

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

---

In the Matter of the Interest Arbitration

-between-

SCOTIA PATROLMEN'S BENEVOLENT ASSOCIATION, INC.  
Employee Organization,

OPINION

-and-

AND

VILLAGE OF SCOTIA,

Public Employer,

AWARD

For the Period  
June 1, 2009 – May 31, 2014

PERB Case No.: IA 2011-026; M2011-206

---

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

Anthony V. Solfaro, President  
New York State Union of Police Associations, Inc.  
Employee Organization Panel Member

Bryan J. Goldberger, Esq.  
Public Employer Panel Member

APPEARANCES:

For the Scotia Patrolmen's Benevolent Association  
New York State Union of Police Associations, Inc. AFL-CIO  
By: John M. Crotty, Esq.

For the Village of Scotia  
Goldberger & Kremer  
By: Brian S. Kremer, Esq., Of Counsel

NYS PUBLIC EMPLOYMENT RELATIONS BOARD  
RECEIVED  
NOV 21 2013  
CONCILIATION

## 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 Scotia Patrolmen's Benevolent Association (PBA) and the Village of Scotia (Village).

The Village is located in Schenectady County. It is part of the Town of Glenville and is connected with the City of Schenectady by the Western Gateway Bridge over the Mohawk River. The Village had 7,729 residents in the 2010 census.

The Village's Police Department operates on a 24/7 basis. It currently has 13 sworn officers in the bargaining unit, three of whom are sergeants.

The last collective bargaining agreement between the parties covered the period June 1, 2005 through May 31, 2009. In 2009, the parties began negotiations for a successor contract. 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. On January 6, 2012, the PBA filed a Petition for Interest Arbitration (PBA Exhibit 1) pursuant to Section 209.4 of the Civil Service Law.

The Village filed a response to said Petition on January 19, 2012 (PBA Exhibit 2). Thereafter, the undersigned Public Arbitration Panel (PBA Exhibit 3) 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 Village on October 3, 2012. Both parties were represented by counsel. A transcribed record was taken at the

hearing. Both parties submitted numerous and extensive exhibits and documentation, including written closing arguments. Both parties presented extensive arguments on their respective positions.

Thereafter, the Panel fully reviewed all data, evidence, arguments and issues submitted by the parties. After significant discussion and deliberations at several Executive Sessions, the Panel reached an Award. The Award is a compromise. Although it does not fulfill all of the wishes of either party, it is accepted by all three Panel members. Accordingly, all references to "the Panel" in this Award shall mean the tripartite Panel.

The PBA and the Village agreed to extend the Panel's jurisdiction from two years to five years in letters dated August 23, 2013 and September 11, 2013 respectfully, and are attached hereto and made a part of this Award. The PBA officially authorized the approval of this extension and so advised the Panel by letter dated August 23, 2013. On or about September 11, 2013, the Village Board authorized the extension of the Panel's jurisdiction to a five year award. The Village advised the Panel of its approval of this extension by letter dated September 11, 2013.

The positions taken by both parties are quite adequately specified in the Petition and the Response, numerous hearing exhibits, and post-hearing written submissions, all of which are incorporated by reference into this Award. Such positions will merely be 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' Award setting forth the terms and conditions for the period June 1, 2009 through May 31, 2014.

In arriving at such determination, the Panel has specifically reviewed and considered all of the following criteria, 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 with other employees in generally in public and private employment in comparable communities."

#### PBA Position

The PBA contends that its members should be compared with municipal police departments within Schenectady County, within which the Village is situated. These are the towns of Glenville, Schenectady, Niskayuna and Rotterdam, as well as the City of

Schenectady. It justifies its universe of comparables by asserting that Schenectady County is the marketplace in which the Village competes with other governments for police officer services. The PBA also stresses that police officers in Schenectady County are the police officers with whom the Village's officers most closely and most frequently interact with.

The PBA maintains that the Village's proposed comparables of the villages of Herkimer, Hudson Falls and Ilion should be rejected. In the PBA's estimation, these three villages were selected on the basis of population and type of government, something the PBA contends is plainly wrong.

The PBA asserts that the Village's list is not appropriate because comparability is an analysis of the geographic area within which the employer is likely to recruit employees from. Moreover, to the PBA, although population size is relevant in an interest arbitration proceeding, it is relevant to ability to pay and not relevant to comparability.

The PBA objects to the Village's attempt to compare the Village only with other villages. The PBA maintains that arbitration panels have never strictly limited comparability analysis to one form of government because comparability entails a marketplace determination and analysis. As such, this Panel should cross governmental lines and hold that those municipalities within a reasonable geographical proximity to Scotia, i.e., municipal police departments in Schenectady County, are the appropriate group of comparables. This is the market and it is broad enough to allow the Panel to conduct a meaningful comparability analysis.

### Village Position

The Village insists that the PBA's proposed list of comparables should be rejected by the Panel because the other municipalities in Schenectady County are completely different than Scotia.

The Village observes that Scotia's population is nearly three times smaller than Rotterdam, the smallest of the communities proposed by the PBA. The Village notes that with its population of 7,729, there is no logic to comparing it to municipalities that are between three times and eight times its population. Indeed, the Village notes that Schenectady has a population of 65,135, while Glenville has 29,480, Niskayuna has 21,781 and Rotterdam has 20,652. The police forces in these municipalities are so much larger than the Village's that a meaningful comparability analysis cannot be done.

The Village contends that the PBA's proposed comparables must be rejected because the volume and types of crimes committed in the proposed comparable communities are entirely different than those occurring in Scotia. According to the Village, statistics of the New York State Department of Criminal Justice Services show that all of the proposed comparable communities had many more reported crimes, including violent crimes, murders and rapes. The Village notes that in 2007 police officers in the Village responded to less than half the number of crimes as Glenville, the least busy of the proposed comparable communities. Of significant note to the Village is that Rotterdam had six times the number of crimes as the Village and Schenectady had twenty-five times the number of reported crimes. The Village stresses that these statistics are roughly the same each year. In short, while Schenectady and the other jurisdictions deal with a multitude of violent crimes each year, the Village does not.

In stark contrast, the Village avers that the villages of Herkimer, Ilion and Hudson Falls are more comparable because each village has a population within approximately 500 people of the Scotia's. They also have similar sized police departments and handle similar volume and types of crimes. The Village notes that the crime statistics for Village of Ilion is strikingly similar to those of the Village between 2007 and 2010.

Since the PBA's proposed comparables have nothing in common with the Village and the Village's proposed comparables share many common characteristics, the Village urges the Panel to determine that the villages of Herkimer, Hudson Falls and Ilion are comparable to Scotia.

