

STATE OF NEW YORK PUBLIC EMPLOYMENT RELATIONS BOARD

In The Matter of The Interest Arbitration Between
THE LAKE CITY POLICE CLUB
AND
THE CITY OF OSWEGO, NEW YORK
PERB Case No. IA201-018; M201-114

FINAL AND BINDING
OPINION AND AWARD
OF TRIPARTITE
ARBITRATION PANEL

The Public Arbitration Panel members are:

PUBLIC PANEL MEMBER AND CHAIRPERSON:

Peter A. Prosper
P. O. Box 520
Guilderland, New York 12084

PUBLIC EMPLOYEE PANEL MEMBER:

Rocco A. DePerno, Esq.
DePerno & Khanzadian
8061 State Route 12
Barnveld, New York 13304

PUBLIC EMPLOYER PANEL MEMBER:

Elayne G. Gold, Esq.
Roemer Wallens & Mineaux, LLP
13 Columbia Circle
Albany, New York 122037

APPEARANCES: For the Lake City Police Club

Karen Khanzadian, Esq.
DePerno & Khanzadian
8061 State Route 12
Barnveld, New York 13304

For the City of Oswego

Robert E. Smith, Esq.
Roemer Wallens & Mineaux, LLP
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NYS PUBLIC EMPLOYMENT RELATIONS BOARD
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CONCILIATION

Pursuant to the provisions of Civil Service Law, Section 209.4, Richard A. Curreri, Esq., Director of Conciliation of the New York State Public Employment Relations Board, designated the undersigned on November 15, 2001, as the Public Arbitration Panel for the purpose of making a just and reasonable determination on the matters in dispute between the City of Oswego ("City") and the Lake City Police Club ("Union"). The prior Collective Bargaining Agreement between the parties covered the period from January 1, 1999 through December 31, 2000. Although the Agreement expired, it remains in full force and effect pending this Award.

The City of Oswego has a population of 17, 954 residents, and a land area of approximately 7.6 square miles. The City employs approximately 404 employees, 321 of whom are represented by six employee organizations: Service Employees International Union; New York Council 66, AFSCME; Municipal Employees Association for Management and Supervision for the City of Oswego; The City of Oswego Firefighters Association; The Lake City Police Club; and the Oswego Captains of Police. The Lake City Police Club, for which this Interest Arbitration pertains, represents approximately 42 employees, excluding the Chief of Police and Captains.

The parties commenced negotiations for a successor agreement on November 22, 2000, and were unable to reach agreement, whereupon Tony Insogna was appointed mediator and met with the parties on September 26, 2001. When mediation did not result in resolution of the parties' differences, a petition for Compulsory Interest Arbitration was filed by the Union on October 2, 2001. The City filed its response on October 17, 2001. A hearing was held in Oswego, New York on April 30, 2002, at which all parties were provided opportunity to introduce evidence, present testimony, summon witnesses, cross-examine witnesses, and otherwise support their respective positions on the outstanding issues.

All issues which have attendant support submitted by each party were carefully considered, as well as the responses by the opposing party. The Public Arbitration Panel met in executive session on December 19, 2002, February 4, February 11 (telephonic) April 21, 2003, exchanged correspondence, conducted telephone conversations, and deliberated on each of the outstanding

issues, carefully and fully considering all the data, exhibits, briefs and testimony of the sworn witnesses who appeared on behalf of both parties. The results of those deliberations are contained in the OPINION AND AWARD, which constitutes the Panel's best judgment as to a just and reasonable solution of the impasse. Two issues proposed by the Union were withdrawn prior to the hearing, which are: Articles 23.3 and 23.4. The City withdrew its issue regarding Facilities, Section 11.3. Those issues presented by the parties that are not contained in this OPINION AND AWARD were also carefully considered by the Public Arbitration Panel, but are remanded back to the parties for further negotiation, and therefore no Award is made on those matters. For each issue, the discussion below presents the positions of the parties and the Panel's analysis and conclusion. The Public Arbitration Panel considered the impact of each item upon the whole, and made its judgment concerning the combination of items that would provide a just and reasonable result for all parties.

In arriving at the determination contained herein, the Public Arbitration Panel has considered the following statutory guidelines with which it was charged by Section 209.4:

- (v) The public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:
 - a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.
 - b. the interests and welfare of the public and the financial ability of the public employer to pay;
 - c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;
 - d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to,

the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

- (vi) The determination of the public arbitration panel shall be final and binding upon the parties for the period prescribed by the panel, but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement then for a period not to exceed two years from the date of determination by the panel. Such determination shall not be subject to the approval of any local legislative body or other municipal authority.

THE ISSUES

The Issues submitted by the Union are as follows:

Article 4 - Grievance Procedure and Arbitration - Section 4.1: Re-define the term grievance "as a dispute concerning the interpretation, application or claimed violation of a specific term or provision of the collective bargaining agreement, or of any rule or regulation of the department that constitutes a term and/or condition of employment.

Delete last full paragraph 4.1(d) of Article 4; "It is especially...

Article 5 - Discipline and Discharge: Disputes relating to the proposed discipline and/or discharge of an employee shall be submitted to final and binding arbitration before an arbitrator appointed by rotation from a three member panel of neutrals agreed upon by the parties. The decision of the arbitrator shall be final and binding on the City, the department, the officer involved, and the Club.

Article 7 - Employee and Employee Organization Leave - Section 7.1: Modify twelve hour per month maximum for the president and treasurer to sixteen hours per month.

Article 11 - Working Conditions - Section 11.1: Add, this section shall not supercede Article 3 entitled Benefits Preserved such that mandatory subjects of bargaining cannot be unilaterally modified (regardless of notice), sans negotiations.

Article 11 - Working Conditions - Section 11.6: The club proposes implementing an annual seniority/qualification based schedule selection bidding procedure, particulars to be discussed during the talks.

