

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of Interest Arbitration Between:

THE TOWN OF SHAWANGUNK

Public Employer

For the Period
January 1, 2011
through
December 31, 2012

-And-

TOWN OF SHAWANGUNK POLICE
BENEVOLENT ASSOCIATION, INC.

Employee Organization

PERB Case No. IA2011-013; M2010-315

**FINAL OPINION AND AWARD
OF TRIPARTITE ARBITRATION PANEL**

PUBLIC PANEL MEMBER AND CHAIRPERSON:

Dennis J Campagna, Esq.
50 Main Street, Suite 1000
White Plains, N.Y. 10606-1900

PUBLIC EMPLOYEE PANEL MEMBER

Anthony V. Solfaro, President
New York State Union of Police Associations, Inc.
263 Route 17K, Suite 1004
Newburgh, N.Y. 12550

PUBLIC EMPLOYER PANEL MEMBER:

Steven M. Latino, Esq.
Shaw Perelson May & Lambert
21 Van Wagner Road
Poughkeepsie, N.Y. 12603

APPEARANCES:

**For the Town of Shawangunk
Police Benevolent Association, Inc.,
Affiliated with the New York State
Union of Police Associations, Inc.**

John K. Grant, Esq.
The Law Offices of John K. Grant, P.C.
263 Route 17K, Suite 1004
Newburgh, N.Y. 12550

For the Town of Shawangunk

David S. Shaw, Esq.
Julie S. Shaw, Esq.
Shaw Perelson May & Lambert
21 Van Wagner Road
Poughkeepsie, N.Y. 12603

BACKGROUND

Pursuant to Civil Service Law (“CSL”), Section 209.4, on September 13, 2011, Richard A. Curreri, Esq., Director of Conciliation of the New York State Public Employment Relations Board (“PERB”) designated the undersigned as the Public Panel Member and Chairperson as well as the Public Employee Panel Member and Public Employment Panel Member for the purpose of rendering a just and reasonable determination on matters in dispute between the Town of Shawangunk (“Town”) and the Town of Shawangunk Police Benevolent Association (“PBA”). The parties to this dispute operated under the terms of a Collective Bargaining Agreement for the period of January 1, 2008 through December 31, 2010. (Panel Exhibit 14)

THE PARTIES TO THIS PROCEEDING

The Town is located in the southwestern part of Ulster County (“County”), New York and includes the hamlets of Wallkill and Walker Valley. The Town was first settled by Europeans in or about 1670. The region was organized as a precinct in 1743, and became the Town of Shawangunk in 1788. Residents generally align themselves with either the Town of Wallkill, Pine Bush or Walker Valley. According to the U.S. Census Bureau, the Town has a total area of 56.5 square miles, of which 56.2 square miles is land and 0.3 square miles is water. The southern line of the Town and one-half of the eastern Town line is contiguous with the border of Orange County, New York. As of the last U.S. Census, the Town has a population of approximately 14,332.

The PBA is the certified bargaining agent for sixteen (16) bargaining unit members, three (3) of whom are full-time Police Officers, and two (2) are Sergeants.¹

THE INSTANT PROCEEDING

The Town and the PBA commenced negotiations for a successor to the 2008-2010 CBA in or about October 2010 with an exchange of bargaining proposals and thereafter met on several occasions but were unable to reach agreement. The PBA filed its impasse declaration with PERB and mediation efforts proved to be unsuccessful. Subsequently, the PBA filed its Petition for Compulsory Interest Arbitration on July 12, 2011. The Town filed its response to the Petition of Compulsory Interest Arbitration on August 11, 2011.

A formal hearing was held in the Town Hall on February 22, 2012. The Town and the PBA were represented by skilled and experienced attorneys. At all times during such hearing, the parties were accorded and took full advantage of the opportunity to introduce relevant evidence and exhibits, present testimony, summon witnesses, cross-examine witnesses and otherwise support their respective positions on the outstanding issues before the Panel. A stenographic record was made of the hearing, which is the official record of the proceedings. At the conclusion of the hearing, the parties elected to summarize their respective positions with the filing of a written closing statement and/or post hearing brief which were postmarked July 30, 2012.

All issues which have attendant support submitted by each party were carefully considered, as well as any responses offered by the opposing party. The Public Arbitration Panel ("Panel") met in executive session on August 16, 2012 and October 4, 2012, at which time the Panel deliberated on each of the outstanding issues, carefully and fully considered all the statutory criteria, data, exhibits, closing statement and/or post hearing brief, and testimony of the sworn witnesses who appeared at the hearing on

¹ In addition, there were three (3) part-time dispatchers until January 2012 when the Town abolished all three positions. While there are no dispatchers at this time, the position continues to exist and is represented by the PBA.

behalf of both parties. The results of those deliberations are contained in this Opinion and Award, which constitutes the Panel's best judgment as to a just and reasonable solution of the impasse consistent with our obligation under Civil Service Law ("CSL") Section 209.4. Those issues presented by the parties which are not contained in this Opinion and Award were also carefully considered by the Panel, but are hereby denied, and accordingly, no award is made on those issues.

N.Y.S. CIVIL SERVICE LAW, § 209.4

On September 13, 2011, Richard A. Curreri, PERB's Director of Conciliation, designated the foregoing Public Arbitration Panel for the purpose of making a just and reasonable determination of the dispute existing between the Town and the Association.

In arriving at a just and reasonable determination of the matters in dispute, the Panel considered the following statutory criteria with which it was charged pursuant to CSL Section 209.4:

- a. Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceeding with wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;
- b. The 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.

The following demands were submitted and acted upon by the Panel pursuant to the statutory criteria set forth above:

THE PBA'S DEMANDS

1. Throughout the agreement, provide that all paid leave regarding sergeants is measured in workdays rather than hours.

2. **ARTICLE 4 — GRIEVANCE PROCEDURE**

C. Delete "deemed waived unless it is."

3. **ARTICLE 6 — UNIFORMS AND EQUIPMENT**

B. Update the existing lists if necessary and add the following (NOTE: refers to all police officers):

- 1 pair of boots every year - full time
- 1 pair of boots every 2 years — part time
- 2 polo shirts — full and part time (for training)
- 1 pair of OSHA rated eye protection (clear or sunglasses) — full and part time
- 1 Garrison duty belt — full and part time

C. Update the existing list if necessary. (NOTE: Refers to all dispatchers.)
1 winter jacket and 1 badge

D. Amend cleaning allowance amounts as follows: (NOTE: refers to all employees.)

	(+\$50.00)	(+\$50.00)
	<u>1/1/11</u>	<u>1/1/12</u>
Full-time	\$600.00	\$650.00
Part-time	\$400.00	\$450.00

4. **ARTICLE 9 — HOLIDAYS:**

A. Add the following holiday: (NOTE: Refers to full-time employees.)

New Year's Eve

C. Add the following Holidays to be paid at 2.5X: (NOTE: Refers to part-time employees.)

Memorial Day
 Independence Day
 Labor Day
 December 24th

5. ARTICLE 10 — SICK LEAVE:

A. Insert "fourteen hundred (1400) (175 work days)" where "one thousand (1000) (125 work days)" appears. (NOTE: Refers to full-time maximum accumulation.)

6. ARTICLE 13 — HOURS OF WORK, WORK DAY, WORKWEEK, WORK SCHEDULE AND OVERTIME:

D Add the following to read as follows:

All full-time employees, except sergeants, shall be scheduled to work five (5) consecutive days on followed by two (2) consecutive days off on the tours of duty set herein. Each full-time employee, except sergeants, shall be entitled to, and be scheduled to, either a Friday and Saturday, Saturday and Sunday, or Sunday and Monday off as his/her days off by the Chief of Police. The selection of the days off for full-time employees, except sergeants, on each tour of duty set forth herein, shall be by the Chief of Police (example: "B" line, 1 Saturday and Sunday and 1 Sunday and Monday). The annual bidding for selection of a tour of duty and days off shall be by seniority (date of hire as a full-time employee), and completed no later than December 15th of each year, for January 1st of the following year.

7. ARTICLE 14 — BASE WAGE, HOURLY RATE, LONGEVITY AND NIGHT DIFFERENTIAL:

A. Amend full-time police officer's base wage schedule and sergeant's differential as follows:

<u>(NC)</u>	<u>(4.0%)</u>	<u>(4.0%)</u>
<u>Steps</u>	<u>1/1/11</u>	<u>1/1/12</u>
1	\$38,647	\$40,192
2	\$43,389	\$45,125
3	\$47,044	\$48,925
4	\$49,343	\$51,316
5	\$53,843	\$55,996
6	\$52,564	\$55,216
	Market Adj	Market Adj
	+ \$400 +4.25%	+ \$400 +4.25%

*Insert "10.0%" where "7.0%" appears. (NOTE: Refers to Sergeant's differential.)

