

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Compulsory Interest Arbitration

-between-

DUTCHESS COUNTY DEPUTY SHERIFF'S POLICE  
BENEVOLENT ASSOCIATION

Employee Organization,

-and-

DUTCHESS COUNTY AND THE DUTCHESS COUNTY SHERIFF  
Joint Public Employers,

**OPINION**

**AND**

**AWARD**

PERB Case No. IA2010-012; M2010-018

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BEFORE: Jay M. Siegel, Esq.  
Public Panel Member and Chairman

NYS PUBLIC EMPLOYMENT RELATIONS BOARD

Richard P. Bunyan, Esq.  
Employee Organization Panel Member

**RECEIVED**

William M. Wallens, Esq.  
Public Employer Panel Member

**JUL 30 2012**

APPEARANCES:

**CONCILIATION**

For the Dutchess County Deputy Sheriff's Police Benevolent Association  
Bunyan & Baumgartner  
By: Joseph Baumgartner, Esq., Of Counsel

For Dutchess County & the Dutchess County Sheriff  
Roemer Wallens Gold & Mineaux LLP  
Elayne G. Gold, Esq., Of Counsel

**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 Dutchess County Deputy Sheriff's Police Benevolent Association (PBA) and Dutchess County and the Dutchess County Sheriff (collectively referred to as "County").

The County is a municipal corporation that is located in the mid-Hudson Valley. Its southernmost part is approximately 55 miles north of New York City. It is contiguous with Putnam County to the south, Orange County and Ulster County to the west, Columbia County to the north and the State of Connecticut to the east. The County's population is nearly 300,000 as reflected in the 2010 census.

The Sheriff's office operates on a 24/7 basis. The deputy sheriffs provide patrol provide other police services to the municipalities in the County that do not have their own police force. They provide backup and specialized police services to other police agencies in the County.

The PBA is the exclusive bargaining agent for all full-time patrol deputies, detectives, school resource officers, detective sergeants, sergeants and lieutenants. At the present time, the PBA represents approximately 100 bargaining unit members.

Two other bargaining units have contractual relationships with the County. Both of the units have agreements in place for all or part of the period covering this Award. Both agreements were reached prior to 2008, i.e., prior to the local, State and national recession that occurred in the fall of 2008 and continued for quite some time thereafter.

The County's agreement with the Civil Service Employees Association general unit, which covers all unionized County employees except for members of the deputy sheriffs unit and members of the correction officers unit, calls for wage increases of 4% effective January 1, 2009. The County's agreement with the correction officers unit

represented by the Communications Workers of America (CWA) calls for wage increases of 3.9%, January 1, 2009 and 4.0%, effective January 1, 2010. However, the County achieved significant financial concessions in the last agreement with its correction officers. These included a reduced starting salary for new hires and eliminating a benefit that provided correction officers with the right to free meals provided by the County during work time.

County employees who are not represented by a Union received a wage increase of 3.9% in 2008 and an additional wage increase of 3.9% in 2009. However, they received no wage increase in 2010 and 2011.

The last collective bargaining agreement between the parties covered the period January 1, 2005 through December 31, 2008. In February 2009, the parties began negotiations for a successor contract but the negotiations were unsuccessful. Thereafter, acting pursuant to the rules of procedure of PERB, a PERB-appointed mediator met with the parties. Mediation was unsuccessful and on July 27, 2010, the PBA 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 August 12, 2010. Thereafter, the undersigned Public Arbitration Panel was designated by PERB, pursuant to Section 209.4 of the New York State Civil Service Law, for the purpose of making a just and reasonable determination of this dispute.

A hearing was conducted before the Panel at the offices of the County on June 21, 2011. The parties were represented by counsel at the hearing. Both parties were afforded the opportunity to present evidence, call witnesses and to cross-examine adverse witnesses. Both parties submitted numerous and extensive exhibits and documentation, as

well as extensive arguments on their respective positions. The parties submitted written briefs on the outstanding issues in August 2011.

Thereafter, the Panel fully reviewed all data, evidence, arguments and issues submitted by the parties. The Panel engaged in frequent discussions and deliberations during numerous Executive Sessions and telephone conference calls among Panel members between September 2011 and May 2012. The Panel was unable to reach a consensus or even have a simple majority during much of this time period. During virtually all of this time period, the County was demanding wage freezes for both years while the PBA was demanding wage increases of approximately 4% per year. Neither outcome was acceptable to the Panel Chair. In late May 2012, the Panel Chair reached agreement with the PBA panel member on the salary terms of this Interest Arbitration Award. The Award is a compromise. It does not fulfill the wishes of either party. However, all references to "the Panel" in this Award shall mean the Panel Chairman and at least one other concurring Panel Member.

The positions taken by both parties are quite adequately specified in the Petition, the Response, numerous hearing exhibits, and post-hearing written submissions, which are all incorporated by reference into this Award. Such positions will be merely summarized for the purposes of this Opinion and Award. Accordingly, set out herein is the Panel's Award as to what constitutes a just and reasonable determination of the parties' contract for the period January 1, 2009 through December 31, 2010.

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 the 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.

### **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 in generally in public and private employment in comparable communities.”

#### **PBA Position**

The PBA contends that its members should be compared primarily with other municipal police officers in geographical proximity to where the Dutchess deputies are employed. It justifies its universe of comparables by asserting that employees in this universe constitute the labor market that competes for skills and services of individuals in the unit. They also have the same job description, similar skills and similar training.

Furthermore, they face similar tax burdens and housing costs. As such, the PBA maintains that it is not relevant to compare Dutchess deputies with police officers working for Saratoga County as those officers are not working in comparable communities.

The PBA stresses that the factors long considered by interest arbitration panels to define comparable communities includes items such as population, geographical proximity, size of department, property valuations, income levels and nature of the police force (24/7, full or part-time). It argues that this is precisely why police officers working in comparably sized police departments in Dutchess that have full-time police forces are the most appropriate comparables. It contends that police officers in these jurisdictions render the same services as the Dutchess deputies and that they do so on a 24/7 basis.

The PBA notes that the job duties and qualifications is the same for Dutchess deputies and the police officers in its list of comparables. The PBA asserts that they frequently work side by side with one another. Their training and hazards of employment are identical as is their demographic and economic factors. The deputies and the police officers in the comparable communities often back each other up. In the PBA's estimation, this is why, pursuant to the statutory criteria, the police department bargaining units in the City of Poughkeepsie, the City of Beacon, the Town of Poughkeepsie and the Town of East Fishkill are the most appropriate comparables.