Article 17.3 - Meal Allowance: Increase from \$5.00, \$8.00 & \$15.00 to \$5.00, \$10.00 & \$20.00, for breakfast, lunch and dinner, respectively. Increase cap from \$28.00 per day, to \$35.00 per day.

Article 18 - Uniforms and Equipment - Section 18.1: Raise clothing allowance from \$550.00 per year to \$750.00 per year.

Article 20 - Educational Courses - Section 20.1: Modify as follows - 100% college reimbursement at SUNY Oswego rate, one course per semester.

Article 21 - Personal Leave Days: Increase from 3 days to 5 days per year.

Article 22 - Sick Leave and Bereavement Leave - Section 22.2: Modify to include step Aunt/Uncle.

Article 22 - Sick Leave - Section 22.11: Employees with zero sick leave usage during a calendar quarter shall be entitled to a sick leave incentive for that quarter of \$500; one day, \$350; two days \$150; three days, \$0.00.

Article 24- Medical, Hospital and related benefits - Section 24.2: Any employee who retires with at least twenty (20) years of service, shall have his/her, spousal and dependent health insurance fully paid by the City with no contribution by the employee.

Article 26 - Vacation - Section 26.1: Add - Upon completion of ten (10) years of service, twenty-five (25) working days (five weeks).

Article 26 - Vacation. - Section 26.2.D: Employees shall be entitled to use their vacation allotment in single day increments.

Article 30 - Direct Compensation - Section 30.1: Effective on and retroactive to January 1, 2001, the base salary schedule shall be increased by six (6) percent; Effective on and retroactive to January 1, 2002, the base salary shall be increased by an additional six (6) percent: Effective on and retroactive to January 1, 2003, the base salary schedule shall be increased by an additional six (6) percent.

Article 30 - Direct Compensation - Section 30.3: Increase maximum comp time accrual from sixty (60) hours to two hundred forty (240) hours.

Article 30 - Direct Compensation - Section 30.2: The rank differential for Detectives, Sergeants, Lieutenants, Captains and the Deputy Chief shall not be less than \$1,320.

Article 30 - Direct Compensation - Section 30.4: Employees who work between the hours of 3 PM and 11 PM shall receive a shift differential of five (5) percent: Employees who work between the hours of 11 PM and 7AM shall receive a shift differential of ten (10) percent.

Article 30 - Direct Compensation - 30.4: Add seventh year / increment, \$500; twelfth year increment, \$500; eighteenth year increment, \$500; nineteenth year increment, \$500; twenty-fifth year increment, \$500; twenty-seventh year increment, \$500; thirtieth year increment \$500.

New Article - Jury Duty: Officers assigned to work between the hours of 11 PM and 7 AM shall, if he/she receives a jury duty subpoena, be assigned days until such officer is released from jury duty.

New Article - Service Weapon: Officers who retire from the Oswego Police Department, in good standing, shall be entitled to keep their service weapon.

New Article - Term Life Insurance Program: City to implement a non-contributory term life insurance program, details to be discussed during the talks.

New Article - HarborFest: Employees who in the ordinary course would not be required to work during HarborFest, shall be entitled (in addition to all other contractual remuneration) to take concomitant time off for being ordered to work same.

The City's proposals are as follows:

Article 17, "Meal Allowance", Section 17.3 (p. 12) shall be deleted in its entirety and replaced as follows: .

Reimbursement shall be allowed for meals, however, reimbursement shall not exceed a cumulative total of \$30 for a full day's allowance.

Partial per-day expenses will be reimbursed as follows:

- (a) if the officer is out of town for less than four hours: no allowance;

(b) if the officer is out of town for four hours to less than ten hours, the amount of the reimbursement will be \$10;

(c) if the officer is out of town for ten hours to less than 17 hours, the amount of the reimbursement will be \$20; and

(d) if the officer is out of town for 17 hours to 24 hours, the amount of the reimbursement will be \$30.

If the officer is out of town for the appropriate time frame as indicated above, but returns to the City within the said time frame, that officer shall not be permitted to punch out for a meal in Oswego if the officer has requested reimbursement for the meal allowance as provided above.

In those situations where meals are included in the cost of a meeting, conference, seminar, school, etc., and these costs are in excess of the established reimbursement rate, the higher rate shall be subject to approval by the Chief of Police.

Article 22, "Sick Leave and Bereavement Leave", Section 22.3 ("Rate of Accumulation") (p. 16) shall be amended to read as follows:

A. Sick leave shall be granted by the Chief of Police or the appointing authority, and an employee shall be entitled to absence from duty so granted for a period not to exceed one (1) day per month. Such one day per month sick leave - shall be allowed to accumulate to a maximum of one hundred sixty-five (165) days. The City will pay for all unused accumulated sick days to the maximum of 165 upon an employee's retirement, at the pay rate in effect at the time of said retirement.

Employees hired after January 1, 2001. will be paid for 75% of their unused accumulated sick leave to the maximum of 165 days when said employee retires; such pay will be at the rate in effect at the time of retirement.

Article 22, Section 22.3, "Rate of Accumulation" (p. 16) shall be amended by adding a second paragraph, designated paragraph "B", to read as follows:

B. The practice of "burning sick leave" without medical documentation prior to retirement will be discontinued (see PERB Case No.: A97-122, decided February 18, 1998). This language does not in any way negate the parameters of Article 22.8, below.

Article 24, "Medical, Hospital and Related Benefits", Section 24.1 ("Medical Insurance") (p. 19) shall be amended as follows:

Effective January 1, 2001, all employees shall contribute 20% of the difference in cost between individual and family coverage, including health, dental and optical coverage. [The remainder of Article 24.1 remains as - written.]

Article 24, "Medical, Hospital and Related Benefits", Section 24.2 (p. 20) shall be amended at the second paragraph of said Section 24.2 by changing "15%" to "20%".