#### **Panel Determination on Comparability**

The Panel finds that the Town of Glenville is the most relevant comparable to the Village of Scotia. The Village is located within the Town of Glenville. Thus, they share the exact same marketplace insofar as schools, housing, etc., is concerned. Both jurisdictions undoubtedly compete with one another when police officers are looking for work. They share a number of other equally compelling commonalities. Both police departments are similarly sized with Scotia having 13 sworn officers and Glenville having 21 sworn officers. Both jurisdictions have almost identical crime statistics when the population differences between the two communities are factored in. In other words, the number of crimes each jurisdiction has for each officer employed is virtually the same. For example, in 2008, the larger Town of Glenville reported 305 crimes, nine of which were violent and three of which involved rape or murder. In 2008, Scotia reported 195 crimes, 10 of which were violent and one of which involved rape or murder. In 2009, the Town of Glenville reported 336 crimes, 11 of which were violent, while the Village

reported 211 crimes, 11 of which were violent. When one analyzes the similarity of the crime statistics and considers their geographical proximity to one another, it becomes abundantly clear that Scotia and Glenville are basically the same place. Scotia is located within the Town of Glenville and the jurisdictions are directly comparable with one another insofar as the marketplace is concerned and the similarity of work and pressures faced by officers in each jurisdiction each day.

Although the towns of Niskayuna and Rotterdam are not directly comparable with the Village, they should be given limited weight as comparables because they share the same marketplace as the Village and they share some common characteristics with the Village in addition to geographical proximity. While Niskayuna and Rotterdam have larger populations and more crimes each year than the Village, the crime statistics per officer are fairly similar between the Village and the towns of Niskayuna and Rotterdam. The Panel Chair must conclude that officers in these three jurisdictions have numerous similarities in their day to day work. When this is considered along with the fact that these officers share the same housing market and can arguably choose any of the three municipalities to work in, the Panel Chair concludes that they must be given some weight insofar as comparability is concerned.

The same cannot be said for the City of Schenectady. Schenectady is a completely different from the Village even though it shares a border. It has more than nine times the Village's population and its crime statistics are not similar to the Village's in any way.

While the three villages proposed by the Village share some common characteristics with it, they are not directly comparable because they are in a different labor market and the Village has enough comparables to make a legitimate comparison.

However, the Village of Hudson Falls shares some common characteristics with the Village of Scotia, and will be given some consideration as a comparable. Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel determines that the Town of Glenville is most comparable to the Village and that the towns of Rotterdam and Niskayuna should be accorded lesser weight insofar as comparability analysis is concerned, with the Village of Hudson Falls being given some consideration as a comparable.

### **ABILITY TO PAY**

#### **PBA Position**

The PBA stresses that tales of gloom and doom and how the now ended recession has affected the private and public sectors has little relevance to this dispute. The PBA points out that Scotia is not suffering like some of the municipalities in the State that actually are struggling financially. The PBA maintains that the ability to pay analysis is not a global one. What is relevant here is that Scotia is not poor. Its residents are not struggling and they are not overtaxed.

In the PBA's view, there have been small, inconsequential decreases in certain Village revenues because of the ripple effects of the past recession. However, the PBA argues that these dips do not establish an inability to pay for the PBA's proposals.

The PBA's evidence of the Village's ability to pay was based on the testimony and exhibits presented by Economist Kevin Decker. The PBA asserts that the evidence offered through Mr. Decker conclusively establishes that the Village has the ability to pay

for a substantial increase in salary and benefits. According to the PBA, Mr. Decker's presentation should be accorded great weight because he is an expert in municipal finance and his testimony was largely un rebutted.

The PBA asserts that Scotia does not remotely resemble one of the municipalities that are struggling to stay afloat and that any claims of that nature are ludicrous. The PBA maintains that the elected officials may have chosen to do the same with more or less for political reasons. However, this is not a justification for denying PBA members the increase in salary and benefits they deserve.

The PBA stresses that Mr. Decker's presentation shows that the Village has a consistent and stable financial picture. For the period covering the fiscal years 2008 through 2013, the Village-purpose tax levy increased at an average annual rate of 2.15%, an amount Mr. Decker testified "certainly was not very large." The taxable assessed value of property during that period has been constant and the assessed value tax rate has risen on average 2.2% during this period. The Village's use of its constitutional tax limit has been decreasing over the past several years. The PBA opines that even in the areas where the Village has seen revenue decreases, the revenue decreases were from sources that were never a large part of the general fund and have little bearing on the Village's ability to pay.

In the PBA's estimation, the Village's 2012 fund balance of over \$1.4 million is strong evidence of its ability to pay. The PBA notes that the Village's total and unreserved fund balance has consistently been in the range of 20% to 30% of its total annual budget, an amount that greatly exceeds the Comptroller's and financial experts' recommendation of a fund balance between 5% and 15%.

Of significant note to the PBA is the Village's ability to collect more revenue than it has budgeted and spend less money than it has budgeted in almost all of the past several years. The PBA notes that the positive variance over the past five years averages more than \$500,000. Hence, when one considers the fact that one percent of the PBA's base wages is between \$11,000 and \$12,000, it becomes abundantly clear that the Village has the ability to pay for its proposal to increase wages by 3.5% per year.

The PBA asserts that the Village's arguments about an inability to pay do not withstand any objective analysis. The Village has had moderate tax levy and rate increases, it has a strong fund balance and its budget is structurally sound. As Mr. Decker concluded, the Village officials have done a very good job of managing Village finances.

For all of the reasons above, the PBA urges the Panel to find that the Village has the ability to pay for its economic proposals.

#### **Village Position**

The Village insists that the Panel cannot ignore the fact that this Award covers a time period when the nation was suffering the effects of one of the greatest economic recessions in its history. It asserts that its ability to pay has been adversely affected by forces outside its control, such as frozen credit markets, low interest rates on investments and a weakened employment and housing market. In the Village's view, the Panel must be sensitive to the Village's taxpayers because the proposals sought by the PBA are well beyond the Village's ability to pay.

The Village stresses that instead of ignoring the adverse economic forces, the Village is tightening its belt so it does not become one of the municipalities that are forced to shut down. To the Village, flat and decreased revenue components of its budget

and very significant increases in expenses have forced it to manage its resources more carefully than ever. For example, total retirement costs in the Village have skyrocketed from a mere \$1,747 in 2001 to \$597,042 in 2012. During that same period, health and dental insurance costs increased from \$430,596 to \$887,654. While important expenses continue to increase, the Village has seen sales tax revenue decrease from \$681,587 to \$394,884, while other revenues such as State aid and mortgage receipts have remained flat.

The Village stresses that in order to keep tax increases moderate while its residents are struggling, it has appropriated nearly \$290,000 in fund balance over the past three years. In the Village's view, the 2% property tax cap puts further pressure on the expense side of its budget.

The Village contends that its revenues simply cannot keep pace with its ever-increasing expenses and that this cannot be ignored. Although the Village has taken several actions to contain costs, the fact remains that increases to health insurance and pension alone are taking a substantial bite out of the Village's tax levy.

The Village insists that the fact that it has not reached its constitutional debt limit is not demonstrative of an ability to pay. Courts have previously rejected the notion that a municipality has the ability to pay when it has not exhausted its debt limit.

In the end analysis, since in two of the past five years the Village's General Fund has ended the fiscal year in a deficit, it is abundantly clear that the PBA's rosy picture of the Village's finances cannot be given any credence. To the Village, the Panel needs to make a determination that takes their need for fiscal prudence into consideration. Thus, while the Village concedes that it has the ability to pay for a fair and reasonable award, it

insists that the PBA's proposals are excessive and do not remotely resemble a fair and reasonable award.