B Amend the full-time police officer's longevity schedule as follows:

<u>Steps</u>	<u>Years of Service</u>	<u>1/1/11 and 1/1/12</u>
7	Starting 8 th through 11 th	2.0% above Step 6
8	Starting 12 th through 14 th	2.5% above Step 6
9	Starting 15 th through 17 th	3.0% above Step 6
10	Starting 18 th and Above	4.5% above Step 6

C Amend the part-time police officers' hourly rate schedule as follows:

<u>Step</u>	<u>Years of Service</u>	<u>1/1/11</u>	<u>1/1/12</u>
1	Starting 1 st (+\$.75/hr)	\$17.70/hr (+\$.75/hr)	\$18.45/hr
2	Starting 2 nd * (+\$.75/hr)	\$18.40/hr (+\$.80/hr)	\$19.20/hr
3	Starting 3 rd * (+\$.80/hr)	\$19.30/hr (+\$.85/hr)	\$20.15/hr
4	Starting 4 th * (+\$.85/hr)	\$20.15/hr (+\$.90/hr)	\$21.05/hr

*** Denotes a compression**

Amend the part-time police officers' longevity schedule as follows:

<u>Step</u>	<u>Years of Service</u>	<u>1/1/11</u>	<u>1/1/12</u>
5	Starting 6 th through 8 th	+\$2.50/hr	+\$2.75/hr
6	Starting 9 th through 10 th	+\$2.85/hr	+\$3.10/hr
7	Starting 11 th and above *	+\$4.00/hr	+\$4.50/hr

*** Denotes a compression**

D. Amend part-time dispatchers' hourly rate schedule as follows:

<u>Step</u>	<u>Years of Service</u>	<u>(+\$.75/hr/Step)</u> <u>1/1/11</u>	<u>(+\$.85/hr/Step)</u> <u>1/1/12</u>
1	Starting 1 st	\$14.20/hr	\$15.05/hr
2	Starting 2 nd	\$14.50/hr	\$15.35/hr
3	Starting 3 rd	\$14.75/hr	\$15.60/hr
4	Starting 4 th	\$15.85/hr	\$16.70/hr

Amend the part-time police dispatchers' longevity schedule as follows:

<u>Step</u>	<u>Years of Service</u>	<u>(+\$.75/hr/Step)</u> <u>1/1/11</u>	<u>(+\$.75/hr/Step)</u> <u>1/1/12</u>
5	Starting 6 th through 8 th	+\$1.25/hr	+\$2.00/hr
6	Starting 9 th through 10 th	+\$1.45/hr	+\$2.20/hr
7	Starting 11 th and above	+\$1.65/hr	+\$2.40/hr

E. Amend to read as follows:

An employee shall be paid a night differential over and above his/her base wage or hourly rate of pay, who works during the hours of the "A" and "C" line tours of duty, or any part thereof, as follows:

		(+\$.50/hr)
	<u>1/1/11</u>	<u>1/1/12</u>
"A" line tour of duty	(+\$.100/hr) +\$2.00/hr	+\$2.50/hr
"C" line tour of duty	(NEW) +\$1.00/hr	+\$1.50/hr

8. ARTICLE 15 — PENSION AND HEALTH INSURANCE PLANS

B Amend the 2" sentence to read as follows, and add new sentences to read as follows:

The Employer shall pay a full-time employee fifty percent (50%) of the annual health insurance premium cost for those employees who opt out of the health insurance plan, and are covered by another health insurance plan. The payment shall be made in the first (1st) pay period following the end of each calendar quarter. The employee shall be entitled to re-enter the health insurance plan set forth herein pursuant to the plan's established regulations.

D. Insert "eighty-five percent" (85%) where "fifty percent" (50%) appears in the 1st paragraph, and amend the example accordingly.

Delete the 2nd paragraph in its entirety.

9. ARTICLE 24 — DURATION

Insert "2011 and 2012" where "2008 and 2010" appear respectively.

10. NEW ARTICLE — GENERAL PROVISIONS

A. An employee who is a Certified First Responder — Defibrillator (CFR-D), shall be paid as set forth below, upon obtaining and maintaining certification, which shall be included in his/her hourly rate of pay as follows:

	<u>1/1/11</u>	<u>1/1/12</u>
	+\$.75/hr	+\$1.00/hr
		(+\$.25/hr)

B. An employee who is an Emergency Medical Technician (EMT) shall be paid as set forth below, upon obtaining and maintaining certification, which shall be included in his/her hourly rate of pay as follows:

	<u>1/1/11</u>	<u>1/1/12</u>
		(+\$.50/hr)

+\$1.50/hr

+\$2.00/hr

- C. An employee who has an Associate's Degree, shall be paid as set forth below which shall be included in his/her hourly rate of pay as follows:

1/1/11
+\$1.00/hr

(+\$0.50/hr)
1/1/12
+\$1.50/hr

- D. An employee who has a Bachelor's Degree, shall be paid as set forth below, which shall be included in his/her hourly rate of pay as follows:

1/1/11
+\$2.00/hr

(+\$0.50/hr)
1/1/12
+\$2.50/hr

THE TOWN'S PROPOSALS

1. **ARTICLE 10(C) — DOCTOR'S NOTE:** Add a second sentence that reads as follows:

"Whenever sick leave use exceeds six (6) days in any six (6) month period without a doctor's certificate being presented, a doctor's note for each absence thereafter shall be required for a one year period."

2. **ARTICLE 13(B) — BACKFILLING OF POSITIONS:** Modify the language to provide that positions will be backfilled first with part-time employees at straight time prior to resorting to the use of full-time unit members, subject to the following limitation: "If a police officer is already scheduled for 40 hours in a two week period, the officer would be ineligible for overtime, absent exigent circumstances."

3. **ARTICLE 15 — PENSIONS AND HEALTH INSURANCE PLANS —**

B. The Respondent proposes to amend the first sentence of Article 15, Section B, by changing the base plan from the "Empire Core Plus Medical and Psychiatric Enhancement Plan" to "MVP", but still providing the Empire Plan as an option for full-time employees; provided, however, that should employees remain covered by the Empire Plan, the Respondent proposes that full-time

employees who remain in the Empire Plan shall contribute 25% towards the cost of individual and dependent health insurance coverage, effective January 1, 2011.

D. The Respondent proposes that for prospective retirees, the Town's individual retiree health insurance contribution for full-time unit members with 15 years of service shall be reduced from 100% to 90% individual (maintaining the status quo with regard to the reference to 50% of the difference between individual and dependent cost for family coverage). Also, the Town proposes to change the reference from the Empire Plan to "the Town's designated plan" in both the first and second paragraphs of Article 15(D).

4. **ARTICLE 24- DURATION- SEEKS A ONE YEAR AWARD FROM JANUARY 1, 2011- DECEMBER 31, 2011**

POSITION OF THE PARTIES ON THE STATUTORY CRITERIA

THE ISSUE OF COMPARABLE JURISDICTIONS

One criteria of CSL Section 209.4 requires the Panel to engage in a comparative analysis of terms and conditions with "other employees performing similar services or requiring similar skills under similar working conditions with other employees generally in public and private employment in comparable communities." As its initial note, the PBA maintains that the proper comparison to be drawn is that of a comparison of police officers in municipalities and not to non-police unit or types of employment which might vary in levels of competence and risk. With respect to the question as to comparable communities, the PBA maintains that "[g]iven that there is no difference between the job of a County Police Officer and the job of any other municipal police officer, there is no need to go outside the County [of Ulster] to find other comparables just for the sake of finding them." It is the Town's position that only those communities located within Ulster County ("County") with recent settlements that post-date the severe economic crisis of 2008 should be included. Those communities include the Village of Ellenville PBA and the Town of Plattekill PBA, which consists only of part-time police officers.

In a proceeding before Public Panel Member and Chairperson Rosemary Townley (“Townley”) and that Panel, between the Town and the PBA over the terms of an Interest Arbitration Award covering the two-year period 2000-2001 (PERB Case No.: IA200-09; M200-021), Townley concluded “[t]hat a relevant base of comparison would be those other police departments in both towns and villages, both within the County of Ulster as well as those which are geographically proximate to Shawangunk, which have similar income, population, housing supply, tax base comparison, revenue and expenditure levels.” (See Panel Exhibit 8, page 16). Readopting this listing of comparables would necessarily include those municipalities suggested by both the Town as well as the PBA and the Panel sees no reason to depart from the conclusion of the Townley Panel in this regard.

1. THE ABILITY TO PAY

A. The PBA’s Position

It is the PBA’s position that while the Town depleted its fund balance, it remains in a very good position economically and clearly has the ability to pay the wage increases here sought by the PBA. The PBA offers the following points in support of its position.

First, the PBA notes that its officers are paid out of the Town’s General Fund (“Fund”) and the largest source of revenue for this Fund is real property taxes. In this regard, the PBA notes that the Town has plenty of room to move since its property tax rate is nearly the lowest in the County, where only the Towns of Plattekill, Rosendale and Saugerties have lower rates. Moreover, the PBA adds, the Town has, on average between 2007 and 2012 increased its real property tax rate by 2.7%, the third lowest increase in the County.

Next, the PBA notes that buttressed against an extraordinarily low property tax rate, residents in the Town enjoy the highest average household income in the County.

