

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
INTEREST ARBITRATION PANEL

In the Matter of the Arbitration
between

THE COUNTY OF SCHENECTADY,
Public Employer,

-and-

SCHENECTADY COUNTY SHERIFFS BENEVOLENT
ASSOCIATION, LOCAL 3874, COUNCIL 82, AFSCME,
Employee Organization.

OPINION

AND

AWARD

PERB Case No. IA2005-022

BEFORE: Jeffrey M. Selchick, Esq.
Public Panel Member and Chairman

Richard Stevens
Employee Organization Panel Member

Donald J. DeAngelus, Esq.
Employer Panel Member

APPEARANCES:

For County of Schenectady:
Christopher H. Gardner, Esq.
County Attorney

For Schenectady County Sheriff's Benevolent Association,
Local 3874, Council 82, AFSCME, AFL-CIO:
Ennio J. Corsi, Esq.
General Counsel, Council 82, AFSCME

BACKGROUND

Pursuant to the provisions contained in Section 209.4 of the Civil Service Law, the undersigned Panel was designated by the Chairperson of the New York State Public Employment Relations Board ("PERB"), to make a just and reasonable determination of a dispute between the County of Schenectady ("County") and the Schenectady County Sheriff's Benevolent Association ("Union").

The County of Schenectady is an urban/suburban County located in the Mohawk Valley northwest of the City of Albany in New York State. The County comprises an area of approximately 206 square miles and includes the City of Schenectady (the County Seat), the Towns of Duanesburg, Glenville, Niskayuna, Princetown and Rotterdam and the Incorporated Villages of Delanson and Scotia. In 2000, the population of the City was around 150,000. The County has a varied economic base including manufacturing, engineering, research, wholesale distribution outlets, retail shopping centers and office buildings. A substantial portion of the resident population commutes to job sites within the County. (See Official Statement, Serial Bonds, dated December 15, 2005, City Financial Exhibit 3, p.4). The Moody's bond rating for such bonds was Aaa which is considered excellent for municipal bonds.

The Union is the certified bargaining agent for all sworn employees of the Sheriff's Department employed by the County in the titles of Patrol Officer, Patrol Sergeant and Patrol Lieutenant, who collectively form the Road Patrol Unit. These County police officers perform the full range of police duties including road patrol, traffic and penal law enforcement, warrants and searches and provide assistance to other police agencies.

The last collective bargaining agreement between the parties expired on December 31, 2003. Prior to the expiration of the term covered by the previous agreement, the parties began negotiations for a successor contract, but such negotiations were unsuccessful. Thereafter, acting pursuant to the rules of procedure of PERB, impasse was declared and a PERB appointed Mediator met with the parties. Mediation was also unsuccessful, and on or about August 30, 2005, the Union filed a Petition for Interest Arbitration pursuant to Section 209.4 of the Civil Service Law.

The County filed a Response to said Petition on or about September 14, 2005, and thereafter, on September 22, 2005 the undersigned Public Arbitration Panel was designated by PERB, pursuant to Section 209.4 of the NYS Civil Service Law, for the purpose of making a just and reasonable determination of this dispute.

A hearing was conducted before the undersigned Panel on November 28, 2005. Both parties were represented by Counsel and by other representatives. Both parties submitted numerous and extensive exhibits and documentation, including briefs, and both parties presented extensive arguments on their respective positions.

Thereafter, the Panel fully reviewed all data, evidence, argument and issues submitted by both parties. After discussion and deliberations at the Executive Session, held on February 17, 2006 this Panel reached agreement on the terms of this Interest Arbitration Award. The positions originally taken by both parties are quite adequately specified in the Petition and the Response, numerous hearing exhibits, and post-hearing briefs, which are all incorporated by reference into this Award. Such positions will merely be summarized for the purposes of this Opinion and Award.

The parties were able to reach agreement on many of the terms and conditions of employment originally at issue at the time impasse was declared. As a result, the only open issues remaining for the Panel herein are the issues of Salary and Uniform Allowance.