**Panel Determination on the Village's Ability to Pay**

The Panel Chair has carefully considered the statutory criteria regarding ability to pay as provided through the positions of the parties from the testimony, exhibits and post-hearing briefs filed, forming the record in this matter.

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

On the other hand, the Panel notes that while Scotia was adversely impacted by the recession, the record establishes that the fundamental economic conditions of the Village are strong. The Village has done an excellent job of managing its resources. The Village continues to have a strong fund balance and does not have a structural budget deficit from year to year as is the case in some municipalities where revenues are not matching expenses. The Panel finds that the Village has the ability to pay for this Award and that the wage and other increases awarded herein constitute a fair and reasonable Award.

## THE INTERESTS AND WELFARE OF THE PUBLIC

### PBA Position

In the PBA's view, this consideration encompasses the fact that the Village's taxpayers benefit from having a professional, well-trained police department. In the PBA's estimation, this can only happen when its members' wages and benefits are competitive so that the Village can attract and retain quality police officers. The PBA opines that the Panel must issue an Award that allows its members to retain its competitive ranking compared to other police officers in Schenectady so as to assure that its police officers will not leave the Village for other positions in the County.

### Village Position

The Village stresses that the Panel is obligated to consider the fact that this Award will directly affect the citizens and taxpayers of the Village and the economic future of the Village for years to come. It must also consider the fact that citizens in the Village are struggling with increased tax burdens and concerns about the ability of its Village government to remain on sound financial footing. These considerations 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 and Financial Ability of the Public Employer to Pay

The Panel has carefully considered the statutory criteria regarding the interests and the welfare of the public and financial ability of the Village to pay, as provided through the positions of the parties from the testimony, exhibits and post-hearing briefs forming the record in this matter. The Panel finds that the PBA's argument that the public benefits by having a competitively compensated staff of police officers must be given

credence based on the foregoing. The Panel's Award in the area of salary and related issues is premised on the recognition that it is prudent for the Village and beneficial to the public for its police officers to be competitively compensated.

At the same time, many of the other economic proposals advanced by the PBA have been rejected by the Panel because it is concerned about the economic impact that any new long-term financial commitments may have on the Village's bottom line. It is not in the interest of the public at this time to significantly augment the economic package provided to police officers at this time.

#### **COMPARISON OF PECULIARITIES OF THE POLICE PROFESSION**

The Panel has also carefully considered the statutory criteria regarding the comparison of the police profession with other trades or professions, including specifically: (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; and (5) job training and skills. The PBA asserts that the police profession is so unique that no other useful comparison can be made with other trades or professions.

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, pressures and dangers that police officers face each day. The Panel finds that the peculiarities of the profession mandate a direct comparison with police officers.

## BASE WAGES

### PBA Position

The PBA is seeking a 3.5% increase to the salary schedule for the years 2009-2010, and 2010-2011. The PBA insists that there are several reasons why its proposal is reasonable and should be granted. The PBA notes that the reasonableness of its proposal is initially justified by the fact that this is the salary increase that other Village employees received either through collective negotiations with the Village or via Village policy for non-unionized employees. The PBA stresses that the Village agreed to provide its uniformed firefighters with salary increases of 3.5% for each of four years beginning in 2008-2009. Although the PBA recognizes that the firefighters salary schedule increases were 2% for 2012-13 and 2013-2014, the PBA stresses that the firefighters were provided other economic increases in the form of stipends that rendered the settlement for the three years beginning in 2012-13 to average well in excess of 2% per year. When these uncontroverted facts are considered along with the Village's proven ability to pay, it becomes abundantly clear that the Panel should award salary increases of 3.5% per year as set forth in its Petition.

The PBA maintains that the reasonableness of the PBA's proposal can be seen from charts showing wage adjustments to police officers in the universe of comparables. To the PBA, the data clearly demonstrates that its proposed raises would be consistent with the market, reasonable and that they are necessary to maintain PBA members' relative standing in the market.

The PBA avers that its members currently rank fourth at all levels of the salary schedule among its proposed universe of comparables and that it will continue to rank

fourth even if its proposed salary increase is awarded. The PBA stresses that when longevity is factored in it becomes even clearer that its members' relative standing will erode if 3.5% increases are not awarded by the Panel. Since the PBA's proposal is reasonable when internal Village settlements are considered, when the universe of comparables is considered, and since the Village has the ability to pay for the award, the PBA urges the Panel to award its proposal.

### Village Position

The Village maintains that the Panel should deny the PBA's salary proposal. While acknowledging the tremendous law enforcement work that police officers perform, the Village asserts that the PBA's proposal should be wholly rejected because its officers are already the highest compensated police officers among its proposed universe of comparables.

The Village stresses that police officers in the villages of Hudson Falls, Herkimer and Ilion receive far less wages and benefits than Village police officers. The Village demonstrates its argument by showing charts depicting the amount of salary that police officers will earn over the course of their careers in each of the municipalities. The Village argues that its charts show that police officers in Scotia will earn well over \$100,000 more over the course of their career than police officers in any of the villages in its proposed universe of comparables.

In the Village's estimation, the gap widens even further when longevity is factored in. The Village claims that when longevity is factored in its police officers will earn more than \$200,000 more over the course of their careers than police officers in all of the villages in its proposed universe of comparables.

The Village stresses that the competitiveness of its wage and benefit package, coupled with some revenue losses and mandated cost increases it has had to sustain, mandate moderation. To the Village, the Panel should award a salary increase that is well below the salary increase proposed by the PBA.

**Panel Determination on Base Wages**

The Panel has carefully considered the statutory criteria balancing the reasonable economic needs of the Village's police officers, with the obligations of the Village in the context of what is fair and reasonable in a more challenging economy.

Wages are one of the most important elements in any labor agreement. Employees have the utmost concern about the wages they will be paid, and wages represent the greatest expenditure for the Village.

Based on the foregoing, the Panel determines that the Schedule "A" salary table set forth in this 2005-2009 contract (PBA Exhibit 1) of 3.25% for 2009-2010, 2010-2011 and 2011-2012 followed by wage adjustments of 2% for 2012-2013 and 2% for 2013-2014 are fair and reasonable. Notwithstanding the comparable universe applied for this Award, the increases awarded herein are based only on the record before this Panel, extensive discussions in Executive Session that lead to the representatives of the PBA and Village to authorize a 5 year award, and the inclusion of language sought by the Village regarding the ability to review and potentially implement a health insurance plan change, and a GML 207-c Procedure sought by the PBA.

Equally important is the fact that the wage increases awarded will allow Scotia's police officers to maintain their relative standing with police officers in the Town of Glenville, the most appropriate comparable. The record establishes that police

officers in the Town of Glenville received average salary increases of more than 2.5% annually between 2009 and 2012. The average salary increase awarded by this Panel is 2.75% annually. This will allow police officers in Scotia to maintain their relative standing vis-à-vis their most direct comparable.