Next, the PBA maintains that putting aside the first three quarters in 2009 where sales tax revenues dipped in response to the recession, quarterly sales tax revenues were at their height in the third quarter of 2008 just prior to the impact of the recession, and that since the final quarter of 2009, sales tax revenues have again increased to a point where they have reached their highest since 2008 marking a return to stable economic conditions.

Next, the PBA notes the Town's growing population, an increase of 19.2% over the past ten years, a sure sign of the Town's strong financial condition and its economic prospects for the future. Moreover, the PBA adds, the Town's current tax climate, real estate market and police presence in maintaining public safety has made it an attractive place to live. Given the totality of these Town assets, the PBA asserts that a slight increase in real estate taxes would not be a burden for its citizens.

Next, the PBA notes that in further support of its position that the Town has the ability to pay for the modest increases now sought, the Town had a 2010 fund balance of \$1,503,621 over a budget that listed \$2,571,653 in expenditures. By any accounts, the PBA notes that this is an extraordinarily large fund balance. In fact, the PBA adds, Standard and Poor's has recognized the Town's strong financial condition by assigning the Town a bond rating of AA-.

In applying the Town's strong fiscal condition to the PBA demands, the PBA notes that its Police Officers need a wage increase of at least 4% to match wage increases in comparable communities and thereby maintain their relative standing among countywide comparables. Whereas a 1% increase in PBA wages would cost \$5,007, the PBA maintains that the Town's ability to afford this increase translates to a modest tax increase of approximately \$5.66 total per resident per year. Surely such a modest increase is within the Town's reach and accordingly, the wage and economic increases sought by the PBA should be awarded.

B. The Town's Position

It is the Town's position that the fiscal crisis that nearly crippled the United States has had a detrimental effect on the Town. Simply put, the Town maintains that now, in 2012, it simply does not have the resources to pay for the extravagant demands lodged by the PBA. Moreover, the Town adds, the testimony and documents introduced by the Town and the PBA at the hearing in this matter reflect conflicting representations of the Town's ability to pay the wage and economic increases sought by the PBA. However, the Town asserts that contrary to the position espoused by the PBA relative to its strong financial standing, in fact and for the reasons that follow, given the current economic climate facing the Town, it simply does not have the ability to pay the increases sought by the PBA.

First, the Town notes, contrary to the position taken by the PBA, that its financial picture has been marred by the worst economic period in this region and this country's history since the Great Depression of 1929. In fact, the Town notes that since 2006, its revenues have consistently decreased while general fund expenditures, health insurance costs, pension costs, and unemployment rates have all increased significantly. Moreover, the Town adds, its fund balance has been depleted as a result of the Town's need to apply the entire Town fund balance toward the 2012 budget.

Next, the Town notes that its current fiscal condition has been all the more aggravated by New York State's imposition of the 2% tax cap, an action further restricting the Town's financial flexibility.

Next, the Town notes that its General Fund has steadily decreased from 2006 to 2010. As a result, the Town notes that it has consistently depleted its Fund Balance and applied more toward General Fund expenses. Moreover, the Town adds, since the period of this Interest Arbitration Award is 2011 and 2012, it is significant that during this relevant time period, the entire Fund Balance of \$405,614 was applied toward the 2012 budget resulting in a zero fund balance.

With respect to real property taxes, the Town notes that the 2.63% real property tax increase for 2011 exceeded the Ulster County average of 2.38%, and the full value tax rate for the Town is ranked fifth out of twenty-two towns at \$26.26, or \$2.49 greater than the average of \$23.29. Moreover and in this same general regard, the Town adds that while the Town's population has grown since 2000, the Town houses two correctional facilities with more than 1000 non-tax paying residents, and Watchtower Farms, a tax exempt property housing a community of Jehovah's Witnesses. Watchtower Farms inhabitants do not pay taxes, sewer fees, water fees, or connection fees.

Based on the foregoing, the Town urges that while not "broke", it simply cannot afford the types of increases sought by the PBA in this matter. Whatever limited resources the Town may possess must be set aside for continued services the Town must provide its residents.

1. FINDING – DURATION OF THIS AWARD

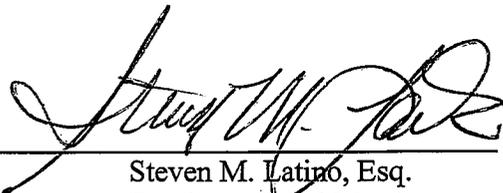
Pursuant to Section 209.4(c)(vi), the length of this Award cannot exceed a period of two years. The panel thus finds that whereas said two year period is due to expire, the parties are best served with a two-year Award. Accordingly, this Award shall be for the period January 1, 2011 through December 31, 2012.

AWARD

The term of this Award shall be from January 1, 2011 through December 31, 2012.

I CONCUR

Date: 2/14/13



Steven M. Latino, Esq.
Employer Panel Member

I CONCUR

Date:

2/19/13



Anthony V. Solfaro
Employee Organization Panel Member

2. PECULIARITIES OF THE POLICE PROFESSION

While the parties may be at odds on a number of issues, they both agree and accordingly there is no dispute that the police profession is a unique one, and consequently, there are no real comparisons that can be made with other trades or professions. No other is truly comparable. Appropriate weight must therefore be given to the particularly hazardous nature of a police officer's work as well as to their special qualifications, training and skills required for the position of police officer.

**3. THE TERMS OF PAST COLLECTIVE AGREEMENTS NEGOTIATED
BETWEEN THE PARTIES**

A. The PBA's Position

The PBA asserts that the Town's demand for concessions, particularly those having a financial impact, represent issues that have been negotiated over time and contained in numerous contracts between the parties. Given the lack of any compelling reason in the record for any change in these jointly negotiated provisions, the PBA asserts that the Town's demands should not be ordered by this Panel. By way of example, the PBA notes that the major and virtually sole economic demand by the Town deals with health insurance, where the Town is seeking a major contribution by PBA members towards the premium amount associated with that coverage, including changing the primary plan from the New York State Health Insurance Plan (NYSHIP). Yet, the PBA notes, neither the Town's Supervisor, who is part-time, or its Chief of Police, who is full-time, currently

contribute to the health insurance plan provided by the Town in which they are enrolled in.

B. The Town's Position

The Town maintains that PBA unit members fare well when compared to other County police groups, placing them mid-range in terms of salaries and benefits. In this regard, the Town asserts that if this Panel awards the Town's proposal of no increase in wages for the relevant time period, PBA unit employees will continue to receive a total compensation package competitive with employees in other police departments located within the County.

POSITION OF THE PARTIES ON THE OUTSTANDING ISSUES

AND

THE PANEL'S FINDINGS AND CONCLUSIONS ON THESE ISSUES

The parties presented testimony, argument and documentary evidence with respect to wages as well as other outstanding terms and conditions of employment, and the Town as well as the PBA further developed their respective positions on these issues in their post-hearing submissions. Accordingly, the discussion below is reflective on the manner and method the parties chose to support their positions. It should also be noted that in addition to such arguments, exhibits, documentation testimony and post hearing submissions, the Panel, in reaching its determination on the issues discussed below, has carefully considered all of the statutory criteria set forth in CSL Section 209.4.

Given the foregoing, the Panel hereby makes the following Awards.

2. ARTICLE 14- BASE WAGE, HOURLY RATE, LONGEVITY AND NIGHT DIFFERENTIAL

A. Full-Time Police Officers and Sergeants:

The P.B.A has proposed wage increases of 4% per year in each of two years for Steps 1 through 5 as well as a wage increase for Officers on Step 6 that consists of a market adjustment of \$400 above the Step 5 amount increased by 4.25%.

The Panel has carefully considered all of the statutory criteria, sworn testimony, exhibits and post hearing submissions, and balanced the economic improvements sought by the PBA unit members, with the needs and obligations of the Town, in the context of what must be considered fair and reasonable. In reaching its determination as to fair Base Wage and hourly rate increases, the Panel finds it instructive to consider the relative standing of Town police officers with those County comparables that have been applied. In this regard, Town police officers are paid pursuant to a Base Wage schedule consisting of the following Steps: Starting (Step 1), Step 2 after 1 year of service, Step 3 after 2 years of service, Step 4 after three years of service, Step 5 after four years of service, Step 6 after 5 years of service. Sergeants are paid at the Step 6 level as increased by a differential, which currently stands at 7.0%.

