

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Interest Arbitration Between
COUNTY OF JEFFERSON AND JEFFERSON COUNTY SHERIFF')

Joint Employer,

-and-

JEFFERSON COUNTY DEPUTY SHERRIF'S ASSOCIATION, NEW YORK
STATE LAW ENFORCEMENT OFFICERS UNION, COUNCIL 82, AFSCME,

Union.

OPINION

AND

AWARD

PERB CASE NO.

IA2010-09

M2009-353

Before the following Public Arbitration Panel:

Michael S. Lewandowski
Chairman

Ennio Corsi, Esq.
Public Employee Organization Panel Member

John F. Corcoran, Esq.
Public Employer Panel Member

Appearances: Melinda B. Bowe, Esq.
Hancock Estabrook, LLP
For the County

Matthew P. Ryan, Esq.
Council 82, AFSCME, AFL-CIO
For the Association

On or about July 8, 2010, the Jefferson County Deputy Sheriff's Association ("Union") filed a petition for compulsory interest arbitration with the New York State Public Employment Relations Board ("PERB"). The County of Jefferson, New York

("County") responded to the petition on July 16, 2010. The County and the Union had reached an impasse in their negotiations for a successor Agreement to the Collective Bargaining Agreement ("Agreement") between the parties that expired on December 31, 2008. The unit is composed of 42 employees, including 28 deputy sheriffs, 5 deputy sheriff sergeants and 9 deputy sheriff detectives.

In accordance with Section 209.4 of the Civil Service Law, the undersigned were designated as the Public Arbitration Panel members by letter dated September 13, 2010 from the New York State Public Employment Relations Board ("PERB"). The panel met and conducted a hearing in the City of Watertown, New York on April 28, 2011 and May 11, 2011. The panel held Executive Sessions on August 5, 2011 and October 7, 2011 in Syracuse, New York.

At the hearing, the parties were afforded a full opportunity to present relevant evidence in support of their positions. Each presented data collected concerning police agencies that they considered to be comparable to that of the County as well as data pertaining to the County's fiscal condition and past wage and benefits awards or agreements made by the County affecting other units of County employees.

The content of this opinion and award reflects the results of consideration of the evidence presented against the criteria contained in the Civil Service Law.

Specifically considered were the interests and welfare of the public and the financial ability of the County to pay any salary increase or benefit increases awarded; comparable wages of both comparable sheriff units in other counties and comparable wages and increases granted other County employees, hours and conditions of employment provided employees involved in similar work or requiring similar skills (police work); comparison of peculiarities in regard to other professions such as hazards, physical qualifications, educational qualifications, mental qualifications and job training and skills. The panel also considered the terms of the collective bargaining agreements negotiated between the parties in the past. The final disposition of the issues is the result of the deliberations of the panel. The parties were split on what should be the outcome with respect to the individual issues reviewed by the panel. The award contains the outcome as voted on by a majority of panel members. The panel rejected the majority of proposed issues after the panel reached the recognition that the proposals could not be resolved by even a majority vote. The expectation of the panel is that these

issues will either be

addressed in future negotiations or withdrawn from consideration by the parties. In any event, the fate of these issues in the future lies with the parties and not this panel.

The evidence presented by the parties was considered against the criteria set forth in the Law including but not limited to a comparison of wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions; the interests and welfare of the public and the financial ability of the public employer to pay; the peculiarities in regard to other professions such as hazards, educational qualifications, training and skills and the terms of collective agreements negotiated between the parties in the past providing the compensation and fringe benefit package that currently exists for the bargaining unit members.

DISCUSSION AND ANALYSIS

After extensive review of the significant amount of evidence presented at the arbitration, and the criteria contained in the Civil Service Law, the panel reached agreement on the Award that follows. The Award is a product of the consideration of all the factors specified in the Civil Service Law. It modifies terms and conditions of employment in a manner which benefits both the Union and the County.

TERM OF THE AWARD

Consistent with the law, the term of this award shall be for a two-year period commencing January 1, 2009 and ending December 31, 2010.

BASE WAGES

By comparing the surrounding Counties of St. Lawrence, Lewis and Oswego, the data shows that Deputy Sheriffs in Jefferson County are paid somewhat below Deputy Sheriffs in those counties while those officers holding the rank of Sergeant at the top of their salary grade are paid somewhat more than Sergeants in the surrounding counties referred to above after the application of the raises awarded here.

