

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
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CONCILIATION

In the Matter of Compulsory Interest Arbitration:

-between-

PENN YAN POLICE BENEVOLENT ASSOCIATION.

-and-

VILLAGE OF PENN YAN, NEW YORK

: AWARD OF THE
: PUBLIC ARBITRATION PANEL

: CASE # N-81-603
: IA 82-11

Margery Gootnick, Public Panel Member and Chairman

Daniel W. Banach, Employer Panel Member

Mario Sylvester, Employee Organization Panel Member

APPEARANCES:

For The Employer:

Philip L. Bailey, Esq.

For The Union:

Joseph Sanchez, Esq., 3rd Vice President, Police
Conference of New York, Inc.

Pursuant to the provisions of the Civil Service Law Section 209.4, a tri-partite arbitration panel was established on July 25, 1982 to resolve a contract dispute between the Village of Penn Yan and the Penn Yan Police Benevolent Association.

A hearing was held in Penn Yan on September 10, 1982. The parties were afforded full opportunity to be heard, to offer evidence, argument, and to call witnesses and engage in examination and cross-examination. Both parties submitted additional material following the hearing. The parties signed a waiver of their right to record the proceedings.

An executive session was held on October 8, 1982 at which the panel reached a unanimous award on all of the terms and conditions of employment in dispute. The issues addressed by the panel are:

1. Term of Agreement
2. Salary
3. Uniform Allowance
4. Vacation Leave
5. Retirement Plan
6. Personal Days
7. Sick Days
8. Call Out Time
9. Holiday Leave
10. Longevity Pay
11. Dental Plan
12. Shift Differential
13. Title Change

In arriving at its determination the panel compared wages, hours and conditions of employment of the employees involved with those of other persons performing similar services and requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities. On all issues, they took into consideration the interest and welfare of the public and the financial ability of the public employer to pay. The panel also considered the hazards of the job, physical qualifications, educational qualifications, mental qualifications, job training and skills, and the terms of collective agreements negotiated between the parties in the past, as well as all of the other relevant factors set forth in the statute.

BACKGROUND

The Village of Penn Yan has a population of approximately 5500. The Village is in the County of Yates which has a population of 20,000. Both the Village and County populations increase dramatically in the summer months.

The department presently has five Patrolmen, four Sergeants and one Investigator. The number of Patrolmen decreased by one employee in 1980. The department provides 24 hour police service.

ISSUE # 1TERM OF AGREEMENT

This impasse has been difficult and protracted. The panel finds that the stability and continuity of the relationship would best be served if the parties conclude a two year agreement, effective June 1, 1982.

ISSUE # 2SALARYPBA Proposal

Base salary increase of 15% effective June 1, 1982

Village Proposal

Base salary increase of 2%.

DISCUSSION

In making their economic proposals the PBA pointed out that Penn Yan is a prosperous community. They maintained that the police are underpaid and overworked, when compared to other police departments, part time employees, and other

comparable positions in the Public Sector and in the Private Sector. The PBA cited the salary of a Senior Lineman in the Municipal Department at 19,594, a Senior Account Clerk in the Village CSEA unit at 16,598, a Line Crew Chief in the Municipal Department at 21,923 and the salary of the Chief at 19,400. They maintained that all of these positions have less risk and more favorable hours than positions in the PBA. The PBA stressed the decrease of manpower in the department. They also asked the panel to consider and compare the hourly salary of "special" employees who are hired on a part-time basis by the Village.

At the outset of the hearing the Village stipulated that ability to pay was not an issue. They conceded that they have the ability to pay and have not reached the limit of their taxing power. They additionally pointed out that salaries in the Municipal Department are non-comparable since they are not directly paid by the taxpayer. The Village presented unemployment figures which they claimed showed that the present jobless rate is as high as it has been in the last ten years. They maintained that the high unemployment rate in Yates County and in the Village is a result of the large number of elderly residents. The Village claimed that the PBA has achieved a 77.4% salary increase since 1972 or an average of 7.14% a year over the past ten years. The PBA pointed out that the 10% increase awarded by the 1979-1980 arbitration award amounted to less than 10% since it was not retroactive. The PBA also maintained that the unemployment rate has steadily declined since January 1982.

The current PBA payroll for ten employees including longevity is \$158,550 a year. In addition the Village maintained that the present cost of Social Security, Unemployment Insurance, Workers Compensation, Disability Insurance, Blue Cross-Blue Shield, and Retirement is an additional 45.07%.