Based on an extract of several of the exhibits submitted, the following provides the five (5) year earnings comparison of the comparables applied to the Town's police officer's except the Town of Rosendale, which at the time of this hearing, did not have an interest arbitration award or collective bargaining agreement for 2008 forward:

Municipality	Step	2008 (Rank)	2009 (Rank)	2010 (Rank)
Village of Ellenville	1	34,893	34,893	37,029
	5	54,615	54,615	58,171
	6	54,615	54,615	58,171
	5-year total	217,610 (3)	217,610 (5)	231,142 (3)
City of Kingston	1	42,910	44,304	45,744
	5	52,162	53,857	55,607
	6	55,092	56,882	58,731

	5-year total	243,111 (1)	251,011 (1)	259,169 (1)
Town of Lloyd	1	36,856	36,856	36,856
	5	57,085	59,368	59,368
	6	61,116	63,561	63,561
	5-year total	233,968 (2)	241,852 (2)	241,852 (2)
Town Marlborough	1	35,833	37,087	38,385
	5	48,538	50,237	51,995
	6	52,555	54,886	57,299
	5-year total	207,967 (6)	215,246 (6)	222,779 (6)
Town of New Paltz	1	33,822	34,837	35,881
	5	49,283	50,761	52,284
	6	51,585	53,133	54,727
	5-year total	214,891 (4)	221,337 (3)	227,976 (5)
Town of Saugerties	1	37,994	39,514	41,095
	5	46,092	47,935	49,853
	6	47,710	49,618	51,603
	5-year total	212,629 (5)	221,134 (4)	229,980 (4)
Village of Saugerties	1	28,784	29,863	30,310
	5	41,297	42,846	43,489
	6	44,428	46,094	46,785
	5-year total	175,203 (10)	181,773 (10)	184,499 (10)
Town of Ulster	1	37,089	37,089	37,089
	5	42,793	42,793	42,793
	6	45,738	45,738	45,738
	5-year total	198,578 (9)	198,578 (9)	198,578 (9)
Town of Woodstock	1	36,467	37,928	39,272
	5	43,694	45,447	47,005
	6	43,694	45,447	47,005
	5-year total	199,690 (8)	207,696 (8)	214,923 (8)
Town Shawangunk	1	34,858	35,904	37,161
	5	46,218	47,605	49,271
	6	48,565	50,022	51,773
	5-year total	207,151 (7)	213,366 (7)	220,834 (7)

The above demonstrates that PBA unit members consistently ranked 7th out of the 10 listed comparables, and as a result, the Town's demand of a total freeze is neither fair nor appropriate. In this regard, the Panel finds and concludes that the Town is in fiscally stable condition and has the ability to fund a reasonable and equitable wage increase. Accordingly, after consideration of the exhibits, documentation, testimony, and post hearing submissions, and applying all the statutory criteria set forth in CSL Section 209.4, the Panel makes the following:

AWARD

- The 2011 salary schedule for Full-Time Police Officers shall be increased two (2.0%) percent on each and every step effective January 1, 2011.
- The 2012 salary schedule for Full-Time Police Officers shall be increased by two (2.0%) percent on each and every step on January 1, 2012.

The following schedule reflects the foregoing increases (mathematically rounded) shall be adopted:

A. The Base Wage for all full-time employees shall be as follows: (N/C)

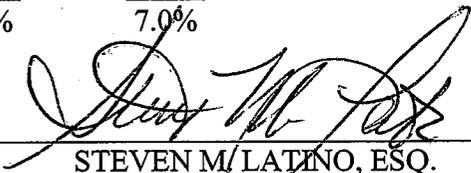
(N/C) Step	(N/C) Years of Service	(2.0%) 1/1/11	(2.0%) 1/1/12
1	Starting	\$37,904	\$38,662
2	After 1 Year	\$42,555	\$43,406
3	After 2 Years	\$46,140	\$47,063
4	After 3 Years	\$48,395	\$49,363
5	After 4 Years	\$50,256	\$51,261
6	After 5 Years	\$52,808	\$53,864
	Sergeant(s)*	\$56,505	\$57,634

*A Sergeant(s) shall be paid a differential over and above Step 6, excluding longevity as set forth below. Longevity shall be paid in addition to the Sergeant(s) Base Wage, if applicable. The differential is as follows: (N/C)

(N/C)	(N/C)
<u>1/1/11</u>	<u>1/1/12</u>
7.0%	7.0%

CONCUR

DISSENT

 2/24/13
 STEVEN M. LATINO, ESQ. DATE
 EMPLOYER PANEL MEMBER

CONCUR

DISSENT

 2/19/13
 ANTHONY V. SOLFARO DATE
 EMPLOYEE ORGANIZATION PANEL MEMBER

B. Part-Time Police Officers and Dispatchers

The PBA has proposed specific increases to the base hourly rate and longevity schedules for the part-time police officers and dispatchers. Part time Police Officers should fare in a similar fashion as the Town's full-time police officers, except for the fact that those employees do not receive major benefits such as health insurance, sick leave, personal and bereavement leave or vacation. The Panel finds that the increases awarded below are found to be reasonable, fair, as well as affordable. Accordingly, after consideration of the exhibits, documentation and testimony presented, and following due consideration of all of the statutory criteria set forth in CSL Section 209.4 the Panel makes the following:

AWARD

- **The 2011 salary schedule for Part-Time Police Officer and Dispatchers shall be increased three (2.0%) percent on each and every step effective January 1, 2011.**
- **The 2012 salary schedule for Part-Time Police Officer and Dispatchers shall be increased by one and one-half (1.5%) percent on each and every step effective January 1, 2012, and by another one and one-half (1.5%) effective July 1, 2012.**

The following schedule applies the foregoing increases (mathematically rounded) shall be adopted:

The Base Hourly rate for all part-time police officers shall be as follows: (N/C)

(N/C)	(N/C)		1/1/11	1/1/12	7/1/12
Step	Years of Service				
1	Starting 1 st	(+\$.35hr)	\$17.30/hr	(+\$.25/hr)\$17.55/hr	(+\$.25/hr)\$17.80/hr
2	Starting 2 nd through 3 rd	(+\$.35hr)	\$18.00/hr	(+\$.30/hr)\$18.30/hr	(+\$.30/hr)\$18.60/hr
3	Starting 4 th through 5 th	(+\$.40hr)	\$18.90/hr	(+\$.30/hr)\$19.20/hr	(+\$.30/hr)\$19.50/hr
4	Starting 6 th and Above	(+\$.40hr)	\$19.70/hr	(+\$.30/hr)\$20.00/hr	(+\$.30/hr)\$20.30/hr

CONCUR

DISSENT

STEVEN M. LATINO, ESQ. DATE
EMPLOYER PANEL MEMBER

Steven M. Latino 2/14/13

CONCUR

DISSENT

ANTHONY V. SOLFARO DATE
EMPLOYEE ORGANIZATION PANEL MEMBER

Anthony V. Solfaro 2/19/13

C. The Base Hourly rate for all part-time dispatchers shall be as follows: (N/C)

(N/C) Step	(N/C) Years of Service	(+\$.30/hr) 1/1/11	1/1/12	7/1/12
1	Starting 1 st	\$13.75/hr	(+\$.20/hr)\$13.95/hr	(+\$.20/hr)\$14.15/hr
2	Starting 2 nd	\$14.05/hr	(+\$.20/hr)\$14.25/hr	(+\$.20/hr)\$14.45/hr
3	Starting 3 rd	\$14.30/hr	(+\$.20/hr)\$14.50/hr	(+\$.20/hr)\$14.70/hr
4	Starting 4 th	\$15.40/hr	(+\$.25/hr)\$15.65/hr	(+\$.25/hr)\$15.90/hr

CONCUR

DISSENT

STEVEN M. LATINO, ESQ. DATE
EMPLOYER PANEL MEMBER

Steven M. Latino 2/14/13

CONCUR

DISSENT

ANTHONY V. SOLFARO DATE
EMPLOYEE ORGANIZATION PANEL MEMBER

Anthony V. Solfaro 2/19/13

3. LONGEVITY – Full Time & Part-Time Employees

Currently, Full-time PBA unit members receive longevity starting with their 8th year of service as follows:

YEARS OF SERVICE	AMOUNT (2010 RATES)	PBA Proposed 2011;2012
Starting 8 th through 11th	\$ 835.00	2.0% above Step 6 or Title
Starting 12 th through 14th	\$ 1075.00	2.5% above Step 6 or Title
Starting 15 th through 17th	\$ 1380.00	3.0% above Step 6 or Title
Starting 18 th and Above	\$ 1995.00	4.5% above Step 6 or Title

Currently Part-time PBA unit members receive longevity starting with their 6th year of service as follows:

Police Officers

YEARS OF SERVICE	AMOUNT (2010 RATES)	PBA Proposed (2011; 2012)
Starting 6 th through 8th	\$ +2.00/hr.	+\$2.50; +\$2.75/hr
Starting 9 th through 10th	\$ +2.35/hr.	+\$2.85; +\$3.10/hr
Starting 11 th through 17th	\$ +2.80/hr.	+\$4.00; +\$4.50/hr Starting 11 th & Above
Starting 18 th through 20th	\$ +3.15/hr.	Eliminated
Starting 21 st and Above	\$ +3.50/hr.	Eliminated

Dispatchers

YEARS OF SERVICE	AMOUNT (2010 RATES)	PBA Proposed (2011; 2012)
Starting 6 th through 8th	\$ +.50/hr.	+\$1.25; +\$2.00/hr
Starting 9 th through 10th	\$ +.70/hr.	+\$1.45; +\$2.20/hr
Starting 11 th and Above	\$ +.90/hr.	+\$1.65; +\$2.40/hr