The PBA insists that this Panel should follow the criteria established for deputy sheriffs in the Interest Arbitration Award for the Tomkins County Deputy Sheriff's Association issued in August 2010 and the Putnam County Police Benevolent Association issued in February 2007. The PBA stresses that in both of these cases, the

panels concluded that the primary comparables should be other full-time municipal police departments in the county rather than other area deputy sheriff bargaining units.

In the PBA's view, the universe of comparables within Dutchess County will give the Panel a meaningful sample to do a comparability analysis. The PBA asserts that since there is no difference between the job of a deputy sheriff and that of a police officer in the comparable jurisdictions, it is abundantly clear that the Panel should not go outside Dutchess County.

The PBA objects to the County's claim that the uniqueness of county government requires the Panel to only compare Dutchess deputies with other deputy sheriff units. The PBA insists that this assertion is flawed because it is premised on a misreading and misapplication of the Taylor Law. The PBA contends that if the Panel were to accept the County's proposed comparables it would be failing to make the required statutory comparisons between Dutchess deputies and those who are similarly situated, i.e., other police officers employed in comparable departments in Dutchess.

The PBA maintains that the County's logic is also flawed because all forms of government have unique elements to them. For example, even though city government differs in many ways from towns and villages the fact remains that interest arbitration panels routinely cross governmental lines when doing a comparability analysis. In the PBA's estimation, city police officers are often compared to town police officers in jurisdictions that are in close geographical proximity. Village officers are often compared to town officers that are in close geographical proximity.

For all of these reasons, the PBA contends that the Panel should find the universe of comparables to be the cities of Poughkeepsie and Beacon and the towns of Poughkeepsie and East Fishkill.

### **County Position**

The County contends that the counties of Ulster, Orange, Putnam, Albany and Saratoga should be the universe of comparables because they are located in close proximity to Dutchess County and because they are comparable in terms of population, median household income, median home sale price, self-sufficiency measures and Deputy Sheriff unit size.

The County disagrees with the PBA's request to have the cities of Beacon and Poughkeepsie and the towns Poughkeepsie and East Fishkill in their universe of comparables. The County stresses that while there may be little difference between the job of a deputy sheriff and that of a municipal police officer, this is not the sole or determining factor in selecting comparables. Indeed, the County observes that the Interest Arbitration Panel in the September 2006 Opinion and Award for the Onondaga County Deputy Sheriff's Police Association found that the uniqueness of county government and the functions it performs is the most important component framing comparability analysis. That Panel stated:

The most influential component of comparability is the patterns of income and expenditures of the comparing units... The County has mandated expenditures which towns and villages do not have... Counties functions as arms of the State and are required to deliver a significant number of other mandated services with fixed costs.

The County stresses that there are numerous distinctions between county government and cities and towns that should lead the Panel to find that the most

appropriate comparables are county deputy sheriff units. According to the County, unlike cities and towns, which generally find public safety to be the largest component of their budgets, in counties it is the social service programs that comprise the largest portion of their budgets. Unlike towns and cities, it is counties that have the responsibility to collect taxes for municipalities within its borders and go after delinquencies. The County avers that these differences constitute a compelling reason for the Panel to go outside Dutchess to find more appropriate comparables. The County notes that this is precisely what the Panel in the Onondaga County Sheriff's Department Police Association Interest Arbitration Award did citing a Fulton Deputy Sheriff's PBA award. The Onondago County Panel held:

The Panel also observes that the logical choice of comparables must be other County road patrol units. It is common knowledge that, particularly under contemporary conditions, counties in New York State face unique fiscal challenges that are not necessarily of the kind and degree faced by other municipalities in the State. Common sense also supports the conclusion that the best source of comparison is the same type of municipality.

The County observes that the PBA has failed to provide any information concerning the income and expenditures of the municipalities they have selected. There is no information in the record as to the time when these municipalities reached settlements with their police units. Finally, there was no evidence offered by the PBA demonstrating that the County competes with these municipalities in recruitment and retention. Hence, the County urges the Panel to reject the comparables offered by the PBA and to determine that the comparables submitted by the County are the appropriate comparables.

### **Panel Determination on Comparability**

The Panel Chair finds that the most comparable jurisdiction to Dutchess County is Orange County because they share numerous similarities. Both jurisdictions have a similar number of residents, similar land area size, similar household incomes and are contiguous with one another (i.e., they border each other at the Hudson River). Both jurisdictions have urban, suburban and rural characteristics. Dutchess has the small cities of Poughkeepsie and Beacon while Orange has the small cities of Newburgh and Middletown. Dutchess has the suburban areas of East Fishkill and the Town of Poughkeepsie while Orange has the suburban areas of the Town of Newburgh and the Monroe-Woodbury area. Dutchess has the rural farm areas toward the eastern and northern part of the county while Orange has its rural farm areas in the south and western parts of its county. Both jurisdictions have a large cadre of individuals who commute long distances each day from their homes to Westchester and New York City. Finally, both jurisdictions have a similar bargaining unit size. Deputy sheriffs in both bargaining units deal with a wide variety of law enforcement issues that run the gamut from urban to suburban to rural. While Ulster County and Putnam County border Dutchess, both counties have a number of characteristics that distinguish them from Dutchess County. For example, the population of Dutchess is three times greater than Putnam County. Ulster County is further away from New York City and more rural in nature than Dutchess. For this reason, although the counties of Ulster and Putnam should be considered a comparable because they share a number of similar characteristics with Dutchess, they should be given less weight than Orange County for comparability purposes.

The Panel Chair finds that the counties of Albany and Saratoga should not be considered in the universe of comparables. Both jurisdictions have been rejected by the Panel because they are not in the same labor market as Dutchess County and because there are more appropriate comparables that border Dutchess.

Finally, the Panel determines that the cities of Beacon and Poughkeepsie and the Towns of East Fishkill and Poughkeepsie should be accorded some weight as comparable jurisdictions. The police officers in these municipalities share similar working conditions, share the same jurisdiction and have the same housing market as the County's deputies. They face similar daily challenges. They have urban and suburban aspects to them. The fact that they are a different form of government makes them distinguishable to the point where these municipalities should not be considered the most significant comparable. However, they should be considered as a comparable.

