

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the	:
Interest Arbitration	:
- Between -	Case No.
TOWN OF MOUNT PLEASANT	: IA-2003-003
"Town"	M2002-276
- and -	: Opinion and Award
MOUNT PLEASANT POLICE WELFARE	:
AND BENEVOLENT ORGANIZATION	:
"PBA"	:

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APPEARANCES

For the PBA

John Ho, Esq., Attorney

For the PBA

Joseph Baumgartner, Esq., Attorney
James M. Dwyer, President, PBA
Walter O'Keefe, Vice-President, PBA

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
RECEIVED
JUL 06 2004

CONCILIATION

BEFORE: HOWARD C. EDELMAN, ESQ., PUBLIC PANEL MEMBER
ERNEST STOLZER, ESQ., EMPLOYER PANEL MEMBER
RICHARD BUNYAN, ESQ., EMPLOYEE ORGANIZATION
PANEL MEMBER

BACKGROUND

The parties are signatories to a Collective Bargaining Agreement which expired on December 31, 2002. Negotiations for a successor Agreement were unfruitful. So, too, were mediation efforts. Therefore, and pursuant to the rules and regulations of the Public Employment Relations Board ("PERB"), the undersigned Panel was constituted to hear and decide the matter. Hearings were held before us on November 17, 2003; and April 1, 2004. During the course of the proceedings, the parties conferred upon the Panel the jurisdiction to issue an Award of three years' duration. In addition, to expedite promulgation of these findings, the parties agreed that an Award without Opinion would be issued, followed by an Opinion within a reasonable time thereafter. Consequently, and based solely on the record adduced during these proceedings, the Panel issued an expedited Award on June 1, 2004. This Opinion and re-issued Award follows.

POSITIONS OF THE PARTIES¹

PBA

The PBA seeks a wage increase of seven per cent for each year covered by this Award. It acknowledges that police settlements have increased approximately four per cent annually for 2003, 2004 and 2005. However, it insists, raises in excess of four per cent are warranted here. This is so, the PBA stresses, because wages here are below those paid in other Westchester communities.

Specifically, the PBA notes, the top pay for a Police Officer in the Town, as of June 2002, was \$67,284. This figure, it claims, ranks 25th of 28 reporting municipalities. PBA Exhibit 66. Hence, it insists, raises far in excess of the "going rate" are needed to address this glaring inequity.

Moreover, the PBA contends, the Town can well afford the proposed increases. Citing the testimony and report of Kevin Decker, the PBA offers the following financial factors in support of its position:

The General Fund - Town outside Village - Budget includes a contingency account of \$140,000.

The Town's adopted 2004 budget does not include the additional revenues that will

¹To expedite this Opinion, I have summarized the parties' positions.

result from an increase in the County sales tax effective March 1, 2004.

Regular salary spending for sworn personnel in the Police Department was budgeted for 2004 (Net of Chief of Lieutenants) at \$3,044,917. This is approximately \$130,000 above the cost associated with a "no-raise" scenario.

Moody's Investors Services has assigned the Town's general obligation bonds a rating of Aa2 - the 3rd highest rating possible (out of 21). In an opinion published in January 2002, Moody's stated that "the Aa2 rating incorporates the Town's healthy financial position, affluent residential and commercial tax base, and below average debt levels."

In his budget message accompanying the 2004 town budget the Town Supervisor states that, "...Mount Pleasant town taxes...remain among the lowest in the county."

PBA Exhibit 80

Furthermore, the PBA argues, the Town's tax rate ranks 15 of 19 Towns in Westchester. Therefore, it submits, the Town is in excellent fiscal shape both with respect to its own finances as well as in comparison to other similarly situated communities. Accordingly, it asks the Panel to award its proposal of seven per cent annual wage increases.

As to other items, the PBA maintains that substantial increases are justified in a number of benefits, both wage and non-wage. Specifically, it asserts, longevity payments are very low when compared with other municipalities. Therefore, it asks the Panel

to adopt the following schedule:

ANNIVERSARY	LONGEVITY FACTOR (Non-Cumulative)
5	\$ 700
10	\$1,400
15	\$2,100
20	\$2,800
25	\$3,500
30	\$4,200

Credit for all New York State Police
and Fire service.