In making the award herein, the panel has considered the Village's ability to pay and its conservative fiscal policies. The panel is mindful that each 1% increase in salary and longevity would cost the Village \$1,585.

The panel has considered and analyzed the material presented by both parties in support of their economic proposals. It is not necessary to repeat in detail all of the facts and figures set forth by each party. This case is not unique in that the comparative data presented by the parties points in both directions. Comparative data is difficult to assess since the details and distribution of salary and fringe benefits of all of the settlements are not before the panel. In addition, each party used figures for comparative purposes which support their respective positions. There are variables which are not reflected in the comparative data. The panel believes that figures which represent the second or third year of multi-year agreements have a limited and questionable value in the economic climate of 1982. Percentage comparisons also are limited in usefulness. In arriving at its determination the panel has considered the

economic demands of living in the Penn Yan area. As stated above, the panel has carefully reviewed the statistical data submitted. The panel believes that the salary and fringe benefit increases in this award will keep the Village salaries in line with other police departments in the area and competitive with comparable private industries. The panel believes that the salary award will serve the legitimate needs of both parties and will not unnecessarily burden the taxpayers of the Village. For the first year of the agreement each member of the Village of Penn Yan PBA will receive a 7% base salary increase retroactive to June 1, 1982. In addition, each employee will receive a \$50 bonus. For the second year of the agreement each member of the Village of Penn Yan PBA will receive a 7% base salary increase and a \$50 bonus.

ISSUE # 3

UNIFORM ALLOWANCE

PBA PROPSAL

Increase to \$400.00 per year and the addition of a clause calling for complete outfitting for a full-time Police Officer upon his appointment.

DISCUSSION

In making its award the panel is cognizant of the high cost of uniforms and the importance of cleaning and maintaining uniforms. The panel recognizes that certain uniform items must be replaced on a yearly basis. In making its decision the panel has considered the clothing allowances of other units and the entire compensation structure of this award. Therefore, effective June 1, 1982 Article VI, Section 10, will be changed to reflect a clothing allowance of \$275 a year. Effective June 1, 1983 Article VI, Section 10, will be changed to reflect a uniform allowance of \$325 a year.

Effective June 1, 1982 the following language will be included in Article VI, Section 10: "The Village shall bear all reasonable costs for cleaning and alteration of uniforms.

ISSUE # 4VACATION LEAVEPBA PROPOSAL

Three weeks after five years, four weeks after ten years and five weeks after fifteen years.

DISCUSSION

Based on the decision of the panel that the increases in this award should generally be in salary and based on the panel finding that the present vacation is not "out of line" with surrounding and comparable units, the proposal for increased vacation leave is denied.

ISSUE # 5RETIREMENT PLANPBA PROPOSAL

Change the present retirement requirement to twenty years with the adoption of Section 384-d, Retirement and Social Security Law, NYS Policemen's and Firemen's Retirement System.

DISCUSSION

The increased cost of the PBA proposal would be \$10,220 a year. The PBA claims that the cost is minimal when considered with the fact that the Village has not replaced an officer who was discharged in 1979 and a meter maid who retired this year. The panel believes that although the retirement plan proposed by the PBA would provide long term benefits, the cost cannot be justified at this time.

It is clear that Section 384-d has been granted to some comparable units. Nevertheless, there is no clear evidence to establish what, if anything, was conceded by other units to achieve 384-d. As stated above, the Village does not claim inability to pay. However, the increased costs would ultimately be paid by the public. The panel believes that this benefit is most appropriately considered at the bargaining table. The proposal for adoption of the 384-d retirement plan is rejected.

ISSUE # 6

PERSONAL DAYS

PBA PROPOSAL

The PBA proposes the addition of two personal leave days to the provisions of Article IX, Section 2.

DISCUSSION

The PBA proposal would result in five personal leave days a year for each employee. The previous arbitration panel (PERB case A79-92) found that a change in the personal leave benefit was not warranted. Nevertheless, based on the figures in Village Exhibit 23 and the other comparative data submitted by the PBA the panel makes the following award: Effective June 1, 1983 one extra personal leave day shall be added to Article IX, Section 2. The day shall be taken at the discretion of the Chief.