Upon review, the Panel finds that longevity payments are an integral part of the Police Officer's compensation package, and as the following comparison chart demonstrates, the Town ranks a consistent 6th out of 7 municipalities in which data was available:

Full-Time Police Officers

Municipality	Cumulative Earnings	2010 Cumulative Earnings (Dollars)	RANKING
Village of Ellenville	10 Year Total	3,375	3
	15 Year Total	7,500	7
	20 Year Total	12,950	7
City of Kingston	10 Year Total	5,140	1
	15 Year Total	14,538	2
	20 Year Total	29,514	3
Tn. of Marlborough	10 Year Total	2,650	5
	15 Year Total	9,375	5
	20 Year Total	20,475	5

Municipality	Cumulative Earnings	2010 Cumulative Earnings (Dollars)	RANKING
Town of New Paltz	10 Year Total	2,950	4
	15 Year Total	12,700	3
	20 Year Total	28,450	4
Town of Saugerties	10 Year Total	1,500	7
	15 Year Total	9,450	4
	20 Year Total	31,800	2
Town of Woodstock	10 Year Total	4,750	2
	15 Year Total	15,750	1
	20 Year Total	33,000	1
Town of Shawangunk	10 Year Total	2,505	6
	15 Year Total	7,945	6
	20 Year Total	16,690	6

Accordingly, the Panel finds after due consideration of the exhibits, documentation, testimony, and post hearing submissions, and applying all of the statutory criteria set forth in CSL Section 209.4 , the Panel makes the following:

AWARD

A. Full-time PBA Unit Members:

YEARS OF SERVICE	INCREASE (2011)	INCREASE (2012)
Starting 8 th through 11 th	2.0%	2.0%
Starting 12 th through 14 th	2.0%	2.0%
Starting 15 th through 17 th	2.0%	2.0%
Starting 18 th and Above	2.0%	2.0%

The following schedule applies the foregoing increases (mathematically rounded) shall be adopted.

NEW Step	(N/C) Years of Service	1/1/11	1/1/12
7	Starting 8 th through 11 th	(+\$20.00) \$855.00	(+\$20.00) \$875.00
8	Starting 12 th through 14 th	(+\$25.00) \$1,100.00	(+\$25.00) \$1,125.00
9	Starting 15 th through 17 th	(+\$30.00) \$1,410.00	(+\$30.00) \$1,440.00
10	Starting 18 th and Above	(+\$40.00) \$2,035.00	(+\$40.00) \$2,075.00

B. Part-time PBA Unit Members:

YEARS OF SERVICE	INCREASE (2011)	INCREASE (2012)
Starting 6 th through 8 th	2.0%	2.0%
Starting 9 th through 10 th	2.0%	2.0%
Starting 11 th through 17 th	2.0%	2.0%
Starting 18 th through 20 th	2.0%	2.0%
Starting 21 st and Above	2.0%	2.0%

The following schedule applies the foregoing increases (mathematically rounded) shall be adopted:

Part-Time Police Officers

(N/C) Step	(N/C) Years of Service	1/1/11	1/1/12
5	Starting 6 th through 8 th	(+\$.05/hr) +\$2.05/hr	(+\$.05/hr) +\$2.10/hr
6	Starting 9 th through 10 th	(+\$.05/hr) +\$2.40/hr	(+\$.05/hr) +\$2.45/hr
7	Starting 11 th through 17 th	(+\$.05/hr) +\$2.85/hr	(+\$.05/hr) +\$2.90/hr
8	Starting 18 th through 20 th	(+\$.05/hr) +\$3.20/hr	(+\$.05/hr) +\$3.25/hr
9	Starting 21 st and Above	(+\$.10/hr) +\$3.60/hr	(+\$.10/hr) +\$3.70/hr

C. In addition to the Base Hourly Rate above, longevity shall be paid above Step 4 as follows, starting on the employee's anniversary date: (N/C)

Part-Time Dispatchers

(N/C) Step	(N/C) Years of Service	(+\$.05/hr) 1/1/11	(+\$.05/hr) 1/1/12
5	Starting 6 th through 8 th	+.55/hr	+.60/hr
6	Starting 9 th through 10 th	+.75/hr	+.80/hr
7	Starting 11 th and Above	+.95/hr	+\$1.00/hr

_____	✓ _____	 STEVEN M. LATINO, ESQ. DATE 2/14/13 EMPLOYER PANEL MEMBER
X _____	_____	 ANTHONY V. SOLFARO DATE 2/19/13 EMPLOYEE ORGANIZATION PANEL MEMBER

4. NIGHT DIFFERENTIAL

The PBA proposes an increase in the night differential for both the existing "A" line tour of duty, and a new payment for the "C" line tour of duty. Upon review, the Panel finds that shift differential is an integral part of the employees' compensation package, and it finds after due consideration of the exhibits, documentation, testimony and post hearing submissions, and applying all of the statutory criteria set forth in CSL Section 209.4, the Panel makes the following:

AWARD

D. The night differential pay for an employee who works the "A" line tour of duty as set forth in Article 13, shall be paid, in addition to his/her Base Wage or hourly rate of pay as follows: (N/C)

(+\$.05/hr)	(+\$.05)
<u>1/1/11</u>	<u>1/1/12</u>
+\$.105/hr	+\$.110/hr

CONCUR



DISSENT

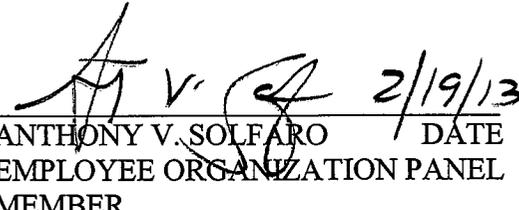


STEVEN M. LATINO, ESQ. DATE
EMPLOYER PANEL MEMBER



CONCUR

DISSENT



ANTHONY V. SOLFARO DATE
EMPLOYEE ORGANIZATION PANEL
MEMBER

5. ARTICLE 15- PENSIONS AND HEALTH INSURANCE PLANS

Currently, the Town provides fully funded health insurance for full-time employees through the Empire Core Plus Medical and Psychiatric Enhancement Plan (NYSHIP). Employees who elect to opt out of that plan are provided an annual amount of \$1000.00.

Upon retirement, the Town contributes to retiree health insurance as summarized below:

Years of Full-Time Service With the Town	Town Contribution Toward Single Coverage	Town Contribution Toward Family Coverage
15	100 %	50% of the difference between individual and dependent cost.
10	85 %	50% of the difference between individual and dependent cost.
		50% of the difference between individual and dependent cost.

The PBA seeks to increase the Town’s contribution toward family coverage from 50% of the difference between individual and dependent cost, to 85% for employees who retire with 15 or more full-time years of service in any capacity with the Town, as is the current benefit, and to eliminate the benefit provided with 10 or more full-time years of service. For employees who elect to opt out of the NYSHIP plan, the PBA proposes a buy-out payment of 50% of the premium cost.

The Town proposes the following:

- To make the primary plan the MVP Plan which the Town will fund at 100% for individual and family coverage. For those employees enrolling in the NYSHIP Plan, the Town proposes an employee contribution rate of 25% of the premium.
- For future retirees, the Town proposes to reduce its contribution rate for full-time unit members having 15 or more years of service from 100% to 90% for individual coverage, and continue to pay 50% of the difference between individual and dependent cost for family coverage. The Town also proposes changing the NYSHIP Plan to “the Town’s designated plan.”

Few benefits have witnessed the types of increases associated with health insurance costs. In his 2011 Annual Report on Local Governments, New York State Comptroller Thomas DiNapoli reviewed the economic impact of health insurance inflation as it affects municipal governments in New York State. Mr. DiNapoli noted that the health insurance premium inflation rate has averaged 8.5% annually for the past decade, tripling the

inflation rate over that period of time. As noted above, the Town funds 100% of the premium associated with the NYSHIP Plan which, beginning with 2007, has witnessed the following premium increases:

YEAR	MONTHLY FAMILY PREMIUM	MONTHLY INDIVIDUAL PREMIUM
2007	1,198.07	564.84
2008	1,258.78	592.38
2009	1,282.17	598.58
2010	1,330.93	612.34
2011	1,513.92	693.92
2012	1,562.80	712.75
% Increase 2007-2012	30.4%	26.2%
Average % Increase	6.09%/year	5.24%/year

The PBA opposes any contribution at this time for two reasons. First, the PBA asserts that there has been virtually no discussion on the subject, particularly on the Town's proposed MVP Plan, and any change in a major benefit such as health insurance should be preceded by productive talks. Second, the PBA notes that whereas the Town's part-time Supervisor and full-time Chief of Police currently are provided health insurance at no cost, which the PBA maintains each deserves, and it is virtually unfair to assess PBA unit members a contribution based on not only the foregoing, but many other factors it argued in this matter. However, the PBA adds, a significant increase in the Opt Out amount will provide an attractive incentive for any PBA unit member who can obtain coverage elsewhere to opt out of the NYSHIP's plan, thus providing a "win-win" for the Town and that employee.