Accordingly, the Panel Chair finds that pursuant to the statutory criteria, the comparable having the greatest influence over the Panel is Orange County. The Panel Chair finds that the jurisdictions of Ulster County, Putnam County, the City of Beacon, the City of Poughkeepsie, the Town of East Fishkill and the Town of Poughkeepsie also should be accorded some weight as they share some similarities that make them comparable with Dutchess County.

### **ABILITY TO PAY**

#### **PBA Position**

The PBA asserts that the evidence presented conclusively establishes that the County has the ability to pay for a fair and reasonable increase. According to the PBA, there are numerous aspects of the County's budget and its economic data that show that

the County is in much better financial shape than it claims it is in. According to the PBA, its best evidence is the former County Executive's admission in his 2011 State of the County that the County is in excellent financial condition,

Dutchess County government continues to stand out statewide. Dutchess taxes its residents 24% less per capita and spends 25% less per capita than the statewide county average. Our indebtedness per capita is an impressive 66% below the statewide average. Dutchess County's outstanding indebtedness represents a mere 4% of the constitutional debt limit. Of particular importance to Dutchess County property taxpayers, the county property tax levy totals only 16% of the county's constitutional taxing limit.

The PBA stresses that this is not the only evidence of the County's strong financial condition. The PBA notes that the latest information from the *Business Council's Policy Institute* and the *Empire Center for New York State Policy* notes that Dutchess County has been ranked among the lowest of all 57 New York counties for spending and taxes per resident and that its debt has been and continues to be one of the lowest statewide.

The PBA insists that the November 2010 Aa1 bond rating from *Moody's Investor Service* is further evidence of the County's ability to pay. The PBA observes that the Aa1 rating is the second highest available. Indeed, only two other counties in the State have a higher bond rating than Dutchess. Thus, in the PBA's view, the County remains in sound financial condition despite the economic challenges facing all New York counties over the past few years.

The PBA asserts that this was the precise message from Kevin Decker, its financial expert. The PBA maintains that the evidence offered through Mr. Decker conclusively establishes that the County has the ability to pay for its economic demands. According to the PBA, Mr. Decker's presentation should be accorded great weight

because his testimony was logical and in line with generally accepted practices in his profession. Among other things, Mr. Decker found that:

- The County's real property is more valuable than real property in the counties of Orange and Ulster. However, its average full value tax rate is less than the counties of Orange and Ulster.
- The County has been using approximately 15.8% of its constitutional tax limit, which puts it well below its legal limit.
- The County's revenues from sales taxes are showing stability and recent strength. Mr. Decker presented a chart showing that County's sales tax revenue was \$125 million in 2008 and that its 2010 sales tax revenue was approximately \$125 million in 2010. In the PBA's view, this shows that the County had weathered the recession by the end of 2010. Equally important, the PBA notes that Mr. Decker found that in 2011, Dutchess saw its sales tax revenue grow to \$134 million. The PBA maintains that this is unmistakable evidence that the County is out of the recession and the economic forecasts should be optimistic.
- The County's recent history of general fund fiscal operations shows that Dutchess is in sound financial shape. Although the PBA concedes that the County operated a deficit in two of the past five years, it stresses that its ran a solid surplus of over \$5 million in 2011. The more relevant fact is that the bond rating agencies recommend that 5 to 15% of a municipality's budget be held in fund balance and that the County had a fund balance of

more than \$50 million at the end of 2010, which is 14.20%. In other words, it was well within the recommended range.

- The total cost of salary, FICA and pension for all sworn members of the Department was approximately \$10 million. This means that every one percent salary increase will cost the County \$100,000. Thus, in the PBA's view, the County clearly has the ability to pay for its proposals.
- Mr. Decker stated in his report that the County bond rating represents high grade, high quality bonds.

The PBA acknowledges that Mr. Decker conceded that Dutchess was negatively impacted by the downturn. However, it asserts that Mr. Decker demonstrated that the downturn has eased for Dutchess County and that it has the ability to pay for a fair and reasonable increase.

### **County Position**

The County insists that the Panel cannot ignore the fact that the County is suffering the effects of one of the greatest economic recessions in this country's history. The County contends that the recession had an extremely adverse effect on several important revenue streams. In the County's view, the testimony of Valerie Sommerville, its Budget Director for the past 8 years, demonstrates that the County does not have the ability to pay for an award that includes any of the economic proposals submitted by the PBA.

The County stresses that Director Sommerville testified that the fund balance of the County's general fund decreased from \$37.1 million in 2007 to \$17.5 million in 2010 as a result of the 2008 financial crisis and the many reverberations from it that are still

felt today. According to the County, its 2010 fund balance fell to below 5% of its overall budget, which is below the recommended fund balance by virtually all municipal finance experts.

The County contends that it has struggled to bring in revenue because its residents are struggling. The County observes that unemployment has risen from 4% in 2007 to 7.3% at the beginning of 2011. At the same time, foreclosures have risen from 1,184 in 2007 to 1,337 in 2010, a 13% increase. In addition, the median home sale price of a home in Dutchess has dropped from \$324,740 in 2007 to \$278,250 in 2011, a dip of 14%.

The County asserts that the County has lost significant revenue in a variety of areas. For example, unpaid real property taxes have increased by 137% from 2003 to 2010. Mortgage tax revenues have declined during the past few years and sales tax revenues have declined. Indeed, the County maintains that the sales tax declines between 2007 and 2009 resulted in a cumulative loss of \$60 million from what had been projected. Other revenues such as transportation aid, interest income and OTB revenue have also declined over the past few years.

To make matters worse, the County has seen its federal stimulus money dry up. Whereas the County received \$23.4 million dollars in federal stimulus funds in 2009 and 2010, this amount decreased to \$3.9 million in 2011 and will decrease to \$0 in 2012. When these stark revenue declines are coupled with the 2% property tax cap, it becomes abundantly clear that the County is unable to significantly increase its revenues.

In the County's estimation, its economic challenges are even greater because its expenditures have soared as its revenues have declined. The County stresses that there has been an 8.6% increase in mandated spending from 2007 to 2011 and a dramatic 110%

increase in state pension costs. Indeed, the County asserts that its pension costs have increased from \$8.4 million in 2009 to more than \$21 million in 2012. Health insurance benefits have doubled over the past ten years and have recently increased despite the County's switch to a less expensive health insurance plan. At the same time, the increase in countywide unemployment has required the County to spend more money to meet its residents' needs. Indeed, the County has seen a 57% increase in social service clients since 2007. In 2007, the County had 28,354 social service clients. In 2011, that number had risen to 44,636.