Accordingly, set out herein is the Panel's Award¹ as to what constitutes a just and reasonable determination of the open issues for parties' contract for the period January 1, 2004 through December 31, 2005:

In arriving at such determination, the Panel has specifically reviewed and considered the following factors, as detailed in Section 209.4 of the Civil Service Law:

- a) comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;
- b) the interests and welfare of the public and the financial ability of the public employer to pay;
- c) comparison of peculiarities in regard to other trades or professions, including specifically, 1) hazards of employment; 2) physical qualifications; 3) educational qualifications; 4) mental qualifications; 5) job training and skills;
- d) the terms of 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.

¹ When used herein, the "Panel" consists of the Panel Chairman and the Employee Organization Panel Member.

SALARY AND COMPARABILITY

Section 209.4 of the Civil Service Law requires that in order to properly determine wages and other terms and conditions of employment, the Panel must engage in a comparative analysis of terms and conditions with "other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities."

The Union contends that members of the County Road Patrol Unit should be compared on a primary basis with police employed in municipal police departments located within Schenectady County; namely, the City of Schenectady, and the Towns of Glenville, Niskayuna and Rotterdam. The Union argues that when compared with police officers from these neighboring departments, with similar skills and performing similar duties, members of the County Road Patrol Unit are grossly underpaid. This underpayment of compensation has resulted in a retention issue for the unit and impacts on public safety.

At the time impasse was declared, the Union sought a 10% law enforcement differential from what is currently paid to Schenectady County Corrections Officers and Supervisors, as the Patrol Unit are paid on the same salary schedule as Corrections Officers and Supervisors. At the time the Panel met in Executive Session, the Union had reduced such demand to a one time 6% across the board differential adjustment to the base salaries and applicable steps for each title in the Patrol Unit as compared to the appropriate title counterpart in the Corrections Officers and Supervisors units. This differential is in addition to the salary and step adjustments previously agreed to by the parties to be the same as those received by the counterpart titles in the Corrections and Supervisors units.

The County maintains that the more appropriate salary comparables are in fact the County Corrections Unit and the Corrections Supervisors Unit. The County argues that a one time differential for members of the Patrol Unit will bring them much closer to salaries enjoyed by members of local police departments in Schenectady County and still provides a differential from County Corrections Officers.

Panel Determination

After review of the record herein, the Panel finds that there should be a salary differential for members of the Patrol Unit in recognition of the fact that they are police officers. As police officers, members of the Patrol Unit face additional risks and hazards and must be compensated in accord with other police officers. Accordingly, while the salary schedules have previously been comparable for members of the Patrol Unit and the Corrections and Corrections Supervisors Units, a differential is found to be warranted.

Effective 1/1/04, and fully retroactive to said date, there shall be a one-time law enforcement differential of 5% applied to all relevant salary schedules in effect on 1/1/04. This includes an adjustment to base salaries and applicable steps for each title in the Patrol Unit as compared to that title's counterpart in the Corrections and Corrections Supervisors units, in addition to the same salary and step adjustments received by members of those Units for 2004 and 2005.

UNIFORM ALLOWANCE

Under the expired Agreement, members of the Patrol Unit who are required to wear a uniform, receive a \$500.00 annual uniform allowance. This allowance is payable in the first pay period in January of each year.

Members of the County's Corrections and Corrections Supervisors Units received an increase in the annual uniform allowance to \$700.00 in 2004 . The \$700.00 annual allowance continues in such units for 2005 as well.

Panel Determination

The Panel finds that an increase in the annual uniform allowance is warranted. The Panel also finds that a significant increase is required due to new requirements which have resulted in members of the Patrol Unit purchasing extra leather duty gear to perform road patrol duties.

In recognition of such need for an increase, and because retroactive payments for 2004 and 2005 are simply not practical, the Panel finds that effective 12/31/05 the annual uniform allowance for members of the Patrol Unit be increased to \$1250.00.

ABILITY TO PAY

The Panel recognizes that while it is true that the County of Schenectady, like most upstate New York counties, faces many financial challenges, the current financial strength of the County remains sound. A review of all existing financial materials submitted, including bond offerings (County Financial Exhibits 1, 2 and 3); the Audited Financial Statement for the years ending 12/31/03 and 12/31/04 (County Financial Exhibits 4 and 5); the 2006 County Budget (County Financial Exhibit 6); the adopted 2003, 2004 and 2005 County Budgets (County Financial Exhibit 7, 8 and 9), indicate that the County does have the ability to pay the very modest increases provided by this Interest Arbitration Award.