As we begin this discussion, it is apparent that any decision by this Panel on the health insurance issue must take into consideration the fact that this Award covers the period January 1, 2011 through December 31, 2012. Accordingly, for all intents and purposes, this Award will have "expired" even at the time it has been issued. Therefore, there remains a serious question as to the practicalities of an Award that changes a health insurance plan retroactively. Moreover, given the fact that employees rank near the bottom of the comparison scale in salaries, and since salaries and health insurance are

inexorably intertwined, it makes little sense to seek a PBA contribution. In addition, given the fact that the parties will enter negotiations for a successor collective bargaining agreement to this Award, the parties need to further engage and explore such major changes in health insurance primary plan to be provided, rather than have it imposed by an arbitration panel.

Given the foregoing, the Panel finds after due consideration of the exhibits, documentation, testimony and post hearing submissions, and applying all of the statutory criteria set forth in CSL Section 209.4, the Panel makes the following:

AWARD ON HEALTH INSURANCE

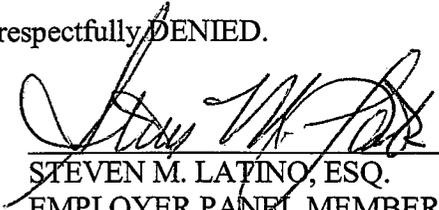
Effective December 31, 2012, the **OPT OUT AMOUNT SHALL BE INCREASED TO 25% OF THE NYSHIP FAMILY PREMIUM, AND PAID IN THE FIRST PAY PERIOD FOLLOWING THE END OF EACH CALENDAR QUARTER, NOT TO EXCEED \$ 4,500.00 ANNUALLY.**²

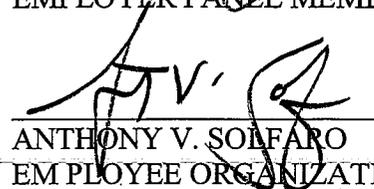
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CONCUR	DISSENT	STEVEN M. LATINO, ESQ.	DATE
		EMPLOYER PANEL MEMBER	2/14/13

_____	x	_____	
CONCUR	DISSENT	ANTHONY V. SOLFARO	DATE
		EMPLOYEE ORGANIZATION PANEL MEMBER	2/19/13

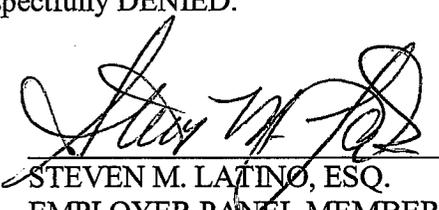
² Note is taken regarding the NYS Dept. of Civil Service Policy Memo 122r3 which proscribes rules for those employees who have NYSHIP insurance and elect to waive off such insurance due to the fact that they have insurance through another source such as through a Spouse. The Policy also provides that once an employee waive out of NYSHIP coverage, he/she will not be permitted to reenter NYSHIP coverage until the end of the buyout period or unless they experience a qualifying event as defined by §125 of the Internal Revenue Code during the buyout period.

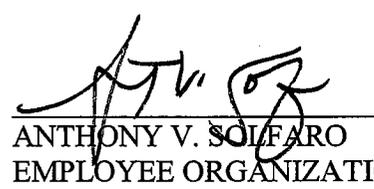
All other demands sought by the PBA are respectfully DENIED.

✓ _____ CONCUR	_____ DISSENT	 STEVEN M. LATINO, ESQ. DATE EMPLOYER PANEL MEMBER
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_____ CONCUR	X _____ DISSENT	 ANTHONY V. SOLFARO DATE EMPLOYEE ORGANIZATION PANEL MEMBER
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The demands sought by the TOWN are respectfully DENIED.

 _____ CONCUR	✓ _____ DISSENT	 STEVEN M. LATINO, ESQ. DATE EMPLOYER PANEL MEMBER
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X _____ CONCUR	_____ DISSENT	 ANTHONY V. SOLFARO DATE EMPLOYEE ORGANIZATION PANEL MEMBER
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6. UNIFORMS & EQUIPMENT – ARTICLE 6

In addition to the listing of “initial uniform and equipment” in Article 6, section B, the PBA seeks the addition of the following, which it maintains should be made available to all police officers as follows:

- 1 pair of boots every year for full-time
- 1 pair of boots every two (2) years for part-time
- 2 Polo Shirts – full and part-time (for training)
- 1 pair of OSHA rated eye protection (clear or sunglasses) – full and part-time
- 1 Garrison duty belt – full and part-time

The Town's position is as follows::

- 1 Garrison duty belt (replaced every 6 years); and
- 1 pair of boots replaced every 2 years for full-time police officers only.

Following a careful and thorough analysis, the Panel finds after due consideration of the exhibits, documentation, testimony, and post hearing submissions, and applying all of the statutory criteria in CSL Section 209.4, the Panel makes the following:

AWARD

Effective December 31, 2012, the following items shall be added to Article 6(B):

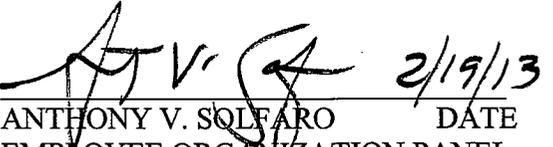
- 1 pair of boots every two-years for full-time
- 1 pair of boots every 4160 hours worked, starting cumulatively from January 1, 2011 forward for part-time
- 2 Polo Shirts – full and part-time (for training)
- 4 pair of OSHA rated eye protection (clear or sunglasses) shall be made available and maintained at the police department for use by police officers working each tour of duty
- 1 Garrison duty belt – full and part-time, to be replaced under normal wear and tear as set forth in Section E.

_____  _____
 CONCUR DISSENT

 2/14/13
 STEVEN M. LATINO, ESQ. DATE
 EMPLOYER PANEL MEMBER

X

 CONCUR DISSENT

 2/19/13
 ANTHONY V. SOLFARO DATE
 EMPLOYEE ORGANIZATION PANEL MEMBER

7. CLEANING ALLOWANCE

Currently, PBA unit members receive an annual cleaning allowance of \$ 550.00 for full-time police officers, and \$350.00 for part-time employees.

The PBA seeks to increase the allowance by \$50.00 effective January 1, 2011, thereby raising the amount to \$600.00 (full-time) and \$400.00 (part-time), and additionally

increase the amount by \$50.00 effective January 1, 2012, increasing the amount to \$650.00 and \$ 450.00 for full-time and part-time employees respectively.

The Town asserts that the current allowance provided to PBA unit members compares favorably with all comparables within the County, and accordingly, no further increases are warranted.

Upon review, the Panel agrees with the Town that the cleaning allowances paid to PBA unit members are competitive. Accordingly, while the particular increases sought by the PBA are not justified, a modest increase is warranted particularly in light of the low salary and hourly rate rankings of bargaining unit members among the comparables, the Panel finds after due consideration of the exhibits, documentation, testimony and post hearing submissions, and applying all of the statutory criteria set forth in CSL Section 209.4, the Panel makes the following:

AWARD ON CLEANING ALLOWANCE

D. Cleaning allowance shall be provided to each employee for each year as follows:

	(N/C)	(+\$25.00)
	<u>1/1/11</u>	<u>1/1/12</u>
Full Time	\$550.00	\$575.00
Part Time	\$350.00	\$375.00

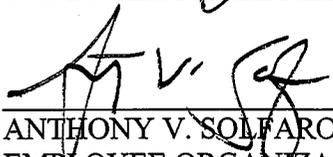
_____ 
 CONCUR DISSENT

 2/14/13

 STEVEN M. LATINO, ESQ. DATE
 EMPLOYER PANEL MEMBER

X

 CONCUR DISSENT

 2/19/13

 ANTHONY V. SOLFARO DATE
 EMPLOYEE ORGANIZATION PANEL
 MEMBER

8. ARTICLE 10- SICK LEAVE

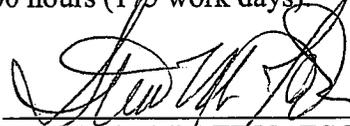
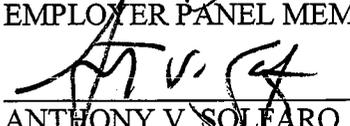
Currently, all full-time employees are credited with four (4) hours of sick leave every pay period with a maximum accumulation of one thousand (1000) hours (125 work days). The PBA seeks to maintain the amount of credited sick leave every pay period, but to increase the accumulation to 1400 hours, an equivalent of 175 work days.

