a Coach Officer, participating in the completing of evaluations, will be paid a \$12.00 allowance per shift while acting in such capacity.

13.03 Effective January 1, 2022: Employees who are designated as a Level III or Level IV Collision Reconstructionist, Use of Force Instructor, Breathalyzer Technician, SOCO, or K9 handler/officer shall receive a lump sum payment of \$350 payable in December of each year.

Effective January 1, 2025: Employees who are designated as a Level III or Level IV Collision Reconstructionist, Use of Force Instructor, Breathalyzer Technician, SOCO, or K9 handler/officer shall receive a lump sum payment of \$400 payable in December of each year.

13. Article 16: Legal Indemnification

The parties made various submissions concerning the current language. The amount provided subject officers in SIU investigations shall be increased on January 1, 2025 to \$5,000 and the amounts to witness officers in SIU investigations shall be \$2,000 effective January 1, 2023. I remit the language proposals made to the parties and direct them to attempt to resolve them within 120 days of the date of this Award. I remain seized of this issue should the parties be unable to resolve this within that time or such longer time period as they may agree.

14. Article 17.02: Cadets

The following amendment shall be made to the collective agreement:

17.01 Every Cadet shall, upon commencing employment, be subject to a probationary period of 6 months. The Board may terminate a Cadet's employment during the probationary period, but before doing, so shall give the member reasonable written information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the Board may determine. Cadets who subsequently become Probationary Constables, shall be credited with their service as Cadets from their date of appointment as Cadets for the purpose of the provisions of this Agreement in their entirety.

15. ***New Article: Occasional Officers***

Having regard to the submissions concerning the introduction of occasional officers, I have considered the introduction of a shift schedule pilot project and the timing thereof. I direct the parties to develop and implement a pilot project to run from May 2, 2022, until December 31, 2023. This time frame may be extended by an equivalent amount as the shift schedule LOU may be extended, to no later than December 31, 2025, at which point the pilot project will conclude. The pilot project may only be renewed beyond December 31, 2025, if both parties agree.

The pilot project will include the following elements:

- a) Occasional officers must be trained sworn officers, employed under this collective agreement as a member of the police service in accordance with the provisions of the *Police Services Act*.
- b) Occasional officers must have a minimum of 5 years of full-time experience as a sworn Municipal, First Nations, or Provincial police officer in Ontario, or an RCMP officer, and have worked in that capacity within the 5 years preceding their appointment by the Board.
- c) Occasional officers must be employed by the Board exclusively in a front-line patrol capacity, and for the purpose of replacing a full-time member who is off duty as a result of pregnancy/parental leave, secondment, scheduled leave (including vacation, or statutory holiday time), training, suspension, or illness or injury expected to exceed 2 weeks in duration. Occasional officers shall not be employed in any other capacities or assigned other duties with the Employer.
- d) Occasional officers cannot exceed 5% of the sworn strength.
- e) Occasional officers will not be eligible for paid duties or overtime, except where an opportunity remains for such assignment after sufficient volunteers could not be obtained from amongst the full-time members.
- f) Occasional officers shall be paid the current salary of a First Class Constable (on an hourly basis), plus ten percent (10%) in lieu of all benefits.

I remit to a joint committee the negotiation of a LOU that reflects the foregoing terms and the specific additional terms of the collective agreement to be applicable to this pilot project. The joint committee shall be comprised of an equal number of Association and Board representatives. Should they be unable to reach agreement on the terms of the LOU by March 15, 2022, or by such later date as they may agree, I will remain seized of this matter, which may be returned to me for final decision on an efficient and expedited basis as I may direct, in accordance with s.122 of the *Police Services Act*.

16. Mileage

The following amendments shall be made to the collective agreement:

18.02 (a) Employees who, with the approval of the Chief of Police, use their own personal vehicles travelling to out-of-town court or travelling to a place of instruction, shall receive mileage at the current City of Brantford "occasional" mileage rate, subject to the following conditions:

- (i) 1 round trip to attend course of instruction including recruit training;
- (ii) 1 additional round trip for each 3 weeks of completed course of instruction excluding recruit training;
- (iii) additional round trips for the purpose of attending court or other authorized police duties;
- (iv) travel allowances provided by other levels of government are to be turned over to the Service in exchange for mileage; and
- (v) employees choosing to use their own personal vehicle will be monetarily compensated based on the most practicable and economical arrangements for travel.
- (vi) Employees requiring any overnight accommodation shall be entitled to their own room.

17. Benefits

I order the following:

Effective January 1, 2022, those prescription drugs used to treat erectile dysfunction (such as Viagra, Cialis) shall be covered to maximum of \$500 per year per employee.

Effective January 1, 2023, fertility treatment/drugs shall be introduced, with a lifetime maximum of \$10,000.00 per employee.

18. Article 25: Health Care Spending Account

I direct the parties to amend Article 25 to reflect their agreed upon changes to the amount and calculation of the health care spending account. I also order that, effective January 1, 2025, the duration of retired members' access to the account be amended to 10 years, from the current 7.

19. Salary

I award the following salary increases:

Year	Percentage	Amount
July 1, 2021	1.1%	\$103,602
October 1, 2021	1.0%	\$104,637
January 1, 2022	1.5%	\$106,207

July 1, 2022	0.75%	\$107,003
January 1, 2023	2.0%	\$109,143
January 1, 2024	2.0%	\$111,326
January 1, 2025	2.5%	\$114,110

20. ***New Article: Rank Progression***

I award the following amendments to the collective agreement:

Effective January 1, 2022: A Sergeant working in a Plainclothes capacity shall receive the sergeant salary plus an additional 6.25% of the PC1 rate.

Effective January 1, 2022: A Staff Sergeant working in a Plainclothes capacity shall receive the staff sergeant salary (which is sergeant rate plus an additional 12.5%) plus an additional 6.25% of the PC1 rate.

21. ***New Article: Front Line Patrol Premium***

I award the following language:

Any member that has completed five (5) years of service with the Brantford Police Service who is assigned to a front line patrol unit, and performs such duties on a regular basis, shall receive in addition to other remuneration, a Front Line Patrol Premium as follows payable on the lesser of the member's current classification or the First Class constable rate.

The premium will be introduced on the following schedule:

<u>Effective Date</u>	<u>% of 1st Class Salary</u>
January 1, 2024	0.75%
July 1, 2024	1.5%
January 1, 2025	2.25%
July 1, 2025	3.0%

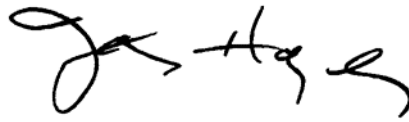
The premium shall be applicable to members assigned to front line patrol units, including uniform patrol platoons, members of the BEAT unit and Traffic unit. This shall include Sergeants and Staff Sergeants. A Sergeant and/or Staff Sergeant shall also receive the premium while not directly engaged in front line response duties, provided the majority of their shift involves oversight and/or administrative duties in relation to members assigned to front line patrol units.

Where the member has not been performing front line response duties for more than 30 continuous calendar days, the premium shall be suspended and shall only be reinstated, and without any retroactive effect, once the member returns to such duties for at least 14 consecutive shifts.

Conclusion

22. The parties are directed to incorporate previously agreed-upon items and the changes awarded above into a new collective agreement for the term specified in paragraph 1. I retain jurisdiction as specified above and regarding the implementation of this Award.

Dated at Bracebridge, this 6th day of December, 2021

A handwritten signature in black ink, appearing to read 'James Hayes', written above a horizontal line.

James Hayes