ISSUE # 7SICK DAYSPBA PROPOSAL

- (a) Increase number of sick days that may be accumulated to two hundred (200) days and allow the option of taking the cash value of any unused sick leave upon retirement.
- (b) An employee who leaves the Village's employ, at such time if he is entitled to receive a pension from the NYS Employee's Retirement System, shall receive a credit for any accumulated and unused sick leave. Such credit shall be calculated by multiplying the number of days of accumulated and unused sick leave by the employee's daily wage at the time of his leaving the Village's employ. Daily wage shall be the employee's annual salary including longevity pay divided by 260. Such credit shall be applied by the Village to the purchase of health insurance, including any riders in force in the Village's group policy at the time, monthly, until such credit is exhausted or until the death of the employee, whichever event occurs first. No interest shall be paid on such credit and the employee shall be entitled to elect to receive such credit in cash.

DISCUSSION

Based on the increase in the salary, the improvement in longevity and the adequacy of the present provisions, the PBA proposal for improvement in Sick Day benefits is denied.

ISSUE # 8CALL OUT TIMEPBA PROPOSAL

The PBA proposed that the provisions of Article VI, Section 8 be changed to provide a minimum of four hours call out time.

DISCUSSION

A comparison of the terms of the agreements in other units and consideration of the provisions of the agreement between the Town and the CSEA indicates that there is merit in the proposal. Effective June 1, 1982 Article VI, Section 8 shall be ammended to reflect a four hour minimum call out time.

ISSUE # 9HOLIDAY LEAVEPBA PROPOSAL

- (a) Change holiday leave to time and one-half compensatory time.
- (b) Add one holiday to present holiday schedule:
December 24th, December 31st - each day one-half day.

DISCUSSION

The panel finds scant rationale to support this proposal. The present provisions are within the range of other comparable units. An increase is not indicated in the economy of 1982. The PBA proposal for improvement in holiday leave is rejected.

ISSUE # 10LONGEVITY PAYPBA PROPOSAL

After 4 years - \$100.00	After 12 years - \$700.00
After 5 years - \$200.00	After 14 years - \$800.00
After 6 years - \$300.00	After 16 years - \$900.00
After 7 years - \$400.00	After 18 years - \$1000.00
After 8 years - \$500.00	After 20 years - \$1100.00
After 10 years - \$600.00	After 25 years - \$1200.00

DISCUSSION

Articel VI, Section 3. of the expired agreement provides the following longevity pay schedule:

After 5 yrs.	100.00
" 10 "	200.00
" 15 "	400.00
" 20 "	600.00

The PBA proposal would result in an increased cost to the Village of \$3200 or 2% of the current payroll. The Village argued that an increase in longevity represents an additional salary cost. The panel finds that some increase in longevity is appropriate to place the members of the unit at the first three steps on a par with comparable units. No increase is indicated at the fourth step (20 years). The panel finds that the following increases would be reasonable. The longevity schedule shall be ammended and will read as follows:

Effective June 1, 1982

After 5 years	150.00
" 10 "	250.00
" 15 "	450.00
" 20 "	600.00

Effective June 1, 1983

After 5 years	200.00
" 10 "	300.00
" 15 "	500.00
" 20 "	600.00

ISSUE # 11

DENTAL PLAN

PBA PROPOSAL

The Village to provide a dental plan, \$1000.00 maximum per contract year, per insured family, \$100.00 deductible.

DISCUSSION

The PBA presented a document which contained monthly premium quotations for a type "M-1" dental plan. However, the exhibit did not represent the actual cost of the plan proposed by the PBA since the proposed plan is a self insurance plan. The panel has considered the increasing cost of all types of health insurance. They have also considered the problems created by a collectively bargained provision with uncertain costs. The proposal for dental insurance is rejected.

ISSUE # 12SHIFT DIFFERENTIALPBA PROPOSAL

If more than 50% of a work shift falls between the hours of 5p.m. - 8a.m., the Village shall compensate said employee with a shift differential equal to 10% which shall be added to the base pay.

DISCUSSION

The panel finds that it is appropriate to award increases in salary rather than to award pay shift differential . With minimal exception the shifts in the department are rotating shifts. One employee who is on disability has

or will soon return to full rotation. This will ease the problem of extra work on the night shift. The panel finds that payment of shift differential is more appropriate for units with employees permanently assigned to the night shift. The proposal on shift differential is rejected.

ISSUE # 13

TITLE CHANGE

VILLAGE PROPOSAL

To change the title of Investigator to - Patrolman - Part Time Investigator.