Similarly, the PBA alleges, a substantial increase in the Sergeant's differential, from 12.5 per cent to 18 per cent, is warranted.

The PBA also argues that the current system of training days is unnecessary and an encroachment upon Police Officers' free time. Consequently, it asks that they be eliminated.

Furthermore, the PBA contends that Police Officers should be entitled to additional time off. In this context, it insists that the 260 day work year is among the highest of comparable communities. Therefore, it asks the Panel to award seven chart days.

In addition, the PBA seeks the following modifications with respect to time off:

- increase sick days from 12 to 14 per year.
- increase sick leave accumulation from 230 to 300 days.

- increase vacations for Officers from
 - 7 days to 10 days
 - 14 days to 20 days
 - 21 days to 25 days
 - 28 days to 30 days
- increase personal days from one to five.

Finally, the PBA asks for the following compensation improvements:

Sick Leave Incentive

Sick Leave Used	Days Pay Entitlement
8 or more	0
7	1 day
6	2 days
5 or 4	3 days
3	4 days
0, 1, or 2	5 days

Transportation Allowance

Increase mileage rate from \$.23 to IRS rate.

Clothing Allowance

Increase the original allowance to \$750; and the annual allowance to \$1,000.

Benefit Plans

Increase the Town's contribution from \$525 per year to \$775 per year.

In sum, the PBA asserts that its proposals are fair, and that they balance the needs of Police Officers with the obligations of the Town. Accordingly, it asks that they be adopted.

Town

The Town contends that it can ill afford the raises the PBA seeks. While acknowledging that its financial condition is not precarious, it maintains that its budget cannot withstand any increase approximating the PBA's seven per cent proposal. In this context, it notes that its contingency account of \$140,000 includes a 2.5 per cent retroactive pay increase for sworn personnel, as well as a 2.0 per cent retroactive increase for other Unions. Also, the Town argues, the 2004 budget includes a total increase of 5.1 per cent for 2003 and 2004 for police salaries. Thus, it argues, contrary to the PBA's claims, there are no reserves to pay for anything but increases of 2.5 per cent or less for the PBA.

In addition, the Town points out that over the years it has experienced a decline in its undesignated balance. This trend is disturbing, the Town suggests, especially in light of substantial increases due for health insurance and pensions for members of this unit. For the former it projects a 28 per cent increase for 2003 and 2004. For retirement costs the Town foresees an increase of 67 per cent for the same period. Taken together, the Town will have to expend \$644,000 more for these items in 2004 than it spent in 2002 for members of this bargaining

unit, it estimates. Consequently, the Town insists, it can only pay the 2.5 per cent increase in wages it has already budgeted.

As to other terms and conditions of employment, the Town maintains that certain adjustments are warranted. It cites the need for additional training, especially in light of the 9-11 tragedy and related anti-terrorism measures. Therefore, it asks that the number of training days be increased from three to five.

Furthermore, the Town seeks the following revisions in current schedules or benefits:

- increase in work year of five days;
- reduction in the vacation allotment for those in their first year of employment to seven days; in the second through fifth year of employment to 14 days; in the sixth year of employment and thereafter to 21 days;
- decrease personal days from five to three.

Also, the Town asks that the expired Agreement's past practice provision (Article XXII, Section 5) be eliminated. It contends that adequate safeguards exist in law and that, therefore, this provision is unnecessary.

Finally, the Town points to the escalating health insurance premiums delineated above as justifying redress. Consequently, it asks that all bargaining unit

members hired after January 1, 2003 be required to pay 25 per cent of their annual health insurance premiums.

In sum, the Town asserts that its proposals are fair. It asks that they be adopted as presented.

DISCUSSION AND FINDINGS

Several introductory comments are appropriate. As Interest Arbitrator I derive my authority from Section 209.4 of the Civil Service Law of the State of New York ("Taylor Law"). That statute sets forth the criteria I must apply in reaching my determination. These criteria are:

- a. comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceeding with 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 interest and welfare of the public and the financial ability of the public employer to pay;
- c. comparison of the 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 the 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.

Section 209.4(V) of the CSL

With these criteria in mind and based solely on the evidence adduced at the hearings and the parties' arguments, I make the following findings.