The appropriateness of this award is further supported by the data showing career earning comparisons of police officers in Scotia and police officers in the Town of Glenville. These show that police officers in the Town of Glenville earn slightly more than police officers in the Village over the course of their careers. Hence, a similar wage adjustment as was provided to officers in the Town of Glenville is also supported by this statistic.

The Panel notes that other municipalities in Schenectady County provided like wage adjustments to the police officers in their jurisdictions during the term covered by this award. While there is evidence of a couple of isolated instances where in one year of an agreement police officers in a municipality received 1.5% salary increases, the data shows that there were many more years when police officers in municipalities in Schenectady County received salary increases of 3.75% to 4%. Indeed, the yearly average salary increase in Schenectady County for police officers exceeded 3% in 2009 through 2011 and dropped below 3% in 2012. In the Panel's view, its award strongly comports with settlements in the most comparable jurisdiction and settlements in Schenectady County.

In reaching the conclusion that salary schedules shall be increased by 3.25% effective June 1, 2009, June 1, 2010, June 1, 2011 and 2% June 1, 2012 and June 1, 2013,

the Panel finds that the Village has the ability to pay for the increase in wages overall, which are fair and reasonable.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

**AWARD ON BASE WAGES**

**SCHEDULE A – SALARY TABLE** – Amend the schedule as follows:

<u>Position</u>	<u>Step Value</u>	<u>6/1/09</u>	<u>6/1/10</u>	<u>6/1/11</u>	<u>6/1/12</u>	<u>6/1/13</u>
Entry Level 1		(3.25%) \$38,009	(3.25%) \$39,244	(3.25%) \$40,519	(2.0%) \$41,329	(2.0%) \$42,156
Level 2	18%	\$44,851	\$46,308	\$47,812	\$48,768	\$49,744
Level 3	9%	\$48,888	\$50,476	\$52,115	\$53,157	\$54,221
Level 4	9%	\$53,288	\$55,019	\$56,805	\$57,941	\$59,101
Level 5	9%	\$58,084	\$59,971	\$61,917	\$63,156	\$64,420
Level 6	9%	\$63,312	\$65,368	\$67,490	\$68,840	\$70,218
(B- Line)						
		<u>6/1/109</u>	<u>6/1/10</u>	<u>6/1/11</u>	<u>6/1/12</u>	<u>6/1/13</u>
(C- Line) 1.5% Differential (N/C)		\$64,262	\$66,349	\$68,502	\$69,873	\$71,271
(A- Line) 2.5% Differential (N/C)		\$64,895	\$67,002	\$69,177	\$70,561	\$71,973
Sergeant (N/C) (B- Line) 11%		\$70,276	\$72,558	\$74,914	\$76,412	\$77,942
(C- Line) 1.5% Differential (N/C)		\$71,330	\$73,646	\$76,038	\$77,558	\$79,111
(A- Line) 2.5% Differential (N/C)		\$72,033	\$74,372	\$76,787	\$78,322	\$79,891

## HEALTH INSURANCE

### PBA Position

The current Agreement between the parties describes the specific health insurance plan the Village is required to offer PBA members. It also lists several different riders that the Village is required to offer as part of the plan.

The PBA objects to the Village's proposal to eliminate all references to a particular plan and the riders the Village is required to offer as part of the plan. The PBA maintains that its members should not be subjected to participating in whatever health plan the Village decides to offer. The PBA stresses that the Village's proposal would allow the Village to implement whatever health insurance plan it wanted to with the PBA having the right to object to it only by commencing a lengthy and costly litigation. It asserts that health insurance is far too important a benefit that and that it would be unfair for the Panel to empower the Village in such a way.

The PBA contends that the parties extensively negotiated this issue in the past. The negotiations culminated in an agreement that clearly regulates and defines the Village's rights to make changes to existing health plans. The PBA stresses that it gave the Village the right to change health insurance plans under contractually defined circumstances. In the PBA's view, this was a major concession. It asserts that the existing language is balanced and fair to both parties and that the Panel should not change it.

The PBA also objects to the Village's proposal to provide a 20% health insurance premium contribution for new employees. It contends that the current contributions that its members pay of between 10% and 15%, depending on their hire date, would only serve to move its members' wage and benefit package even further behind the market. It

contends that this is wholly inappropriate given the fact that its members' wages and benefits already rank last or near last in wages and benefits among the PBA's comparables.

### Village Position

The Village proposes to establish a new 20% health insurance contribution for new employees. It also seeks to eliminate the language in the CBA that refers to a specific plan with specific riders.

The Village asserts that its proposal will allow the Village to shop for a substantially equivalent health plan from a wide variety of insurers. Whereas the current language only allows the Village to shop for a new health plan with the Capital District Physicians' Health Plan, the Village's proposed language would allow it to truly explore the market and get more competitive rates. The Village contends that it could provide the same level of benefits to police officers at a much lesser expense. Since the Village argues that the current language prohibits it from obtaining legitimate quotes from other insurers, the Village seeks greater flexibility in the current contractual language.

The Village insists that its proposal is extremely important, as it would remove the last impediment to its ability to shop for competitive health insurance proposals. In the Village's view, its proposal is extremely reasonable. It will gain the right to get more competitive rates, which is critically important due to the skyrocketing costs of health insurance. At the same time, PBA members would be protected as the proposed language would assure that the new plan would be "substantially equivalent" to the former plan. Moreover, if the Union objects to the plan, it has the right to file a grievance and have the

issue brought before an independent arbitrator. The Village urges the Panel to adopt its proposal.

### Panel Determination on Health Insurance

Health insurance continues to be one of the most difficult and contentious labor-management issues due to its importance to employees and their families, and its cost, which has been increasing over the past several years.

The Panel determines that the Village needs the ability to shop for health insurance plans offering the same coverage that is currently being provided. The Village should be afforded the opportunity to go into the marketplace and see if it can find a vendor willing to provide the same health benefits that are currently provided for less money. The other two Village bargaining units contract language provide the Village this ability. As such, the Panel hereby determines that it is appropriate to award the same language as is agreed to between the Village and its other bargaining units on this issue. It provides the Village with the ability it needs to shop for health plans while providing PBA members with the protection that the plan will provide no less coverage than the plan currently in effect.

This is a major change for the PBA. For this reason alone, the Panel finds that the Village's proposal to have new employees contribute 20% should be rejected. In addition, the Panel notes that the current contributions ranging from 10% to 15% are at the higher end of the spectrum when measured against the comparables.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

**AWARD ON HEALTH INSURANCE FOR ACTIVE EMPLOYEES**

**ARTICLE 11, Section 1a –**

Add the following to read as follows under the list of riders in the contract:

The Village shall provide hospitalization and major medical insurance with no less coverage than the plan set forth above.

**ADDING MARTIN LUTHER KING JR.'S BIRTHDAY AS PAID HOLIDAY**

There is no dispute about the PBA's proposal to add Martin Luther King Jr.'s birthday as a paid holiday. This holiday has been paid to employees represented by the PBA since 2009. The Village and has no objection to codifying this day to the existing list of paid holidays set forth in Article 13 – Time Off, Section 6 Holidays.