Article 28, "Extra Duty Compensation" (p. 24) shall be amended by adding a new sentence to read as follows:

All employees may be required, at the discretion of the Chief of Police, to attend one (1) two hour call-in per month for training purposes. In the event of such call-in, the employee will be paid the appropriate wage rate.

Article 30, "Direct Compensation" (p. 25) shall be amended by adding a new section entitled "Payment for Recruits", to read as follows:

Recruits attending the Police Academy will be paid for an eight hour day; they will not receive overtime pay for traveling to and from the Police Academy.

Article 30, "Direct Compensation", Section 30.3 ("Compensatory Time") (p. 26) shall be amended to read as follows:

Police Officers may accrue compensatory time, up to a maximum of sixty (60) hours at the employee's discretion, in lieu of overtime pay. Once the compensatory time has been approved by the Chief, it may not be rescinded; however, no compensatory time will be approved for use if it creates overtime. All compensatory time must be scheduled by November 15 and used November 30 of each year. No compensatory time may be earned in the months of November or December of each year. Unused compensatory time will be paid by the first pay period in December of each year, at the appropriate wage rate.

POSITION OF THE PARTIES

Duration of the Award

The parties agree to a two (2) year Award which shall be effective January 1, 2001 through December 31, 2002.

Based on agreement by the parties, the Interest Arbitration Panel makes the following

AWARD

The term of this Award shall be from January 1, 2001 through December 31, 2002.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne G. Gold agreed
Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

Rocco A. DePerno [AGREE]
Rocco A. DePerno, Esq.
Employee Organization Panel Member

Article 4 - Grievance Procedure and Arbitration - Section 4.1.

The Union seeks a change in Article 4. It wishes to change the definition of the term "grievance" to read: "A grievance is a dispute concerning the interpretation, application or claimed violation of a specific term or provision of the collective bargaining agreement, or of any rule or regulation of the department that constitutes a term and/or condition of employment. It also proposes to delete last full paragraph 4.1(d) of Article 4:

"It is especially understood and agreed that arbitration shall not be obtainable as a matter of right if the grievance (a) involves the existence of alleged violation of any agreement other than the present agreement between the parties; (b) involves issues which were discussed at negotiations, but not expressly covered at negotiations, but not expressly covered by the terms and conditions of this agreement; (c) involves claims of violations of an allegedly implied or assumed obligation; (d) would require an arbitrator to rule on, consider, or decide the appropriate hourly salary or incentive rate at which an employee shall be paid, or the method by which his pay shall be determined; (e) would require an arbitrator to consider, rule on, or decide any of the following: (I) the elements of job assignment; (ii) the level, title or other designation to assign of any employee's job classifications; (iii) the right of management to assign or reassign work within the respective job titles. (f) pertains in a way to the establishment, administration, interpretation or application of an insurance, pension, savings or other benefit plans in which covered employees are eligible to participate; (g) involves discipline or discharge of employees who have not satisfactorily completed the probationary period.

Position of the Union

The Union argues that the exceptions to a grievance stated above renders the process completely ineffectual. It states that any interpretation of the exceptions leads to the conclusion that nothing in reality is grievable. The Union argues that a fundamental principle underlying the Taylor Act and alternative dispute resolution procedures is to encourage parties to settle disputes under the labor agreement, but the contract language excepts out all disputes that may arise and does not provide the parties with a fair and reasonable procedure by which to resolve their disputes.

Position of the City

The City contends that the Union has presented absolutely no evidence to justify an expansion of the term "grievance", nor did it provide any evidence to demonstrate that the current contractual language prejudices or in any way prohibits members of the Union from submitting grievances.

Discussion

An analysis of the appropriate parts of the Collective Bargaining Agreements of the comparable jurisdictions presented by both parties, as well as an examination of similarly situated comparable jurisdictions, we find that the definition proposed by the Union is quite similar to those other jurisdictions. Such definition will provide the ability of the Union to process legitimate grievances, while still providing for the refusal of frivolous grievances. The clause listing exceptions appears to be so restrictive that it limits severely the ability of the Union to process grievances, giving rise to substantial unrest by members of the unit. The revised definition plus the elimination of the restrictive paragraph will not deprive the Union of the ability to process legitimate grievances, and will not prevent the City from assigning and directing the labor force. The processing of legitimate grievances will enhance the harmony between labor and management, making a more productive and efficient work force.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

A grievance shall be defined as "A dispute concerning the interpretation, application or claimed violation of a specific term or provision of the collective bargaining agreement, or of any rule or regulation of the department that constitutes a term and/or condition of employment.

The last full paragraph of Article 4.1d shall be deleted from the Collective Bargaining Agreement.

The remainder of Paragraph 4.1d remains as currently exists in the Collective Bargaining Agreement.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne G. Gold (do not agree)
Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

Rocco A. De Perno [AGREE]
Rocco A. De Perno, Esq.
Employee Organization Panel Member

Article 5 - Discipline and Discharge:

The Union proposes the following as replacement for the existing statement in Article 5:

Disputes relating to the proposed discipline and/or discharge of an employee shall be submitted to final and binding arbitration before an arbitrator appointed by rotation from a three member panel of neutrals agreed upon by the parties. The decision of the arbitrator shall be final and binding on the City, the department, the officer involved, and the Club.

Position of the Union

The Union opposes the current clause on discipline and discharge because it is not binding on the City. The City can opt to not accept the hearing officer's recommendation and can substitute

its won judgment for that of the neutral. The Union gives an example of some years ago when the City disregarded a hearing officer's recommendation that the Chief of Police be demoted and fired the Chief. It argues that since then there has been a genuine belief within the organization that if they do not take the deal or disposition offered by the City, they will be fired. The Union states that it seeks a guarantee of fair treatment and impartial determination in disciplinary matters, and that final and binding arbitration will provide that.

Position of the City

The City asserts that the Union has provided no evidence that their members have been prejudiced or that their due process rights have been compromised, abridged or in any other way not provided to their members.