1. Term of Award

The Taylor Law bars the issuance of an Award which exceeds two years, except by agreement of the parties. The parties have agreed to an Award covering three years, from January 1, 2003 - December 31, 2005. Such an agreement makes sense for it gives some labor relations stability before negotiations for a new Agreement begin. Consequently, I direct that the term of the Award shall be January 1, 2003 - December 31, 2005.

2. Wages

The central element of any Interest Arbitration Award is the wage package. It has the greatest impact upon the finances of the employer. It is of paramount interest to the employees.

The PBA asserted that raises of 7 per cent per year were warranted. The Town countered that it could not afford any increase exceeding 2.5 per cent per year.

I have reviewed these competing claims carefully. Based upon that review I find that neither position should be adopted.

As to the PBA's position, 7 per cent far exceeds the "going rate" for similarly situated communities. While the average increase elsewhere is not the sole barometer by how much salaries should be raised, it is often a good guideline for determining compensation improvements.

Also, a 7 per cent increase would place Police Officers' wages above those in all other cited communities. While this result might please the bargaining unit, there is no evidence in this record to suggest that Mount Pleasant's financial demographics are better, say, than those in Scarsdale or Rye or other economically favored areas. Thus, I cannot award the raises the PBA seeks.

On the other hand, the Town's claim that it should not be required to fund raises in excess of 2.5 per cent is equally unrealistic. This figure is substantially below the raises granted elsewhere. While it is true that the Town faces large increases in pension and health insurance costs, virtually all cited communities face the same burden. Also, though Mount Pleasant is certainly not the wealthiest jurisdiction in Westchester, it is not

the poorest, either. Furthermore, though taxes have risen fairly substantially,² the rate remains fairly low when compared to the rest of the County's jurisdictions reporting.³

What then is the appropriate wage increase due Police Officers? Section (a) of the Taylor Law's criteria to be evaluated involves a comparison between wages here and those of "other employees performing similar services or requiring similar skills under similar working conditions..." Clearly, this criterion contemplates a comparison between the wages of Mount Pleasant's Police Officers to the wages of Police Officers in other relevant jurisdictions. Prior Arbitration Awards reveal that other relevant jurisdictions encompass Villages and Towns in Westchester County.⁴ I see no reason to deviate from their findings in this regard. Hence, I turn to the relevant data regarding wage increases.

²Tax increases were 5.85 per cent for 2002; 6.02 per cent for 2003; and 7.66 per cent for 2004. Town Exhibit 8.

³Mount Pleasant's full value tax rate ranked 16th of 20 communities reported in 2002. PBA Exhibit 80.

⁴See PBA Exhibits 12, 13.

**2003 PERCENTAGE INCREASES IN
WESTCHESTER TOWNS & VILLAGES**

Town or Village	2003
Bedford (T)	3.875
Briarcliff (V)	3.625
Croton (V)	3.75
Dobbs Ferry (V)	3.9
Eastchester (T)	4.25
Elmsford (V)	4.0
Greenburgh (T)	4.1
Harrison (T)	3.5
Hastings (V)	4.0
Irvington (V)	3.5
Larchmont (V)	3.75
Mamaroneck (T)	4.0
New Castle (T)	4.25
North Castle (T)	4.0
Ossining (V)	3.5
Pelham (V)	4.0
Pelham Manor (V)	3.75
Pleasantville (V)	3.5
Rye Brook (V)	4.0
Scarsdale (V)	4.25
Yorktown (T)	3.75
Average:	3.87 per cent

PBA Exhibit 67

The averages listed above are not precise for some are effective January 1, 2003 and January 1, 2004, while others are effective July 1, 2003 and July 1, 2004. Nonetheless, they reflect accurately the data elsewhere.

As noted above, the salaries here fall somewhat below the average for the County. Thus, some adjustment beyond 3.87 per cent for 2003 is in order, I find. On the other hand, there is no doubt that the Town faces large increases in pension and health insurance costs. Also, while the Town's fiscal health is sound, it is

experiencing a decline in its undesignated balance. This element must be taken into account, as well.

Given these factors, it is clear that increases which improve the standing of Police Officers when compared to their counterparts elsewhere is in order if those increases do not unduly burden the Town, I find.