Accordingly, the Panel makes the following:

**AWARD ON ADDING MARTIN LUTHER KING JR.'S BIRTHDAY AS A PAID  
HOLIDAY**

**Article 13, Section 6a** – Add Martin Luther King Jr.'s Birthday to the list of paid holidays.

**SALARY AND BENEFITS FOR EMPLOYEES INJURED/ILL IN THE LINE OF  
DUTY ON GML SECTION 207-c LEAVE**

**PBA Position**

The current CBA provides no specific benefits or procedures for handling salaries, benefits and disputes regarding any police officer injured or who becomes ill due to work and whether he or she should be placed on GML Section 207-c leave. The PBA asserts that its members deserve to have a comprehensive policy that sets forth their

procedural and substantive rights when they are injured in the course of duty and at their most vulnerable. The PBA stresses that it is an industry norm for police officers to have contractual rights setting forth GML 207-c procedures and that its proposal simply provides a clear and unambiguous framework for handling these disputes and setting forth the parties' respective rights. The PBA maintains that there is no logical basis for the Panel to reject its proposal.

### **Village Position**

The Village notes that the CBA does not currently have a GML 207-c procedure. It reminds the Panel that even though the PBA submitted evidence showing municipalities that have a GML 207-c procedure, the Village is not mandated to provide benefits beyond the statutory minimum, i.e., payment of regular salary and payment for medical care related to the officer's disability.

The Village stresses that the Panel should limit its award to providing only the statutory minimum of benefits. It contends that there are no compelling reasons to go beyond the statutory minimum and that the uncertain economic times mandate the Panel to be prudent in awarding anything beyond the statutory minimum.

### **Panel Discussion Regarding Salary and Benefits for Employees Injured in the Line of Duty on GML Section 207-c Leave**

The Panel takes note of the importance of GML Section 207-c benefits and the important role they play in providing income protection to police officers who are injured while they are engaged in the important work they do. At the same time, the Panel recognizes that these economic times require moderation in the area of benefits so that this economic package can be fair and balanced to both unit members and the Village.

With this in mind, the Panel finds that it is appropriate to award a specific and detailed GML 207-c policy that sets forth the specific rights of both parties. The Panel notes that many of the provisions in the policy it is awarding have been successfully utilized by many other parties. The procedural rights in this policy will provide important protections to police officers seeking to be placed on GML 207-c status. At the same time, the Panel notes that the benefits provided by this policy are almost the same as the statutory minimum.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

**AWARD ON SALARY AND BENEFITS FOR EMPLOYEES INJURED OR  
WHO BECOME ILL IN THE LINE OF DUTY PURSUANT TO GML SECTION**

**207-c LEAVE**

Modify Article 13, Section 5 by replacing with the GML 207-c Procedure that is attached hereto and made a part of this Award.

**REMAINING ISSUES**

The Panel has reviewed in great detail all of the demands of both parties, as well as the extensive and voluminous record in support of those demands. The fact that those demands 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 terms and benefits by the Panel members. In interest arbitration, as in collective bargaining, not all proposals are resolved, and not all contentions are agreed with. The Panel, in reaching what it has

determined to be fair result, has not made an Award on all of the demands submitted by each of the parties.

#### **AWARD ON REMAINING ISSUES**

Except as set forth in this Award, the Village's demands are hereby rejected.

Except as set forth in this Award, the PBA's demands are hereby rejected.

#### **RETENTION OF JURISDICTION**

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

#### **RETROACTIVITY AND IMPLEMENTATION OF THE AWARD**

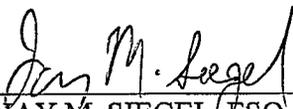
The Panel awards full retroactivity to any unit member who worked during any period from June 1, 2009, the first day of the Award. The Village shall pay all retroactivity as soon as possible, but no later than 45 calendar days after the signature of the Panel Chair to this Award. The Award shall be implemented as soon as possible, but no later than 20 calendar days after the signature of the Panel Chair to this Award. The Village shall provide a worksheet to everyone receiving retroactivity setting forth what the calculation(s) represent.

#### **DURATION OF AWARD**

Pursuant to the agreement of the parties and the provisions of Civil Service Law Section 209.4(c)(vi) (Taylor Law), this Award is for the period commencing June 1, 2009 through May 31, 2014. The terms of this Award shall be effective on such dates as set

forth herein and payable to any unit member working during such award term. Payment of any retroactive wage adjustment shall be made no later than 60 days after the execution of this Award by the Panel Chair.

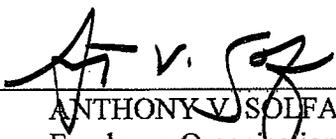
Accordingly, the Panel, after consideration of the record evidence and after due consideration of the statutory criteria, executes this instrument which is our award.

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

11/19/13  
Date

  
\_\_\_\_\_  
BRYAN J. GOLDBERGER, ESQ.  
Employer Panel Member

11/21/13  
Date

  
\_\_\_\_\_  
ANTHONY V. SOLFARO  
Employee Organization Panel Member

11/14/13  
Date

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

On this 19<sup>th</sup> day of November 2013 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 14

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

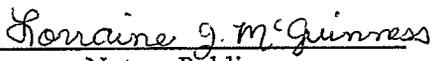
On this 8<sup>th</sup> day of November 2013 before me personally came and appeared Bryan J. Goldberger, Esq. to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

BRIAN S. KREMER  
Notary Public, State of New York  
Reg. No. 02KR4998294  
Qualified in Albany County  
Commission Expires 6/22/14

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

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

On this 14<sup>th</sup> day of November 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 the same.

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

LORRAINE J. MCGUINNESS  
NOTARY PUBLIC, STATE OF NEW YORK  
Qualified in Orange County  
Reg. No. 4620194  
Commission Expires June 30, 20 15

## NEW ARTICLE

### **General Municipal Law Section 207-c Procedure**

#### **Section 1. Applicability**

Section 207-c of the General Municipal Law (GML) provides that a police officer:

"who is injured in the performance of his duties or who is taken sick as a result of the performance of his duties so as to necessitate medical or other lawful or remedial treatment shall be paid by the municipality by which he is employed the full amount of his regular salary or wages until his disability arising therefrom has ceased and, in addition, such municipality shall be liable for all medical treatment and hospital care necessitated by reason of such injury or illness."

The following procedures shall regulate the application and benefit award process for GML §207-c benefits for police officers of the Village of Scotia.

#### **Section 2. Definitions**

- a) **Village:** The Village of Scotia.
- b) **Chief:** The Chief of Police of the Village of Scotia.
- c) **Claimant:** Any Police Officer of the Village of Scotia who is allegedly injured in the performance of his/her duties or who is allegedly taken sick as a result of the performance of his/her duties.
- d) **Recipient:** Any Police Officer of the Village of Scotia who has been granted GML Section 207-c benefits.
- e) **Claims Manager:** The individual designated by the Village who is charged with the responsibility of administering the procedures herein. The Village shall notify the PBA as to the name of the individual designated by the Village as the Claims Manager, and changes in that designation as they occur.
- f) **GML Section 207-c Benefits:** Payment of the full amount of regular salary or wages, including longevity, and medical treatment and hospital care mandated under GML §207-c. In addition, a Recipient shall be entitled to:
  - 1) Health and dental insurance in the same manner in which and to the same extent as the employee was receiving or eligible to receive when not disabled;

- 2) Educational incentive pay prorated to a maximum of 90 calendar days each year;
- 3) Payment of health insurance opt out; if applicable.
- 4) Contributions to the Police and Fire Retirement System subject to applicable law, rule and regulation;

Upon return to work (full or light duty), a Recipient shall accrue or be credited with his/her respective cleaning or purchasing of work clothing stipends and all paid leaves on a prorated basis based upon the remaining portion of the year of return to work.