Discussion

As with Article 4, the Union seeks a grievance machinery that essentially removes the City's decision from the process. Under the current system, Section 75 procedures provide that a hearing officer selected by the City hears a dispute and makes a recommendation. The City may accept or reject the recommendation. If it rejects the recommendation, it may impose any remedy that it wishes. Under final and binding arbitration, the two parties must agree on the arbitrator(s), and the arbitrator hears the arguments of both parties and then makes a decision that is binding on both parties. There is a high degree of neutrality in this procedure because the arbitrator has no vested interest in the outcome.

The Union points out that comparable jurisdictions such as Fulton, Cortland and Plattsburgh, have binding arbitration as the final stage in their grievance process. The arguments of the Union are persuasive.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

The Union's proposal shall be adopted, that is, there shall be final and binding arbitration for its disciplinary process, replacing the Section 75 procedure currently in effect.

The parties are directed within thirty (30) days of issuance of this Award to meet in order to establish a procedure which would include, but not limited to, the time frames for filing the charges, suspension without pay pending the disciplinary hearing, the sharing of Arbitrator costs and any other relevant factors.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne G. Gold (do not agree)
Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

Rocco A. DePerno [AGREE]
Rocco A. DePerno, Esq.
Employee Organization Panel Member

Article 11 - Working Conditions - Section 11.1:

The Union seeks to add the following sentence to Section 11.1: "This section shall not supercede Article 3 entitled Benefits Preserved such that mandatory subjects of bargaining cannot be unilaterally modified (regardless of notice), sans negotiations.

Position of the Union

The Union argues that the current statement in Article 11.1 that "the employer shall notify LCPC at least seven (7) days in advance of any change in working conditions or methods not specifically provided for by this agreement," has been used by the City to unilaterally change terms

of conditions of employment whether or not they are the subject of mandatory negotiations. The Union states that the City position is that the Union has waived its right under the Taylor Law to bargain collectively. The Union denies that it has waived any rights.

Position of the City

The City asserts that the Union seeks to prohibit the employer's right to change working conditions or methods not provided for in the Collective Bargaining Agreement. The Union's proposal would render meaningless Article 11.1 by restricting its application if it encroaches on Article 3 of the contract. The Union's proposal would prohibit the employer from exercising a well-established management prerogative which gives it the ability to assign its work force in the event of an emergency, disaster or in any other instance when the Department deems it necessary to efficiently direct its work force.

Discussion

The City's position is that it may change certain terms and conditions of employment upon seven days' notice. It argues that it is a management prerogative to direct its work force when it deems necessary. That may be true, but it may not unilaterally change mandatory terms of conditions of employment. The clause, as stated presently, would give management that right. It is also true that management has the right to change terms of conditions of employment temporarily where such change is required because of an emergency or major disaster over which the City has no control. Adding the Union's proposed statement would not destroy that right.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

The following sentence shall be inserted into Article 11.1:

This section shall not supercede Article 3 entitled Benefits Preserved such that mandatory subjects of bargaining cannot be unilaterally modified without negotiations.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne G. Gold (do not agree)
Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

Rocco A. De Perno (AGREE)
Rocco A. De Perno, Esq.
Employee Organization Panel Member

Article 17.3 - Meal Allowance

The Union seeks to increase the meal allowance from \$5.00, \$8.00 & \$15.00 as is now provided in the Agreement, to \$5.00, \$10.00 & \$20.00, for breakfast, lunch and dinner, respectively, and to increase the cap from \$28.00 per day to \$35.00 per day.

The City seeks the following changes to Article 17:

Section 17.3 shall be deleted in its entirety and replaced as follows:

Reimbursement shall be allowed for meals, however, reimbursement shall not exceed a cumulative total of \$30 for a full day's allowance.

Partial per-day expenses will be reimbursed as follows:

- (a) if the officer is out of town for less than four hours: no allowance;

(b) if the officer is out of town for four hours to less than ten hours, the amount of the reimbursement will be \$10;

(c) if the officer is out of town for ten hours to less than 17 hours, the amount of the reimbursement will be \$20; and

(d) if the officer is out of town for 17 hours to 24 hours, the amount of the reimbursement will be \$30.

If the officer is out of town for the appropriate time frame as indicated above, but returns to the City within the said time frame, that officer shall not be permitted to punch out for a meal in Oswego if the officer has requested reimbursement for the meal allowance as provided above.

In those situations where meals are included in the cost of a meeting, conference, seminar, school, etc., and these costs are in excess of the established reimbursement rate, the higher rate shall be subject to approval by the Chief of Police.

Position of the Union

The Union argues that the current provision is over ten years old, and that it be increased to a more reasonable level.

The City believes that its proposed changes are appropriate.

Discussion

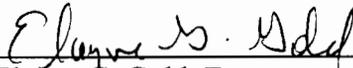
The current amounts paid for meal allowances have not changed in ten years. Prices and costs have increased during those ten years. It is appropriate to increase those allowances at this time. The amounts proposed by the Union are well within a normal range. The City presents no justification for its proposal other than to state that the amounts asked by the Union are not justified. Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

**The meal allowance in Article 17.3 shall be increased to the following:
Breakfast – \$5.00; Lunch – \$10.00; Dinner – \$20.00; the cap shall be increased
to \$35.00 per day. All other items remain the same.**

I (concur) (do not concur) with the above Award

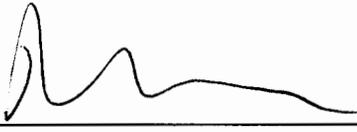
Date: 9/23/03

 (agreed)

Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

 [AGREE]

Rocco A. DePerno, Esq.
Employee Organization Panel Member

Article 18 - Uniforms and Equipment

The Union seeks an increase in the clothing allowance from \$550.00 per year to \$750.00 per year.