DISCUSSION

The present agreement lists one employee as an Investigator. The Village is seeking to change the title to Patrolman - Part Time Investigator. Since this dispute is presently in the courts, the panel believes it is inappropriate to make an award in this area. Accordingly, the Village proposal to change the title of Investigator to Patrolman - Part Time Investigator is remanded to the parties.

AWARD

1. Such clauses of the prior agreement which have not been amended mutually by the parties or by this AWARD shall continue in full force and effect.
2. A two year agreement effective June 1, 1982.
3. For the first year of the agreement each member of the Village of Penn Yan PBA will receive a 7% base salary increase retroactive to June 1, 1982. In addition each employee will receive a \$50 bonus. For the second year of the agreement each member of the Village of Penn Yan PBA will receive a 7% base salary increase and a \$50 bonus.
4. Effective June 1, 1982 Article VI, Section 10 will be changed to reflect a clothing allowance of \$275 a year. Effective June 1, 1983 Article VI, Section 10 will be changed to reflect a uniform allowance of \$325 a year. *AT DISCRETION OF THE CHIEF*
Effective June 1, 1982 the following language will be included in Article VI, Section 10: "The Village shall bear all reasonable costs for cleaning and alteration of uniforms." *11-3-82 MJS*
5. The proposal for increased vacation leave is rejected.
6. The proposal for adoption of the 384-d retirement plan is rejected.
7. Effective June 1, 1983 one extra personal leave day shall be added to Article IX, Section 2. The day shall be taken at the discretion of the Chief.
8. The proposal for improvement in sick day benefits is rejected.
9. Effective June 1, 1982 Article VI, Section 8 shall be amended to reflect a four hour minimum call out time.
10. The PBA proposal for improvement in holiday leave is rejected.
11. The longevity schedule shall be amended and will read as follows: Effective June 1, 1982

After 5 years	150.00
" 10 "	250.00
" 15 "	450.00
" 20 "	600.00

Effective June 1, 1983

After 5 years	200.00
" 10 "	300.00
" 15 "	500.00
" 20 "	600.00

12. The proposal for dental insurance is rejected.
13. The proposal on shift differential is rejected.
14. The Village proposal to change the title of Investigator to Patrolman - Part Time Investigator is remanded to the parties.

Margery Gootnick
 Margery Gootnick, Chairman

Mario Sylvester
 Mario Sylvester, Employee Member

Daniel W. Banach
 Daniel W. Banach, Employer Member

STATE OF NEW YORK)
 COUNTY OF MONROE) SS.

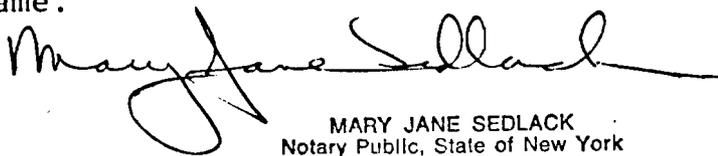
On this 29th day of October, 1982, before me, the subscriber, personally appeared Margery Gootnick, to me known and known to me to be the same person described in and who executed the within AWARD and she duly acknowledged to me that she executed the same.

PHYLLIS LAWRENZ
 COMMISSIONER OF DEEDS
 ROCHESTER, NEW YORK
 MY TERM EXPIRES.....5/18/83

STATE OF NEW YORK)
 COUNTY OF BROOME) SS.

On this 3rd day of November, 1982, before me, the subscriber, personally appeared Mario Sylvester, to me known and known to me to be the same person described in and who executed the within AWARD and he duly acknowledged

to me that he executed the same.

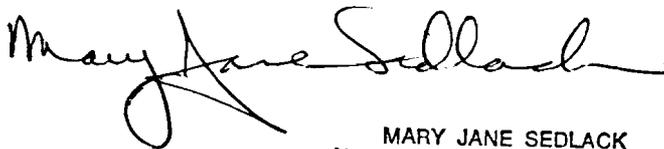


MARY JANE SEDLACK
Notary Public, State of New York
Residing in Broome County
My commission expires March 30, 1984

STATE OF NEW YORK) SS.
COUNTY OF ~~WEST~~)

Broome

On this 3rd day of November, 1982, before me, the
subscriber, personally appeared Daniel W. Banach, to me
known and known to me to be the same person described in
and who executed the within AWARD and he duly acknowledged
to me that he executed the same.



MARY JANE SEDLACK
Notary Public, State of New York
Residing in Broome County
My commission expires March 30, 1984

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