- 5) Except as specifically set forth above, no other payment(s) shall be made to a recipient.

### **Section 3. Application for Benefits**

1. (a) A Claimant shall file an application (attached hereto as Appendix "A" and made a part of this Agreement) for benefits with the Claims Manager within ten (10) calendar days after the incident giving rise to the injury or illness or within ten (10) calendar days after the Claimant should have become aware of the injury or illness. Upon good cause shown, an application for GML §207-c benefits may be entertained in the discretion of the Claims Manager notwithstanding the failure to file the application within the required ten (10) calendar days. Failure to file a timely application unless excused by the Claims Manager shall render the Claimant ineligible for benefits.

(b) The Claimant shall be permitted to file documentation to supplement the original application for benefits if filed before the determination of the Claims Manager is made.

(c) All applications for GML §207-c benefits shall be in writing, using the attached application for benefits form, which shall include the following:

- (i) the time, date and place of the incident causing the injury or illness;
- (ii) a detailed statement of the particulars of the incident;
- (iii) the nature and extent of the Claimant's injury or illness;
- (iv) the Claimant's mailing address;

- (v) the names of any potential witnesses;
- (vi) the names and addresses of all of the Claimant's treating physicians.
- (vii) a medical release form as set forth in this Procedure (attached hereto as Appendix "A" and made a part of this Agreement).

(d) A copy of the Department line of duty incident report shall be attached to the application.

2. A Department incident report and application for GML §207-c benefits may be filed by either the Claimant or by a person authorized on behalf of the Claimant when the Claimant's injury or illness prevents him/her from filing the Department incident report or application for GML §207-c benefits. The time frames specified in Paragraph 1(a), above, are applicable to any application filed for GML 207-c benefits.

#### **Section 4. Authority and Duties of Claims Manager**

1. The Claims Manager shall have the sole and exclusive authority to determine initially whether a Claimant is entitled to GML §207-c benefits. In making the determination, the Claims Manager shall examine the facts and circumstances giving rise to the application for such benefits.

2. The Claims Manager's authority shall include, but not be limited to, the following:

- (a) employing experts and specialists to assist in the rendering of the determination of eligibility;
- (b) requiring the production of any book, document or other record that pertains to the application, injury, or illness;
- (c) requiring the Claimant to submit to one or more medical examinations related to the illness or injury;
- (d) requiring the Claimant to sign forms for the release of medical information that bears upon the application;
- (e) requiring the attendance of the Claimant and all other witnesses for testimony upon reasonable notice; and
- (f) doing all that is necessary or reasonable in the processing of the application.

3. A Claimant must cooperate with the Claims Manager in providing all necessary information, reports and documentation and attending all scheduled medical examinations. In the event the Claimant does not cooperate with and/or assist the Claims Manager as set forth herein, the Claimant's application for benefits may be denied.

4. The Claims Manager's determination of initial eligibility shall be made within a reasonable time.

The Claims Manager shall mail a written copy of his/her decision to the Claimant and the Chief within ten (10) calendar days of his/her determination. The written determination shall set forth the reasons for the Claims Manager's decision.

A written request for a hearing to appeal from an initial determination of the Claims Manager must be filed with the Claims Manager within ten (10) calendar days after Claimant's receipt of the determination. The Claims Manager shall arrange for a hearing to be held pursuant to Section 11 of this Procedure.

#### **Section 5. Time Off Pending Initial Determination**

1. Pending the Claim Manager's initial determination of benefit eligibility, any time off taken by the Claimant that he/she claims is the result of the injury or illness giving rise to the application shall be charged to the Claimant's sick leave time. In the event there is insufficient sick leave time and/or it becomes exhausted, the Claimant shall use paid leave in the following order:

- (a) Personal Leave
- (b) Compensatory Time
- (c) Holiday Time
- (d) Vacation

If the Claimant is granted GML §207-c benefits, the leave time used will be credited back to Claimant. In the event the Claimant has exhausted all of his/her available paid leave accruals above, the Claimant shall be in unpaid status unless the Claims Manager, in his/her sole discretion, authorizes the payment of Claimant's benefits while the application is being processed. If Claimant is in unpaid status, he will continue to be offered health and dental insurance on the same basis as if actively employed, pending determination of eligibility for benefits.

## **Section 6. Medical Examinations and Treatment**

1. After the filing of an application, the Claims Manager may require a Claimant/Recipient to submit to such medical examinations as may be directed by the Claims Manager, including examinations necessary to render a determination of eligibility, to determine if the Claimant/Recipient is able to perform his/her regular duties or light duty assignments as set forth in Section 7 of this Procedure, and/or examinations required to process an application for disability retirement. The Claims Manager may also require a Claimant/Recipient to submit to medical treatment. Such treatment may include, but is not limited to, medical and/or surgical techniques deemed necessary by the appointed physicians. The Claimant/Recipient shall cooperate in the scheduling of the examination(s) and treatment, providing medical records relating to the claimed injury or illness to the Village's examiner, and in answering questions placed by the health care provider relating to the claimed injury or illness. Any Recipient who refuses or fails to attend such examination(s) and/or accept medical treatment may be deemed to have waived his/her rights under GML §207-c. The Claims Manager shall provide written notice pursuant to Section 10 of this Procedure to the Claimant/Recipient that his/her benefits are being terminated on the basis of a refusal or failure to attend medical examination and/or accept treatment. A Claimant/Recipient contesting the termination of GML §207-c benefits must make written request for a hearing to appeal to the Claims Manager within ten (10) calendar days after receipt of the termination notice, and the Claims Manager shall arrange for a hearing pursuant to Section 11 of this Procedure. Pending the hearing, Claimant/Recipient's benefits shall be continued.

2. The Claimant/Recipient shall execute the attached Medical Release Form and file it with the Claims Manager upon request to have all medical reports filed directly with the Claims Manager. The Claimant/Recipient shall receive a copy of any and all medical reports filed with the Claims Manager. The medical reports which are filed shall remain confidential and only released for purposes of administering the procedures herein and Workers' Compensation.

3. A Recipient must notify the Claims Manager of expenses for medical services, hospitalization, or other treatment alleged to be related to the injury or illness giving rise to the claim. Unless in an emergency, notice shall be made prior to the incurring of the expense.

4. Any claim for surgical operations or physiotherapeutic procedures (e.g., chiropractic care or physical therapy) must be pre-approved by the Claims Manager, unless treatment was required in an emergency. Determinations of the Claims Manager under this paragraph shall be based upon medical documentation.