Position of the Union

The Union argues that the clothing allowance has not been increased for ten years. When the Chief asked for a more professional and modern look, the cost of clothing purchases such as new shirts, jackets and the like increased. There has been a substantial increase in the costs of uniforms as well as dry cleaning.

The Union states that officers in Fulton receive \$625.00 per year, Watertown officers receive \$500.00 for purchases and \$500.00 for cleaning and maintenance, and Plattsburgh officers receive \$1,075.00 for cleaning and maintenance. Clearly, states the Union, its officers lag behind in uniform cleaning and maintenance.

Position of the City

The City does not object to an increase in uniform allowance but does not wish to grant the increase asked for by the Union.

Discussion

Both parties acknowledge the need for some increase in the uniform allowance. The current amount in the Agreement has not changed for ten years, so some adjustment is necessary.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

Article 18.1, Clothing Allowance, shall be increased to six hundred fifty (\$650.00) per year, and such increase shall go into effect January 1, 2002.

I (concur) (do not concur) with the above Award

Date: 9/23/02

Elayne G. Gold (agreed)
Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-02

Rocco A. DePerno (AGREE)
Rocco A. DePerno, Esq.
Employee Organization Panel Member

Article 22, Section 22.3, "Rate of Accumulation"

The City proposes a change in Section 22.3. to include a new paragraph B, as follows:

B. The practice of "burning sick leave" without medical documentation prior to retirement will be discontinued (see PERB Case No.: A97-122, decided February 18, 1998). This language does not in any way negate the parameters of Article 22.8.

Position of the City

The City states that it seeks to incorporate into the Agreement the same language as is found in the Oswego Captains of Police Agreement. The current practice permits officers represented by the PBA to exhaust or "burn" sick leave days which they have in excess of 165 days in the year of their announced retirement. Employees who engage in this practice are also allowed to work overtime in order to fill any vacancies which may occur as a result of the "burning" of their sick leave time. The City argues that this practice is an unnecessary expense to the City and should be eliminated in light of the fact that no other comparable jurisdiction provides for similar contractual benefits.

Position of the Union

The Union opposes changing this part of the Agreement.

Discussion

The City's point is well taken. Not only does the practice increase costs to the City, but it exists in no comparable jurisdiction.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

The following paragraph shall be added to Article 22.3:

B. The practice of "burning sick leave" without medical documentation prior to retirement will be discontinued (see PERB Case No.: A97-122, decided February 18, 1998). This language does not in any way negate the parameters of Article 22.8.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne G. Gold (agreed)
Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

[DO NOT AGREE]
Rocco A. De Perno, Esq.
Employee Organization Panel Member

Article 24, "Medical, Hospital and Related Benefits", Section 24.1 ("Medical Insurance")

The City proposes the following change in employees' contribution to health insurance premiums:

Effective January 1, 2001, all employees shall contribute 20% of the difference in cost between individual and family coverage, including health, dental and optical coverage. [The remainder of Article 24.1 remains as - written.]

Position of the City

The City argues that health insurance premiums have increased substantially. The City seeks to increase the contribution of employees represented by the PBA from the current fifteen (15%) percent to twenty (20%) percent. In testimony, Mr. Manwaring stated that in the year 2001, there were 33 officers enrolled in family coverage at a yearly cost to the City of \$7,975.80 per officer. There are four officers enrolled in individual coverage at a yearly cost of \$3,071.76 per officer. The

total cost to the City after employee contributions is \$249,669.14. The City states that the other bargaining units in Oswego currently contribute more towards their health insurance coverage than officers in the PBA.

Position of the Union

The Union opposes the City's request to increase officers' contribution to health insurance premiums. It argues that each officer already pays a substantial sum for health insurance premiums, and that any increase will erode their take-home pay.

Discussion

Employer and employees alike throughout the nation have seen substantial increases in health insurance costs in recent years. When a municipality contributes the majority percentage to health insurance premiums it must absorb a larger share of the increased costs. The burden must be shared by both groups. The members of this bargaining unit have been contributing fifteen percent of health insurance premium costs in recent years and, as costs go up, so do the officers' dollar contribution. However, an increase in the officers' share of the health insurance premium costs will offset to an extent the increase burden on the City.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

Effective the date of the implementation of this Award, all employees shall contribute seventeen (17.0%) percent of the difference in cost between individual and family coverage, including health, dental and optical coverage. The remainder of Article 24.1 remains as written.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne G. Gold (agreed)
Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

Rocco A. DePerno [DO NOT AGREE]
Rocco A. DePerno, Esq.
Employee Organization Panel Member

Article 24, "Medical, Hospital and Related Benefits", Section 24.2

The City proposes to amend Article 24.2 the purpose of which is to make Articles 24.1 and 24.2 consistent regarding the percentage contribution to health insurance benefits by officers.

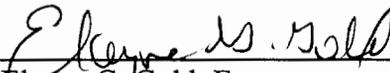
Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

Article 24, "Medical, Hospital and Related Benefits", Section 24.2 shall be amended at the second paragraph of said Section 24.2 by changing "15%" to "17%".

I ~~(concur)~~ (do not concur) with the above Award

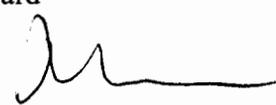
Date: 9/23/03

 (agreed)

Elayne G. Gold, Esq.
Employer Panel Member

I (concur) do not concur with the above Award

Date: 9-26-03

 [DO NOT AGREE]

Rocco A. DePerno, Esq.
Employee Organization Panel Member

Article 24- Medical, Hospital and related benefits - Section 24.2

The Union proposes to change Article 24.2 by permitting any employee who retires with at least twenty (20) years of service, to have his/her, spouse and dependent health insurance fully paid by the City with no contribution by the employee. Currently, the Section provides that employees with at least twenty years of service but less than twenty-five years of service shall contribute 15% of the cost of Blue Cross/Blue Shield with Major Medical health insurance for themselves and their dependents as long as the employee or the employee's spouse is alive. Employees who retire with at least twenty-five years of service shall have their health insurance fully paid by the City.