The County stresses that the dramatic dip in the economy, coupled with unanticipated expenditures required the County to have budget shortfalls in 2008 and 2009. In the County's view, this has required it to use its fund balance and reduce costs in order to operate in a fiscally sound manner. The County asserts that it has significantly reduced operational expenses such as overtime, travel, training, equipment and supplies in order to remain on some semblance of solid financial footing. This has even included reductions in the total County workforce as the County reduced its workforce by 4.5% in 2011.

The County emphasizes its respect for the dedication and hard work of the members of the deputy sheriffs bargaining unit. It maintains that it has provided salaries and benefits that are comparable with other deputies in the comparative counties. The County contends that its precarious financial condition does not allow it to afford the salary and benefit proposals made by the PBA. It urges the Panel to determine that the PBA's proposals cannot be granted.

### **Panel Determination on the County's Ability to Pay**

The Panel recognizes that during the term of this Award, the national, New York State and local economy went into a tailspin unlike anything seen in recent memory. Revenues went down and unemployment substantially increased. The housing market significantly dipped for the first time in years and numerous companies went out of business or struggled to stay afloat. New York and its municipalities have clearly been affected by the uncertainties caused by this recession.

On the other hand, the Panel finds that the record establishes that the County has done an excellent job of managing its resources. The County has an excellent bond rating. This is of significant note to the Panel as it demonstrates that a neutral agency has confidence in the County's fiscal future. The Panel also observes that while County revenue dipped during the recession, revenues have recovered in a number of areas and are starting to show some noteworthy improvement. The County's sales tax revenues are demonstrative. The County's sales tax was approximately \$125 million in 2008. This number dipped to approximately \$115 million in 2009 due to the recession. However, revenues recovered in 2010 as they nearly hit \$125 million. Most importantly, revenues significantly grew in 2011 as they were approximately \$134 million in 2011.

The Panel is confident that the County's fiscal management has allowed it to maintain a fiscally solvent position despite the difficult economy. The Panel finds that the County does not have the ability to pay for the entire package of PBA proposals as they would shift too many resources away from other areas. However, when the Panel considers the County's overall fiscal position in terms of revenues, expenses, its bond ratings and the objective evidence showing recent improvements in the economy, it

becomes clear that the County has the ability to pay for the wage increases set forth in this Award. Thus, the Panel finds that the wage increases awarded herein constitute a fair and reasonable Award.

### **THE INTERESTS AND WELFARE OF THE PUBLIC**

#### **PBA Position**

The PBA argues that there is no question that the work performed by members of the unit positively impacts the interests and welfare of the public. It asserts that its deputies protect life and property by fighting crime and preserving the peace in the County.

The PBA stresses that the County taxpayers benefit from having a professional, well trained Sheriff's office. The PBA insists that its deputies provide valuable law enforcement coverage that ensures that the residents of the County are well protected. It provides primary law enforcement coverage for large swaths of the County and works in concert with to provide law enforcement coverage with all of the municipalities that provide police coverage. The PBA maintains that wages and benefits for its deputies must be increased and brought in line with comparable jurisdictions so that the County can attract and retain quality officers. The PBA opines that the Panel must issue an Award that allows its members to remain competitive with other officers in the universe of comparables so as to assure that its offers will not leave the County for other positions in the area.

#### **County Position**

The County stresses that the Panel is obligated to consider the fact that its Award will directly affect the citizens and taxpayers of the County and the economic future of

the County for years to come. The County observes that the Panel must consider the fact that it is allocating one aspect of the County's limited resources. The revenue needed by the County to pay for this Award competes with other municipal services and the wages and benefits provided to other municipal employee groups. Since the Panel's Award will undoubtedly affect the agreements made between the County and other employee groups, the Panel must exercise its power with great caution. It must consider the fact that citizens in the County earn less on average than County deputies. It must also consider the fact that citizens in the County are struggling with increased unemployment, increased tax burdens and declining values of their homes. These considerations, along with the fact that the economy is still struggling overall, mandate that the Panel exercise its power with great care and caution while fashioning its Award.

**Panel Determination on Interests and Welfare of the Public**

The Panel has given serious consideration to the arguments of the parties relative to the interests and the welfare of the public. In looking at this specific issue, the Panel finds that the PBA's argument that the public benefits by having a competitively compensated police force must be given some credence. It influences the Panel's determination on the issues of the overall wage adjustment. In other words, the Panel's Award in the area of salary is premised on the recognition that it is prudent for the County and beneficial to the public for its officers to remain competitively compensated.

At the same time, the Panel has rejected the PBA's demand for many of the economic increases proposed by the Union because it is concerned about the detrimental effect that any increases in this area can have on the public. The County's taxpayers would be exposed to several hundred thousand dollars of additional financial burdens

each year if the Panel awarded the PBA's economic proposals that go beyond the general wage adjustment. This is not in the interest of the public. All of the PBA's economic proposals besides the base wage adjustment were rejected by the Panel primarily for this reason.

### **CONSIDERATION OF PECULIARITIES OF THE POLICE PROFESSION**

The Panel notes that it has also given consideration to a comparison of the police profession with other trades or professions. The PBA asserts that the police profession is so unique that no other useful comparison can be made with other trades or professions. It asserts that its deputies are engaged in extremely dangerous work and that they work each and every shift with the possibility that they could be gravely injured or killed. They are required to have certain physical abilities, educational requirements and significant job training.

The PBA stresses that deputies face that same dangers, stress and pressures as those faced by the cities and towns in the PBA's proposed comparables. It contends that its members respond to calls and provide backup police service in these exact communities.

The parties do not dispute the fact that appropriate weight must be given to the especially hazardous nature of police work and the unique training, skills and pressures that deputy sheriffs face each day. The Panel finds that the peculiarities of the profession mandate direct comparison with deputy sheriffs and other police officers. However, the Panel will also give some consideration to the County's handling of negotiations with its other non-police municipal workers because the County's historical treatment of those

workers compared to the raises historically provided to deputy sheriffs influences the Panel's determination on wages.