In my view, such a result can be achieved by awarding raises of two per cent, effective January 1, 2003 and an additional two per cent effective July 1, 2004. These improvements fall close to the Town's budgeted increase for sworn personnel for 2003 (3.0 per cent v. 2.5 per cent). They also reflect a slight improvement in the relative ranking of Police Officers' salaries.

Furthermore, I am convinced, similar raises are justified for 2004 and 2005. While the data for these years is far from complete, what is available suggests that raises will average near the percentage for 2004. As such, I find, wages for 2004 and 2005 should also reflect 4.0 per cent increases staggered in the same manner as the 2003 wage improvements.

3. Longevity

The PBA has convinced me that a substantial increase in longevity payments is warranted. As of 2002, Mount

Pleasant ranked next to last of 33 communities reporting. PBA Exhibit 69. Even if Harrison and North Castle are excluded (longevity payments there are \$41,300 and \$34,075, respectively), longevity payments here are approximately \$4,000 below the County average. Clearly, substantial redress is justified. Consequently, I shall direct that the following schedule be adopted:⁵

Anniversary	Effective January 1, 2003	Effective January 1, 2004	Effective January 1, 2005
10	800	900	1,000
15	900	1,000	1,100
20	1,000	1,100	1,200
25	1,100	1,200	1,300
30	1,200	1,300	1,400

While these amounts will not raise Mount Pleasant to the median they will substantially narrow the gap, as indicated above. Consequently, they are to be implemented in accordance with this schedule.

4. Sergeants' Differential

The current stipend for Sergeants is 12.5 per cent. This figure is low. It is exceeded by all but one other Town in the County. PBA Exhibit 68. Therefore, I shall direct that it be raised, effective January 1, 2004 to 13 per cent.

⁵In light of these increases, I reject the PBA's request that all prior service be included for longevity stipends.

5. Health Insurance

The Town noted that health insurance premiums are rising substantially. It is also true that some Westchester communities require payments for new hires⁶ for as long as they remain in service. However, most jurisdictions require no contribution by Police Officers. Of the ones that do require a contribution by new hires, only five require payment for an Officer's entire career.

Given these data, I reject the Town's proposal that all new hires pay 25 per cent of the health insurance premium for the length of their service. However, I am convinced, some redress to the Town is justified. Therefore, I shall direct new hires to pay 25 per cent of the premium for their first four years of service, instead of the current three. This change effectuates a savings of approximately \$2,600 per new hire, though the additional savings will not become realized until the fourth year of employment. Nonetheless, the Town's proposal is granted to this extent only.

6. Training Days

The PBA's request to eliminate training days must be rejected. The evidence reveals that an ongoing need exists to train Police Officers. In light of the current

⁶Effective dates for such payments vary.

geo-political climate this need will not diminish in the future. Also, a training day is surely not as rigorous as a regular work day and I am loathe to convert any of the current training days without pay into training days with pay. Thus, this proposal is not adopted.

7. Other Proposals

I have carefully reviewed the remaining proposals of the parties. They are rejected. In some cases, the record reveals that the benefits sought to be increased by the PBA or reduced by the Town are not out of line with those accorded elsewhere. For example, vacation days here range from 7-28, depending on length of service. Of 27 Westchester communities reporting, 20 have more than seven days for those with little service, and four have more than 27 days' vacation for those with substantial seniority. Thus, while relatively new Police Officers get less vacation than Officers elsewhere, more senior ones exceed the County average. On balance, then, I find no reason to alter the current vacation schedule. Similarly, personal leave, sick leave and other benefit changes sought are not justified.

I note the PBA's proposals to reduce the work chart for Detectives and the Patrol unit. As to the former, it is true that Mount Pleasant's chart is high when compared

to other Towns' charts. However, in light of the base wage and longevity payments directed above, it would be unreasonable to reduce the Detectives' work chart since such reduction would inevitably increase overtime costs to the Town. Similarly, I am convinced, the Patrol Work Chart should not be reduced, even though it exceeds that of most, though not all Towns cited. PBA Exhibit 72.

Finally, the Town's proposal to eliminate the "past practice" clause (Article XXII, Section 5) is rejected. There is no evidence in this record that this provision has impeded the Town's ability to effectively manage its police force.