Position of the Union

The Union agrees that as the Section now stands, the City provides full coverage for only a select few. It states that there should be consistency in benefits provided by the City to its employees, and officers are as deserving as others.

Position of the City

The City cites its arguments made for health insurance premiums, stating that costs are escalating significantly every year. The City asserts that the proposal is cost prohibitive and it is just not able to absorb the financial demands of such a proposal.

Discussion

Permitting officers to retire with twenty years service is an advantage to the employees. It also may reduce costs by having higher paid employees replaced by lower paid employees. However, health insurance costs for retirees and their spouses can be quite draining on the City financially. Exhibits demonstrate that several officers are nearing their twentieth year with the City of Oswego Police Department. As an incentive to those officers to retire with twenty years service, it will be awarded below that officers with twenty years service and their dependents shall have their health insurance fully paid by the City, with no contribution by the employee. Officers with twenty-one years of service but less than twenty-five years service shall continue to make a contribution to their health insurance premiums.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

Article 24- Medical, Hospital and related benefits - Section 24.2 shall state as follows: Effective January 15, 1996, those employees who have fifteen (15) or more years of service on January 15, 1996, and retire with less than twenty-five (25) years of service, and those employees who retire as a result of a line of duty injury or sickness, shall not be required to contribute to their health insurance upon retirement.

Employees who as of the date of this Award have more than twenty (20) years of service but less than twenty-five (25) years of service, shall have a one-year (1 yr) window with which to retire to have his/her spousal and dependent health insurance fully paid by the City with no contribution by the employee.

Upon execution of this Award, any employee who retires with twenty (20) years of service shall have his/her spousal and dependent health insurance fully paid by the City with no contribution by the employee.

Any employee who retires with twenty-one (21) but less than twenty-five (25) years of service shall contribute seventeen (17%) percent of the cost of Blue Cross/Blue Shield with Major Medical health insurance premiums.

Any employee who retires with at least twenty-five (25) years of service shall have his/her health insurance fully paid by the City, with no contribution by the employee.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne G. Gold (do not agree)
Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

Rocco A. De Perno [AGREE]
Rocco A. De Perno, Esq.
Employee Organization Panel Member

Article 28, "Extra Duty Compensation"

The City proposes a new sentence in Article 28 to read:

All employees may be required, at the discretion of the Chief of Police, to attend one (1) two hour call-in per month for training purposes. In the event of such call-in, the employee will be paid the appropriate wage rate.

Position of the City

The City states that Chief Zukovsky testified at the hearing stating his view that training is one of the most important requirements for any police department in order to attain three goals: (1) Training provides officers with the ability to act appropriately and decisively in day-to-day situations they may encounter; (2) well-trained officer are more effective in achieving and carrying out the goals and policies of the Police Department; (3) training engenders cooperation and unity of purpose.

Chief Zukovsky testified that training is a priority and shall be a factor in the Department's being accredited.

Position of the Union

The Union has no strict opposition to training, for it sees the advantages of such training. However, it opposes the proposal as stated.

Discussion

Because there is no substantial opposition to the proposal and because it is a benefit to the Police Department, the police officers and the citizens of Oswego, the following award is made:

AWARD

Article 28, Extra Duty Compensation, shall be amended by adding the following new section:

All employees may be required, at the discretion of the Chief of Police, to attend one (1) two-hour call-in per month for training purposes. Such call-in shall be contiguous to one's shift, that is either at the beginning or end thereof. In the event of such call-in, the employee will be paid the appropriate rate.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne M. Gold (agreed)
Elayne G. Gold, Esq.
Employer Panel Member

(I concur) (do not concur) with the above Award

Date: 9-26-03

Rocco A. DePerno (AGREE)
Rocco A. DePerno, Esq.
Employee Organization Panel Member

Article 30, Direct Compensation

The City proposes to amend Article 30 by adding a new section entitled "Payment for Recruits", to read as follows:

Recruits attending the Police Academy will be paid for an eight hour day; they will not receive overtime pay for traveling to and from the Police Academy.

Position of the City

At the hearing Chief Zukovsky pointed out the recruits are not sworn officers, and have no legal authority to make arrests or to engage in any other conduct that would enable them to enforce any New York State statutes as sworn officers are required to do. The Chief also testified that in his experience with the Department of Environmental Conservation, no recruit was ever paid for travel time to and from the academy. The Chief testified that this proposal is a cost-saving measure for the City.

Position of the Union

While the Union objects to the proposal as stated, it has presented no substantial arguments opposing it.

Discussion

Because there is no opposition, and because it is a cost-saving measure, the proposal shall be adopted.

AWARD

Article 30, Direct Compensation. Recruits attending the Police Academy will not receive overtime pay for traveling to and from the Police Academy.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne G. Gold, Esq. (agreed)
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

Rocco A. DePerno, Esq. (AGREE)
Employee Organization Panel Member

Article 30 - Direct Compensation - Section 30.2:

The Union proposes a minimum rank differential between the various ranks. Its proposal is as follows:

The rank differential for Detectives, Sergeants and Lieutenants shall not be less than \$1,320.

Position of the Union

The Union asserts that Oswego's top cops (that is, experienced sergeants, fall behind their counterparts in comparable jurisdictions. For example, for the year 2002, Cortland has a differential between sergeant to lieutenant of \$3,984; Fulton has a differential of \$2,634; Watertown, \$5,604. Oswego's difference, detective to sergeant base is under \$350.00.

Position of the City

The City asserts that the Union did not provide any justification for this proposal. This is a pure economic issue which will cost the City of Oswego unnecessary money without any submission by the Association which justifies it.