5. In the event it is determined by the Claims Manager that no emergency existed prior to incurring any expense specified in sub-sections 3 and/or 4 above, the Recipient may be liable for the payment of that expense.

6. Copies of bills for medical services, drugs, appliances or other supplies shall be filed with the Claims Manager for the particular items billed, stating thereon that the items were incurred as a consequence of the injury or illness upon which the claim for benefits is based. The Village reserves the right to arrange for alternate methods for the Claimant to receive prescriptions, applications and supplies (For example, prescription drug card).

### **Section 7. Light Duty Assignments**

1. Any Recipient may be examined by a physician chosen by the Claims Manager to determine the Recipient's ability to perform specified light duty. Any Recipient deemed able to perform specified light duty, based upon medical documentation may be directed by the Chief, in his/her sole discretion, to perform such specified light duty.

2. A Recipient who disagrees with the order to report for specified light duty and who has conflicting medical documentation that he/she is unable to undertake specified light duty shall submit the medical documentation to the Claims Manager within ten (10) calendar days after receipt of the order to report for specified light duty. The Claims Manager shall review said medical documentation and within ten (10) calendar days of its receipt shall issue to the Chief and Recipient a decision as to whether the order to return to specified light duty should be confirmed, modified or withdrawn. If the Recipient is dissatisfied with the decision, he/she may request, in writing, to appeal from the decision within ten (10) calendar days after receipt of the Claim Manager's decision. The Claims Manager shall arrange for a medical examination to be conducted by a medical doctor appointed pursuant to agreement of the Village's examining physician and the Recipient's examining physician. The cost of this medical examination shall be paid by the Village. The determination of the appointed medical doctor regarding the Recipient's ability to perform a light duty assignment will be controlling subject to the provisions of Sections 6 and 9 of this GML §207-c Procedure which permit the Claims Manager to review the eligibility of every GML §207-c Recipient throughout the period during which benefits are received.

3. Payment of full GML §207-c benefits shall be continued with respect to a Recipient who submits medical documentation contesting the order to report to specified light duty until it is determined whether the Recipient is capable of performing the specified light duty. Where a final determination has been made by a medical doctor appointed pursuant to agreement of the Village's examining physician and the Recipient's examining physician that the Recipient can report to and perform specified light duty, and that individual fails or refuses to perform

specified light duty, that Recipient's GML §207-c status shall be discontinued. No hearing under Section 11 shall be required to terminate benefits for this reason.

#### **Section 8. Changes in Condition of Recipient**

1. Every GML §207-c Recipient shall be required to notify the Claims Manager of any change in his/her condition which may enable the Recipient to return to normal duties or be classified as eligible for light duty. This notice shall be made in writing within forty-eight (48) hours of any such change.

#### **Section 9. Right of Perpetual Review and Examination**

1. The Claims Manager shall have the right to review the eligibility of every GML §207-c Recipient throughout the period during which benefits are received. This right shall include, but shall not be limited, to the following:

(a) requiring Recipient to undergo medical examination(s) and treatment by physician(s) or medical provider(s) chosen by the Claims Manager;

(b) requiring Recipient to apprise the Claims Manager as to his/her current condition; and

(c) requiring Recipient or any other involved parties to provide any documentation, books or records that bear on the Recipient's case.

#### **Section 10. Termination of Benefits**

1. If, for any reason, the Claims Manager determines that a Recipient is no longer or was never eligible for benefits, the Claims Manager shall notify the Recipient in writing of the termination of benefits and reason for the termination. Notice of such termination and the reasons therefore shall be served by mail upon the Recipient and the Chief. If the Recipient requests a hearing pursuant to Section 11 of this Procedure, the Recipient shall continue to receive GML §207-c benefits pending the conclusion of the hearing procedure, except where benefits are terminated in accordance with the provisions of Section 7(3). A termination of benefits pursuant to Section 7(3) of this procedure shall not require or be the subject of a hearing under Section 11 of this procedure and shall be effective upon written notification to the Recipient by the Claims Manager.

## **Section 11. Hearing Procedures**

1. Hearings under the provisions of this Procedure shall be conducted within thirty (30) calendar days of the arbitrator's appointment.

Either party may request a list of arbitrators from the Public Employment Relations Board from which the parties will select an arbitrator pursuant to PERB's voluntary grievance arbitration rules.

The Arbitrator's review shall be limited to the record before the Claims Manager when the Claims Manager made the determination which is the subject of the hearing. The standard of review shall be whether there is a reasonable basis for the Claims Manager's determination. The Arbitrator may not substitute his/her judgment for that of the Claims Manager and must confine his/her analysis to whether, based upon the record before the Claims Manager at the time his/her determination was made, such determination was reasonable.

The Claimant/Recipient may be represented by a designated representative and may subpoena witnesses. Each party shall be responsible for all fees and expenses incurred in their representation. The Arbitrator shall render and submit to the Claims Manager, with a copy to the Claimant/Recipient's representative, the written Opinion and Award within thirty (30) calendar days after the hearing is closed. Any such determination of the Arbitrator shall be reviewable pursuant to the provisions of Article 75 of the Civil Practice Law and Rules. The fees and expenses of the Arbitrator shall be paid equally by the Village and PBA. In the event the employee uses representation other than the PBA, he/she shall be responsible for his/her equal share of the fees and expenses.

## **Section 12. Coordination with Workers' Compensation Benefits**

1. Upon payment of GML §207-c benefits, any wage or salary benefits awarded by the Workers' Compensation Board shall be payable to the Village for periods during which a Recipient received GML §207-c benefits. A Recipient must timely cooperate, as requested by the Village, with completing any documentation necessary for the Village to receive reimbursement from Workers' Compensation related to the claimed injury or illness. Failure by Recipient to cooperate as requested may result in the termination of GML §207-c benefits. If the Recipient shall have received any Workers' Compensation benefits hereunder which were required to be paid to the Village, the Recipient shall repay such benefits received to the Village, or such amounts due may be offset from any GML §207-c benefits thereafter. Upon termination of GML §207-c benefits, any continuing Workers' Compensation benefits shall be payable to the Recipient. The parties shall not be bound by a determination of the Workers' Compensation Board.

**Section 13. Discontinuation of Salary and Wage Benefits Upon Disability Retirement**

1. Payment of GML §207-c benefits shall be discontinued with respect to any Claimant who is granted a disability retirement pension as provided by law.

**Section 14. Miscellaneous**

1. Any reference related to GML §207-c benefits is informational only, and is not intended to reduce, add or enlarge the benefits or rights contained in the statute or any amendments made thereto, unless so specified. The intent is to read this Procedure in conformity with GML §207-c.

After returning to full duty from a GML §207-c injury or illness, a claim for benefits based on a recurrence of the injury or illness shall be treated as a new application for GML §207-c benefits.

The Village shall comply with applicable tax laws and Internal Revenue Service (IRS) Regulations in the payment of GML §207-c benefits.

Recipients must request reimbursement for any taxes withheld on wages paid prior to the granting of GML §207-c benefits.