### **BASE SALARY, CHANGES TO STEPS AND LONGEVITY**

#### **PBA Position**

As in almost every interest arbitration, the appropriate salary increase is at the heart of the dispute. The PBA has three different proposals to increase base compensation. It proposes a 7% salary increase in each year to the existing schedule. It also proposes that Steps 1-5 be eliminated and that Steps 6-10 become the new Steps 1-5. Finally, it seeks a new longevity payment after 5 years of service. The current CBA begins longevity payments after 10 years of service.

The PBA insists that the base wage and longevity comparison it produced shows that Dutchess County's deputies receive far less compensation than all of the officers of the universe of comparables. The PBA maintains that its proposals should be awarded to allow its members to be competitively compensated vis-à-vis other police officers in the labor market that provide 24/7 police protection.

The PBA contends that its wage comparison shows that Dutchess County deputy salaries are behind all other jurisdictions employing full time around the clock police coverage both when longevity payments are excluded and when they are factored in. It notes that Dutchess County pays its deputies the lowest in the universe of comparables. According to the PBA, this is the case when considering the PBA salary rankings at Year 5, 10, 15, 20 or 25. In the PBA's estimation, this needs to be rectified because its deputies

are doing the exact same police work as the officers in all of the neighboring jurisdictions.

The PBA notes that police officers in neighboring jurisdictions have received healthy salary increases during the time of this Award. For example, officers in the City of Beacon received a 4.5% in 2009. Officers in the Town of East Fishkill received a 4% raise in 2009 followed by a wage freeze in 2010 and a 3.5% increase in 2011. Officers in the City of Poughkeepsie received a wage freeze in 2009. However, this was followed by a 3% wage increase in 2010 and a 4.125% increase in 2011. Finally, officers in the Town of Poughkeepsie received 3.5% salary increases for 2009, 2010 and 2011. The PBA stresses that its members must receive greater salary increases than those received by officers in the universe of comparables. Otherwise, their wages will be even less competitive than they already are.

The PBA asserts that its proposal is also supported by the fact that its deputies always receive at least the same salary increase as is received by the other bargaining units in the County. Indeed, the PBA notes that the County submitted data to the Panel showing that since 2000 its members have almost always received a higher wage increase than members of the corrections unit and members of the large CSEA county wide unit that represents a majority of the titles in County service. With this in mind, the PBA maintains that the Panel must award salary increases of at least 4% per year for both years of the award. This is the case because the corrections unit received wage increases of 3.9% in 2009 and 4% in 2010. The CSEA unit received an increase of 4% in 2009.

The PBA finds the County's demand for a wage freeze to be woefully inadequate and completely unfair to its officers. The PBA stresses that the other two bargaining units

in the County received healthy wage increases during the term of this Award. In the PBA's estimation, since the County has a longstanding pattern of providing its deputies with at least the same salary increases that it provides to its other unionized employees, this shows that the County was well aware that it would be making the same commitment to its deputies when it settled the other labor agreements. The PBA also asserts that this shows that the County's claim that it has no money for wage increases is completely unsupported by the parties' history of pattern bargaining and should be rejected. The PBA insists that its officers should not be required to forego raises just so the County can maintain its fund balance.

The PBA is particularly distressed that it is being asked to forego raises and sacrifice after other bargaining units received salary increases. The PBA notes that it is contrary to fundamental fairness and the parties' longstanding respect for pattern bargaining for the County to ask one group to sacrifice and leave others unscathed.

The Union argues that its proposals on changing the salary schedule and increasing longevity are also warranted because they will help in closing the compensation gap between the salaries received by members of this bargaining unit and officers working in the universe of comparables.

For all of the reasons above, the PBA contends that the Panel should grant its proposals on salary, changing the salary schedule, and longevity.

### **County Position**

The County wholly rejects the PBA's economic proposals. The County asserts that common sense suggests that it should not be forced to tax its citizens to the highest legal limit. The County stresses that it should not be forced to jeopardize its financial

future by meeting the PBA's demands. This will overextend the County and could very well lead to layoffs and reduced services.

The County notes that the fiscal crisis of the county, state and nation cannot be ignored. It notes that when the parties began negotiations New York State and the nation was in a fiscal collapse unlike anything seen in recent memory. Financial institutions collapsed, the housing market collapsed and foreclosures went through the roof. The County stresses that all economic indicators continued to show downward trends in 2009. The County saw its sales tax revenues fall while social security and pension costs increased. To make matters worse, the demand for its services increased.

The County asserts that the Union's proposals are completely unreasonable. It notes that they cumulatively would cost the County more than \$1.5 million in 2009 and 2010 alone. The County maintains that this is not reasonable given the County's fiscal constraints.

In the County's view, the Union's demands for 7% annual increases are also unreasonable in light of the salaries received by the other bargaining units in the County. The County avers that all of the wage increases negotiated with other bargaining units were far less than what the PBA is demanding. Moreover, the County notes that management employees have had their performance awards suspended and have agreed to pay a contribution toward their health insurance benefits. The County stresses that this is more emblematic of reality than the wage increases that were agreed to with the other unions well before the economy started to struggle. The County maintains that as the economy faltered and its economic condition worsened, the availability of funds for increases no longer exists.

The County insists that exhibits introduced by both parties demonstrate that County deputy sheriffs and sergeants are competitively compensated. It maintains that the PBA's arguments for higher increases are based on a faulty premise, namely, that they should be compared only to other police officers in Dutchess County jurisdictions. The County rejects this notion. It asserts that the correct universe of comparables is that of deputies in five surrounding counties. When this comparison is done it shows that deputies in Dutchess receive a higher maximum base salary than four of the five surrounding counties.

With respect to longevity, the County insists that this proposal must be rejected because it is prohibitively expensive. The County argues that this proposal would cost the County more than \$445,000 in 2009 and 2010. This is simply unaffordable in this economic climate.

The County states that it recognizes the dedication and hard work of the deputies. It says that it employs a knowledgeable and well-trained staff of deputies.

However, the County maintains that it has an obligation to the taxpaying public and that it cannot sustain any additional costs at this time. It notes that it has seen its revenues decline and its expenses increase to the point where it has absolutely no additional monies to support any salary increases. It notes that its unreserved fund balance has shrunk by several million dollars in the past few years. This steady decrease in fund balance has left the County in a precarious position. The County stresses that its overall economic picture is precisely why it offered no salary increase to the deputies and precisely why the Panel should not award a salary increase.

### **Panel Determination on Salary, Step Changes and Longevity**

Salary is the most important element in any labor agreement. Employees have the utmost concern about the wages they will receive and salary represents a very significant expenditure for the County. The Panel has focused, after considering all of the statutory criteria, on balancing the reasonable economic needs of County deputy sheriffs with the obligations of the County in the context of what is fair and reasonable in the changed economy.