The data shows that wages and benefits for this unit are funded mostly from real property taxes. Considering the rising cost of other items funded from property taxes including the rising cost of Medicaid, the escalating costs of retirement and health benefits (a benefit that has increased approximately 255% during the period 2000-

2010) and other costs, the data shows an increasing tax burden on County residents who already pay taxes that are among the highest in the country. Given the State of New York's fiscal condition, which reduces the opportunity for New York State to assist struggling local government, and the persistent unemployment rates, the only conclusion that may be reached is that this is a time of economic distress. While the County may increase taxes to pay for wage and benefit awards here, the majority of the panel agrees with Arbitrator Thomas Rinaldo who wrote, "the County's ability to tax cannot be equated with the County's ability to pay." This is especially true when the tax burden must be met by taxpayers who are already struggling with a difficult economic and employment situation.

Conversely, the County's tax revenues are showing improvement. This coupled with the fact that the County has budgeted for a salary increase for this unit demonstrates the ability to pay the salary increases awarded here.

In summary, the majority of the panel concluded that while the County asserts it has a limited capacity to pay salary increases and that assertion is shown to some degree by the data the panel reviewed, the facts also show that the County has provided employees of other units the below increases therefore equivalent increases are appropriate for members of this unit. The table below illustrates salary increases given by the County to the other units within the County.

SALARY INCREASES AWARDED JEFFERSON COUNTY EMPLOYEES FOR 2009 AND 2010.

YEAR	CSEA	CORRECTIONS	JCC FACULTY	JCC STAFF
2009	3.5%	3.75% + \$50	3.25%	3.5%
2010	3.5%	3.75% + \$50	3.0%	3.5%
AVERAGE	3.5%	3.75% +50	3.125%	3.5%

Based on the all of the above factors, the panel makes the following award for base salaries.

Employees shall receive a salary increase of 2.0% effective January 1, 2009; a 1.5% increase effective July 1, 2009; a 2.0% increase January 1, 2010; and a 1.5% increase effective July 1, 2010. In addition, employees not at the top of the grade shall move to the next step on January 1, 2009, and January 1, 2010. No employee may exceed the maximum of the grade. Employees hired after July 1st of each year shall not be eligible for step movement the following year. Retroactive salary payment shall be made only to those employees still actively employed as of the beginning of the payroll period immediately following the date of the issuance of the interest arbitration award. Salary Schedules (Appendix A) to be created based on the above.

HEALTH INSURANCE CONTRIBUTIONS.

The majority of the panel also concluded that the data supports an increase in health insurance contributions to the amount of contributions currently in effect for the Corrections Unit. The award concerning health insurance follows.

Article VII, Section (A) shall be adjusted as follows:

The Employer will provide the Jefferson County Government Employees Health Benefit Program in accordance with the plan document as amended. The Health Benefits Amendments II shall be implemented as soon as practical following the issuance of the interest arbitration award. Group Health Incorporated, POMCO, or a mutually agreed upon alternative provider will act as third party administrator for the life of the agreement.

Effective January 1, 2009, the employee cost of individual coverage shall be \$61.00 per bi-weekly pay period. The employee cost of family coverage shall be \$91.00 per bi-weekly pay period.

Effective January 1, 2010, the employee cost of individual coverage shall be \$69.00 per bi-weekly pay period. The employee cost of family coverage shall be \$105.00 per bi-weekly pay period.

With regard to the employee contributions for 2009 and 2010, there shall be catch-up contributions deducted from the retroactive salary increases for those years.

Effective upon the issuance of the interest arbitration award, Article VII, Section (B) shall be adjusted as follows to reduce the current six (6) month waiting period for health insurance coverage to ninety (90) days: As employee shall be entitled to enroll in the Health Insurance Plan after ninety (90) days of continuous employment.

GML §207-C

The panel also agreed to the following with respect to GML §207 - c.

Effective upon the issuance of the interest arbitration award, the first sentence of Article IV, Section 3(C)(1)(b) shall be modified to read as follows:

Deputy Sheriffs shall be covered under the provisions of Section 207-c of the General Municipal Law.

OTHER:

The panel will decline to issue an award on any other proposals of the parties presently before the panel.

AFFIRMATION

STATE OF NEW YORK)

We, the public arbitration panel identified above, do hereby affirm upon our oath as Arbitrators that we are the individuals described in and who executed this instrument, which is our award.

Date: *November 27, 2011*

I concur with the award:


MICHAEL S. LEWANDOWSKI

Date:

I concur / ~~dissent~~


ENNIO CORSI, ESQ.

Date: *November 30, 2011*

I concur / ~~dissent~~:


JOHN F. CORCORAN