Discussion

Rank differentials in the Oswego Police Department are minimal when compared with other cities in the area. As the Union points out, Cortland, Plattsburgh, Fulton and Watertown all have rank differentials substantially above those of the City of Oswego.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

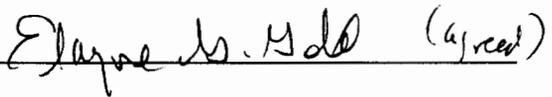
AWARD**Article 30 - Direct Compensation - Section 30.2**

Effective January 1, 2001, the rank differential shall be as set forth in the following chart:

2000	Base	1 year	2 years	3 years	4 years	5 years	10 years	15 years	17 years	20 years	23 years
Police Officer	\$29,846	\$36,571	\$37,702	\$38,805	\$39,924	\$41,050	\$42,198	\$43,345	\$44,412	\$45,562	\$46,495
Detective	\$44,767						\$45,914	\$47,062	\$48,128	\$49,274	\$50,206
Sergeant	\$45,079						\$46,223	\$47,372	\$48,440	\$49,588	\$50,523
Lieutenant	\$47,488						\$48,631	\$49,780	\$50,848	\$51,999	\$52,929
2001											
Police Officer	\$29,846	\$36,571	\$37,702	\$38,805	\$39,924	\$41,050	\$42,198	\$43,345	\$44,412	\$45,562	\$46,495
Detective	\$46,087						\$47,234	\$48,382	\$49,448	\$50,594	\$51,526
Sergeant	\$46,399						\$47,543	\$48,692	\$49,760	\$50,908	\$51,843
Lieutenant	\$48,808						\$49,951	\$51,100	\$52,168	\$53,319	\$54,249
2002											
Police Officer	\$30,443	\$37,302	\$38,456	\$39,581	\$40,722	\$41,871	\$43,042	\$44,212	\$45,300	\$46,473	\$47,425
Detective	\$47,009						\$48,179	\$49,350	\$50,437	\$51,606	\$52,557
Sergeant	\$47,327						\$48,494	\$49,666	\$50,755	\$51,926	\$52,880
Lieutenant	\$49,784						\$50,950	\$52,122	\$53,211	\$54,385	\$55,334

I (concur) (do not concur) with the above Award

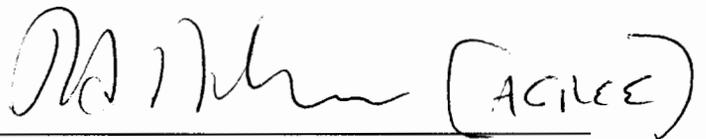
Date: 9/22/03

 (agreed)

Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-03

 (ACILEE)

Rocco A. DePerno, Esq.
Employee Organization Panel Member

Article 30 - Direct Compensation - Section 30.4:

The Union proposes a shift differential for those working evening and night hours. Its proposal is as follows:

Employees who work between the hours of 3 PM and 11 PM shall receive a shift differential of five (5) percent: Employees who work between the hours of 11 PM and 7AM shall receive a shift differential of ten (10) percent.

Position of the Union

The Union states that its members have never been compensated for the additional sacrifices inherent in working night shifts. These officers are taken away from family life and other normal activities enjoyed by those who work a day shift. In addition, argues the Union, night shift work is generally more hazardous due to the nature of crime, particularly violent crime. Those officers who are required to suffer the deprivations in their personal lives and make sacrifices as a result of those shifts should receive compensation commensurate therewith. The Union states that also to be taken into consideration is the fact that the Union agreed to permit the City, without objection, to assign permanent shifts. Consequently, the negative aspects of night shift work has had an even greater impact on those officers who have been permanently assigned thereto. The Union states that the four comparable jurisdictions have shift differentials.

Position of the City

The City states that this is a purely economic issue which would raise costs to the City. In view of the fact that the Union has not demonstrated a real justification for such a proposal, it should be rejected.

Discussion

The four jurisdictions which both the City and the Union believe are comparable (Cortland, Fulton, Watertown, Plattsburgh) have shift differentials. The City simply states that there are no

shift differentials in the City of Oswego and that it is an economic issue. The Union has presented sufficient justification for a differential.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

AWARD

Article 30 - Direct Compensation - Section 30.4

Effective January 1, 2002, employees who work between the hours of 3 PM and 11 PM shall receive a shift differential of fifty (\$0.50) cents per hour. Employees who work between the hours of 11 PM and 7AM shall receive a shift differential of seventy-five (\$0.75) cents per hour.

I (concur) (do not concur) with the above Award

Date: 9/23/03

Elayne G. Gold (do not agree)
Elayne G. Gold, Esq.
Employer Panel Member

(I concur) (do not concur) with the above Award

Date: 9-26-03

Rocco A. DePerno (AGACE)
Rocco A. DePerno, Esq.
Employee Organization Panel Member

Salary Schedules

The Union has proposed a salary increase of six (6%) percent in each of the two years of this Agreement (2001 and 2002); the City has offered a zero (0%) percent increase for the year 2001, and a two (2%) salary increase for the year 2002.

For comparison purposes, both the City and the Union selected Cortland, Fulton, Plattsburgh and Watertown.

Position of the Union

The Union states that its proposal for a reasonable wage increase was never answered by the City with any counterproposal or demand. The Union notes particularly its comparison to Fulton and Cortland. Cortland is comparable in population and complement and, like Oswego, is a college town.

The Union points out that in comparing Oswego salaries to those of Cortland, it is clear that "Oswego is a function of reverse logic: the longer a patrolmen works in Oswego, the less money he makes."

In a comparison with Plattsburgh, Oswego's salary for a second year patrolman is 17.4% higher. However, cautions the Union, by the fifth year Oswego's lead is only 6%, and by the 18th year Oswego patrolmen are one percent behind their counterparts in Plattsburgh.

The Watertown comparison shows similar trends. Oswego is 10% ahead in the second year, but is less than one percent ahead in the 13th year. However, it regains and is up by 6% in the 18th year.