A review of the comparable jurisdictions reveals that municipalities have agreed to various incentives as a means of keeping the use of sick leave time to a minimum. These incentives include permitting an accumulation of unused sick leave time that exceeds the benefit here, as well as payment in some fashion for unused sick leave days at the time of retirement. For example, the Village of Ellenville provides for an accumulation of up to 150 unused sick leave days, all of which are paid for at the employee's rate of pay at the time of retirement. Similarly, the Town of Lloyd provides for an accumulation of up to 130 unused sick leave days, all of which can be paid for in a lump sum at the employee's rate of pay at the time of retirement. Upon review, the Panel finds after due consideration of the exhibits, documentation, testimony and post hearing submissions, and applying all of the statutory criteria set forth in CSL Section 209.4, the Panel the Panel makes the following:

AWARD

Amend Article 10 (Sick Leave) at Section (A) to read as follows:

All full time employees shall be credited with four (4) hours of sick leave every pay period with a maximum accumulation of 1400 hours (175 work days)

CONCUR	DISSENT	 STEVEN M. LATINO, ESQ.	2/14/13 DATE
		EMPLOYER PANEL MEMBER	
X	DISSENT	 ANTHONY V. SOLFARO	2/19/13 DATE
		EMPLOYEE ORGANIZATION PANEL MEMBER	

9. ARTICLE 17- GENERAL PROVISIONS

Certified First Responder (CFR-D) and Emergency Medical Technician (EMT)

The PBA seeks a new payment of \$0.75/hour for the year 2011 and \$1.00/hour for the year 2012 for any employee who is a Certified First Responder – Defibrillator (CFR-D). In addition, for those employees who are certified Emergency Medical Technicians (EMT), the PBA seeks a payment of \$1.50/hour for the year 2011 and \$2.00/hour for the year 2012. While the Panel was unable to find any of the comparable jurisdictions who paid for either of these certifications, it is undisputed that increased calls for emergency medical service by police officers are resulting in the real need for this training and certification. The hamlet of Wallkill has a Volunteer Fire Department, and minutes before they may arrive on the scene can mean the saving of a life, particularly if the first responder is a police officer trained as either a CFR-D or EMT. Accordingly, the Panel determines that this incentive for the police officer to be reasonable and fair, and therefore the makes the following:

AWARD

Effective December 31, 2012, police officers who obtain, maintain, and perform a medical service based on the respective certification, shall be paid as follows:

1. \$ 50.00 for each event if CFR-D certified, or
2. \$ 100.00 for each event if EMT certified.

The police officer shall only be entitled to the payment if certified as set forth above, and each payment shall be made no later than the pay period following the service provided.

✓

CONCUR

DISSENT

 2/14/13

STEVEN M. LATINO, ESQ. DATE
EMPLOYER PANEL MEMBER

X

CONCUR

DISSENT

 2/19/13

ANTHONY V. SOLFARO DATE
EMPLOYEE ORGANIZATION PANEL
MEMBER

RETROACTIVITY

It is the PBA's position that full retroactivity to any unit member who worked during any period incorporated by this Award is due and owing. The Town, on the other hand, believes that only those who remained on the rolls during and subsequent to the period covered by the Award or those who may have retired during the term of this Award are due any retroactive benefits.

The Panel is of the belief that full retroactivity to any bargaining unit member who worked during any period covered by the term of this Award is due and owing. The Panel finds support for its conclusion in the Appellate Division, Third Department's decision in *Baker vs. Hoosick Falls Central School District*, 3 AD 3d 678 (3d Dep't 2004), aff'g 194 Misc. 2d 116 (Sup. Ct. Rensselaer County, 2002). In *Hoosick Falls*, the teachers each retired during the pendency of contract negotiations on a contract that was to be retroactive to years in which the teachers worked. The successor contract included retroactive pay raises, which were paid to current but not retired teachers. The teacher's Association had refused to negotiate the issue with regard to retired teachers. Defendant school district's motion to dismiss asserted the complaint was time barred, that the teachers lacked standing, and that the complaint failed to state a cause of action. The court affirmed, holding that (1) the teachers commenced their action within the time requirement in N.Y. C.P.L.R. § 217(2) and the only evidence to the contrary was mere speculation; (2) as the teachers had alleged an injury-in-fact caused by the exclusion from the retroactive pay raises, they had standing to bring their action; (3) under the facts of the case, the Association owed a continuing duty to the teachers to negotiate on their behalf over terms and conditions that would be retroactively applied; and (4) the Association's total lack of representation of the teachers was sufficient to state a cause of action for breach of the Association's fair representation duty. In relevant part, the Court noted:

[P]ERB has nonetheless recognized that an employee organization may have a continuing duty to represent former employees "in circumstances in which the severance from employment is being contested or there is some other basis upon which to conclude that there is a continuing nexus to employment" (*Matter of Bartolini [Westchester County Correction Officers' Benevolent Assn.]*, *supra* at

3184; see *Matter of Heady [County of Dutchess--Dutchess County Deputy Sheriffs' PBA]*, 31 PERB 3068, at 3151 [1998]). In our view, there is a continuing nexus between a retiree's former employment and negotiations over terms and conditions that will be retroactively applied to those periods of active employment. We conclude, therefore, that the Association had a continuing duty to represent plaintiffs in negotiations for the new retroactive CBA.

(Id. at 681)

Given the foregoing, the Panel makes the following:

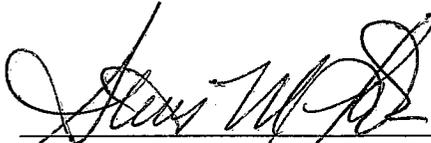
AWARD ON RETROACTIVITY

The Panel Awards full retroactivity on all terms set forth in this Award to any unit member who worked during any period incorporated by the term of this Award. The Town shall pay all retroactivity no later than thirty (30) calendar days after the date of the Panel Chair's execution of this Award. The Town shall provide a worksheet to everyone receiving retroactive pay setting forth how the calculation(s) was/were made and what it represents. The Town shall implement the terms of this Award the first full pay period after the date of the Panel Chair's execution of this Award.

CONCUR

✓

DISSENT

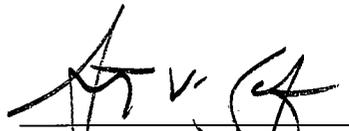


STEVEN M. LATINO, ESQ. DATE 2/14/13
EMPLOYER PANEL MEMBER

+

CONCUR

DISSENT



ANTHONY V. SOLFARO DATE 2/19/13
EMPLOYEE ORGANIZATION PANEL MEMBER

REMAINING ISSUES

The Panel has reviewed the demands of both parties, as well as the extensive and voluminous record in support of those positions. The fact that these demands have not been specifically addressed in this Opinion and Award does not mean that they were not studied and seriously considered in the context of contract terms, benefits and statutory criteria by the Panel. In interest arbitration, as in collective bargaining, not all proposals are accepted, and not all contentions lead to agreement. The Panel, in reaching what it has determined to be a fair and reasonable Award, has not addressed or made an Award on many of the demands submitted. The Panel is of the view that this approach is consistent with the practice of collective bargaining. Accordingly, the Panel makes the following:

AWARD ON REMAINING ISSUES - TOWN

Any demands and/or terms other than those specifically modified by this Award are hereby denied.

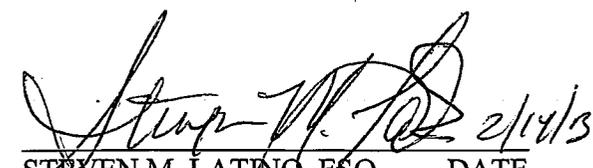
	✓			2/14/13
CONCUR	DISSENT		STEVEN M. LATINO, ESQ.	DATE
			EMPLOYER PANEL MEMBER	
x				2/19/13
CONCUR	DISSENT		ANTHONY V. SOLFARO	DATE
			EMPLOYEE ORGANIZATION PANEL MEMBER	

AWARD ON REMAINING ISSUES - PBA

Any demands and/or terms other than those specifically modified by this Award are hereby denied.

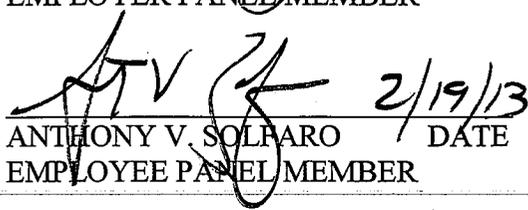
CONCUR

DISSENT


STEVEN M. LATINO, ESQ. DATE
EMPLOYER PANEL MEMBER

CONCUR

DISSENT

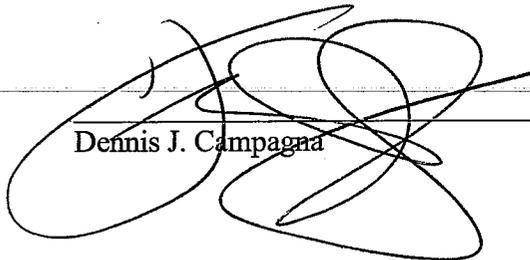

ANTHONY V. SOLFARO DATE
EMPLOYEE PANEL MEMBER

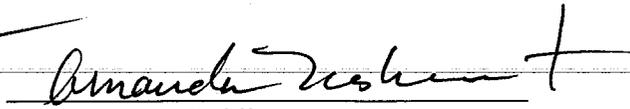
RETENTION OF JURISDICTION

The Panel Chair hereby retains jurisdiction over any and all disputes, interpretation and implementation arising out of this Opinion and Award.