In sum, the Award issued on June 1, 2004 and re-issued today fairly balances the needs of members of the bargaining unit with the obligations of the Town. Accordingly, it is to be implemented as issued.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the	:	
Interest Arbitration	:	
	:	
- Between -	:	Case No.
	:	: IA-2003-003
TOWN OF MOUNT PLEASANT	:	M2002-276
	:	
"Town"	:	AWARD
	:	
- and -	:	
	:	
MOUNT PLEASANT POLICE WELFARE	:	
AND BENEVOLENT ORGANIZATION	:	
	:	
"PBA"	:	

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APPEARANCES

For the PBA

John Ho, Esq., Attorney

For the PBA

Joseph Baumgartner, Esq., Attorney
James M. Dwyer, President, PBA
Walter O'Keefe, Vice-President, PBA

**BEFORE: HOWARD C. EDELMAN, ESQ., PUBLIC PANEL MEMBER
 ERNEST STOLZER, ESQ., EMPLOYER PANEL MEMBER
 RICHARD BUNYAN, ESQ., EMPLOYEE ORGANIZATION
 PANEL MEMBER**

Hearings in the above referenced matter were held before the undersigned Panel on November 17, 2003 and April 1, 2004. After consultation with the Panel the parties consented to an Award covering three years, from January 1, 2003 - December 31, 2005. They also agreed that, to expedite these findings, the Panel would issue an expedited Award followed by a written Opinion and re-issued Award. Therefore, and based solely on the evidence adduced at the hearings, the Panel issues the following Award.

AWARD

1. **Term of the Award**

The term of the Award shall be from January 1, 2003
- December 31, 2005.

2. **Base Salaries**

Base salaries shall be increased as follows:

Effective January 1, 2003	-	two per cent
Effective July 1, 2003	-	two per cent
Effective January 1, 2004	-	two per cent
Effective July 1, 2004	-	two per cent
Effective January 1, 2005	-	two per cent
Effective July 1, 2005	-	two per cent

3. **Longevity - (Non-cumulative)**

Longevity shall be paid in accordance with the following schedule:

Anniversary	Effective January 1, 2003	Effective January 1, 2004	Effective January 1, 2005
10	800	900	1,000
15	900	1,000	1,100
20	1,000	1,100	1,200
25	1,100	1,200	1,300
30	1,200	1,300	1,400

4. Sergeants' Differential

Effective January 1, 2004, the Sergeant's differential shall be increased from 12.5 per cent to 13 per cent.

5. Hospitalization and Medical Benefits

Members of the bargaining unit hired after the parties' receipt of this Award shall be required to pay 25 per cent of their health insurance premiums for the first four years of service.

6. All other proposals of the parties, whether or not specifically addressed herein, are rejected.

DATED: June 1, 2004 Howard C. Edelman
HOWARD C. EDELMAN, ESQ.
PUBLIC PANEL MEMBER

STATE OF NEW YORK)
) S.:
COUNTY OF NASSAU)

I, Howard C. Edelman, Esq., do hereby affirm upon my oath as Public Panel Member that I am the individual described in and who executed this instrument, which is my Award.

DATED: June 1, 2004 Howard C. Edelman
HOWARD C. EDELMAN, ESQ.
PUBLIC PANEL MEMBER

X
Concur

Dissent

DATED: June 1, 2004

ER Stolz

ERNEST STOLZER, ESQ.
EMPLOYER PANEL MEMBER

STATE OF NEW YORK)
) s.:
COUNTY OF NASSAU)

I, Ernest Stolzer, do hereby affirm upon my oath as Employer Panel Member that I am the individual described in and who executed this instrument, which is my Award.

DATED: June 1, 2004

ER Stolz

ERNEST STOLZER, ESQ.
EMPLOYER PANEL MEMBER

✓
Concur

Dissent

DATED: 6/1/04

Richard P. Bunyan
RICHARD BUNYAN, ESQ.
EMPLOYEE ORGANIZATION PANEL MEMBER

STATE OF NEW YORK)
COUNTY OF ROCKLAND) s.:

I, Richard Bunyan, do hereby affirm upon my oath as Employee Organization Panel Member that I am the individual described in and who executed this instrument, which is my Award.

DATED: 6/1/04

Richard P. Bunyan
RICHARD BUNYAN, ESQ.
EMPLOYEE ORGANIZATION PANEL MEMBER