Oswego's patrolmen are lagging behind patrolmen in Fulton in the second year by 1.4%. By the 18th year, Oswego is behind Fulton by almost 10%.

The Union states that sergeants salaries in Oswego demonstrate the same downward trend compared with the other four jurisdictions.

The Union believes that the data demonstrate without equivocation that Oswego has fallen behind comparable jurisdictions over time, and that its proposed increase of six percent per year will bring Oswego police officers more in line with their counterparts in the four comparable jurisdictions.

The Union asserts that the City has ample ability to pay its proposed salary increases. It points out that the general fund balance totaled \$15.8 million in the year 2000, of which \$14.5 was unreserved. It also represented a significant \$2.8 million increase from the prior year.

In the Mayor's 2002 State of the City message he declared that for the third straight year there will be no tax increase. The Union points out that five comparable communities in the surrounding area pay a tax rate that is \$3.00 per thousand more than do residents of Oswego. When school and county taxes are compared, surrounding residents pay \$7.50 more per thousand dollars of value.

The Union states that the General Fund Budgeted has decreased from \$28.9 million to \$26.8 million from 2001 to 2002. Total debt is being reduced at a rapid rate.

The Union asserts that the sizable fund balance, low taxes and tight rein on spending are extremely strong indications that the City has the ability to pay.

Position of the City

The City argues that the Union is in error regarding the City's financial posture and income sources. The "High Dam Power Purchase Agreement" (PPA) was negotiated in October of 1993 between Niagara Mohawk Power Corporation (NiMo) and the City of Oswego. At the hearing, the Union's financial expert stated that the City of Kingston received approximately \$2.9 million in gross revenues. However, it was pointed out that this does not take into account the operation and maintenance costs the PPA requires the City to expend. The City currently owed Niagara Mohawk the sum of \$8,251,882.00 as of December 31, 2000.

The City states that its long-term debt is approximately \$50,263,637. For a city the size of Oswego, this is an extremely large long-term debt.

Another point made by the City is the agreement between Niagara Mohawk, the City of Oswego, the County of Oswego, and the Oswego City School District. Niagara Mohawk operates a facility in the City of Oswego known as the Oswego Steam Station. The August 6, 1998 agreement removed the facility from the tax rolls. In order to mitigate the financial impact to the City, Niagara Mohawk and its successor in interest, Oswego Harbor Power, LLC, are obligated to make minimum payments in lieu of taxes. The present owners paid \$88 million for the facility, and the City's

concern is that the taxes once paid by Niagara Mohawk shall no longer be available once the facility is returned to the City tax rolls in 2004.

Discussion

The Union's figures demonstrate that Union members have traditionally received greater wages than police officers in the four comparable jurisdictions, but that the advantage has seriously eroded over time until police officers' salaries in Oswego are basically even with those of police officers in other jurisdictions.

The City has been improving financially, reducing its debt, holding steady on taxes, reducing its budget. Financially, it is in a relatively good position. There is no question that the City has the ability to pay a salary increase to its police officers. However, a substantial increase will create problems with the budget and the efforts of the City to reduce its debt.

The City has given raises to its other unions and to its exempt personnel identical to the raise it has offered its police officers. While that fact cannot dictate the salary increase given to police officers, it does have some impact.

The Union argues that police in other jurisdictions are receiving higher wage increases than those being offered by the City of Oswego. However, Oswego police are in relatively good positions compared with police officers in comparable jurisdictions.

The Award below takes into consideration all the arguments presented by both parties. The salary increase Award below also factors in financial and other benefits awarded to the Union elsewhere in this document.

Based on an analysis of all testimony, exhibits and other documentary evidence, the Interest Arbitration Panel makes the following

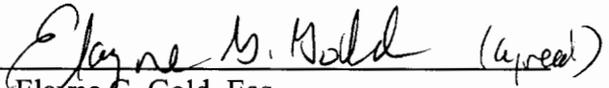
AWARD

The salary schedule shall reflect a zero (0%) percent increase for the year 2001.

The salary schedule shall reflect a two (2.0%) percent increase for the year 2002.

I (concur) (do not concur) with the above Award

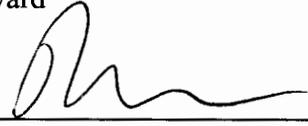
Date: 9/23/03



Elayne G. Gold, Esq.
Employer Panel Member

I (concur) (do not concur) with the above Award

Date: 9-26-3

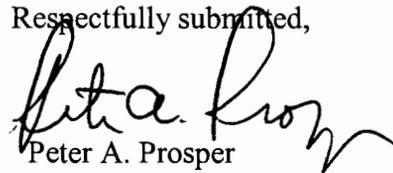


Rocco A. De Perno, Esq.
Employee Organization Panel Member

(Do Not AGREE)

As stated above, those issues presented by the parties that are not contained in this OPINION AND AWARD were also carefully considered by the Public Arbitration Panel, but are remanded back to the parties for further negotiation, and therefore no is made on those matters.

Date: 10/6/03

Respectfully submitted,

Peter A. Prosper
Public Panel Member and Chair

STATE OF NEW YORK)
COUNTY OF) SS:

On this 6th day of October, 2003, before me personally came and appeared PETER A. PROSPER, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Fatima

Fatima Abdul-Hammed
Notary Public, State of New York
No. 0111125
Qualified in Albany County
Commission Exp. November 12, 2006

STATE OF NEW YORK)
COUNTY OF) SS:

On this 29th day of September, 2003, before me personally came and appeared ELAYNE G. GOLD, Esq., to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Andrea Nasevan

ANDREA S. NASEMAN
Notary Public, State of New York
No. 4773541
Qualified in Albany County
Commission Expires 9/31/06

STATE OF NEW YORK)
COUNTY OF ONEIDA) SS:

On this 26 day of SEPT, 2003 before me personally came and appeared ROCCO A. DEPERNO, ESQ., to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Joanne M. Ambroselli