The record contains data that supports both parties' positions. The County faces genuine economic concerns. It has had to contend with recent decreases in revenue and an economy that is more fragile than has been seen in this area and country for many years. The stock market crash and the federal government bailouts of so many international companies, coupled with the skyrocketing unemployment rate, are genuine issues that cannot be ignored.

The general state of the economy and the difficult tax burden faced by taxpayers, whose burden has increased substantially in recent years, lead the Panel to conclude that the base wage proposal made by the Union must be significantly moderated and that all of the other wage proposals made by the Union must be rejected.

The Panel is not awarding the PBA's proposal to modify the salary schedule by eliminating the first five steps and having Steps 6-10 become the new Steps 1-5 because that proposal alone would cost nearly \$200,000. This is prohibitively expensive in this economic climate.

The Union's base wage proposal of 7% per year also needs to be significantly moderated because it is not reasonable in this economic climate. There are simply no

settlements with any of the comparables or between the County and any of its other employee groups that are anywhere near the percentage proposed by the PBA. In addition, the Consumer Price Index for the relevant time period has been modest. Finally, the County does not have the resources to devote such a significant portion of money to salaries of one bargaining unit while it is struggling to preserve services to its residents.

When considering base wages, the Panel finds clear support for its determination that a fair increase in wages is justified in order to keep deputy sheriffs at or near their present position vis-à-vis the universe of comparables. The adjustments of 1.0% effective January 1, 2009 and 1.6% effective July 1, 2009 followed by raises of 1.0% effective January 1, 2010 and 2.0% effective July 1, 2010 are necessary in order to allow Union members' base wages to remain competitive. The Panel believes the increases granted will help the deputies remain competitive with the comparables.

A consideration of the statutory criteria also allows the Panel to take into consideration the County's settlements with other bargaining units. This has been the most difficult issue in this round of interest arbitration. The evidence establishes that the County agreed to healthy increases with the other units for the time period covering this Award. The settlements occurred prior to the downturn in the economy. The increases during the relevant time period are 4% for the CSEA unit in 2009 and a 3.9% increase in 2009 followed by a 4% increase in 2010 for the corrections unit.

The County strenuously argued that these increases are irrelevant because they occurred prior to the economic downturn. It has also argued that the corrections settlement was agreed to in exchange for other cost cutting measures, including the

elimination of meals for correction employees and the establishment of a new entry level salary grade that lowered the wages of new employees.

While the Panel Chair sees some credence with the County's arguments, the parties' historical approach toward their collective bargaining cannot be ignored. The evidence establishes that the County has a very real and very obvious pattern in the way it negotiates its labor agreements with the various bargaining units. Indeed, between 2000 and 2008, the County has always negotiated settlements with all of the units that are within the range of each other. When one delves deeper into the details, it becomes evident that the PBA has consistently received salary increases that are the same or slightly higher than the amounts received by the other two bargaining units. For example, in 2000, the PBA and corrections unit received increases of 3.25% while CSEA received a 3.0%. In 2002, the PBA received a 3.4%, while the corrections unit and CSEA received a 3.0%. In 2003, the PBA received a 3.6% while the corrections and CSEA unit received a 3.0%. In 2006, the PBA received a 4.0% while the corrections unit received a 3.75% and the CSEA unit received a 3.6%.

The Panel Chair has reviewed dozens of interest arbitration awards that emphasize the value of pattern bargaining and the importance of adhering to patterns. These awards emphasize the benefit the public receives by maintaining the pattern because it provides stability in wage adjustments, maintains labor stability and employee morale.

Over the strenuous objection of the PBA, the Panel Chair is deviating from the parties' history of pattern bargaining due to the changes in the economy that occurred between the time of the corrections and CSEA settlement and the time of this Award. The

Panel Chair finds that deviation is warranted due to the unique and unprecedented changes that occurred in the economy. He is also deviating from the correction officers' salary increase because in many ways this award is still pattern conforming. The Panel Chair reaches this conclusion, because, although the corrections unit received higher wage increases during the relevant time period, they paid for some of the raises through the concessions they agreed to with the County. Since the Panel Chair is not awarding similar concessions in this award, the lesser salary increases being awarded to the PBA make this award pattern conforming. Under the totality of the circumstances, the Panel Chair reaches the conclusion that this award is fair and appropriate.

Finally and probably most importantly is the fact that the Panel determines that the County has the ability to pay for this award. The Panel's deferral of the some of the 2009 and 2010 wage increases will significantly reduce the impact of the back pay costs for the increases since the higher amounts of the raises will only be provided in the second half of the year in both years. The Panel finds that these salary increases are reasonable and will have a modest impact on the County's fund balance.

In making the salary determination herein, the Panel has carefully considered all of the financial data and arguments presented by both parties, and have applied such data to the criteria mandated by statute as specified in Section 209.4 of the Civil Service Law.

Accordingly, and after consideration of the extensive exhibits, documentation, and testimony presented herein; and, after due consideration of the criteria specified in Section 209.4 of the Civil Service Law, the Panel makes the following:

**AWARD ON SALARY**

1. The 2008 salary schedule will be increased by 1.0% effective January 1, 2009 and 1.6% effective July 1, 2009.
2. The July 1, 2009 salary schedule will be increased by 1.0% effective January 1, 2010 and 2.0% effective July 1, 2010.

RB  
Concur  
Richard Bunyan

\_\_\_\_\_  
Dissent

\_\_\_\_\_  
Concur  
William Wallens

hww (see attached)  
Dissent

**AWARD ON CHANGES TO STEPS AND LONGEVITY**

1. The PBA's proposal to eliminate Steps 1-5 and to have Steps 5-10 become the new Steps 1-5 is rejected.
2. The PBA's longevity proposal is rejected.

\_\_\_\_\_  
Concur  
Richard Bunyan

RB  
Dissent

hww  
Concur  
William Wallens

\_\_\_\_\_  
Dissent

**PANEL CHAIR'S COMMENTS, DETERMINATION AND AWARD**

**REGARDING THE PBA'S PENSION AND RETIREE HEALTH INSURANCE**

**PROPOSALS**

The PBA has put a great deal of time and emphasis in trying to persuade the Panel Chair that its proposals to improve retiree health insurance coverage and to improve the deputies' retirement plan are critical issues that must be awarded. The PBA has submitted evidence showing that the County provides less of a contribution to its deputies than police officers in several of the comparable jurisdictions receive. The PBA has also

presented evidence showing that officers in several comparable jurisdictions have the ability to receive a full pension after 20 years of service while Dutchess deputies may access a full pension only if they work at least 25 years.