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

On this 22 day of February 2013 before me personally came and appeared **Dennis J. Campagna, 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 same.


Dennis J. Campagna

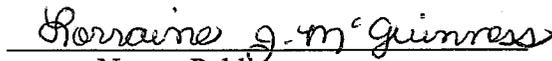

Notary Public

AMANDA NESHEIWAT
Notary Public, State of New York
Qualified in Dutchess County
No. 01NE6227656
My Commission Expires 10/12/20 14

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

On this 19th day of February 2013 before me personally came and appeared **Anthony V. Solfaro** 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 same.

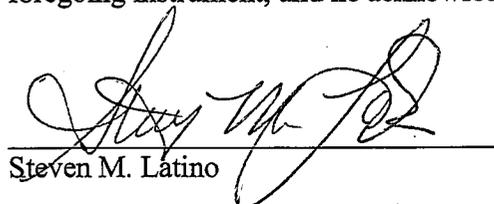

Anthony V. Solfaro

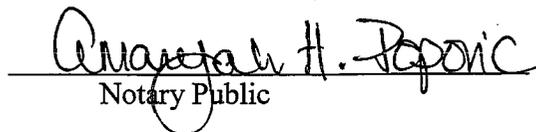

Notary Public

LORRAINE J. Mc GUINNESS
Notary Public, State of New York
Qualified in Orange County
Reg. No. 4620194
Commission Expires June 30, 20 15

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

On this 14th day of February 2013 before me personally came and appeared **Steven M. Latino** 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 same.


Steven M. Latino


Notary Public

AMARYAH H. POPOVIC
Notary Public, State of New York
No. 01PO6193003
Qualified in Dutchess County
Commission Expires 09/08/2016

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of Interest Arbitration Between:

THE TOWN OF SHAWANGUNK,

Public Employer

DISSENTING OPINION

Steven M. Latino, Esq.
Employer Panel Member

-And-

TOWN OF SHAWANGUNK POLICE
BENEVOLENT ASSOCIATION, INC.

Employee Organization

PERB Case No. IA2011-013; M2010-315

I hereby respectfully dissent.

The Award provides 2% wage increases for full time employees, 2% and 3% (1.5%, 1.5% split) wage increases for part time employees who encompass the majority of the unit, along with additional compensation in the form of cleaning allowance increases, longevity increases for full and part time unit members, and increases to the night differential, a significant increase to the health insurance buyout available to full time unit members, and a new stream for additional compensation through CFRD and EMT service payments.

However, notwithstanding these increases to police officer compensation during the worst economic period this region has seen since the Great Depression, there is not one iota of relief for the Town. The Award recognizes the skyrocketing cost of providing health insurance to public employees and even highlights that since 2007, there has been a 30.4% increase in the cost of NYSHIP Family Premium and a 26.2% increase in the cost of NYSHIP individual premiums, costs solely born by the Town. A family plan that once cost the Town \$1,198.07 per month in 2007, cost the Town \$1,562.80 per month in 2012. An individual plan that cost the

Town \$564.84 per month in 2007 costs the Town \$712.75 per month in 2012. These additional costs to the Town are real and only increasing.

Although requiring a health insurance contribution would have been a first for this unit, in this economy, requiring full time Police Officers to begin making a contribution towards the sky rocketing and ever burdensome health insurance costs paid by the Town would not have been an anomaly. Indeed, it would have been and appropriate considering the economic circumstances facing the Town. Indeed, in the Town of North Greenbush, New York and the North Greenbush PBA, IA2011-020, M2010-323, even though the Town paid 100% of the cost of individual health insurance coverage and 50% of the health insurance coverage for dependents, the Panel, commenting on the increasing costs of health insurance premiums, required officers to commence contributing 10% of the cost of an individual premium one month following the date of the Award. In fact, it required first time contributions for individual health insurance premiums by police officers while awarding similar wage increases of 2% for police officers.

As reflected in the Town of North Greenbush, if there was any time to give the Town some relief and ask its Police Officer to begin contributing to the cost of health insurance premiums it was now, in this economy. Even a 5% contribution for individual health insurance and a 2.5% contribution for family and two person health insurance would provide at least a modicum of relief for the Town. Based upon 2012 rates, these modest contributions would amount to \$427.65 annually for an individual plan and \$468.83 per year for a family plan. When this is weighed against wage increases alone (exclusive of longevity, cleaning allowance and other increases in this Award) of \$4,593 for a full time officer with five years of experience

(2010 wage \$49,271 – 2012 wage of \$53,864), the wage increase substantially outweigh the modest health insurance contribution that this Panel had the power to award.

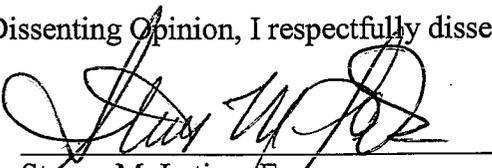
In this economy, and in particular without this Award providing at least a modicum of relief to the Town, I simply could not concur with all of the various economic improvements in this Award.

The Award also does not fully consider the impact that the economic down turn that has persisted since 2008, has had on public sector defined benefits pension funds in New York, including the Police and Fire Retirement System (PFRS) Fund. As noted in the Town's post-hearing brief, the Comptroller's 2011 Annual Report on Local Governments, shows that public employer contribution requirements towards the PFRS from 2001 to 2013 have increased significantly. "The jump from 2010 at 15% to 21.6% in 2012 represents an average of 3.3% per year increases that is essentially a wage increase equivalent (minus the derivative spin off costs for FICA, UE, W/C and PFRS)." As noted by the Town, in its post hearing brief, "this additional burden upon the Town's taxpayers must not be ignored and adds another significant economic burden beyond that presented by health cost increases impact beyond a consideration of a salary increase."

However, notwithstanding the constriction of the 2% tax cap on the Town's financial flexibility, the significant increases in health insurance costs and employer pension contributions, and a Town Fund balance that is zero, the Town is not provided with any relief in this Award, just increased costs.

For all the reasons set forth in this Dissenting Opinion, I respectfully dissent.

Date: February 14, 2013.


Steven M. Latino, Esq.
Employer Panel Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of Interest Arbitration between

TOWN OF SHAWANGUNK,

Public Employer,

-And-

OPINION

**Anthony V. Solfaro,
Employee Organization
Panel Member**

TOWN OF SHAWANGUNK POLICE
BENEVOLENT ASSOCIATION, INC.

Employee Organization.

PERB Case No. IA2011-013; M2010-315

OPINION

I write this concurring opinion to offer a brief response to the dissent filed by the Town's designee to the Panel.

Mr. Latino criticizes the Panel Chairman for not giving the Town any financial help. Apart from the Chairman's correct conclusion that the evidence before the Panel does not warrant any concessions from these unit employees, Mr. Latino's criticism ignores that the Panel Chairman denied many of the PBA's economic demands which I believe were fair and reasonable and should have been awarded. That was financial help for the Town. Therefore, Mr. Latino is just incorrect in this respect.

Mr. Latino also criticizes the Chairman for not awarding the Town the health insurance concessions it wanted. Mr. Latino observes that health insurance concessions were awarded by an interest arbitration panel in a proceeding involving the Town of North Greenbush. Because of that, and because of the cost of health insurance and an allegedly bad national and State economy, Mr. Latino argues that health insurance concessions should have been awarded in this proceeding.

As to the former, awards by interest arbitration panels should be based on the facts of record and the statutory criteria, nothing else. The Town of North Greenbush, to begin, is not a municipality that can fairly be regarded as a comparable. That aside, may be some health care concession was appropriate on the particular facts of the North Greenbush proceeding. The facts of this proceeding do not warrant the same or similar treatment. Just because an employer or a union is awarded some element of its demand by a particular panel in an interest arbitration proceeding, does not mean that all employers or all unions deserve to get the same treatment in a different proceeding.

As to Mr. Latino's second argument, he obviously believes that all public employees should help pay for their health insurance benefits no matter the facts or circumstances. Such one size must fit all arguments are never appropriate as to any issue in dispute in a compulsory interest arbitration proceeding. Mr. Latino would never accept, for example, a conclusion by a panel chair that police officers must receive big increases in their wages simply because other police officers elsewhere are paid more. Mr. Latino would insist that all relevant facts and all statutory criteria be taken into account, and rightly so. That is exactly what this Chairman did in denying the Town the health insurance concessions it wanted. The Chairman applied the statutory criteria and the facts to the Town's demands and he came to the correct conclusion that the health insurance concessions the Town wanted from these police officers were not justified or warranted.

The dissent's criticisms of the Chairman's analysis are not warranted or persuasive. This award is grounded upon the facts and the law just as it should be. Any disagreement I may have with the specifics of the award is the result of my belief that the facts and the law warranted something better for these employees than was awarded to them. Nonetheless, I accept the outcome of this proceeding in the realization that what was awarded is fair and reasonable within the meaning of the Taylor Law.



ANTHONY V. SOLFARO
Employee Organization Panel Member

Dated: 12/19/13