REMAINING ISSUES

Discussion on Remaining Issues

The Panel has reviewed in great detail all of the demands and proposals of both parties, as well as the extensive and voluminous record in support of said proposals. The fact that these proposals have not been specifically addressed in this Opinion and Award does not mean that they were not closely studied and considered in the overall context of contract terms and benefits by the Panel members. In interest arbitration, as in collective bargaining, not all proposals are accepted, and not all contentions are agreed with. The Panel, in reaching what it has determined to be a fair result, has not addressed or made an Award on many of the proposals submitted by each of the parties. The Panel is of the view that this approach is consistent with the practice of collective bargaining. Thus, we make the following award on these issues:

AWARD ON REMAINING ISSUES

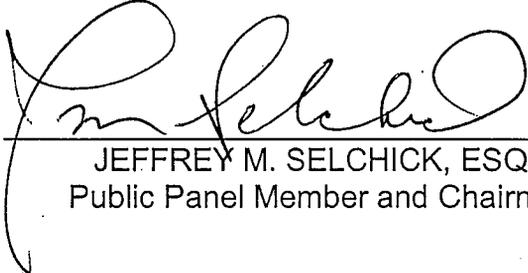
Except for those proposals and/or items previously agreed upon by the parties herein, any proposals and/or items other than those specifically modified by this Award are hereby rejected.

RETENTION OF JURISDICTION

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

DURATION OF CONTRACT

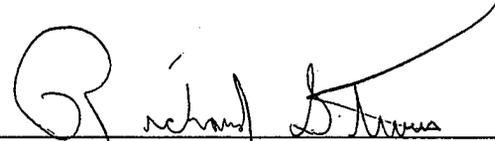
Pursuant to the provisions of Civil Service Law Section 209.4(c)(vi) (Taylor Law), this Award provides an Agreement for the period commencing January 1, 2004 and ending December 31, 2005.



JEFFREY M. SELCHICK, ESQ.
Public Panel Member and Chairman

5/18/06
Date

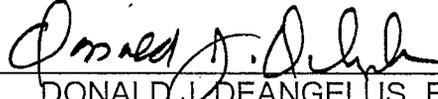
[Concur]
 [Dissent]



RICHARD STEVENS
Employee Organization Panel Member

5/15/06
Date

[Concur]
 [Dissent]



DONALD J. DEANGELUS, ESQ.
Employer Panel Member

5/16/06
Date

DISSENTING OPINION OF EMPLOYER PANEL MEMBER

I respectfully dissent. The best comparable is the Corrections Unit, and once that premise is accepted, it follows that no law enforcement differential should be paid. I understand the majority's conclusion that even with a 5% law enforcement differential, the Road Patrol remains at the low end in comparison with police forces in the County. However, I believe that the Road Patrol is somewhat different, from the local police forces, and that although the Road Patrol does an excellent job under difficult circumstances, so does the Corrections Unit. On a positive note, this Award establishes a fixed differential between the Units.

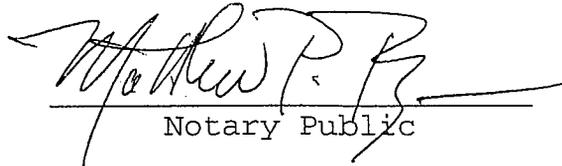


DONALD J. DEANGELUS, ESQ. 3/12/66
Employer Panel Member Date

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

On this 18TH day of May, 2006, before me personally came and appeared Jeffrey M. Selchick, Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

MATTHEW PATRICK RYAN
Notary Public, State of New York
No. 02RY6080868
Qualified in Albany County
Commission Expires September 23, 2006


Notary Public

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

On this 15TH day of May, 2006, before me personally came and appeared Richard Stevens, to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.


Notary Public

MATTHEW PATRICK RYAN
Notary Public, State of New York
No. 02RY6080868
Qualified in Albany County
Commission Expires September 23, 2006

STATE OF NEW YORK)
COUNTY OF ~~SCHENECTADY~~) ss.:

On this 16TH day of May, 2006, before me personally came and appeared Donald J. DeAngelus, Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.


Notary Public

PAMELA M. PETER
Notary Public, State of New York
Qualified in Schenectady County
No. 5057144
Commission Expires March 18, 2010