Health insurance and pension costs are undoubtedly the most difficult and contentious labor-management issues because of their importance to employees and their families and because the costs have grown so dramatically over the past several years.

The fact is that are several jurisdictions in the universe of comparables that provide better pension and retiree health insurance benefits than are received by the Dutchess deputies. This important fact has been given serious consideration to the Panel Chair as the statute mandates that the Panel Chair compare terms and conditions of employment with other employees performing similar skills and services.

The fact of the matter is that the future costs of improving these benefits is so staggering that the Panel Chair does not feel that any improvement to retiree health insurance or the pension plan can be made at this time. In reaching this conclusion, the Panel Chair has considered another criteria required by Section 209.4 of the Civil Service Law, namely, the interests and welfare of the public. Simply stated, the Panel Chair does not feel it is appropriate to make any changes to retiree health insurance or pension plan at this time. However, since Dutchess deputies will continue receiving a less competitive retiree health insurance benefit and pension benefit, it is important that the Dutchess deputies maintain competitive wages. This is one of the reasons why the County's proposal for a two year wage freeze was rejected by the Panel Chair and one of the reasons why the Panel Chair is awarding salary increases in 2009 and 2010.

_____	<u>RB</u>	<u>nm</u>	_____
Concur	Dissent	Concur	Dissent

Richard Bunyan

William Wallens

**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 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. In reaching what it has determined to be a fair result, the Panel 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.

**AWARD ON REMAINING ISSUES**

Except for those proposals that are part of this Award, any proposals and/or items other than those specifically modified by this Award are hereby rejected.

**RETENTION OF JURISDICTION**

The Panel Chair hereby retains jurisdiction of any and all disputes arising out of the interpretation of this 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, 2009 and ending December 31, 2010.



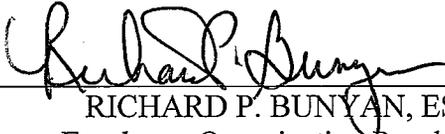
\_\_\_\_\_  
JAY M. SIEGEL, ESQ.  
Public Panel Member and Chairman

7/23/12  
Date



\_\_\_\_\_  
WILLIAM M. WALLENS, ESQ.  
Employer Panel Member

7.19.12  
Date



\_\_\_\_\_  
RICHARD P. BUNYAN, ESQ.  
Employee Organization Panel Member

6/27/2012  
Date

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

On this <sup>28<sup>th</sup></sup> day of ~~June~~<sup>July</sup> 2012 before me personally came and appeared Jay M. Siegel, Esq., to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

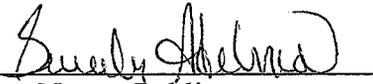
  
\_\_\_\_\_  
Notary Public

KATHLEEN DUFFETT  
Notary Public, State of New York  
No. 02DU6128192  
Qualified in Putnam County  
Commission Expires 06/06/20 13

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

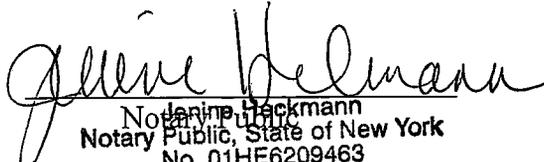
On this <sup>19<sup>th</sup></sup> day of ~~June~~<sup>July</sup> 2012 before me personally came and appeared William M. Wallens, Esq. to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

BEVERLY ADELMAN  
Notary Public, State of New York  
No. 01AD6155385  
Qualified in Saratoga County  
Commission Expires November 13, 2014

  
\_\_\_\_\_  
Notary Public

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

On this <sup>27<sup>th</sup></sup> day of June 2012 before me personally came and appeared Richard P. Bunyan, Esq. to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

  
\_\_\_\_\_  
Notary Public  
Notary Public, State of New York  
No. 01HE6209463  
Qualified in Rockland County  
Commission Expires July 27, 20 13



their dedicated service to the taxpayers and residents of the County. That, however, is not the issue in this proceeding. The issue is what can the County, and ultimately the taxpayers, afford to pay.

In applying the statutory criteria of comparability the Panel, at page 11 of the Award, concludes that “the comparable having the greatest influence over the Panel is Orange County.” The Panel’s analysis discounting Ulster County as a comparable jurisdiction is flawed. On page 9 of the Award the Panel states that “Ulster County is further from New York City than Dutchess County and more rural”. It is submitted that Ulster County is not further away from New York City than Dutchess and, is in fact, connected to Dutchess County in the South and the North by two Hudson River bridges. Ulster, like Dutchess County with Poughkeepsie, has a large city population in Kingston. There is no evidence in the record to support the conclusion that Ulster County is “more rural” than Dutchess County. Both counties have rural areas and expanding suburban communities. The failure to give appropriate weight to Ulster County and the comparison of the terms and conditions of employment between the Deputies of Dutchess County and Ulster County is evidence of a the flaw in this Award.

The Chairman and the PBA Member also gave weight to the City of Beacon, the City of Poughkeepsie, the Town of East Fishkill and the Town of Poughkeepsie. This is further evidence that the Panel failed to grasp the reality of what is and what is not a “comparable community.” The fact that these communities are within Dutchess County is not controlling to this Panel Member. The mission and the services that these other communities provide are in no way comparable to that

of a county, such as Dutchess. The Panel ignores the mandates to and needs of the County in providing social services, health services, and mental health services to the County's residents. The Panel ignores the fact that these mandated services that the County must provide are without appropriate revenues provided by the State of New York which mandates the provision of these services. These facts in and of themselves are evidence that a city and a town cannot be deemed to be a "comparable community" to a county. The cities and towns referenced by the Panel have a primary obligation and responsibility to provide public safety to their residents as evidenced if one simply reviews their respective budgets. They are able to apply a significant percentage of their revenues to public safety. The County does not have such a luxury. The majority of the County's revenues are applied to a totally different mission and, in most cases are mandated. Cities and Town's cannot say the same.

By ignoring these basic differences the Panel's analysis is flawed.

### **The Ability to Pay**

With respect to the Panel's (Chairman and PBA Panel Member) determination and analysis of the ability to pay, it is submitted that the Panel is merely giving "lip service" to the evidence in the record.

I will not repeat verbatim the Panel's citing of Budget Director Summerville's testimony, which testimony sets forth the dire condition of the County. The following, however, is a summary

of the County's fiscal condition and what has transpired since the unprecedented down turn in the economy since 2008.

The tax base of the County has continued to decline. Since 2008 it has declined 17% or \$6.5 billion dollars from \$38.4 billion in 2008 to \$31.89 billion in 2011. This is a result of the down turn in the residential and commercial construction market. This reduction in the County's tax base affects its ability to raise taxes and impacts upon the application and affect of the State mandated 2% property tax cap.

The median sale price for a single family home has decreased by 14% since 2007. Foreclosures have increased.

The unemployment rate in Dutchess County has remained over 7%, significantly higher than the annual average of 4% for 2007 prior to the economic recession. Current statistics show that the Dutchess County labor force is down 6,000 jobs from October 2006 and that there are 10,300 fewer people currently employed compared to the 2005 annual averages.

The economic recession has caused County sales tax revenues to decline more than \$11 million dollars over the 2008/2009 time period. Though there was some moderate growth and sales tax in 2010 and 2011, sales tax revenues dropped significantly in the second and third quarters of 2011 and down 12.5% growth at the end of the first quarter of the year 2011 to 2.5% in October. The 2011 year end sales tax forecast is over \$1 million below that which was anticipated in the

adopted 2011 budget. It is projected that in 2012 there will be further decline in hotel tax, interest earnings and transportation aid revenue.

Mandatory contributions into the State Retirement System for employee pensions have increased from \$8.4 million in 2009 to \$21.2 million dollars in 2011, despite a reduction in the County work force.

Health insurance costs have increased from \$18.4 million in 2007 to \$25 million despite a reduced work force.

Since 2008 the County has eliminated more than 173 government positions.

As noted in the former County Executive's 2011 Budget Message, operational costs have been cut since 2007, such as: employee travel and training cut 37%, equipment purchases cut 79%, communication costs cut 33%, supplies cut 16%.

While the County has done its job and satisfied its responsibility in constraining its spending, the cost of mandated programs have grown by nearly \$7.3 million dollars since 2007.

In order to stay within the 2% tax cap, the 2012 County budget appropriated \$24.9 million dollars of the County's 2011 year end general fund balance; the Fund Balance was \$29.9 million dollars at the end of the 2010 fiscal year. A remaining balance of \$5 million dollars is only 1.3% of the County's budget; this is well below the State Comptroller's recommended 5% minimum for fund balance as a percentage of budget. These are the real facts which give a true indication of the current economic condition in Dutchess County and support its inability to pay wage increases.

The Panel places significant weight on the County's bond rating to justify this Award. The Panel states that the County has "done an excellent job of managing its resources". (Award p. 17) The County should not be punished for its good fiscal management. The message that the Panel is sending is that an employer is better off with mismanagement, wasteful spending and poor planning for future unexpected events. "This Panel is saying if you mismanage, we (the Arbitration Panel) will not award wage increases."

Although the Panel gives "significant note" (Award p. 17) to the County's bond rating, the bond rating is truly irrelevant as to whether the County has the ability to pay the money put forth in the Awards, and the Award's long term compounding impact. Is the Panel suggesting that the County can or should borrow to pay the Award? That would merely lead to future debt. That could be irresponsible. Bonding for the Award would not be permissible. Thus, the County's bond rating is of no import.

Though the Panel recognizes that there is a 2% tax cap that has been imposed by New York State Legislature, the Panel does not seem to give any thought to the impact of this cap. Though the Award is for 2009 and 2010, its impact continues every year thereafter. The Panel ignores this compounding impact. The Panel gives no long term analysis or thought as to how the Award is to be funded in the years to come. The Panel's Award for 2009 and 2010, without even considering the compounding impact, is short sighted.

The Panel Awards increases of 1% effective January 1, 2009; 1.6% effective July 1, 2009, followed by raises of 1% effective January 1, 2010 and 2% effective July 1, 2010. The Panel attempts to justify this Award by referring to the fact that CSEA received 4% for 2009 and that the Corrections unit received 3.9% for 2009 and 4% for 2010. As the Panel noted on page 27 of its Award the County objected and argued that these increases were irrelevant due to the fact that these contracts were negotiated prior to the economic down turn and that there were "cost cutting" measures bargained for in the Correction's settlement.

Though the Panel states that it gave "some credence" (Award p. 28) to the County's argument, it ultimately ignored the County's position. The Panel then goes on to reviewing the pattern of wage settlements between 2000 and 2008 noting that the PBA generally received the same or higher amounts than those received by the two other bargaining units. This is evidence that when the County has the ability to pay it negotiates fair and reasonable settlements with all of its bargaining units and in fact has negotiated higher settlements with the PBA in good fiscal times. Now that the economy has turned, referring to past settlements is irrelevant. To make any reference to the term "pattern" must take into account the facts which existed at the time of the prior settlements. Prior settlements negotiated in a healthy economy can serve no basis for a "pattern" in a sick economy. The Panel, at page 29 of the Award, attempts to justify its excessive Award by stating "the Panel's deferral of some of the 2009 and 2010 wage increases will significantly reduce the impact of the back pay costs for the increases since the higher amounts of the raises will only be

provided in the second half of the year in both years.” This analysis is flawed. Regardless of the split and regardless of how the Panel attempts to “spin” its Award, it cannot be ignored that the Award amounts to a 2.6% wage adjustment in 2009 and compounded and that’s a 3% in 2010. Though splitting the wage increases may have an impact on the retroactive payment for those years, the compounding effect of the Award is 5.7% on the salary schedule which must be paid in 2011, 2012, 2013 and beyond. When the County has a depleted fund balance, still has underfunded and unfunded mandates, has increasing pension and health insurance costs and has a 2% property tax cap, the splitting of the wage increases has little significant impact on future liability. The reality is that Arbitrators who do not live within Dutchess County can agree upon an award which must be paid for and funded by the taxpayers of Dutchess County. This is nothing more than another unfunded mandate imposed upon the residents, citizens and taxpayers of Dutchess County.

Based upon the foregoing, I must respectfully dissent.

Dated: July 19, 2012

  
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William M. Wallens, Esq.  
Employer Panel Member