APPENDIX "A"

**THE VILLAGE OF SCOTIA POLICE DEPARTMENT  
GENERAL MUNICIPAL LAW SECTION 207-c**

**APPLICATION**

1. \_\_\_\_\_  
Name of Officer
  
2. \_\_\_\_\_  
Address to which correspondence concerning application should be directed.
  
3. \_\_\_\_\_ 4. \_\_\_\_\_  
Telephone Number Age
  
5. \_\_\_\_\_  
Name of Supervisor
  
6. \_\_\_\_\_  
Current Job Title
  
7. \_\_\_\_\_  
Occupation at Time of Injury/Illness
  
8. \_\_\_\_\_  
Length of Employment
  
9. \_\_\_\_\_ 10. \_\_\_\_\_ 11. \_\_\_\_\_  
Date of Incident Day of Week Time
  
12. (a) \_\_\_\_\_  
Name of Witness(es) and Address (if available)  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_
  
13. (a) \_\_\_\_\_  
Names of co-employees at the incident site  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_

14. Describe what the officer was doing when the incident occurred. (Provide as many details as possible. Use additional sheets if necessary.) \_\_\_\_\_  
\_\_\_\_\_
15. Where did the incident occur? Specify. \_\_\_\_\_  
\_\_\_\_\_
16. How was the claimed injury or illness sustained? (Describe fully, stating whether injured person slipped, fell, was struck, etc., and what factors led up to or contributed. Use additional sheets if necessary.) \_\_\_\_\_  
\_\_\_\_\_
17. When was the incident first reported? \_\_\_\_\_  
To Whom? \_\_\_\_\_ Time \_\_\_\_\_  
Witness(es) (if any) \_\_\_\_\_
18. Was first aid or medical treatment authorized? \_\_\_\_\_  
By Whom? \_\_\_\_\_ Time \_\_\_\_\_
19. Name and address of attending physician \_\_\_\_\_  
\_\_\_\_\_
20. Name of Hospital \_\_\_\_\_
21. State name and address of any other treating physician(s) \_\_\_\_\_
22. State nature of injury and part or parts of body affected \_\_\_\_\_  
\_\_\_\_\_
23. The name and address of my representative to whom a copy of any decision concerning the application should be sent: \_\_\_\_\_  
\_\_\_\_\_

I SUBMIT THIS APPLICATION PURSUANT TO THE POLICY AND PROCEDURE GOVERNING THE APPLICATION FOR AND THE AWARD OF BENEFITS UNDER SECTION 207-c OF THE GENERAL MUNICIPAL LAW. THE STATEMENTS CONTAINED IN THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, ACCURATE AND TRUE. IN THE EVENT THE STATEMENTS OR INFORMATION CONTAINED IN THIS APPLICATION ARE FOUND TO BE INACCURATE OR UNTRUE, DISCIPLINARY ACTION MAY BE TAKEN AND GML §207-c BENEFITS MAY BE DENIED.

\_\_\_\_\_  
(Signature of Applicant if other than Injured Officer)

\_\_\_\_\_  
(Date)

Application Received By:

\_\_\_\_\_  
(Signature of Person Authorized to Receive Application)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Date of Report

\_\_\_\_\_, New York

\_\_\_\_\_  
Signature of Injured Officer

**APPENDIX "A"**

**AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION**

I, \_\_\_\_\_, residing at \_\_\_\_\_,  
(insert name) (insert address)

hereby authorize the use or disclosure of my health information as described in this authorization and in accordance with the Health Insurance Portability and Accountability Act of 1995 for my General Municipal Law Section 207-c claim.

1. Specific person/organization (or class of persons) authorized to make the requested use or disclosure:
  
  
  
  
  
  
  
  
  
  
2. Specific person/organization (or class of persons) authorized to receive and use the health information:
  
  
  
  
  
  
  
  
  
  
3. Name and address of health provider or entity to release this information:
  
  
  
  
  
  
  
  
  
  
4. Specific and meaningful description of the information:
  
  
  
  
  
  
  
  
  
  
5. Purpose of the request:
  
  
  
  
  
  
  
  
  
  
6. I understand that after this information is disclosed, federal law might not protect it and the recipient might use or disclose it again.
  
  
  
  
  
  
  
  
  
  
7. **RIGHT TO REVOKE:** I understand that I have the right to revoke this authorization at any time by notifying in writing the party listed in Section (3) of this authorization and the party listed in Section (1) of this authorization.

8. I understand that any use or disclosure made prior to the revocation of this authorization will not be affected by a revocation.
8. I understand that I am entitled to receive a copy of this authorization.
9. I understand that this authorization will expire twelve (12) months after the date of my, or my personal representative's, execution of this authorization.
10. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan or eligibility for health insurance benefits will not be conditioned upon my authorization of this disclosure.

\_\_\_\_\_  
Signature of Individual  
or individual's personal representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print name of individual  
or individual's personal representative

If a Personal Representative executes this form, that Representative warrants that he or she has authority to sign the form on the basis of:

\_\_\_\_\_





## Scotia Patrolmen's Benevolent Association, Inc.

Adam T. Halbfinger	President
Gordon A. Iwan	Vice President
Daniel P. Harrigan	Secretary/Treasurer

August 23, 2013

Jay M. Siegel, Esq.  
12 Rock Street  
Cold Spring, New York 10516

Re: PERB Case No. IA2011-026; M2011-206  
Village of Scotia and the Scotia Patrolmen's Benevolent Association, Inc.

Dear Panel Chair Siegel:

The Village of Scotia Patrolmen's Benevolent Association, Inc. (PBA), hereby authorizes the interest arbitration panel, consisting of you, Bryan J. Goldberger for the Village, and Anthony V. Solfaro for the PBA, to issue an award covering the period from June 1, 2009 through May 31, 2014.

Sincerely,

Adam Halbfinger  
President

# VILLAGE OF SCOTIA

Mayor

Kris Kasberg

Trustees

Thomas A. Gifford, Deputy Mayor

Rory Fluman

John N. Lockwood

Joseph Rizzo



Clerk-Treasurer

Maria A. Schmitz

Attorney

Lydia R. Marola

September 11, 2013

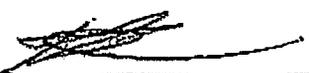
Jay M. Siegel, Esq.  
12 Rock Street  
Cold Spring, New York 10516

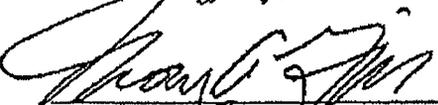
Re: PERB Case No. IA2011-026; M2011-206  
Village of Scotia and the Scotia Patrolmen's Benevolent Association, Inc.

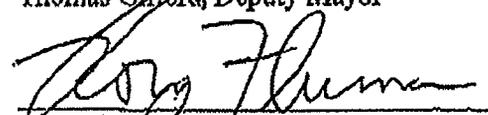
Dear Panel Chair Siegel;

The Village Board of the Village of Scotia hereby acknowledges the Village Board's right under the Taylor Law to approve the additional funds to permit the implementation of a collective bargaining agreement, but notwithstanding these rights, the Board consents to and authorizes the interest arbitration panel, consisting of Jay M. Siegel, Bryan J. Goldberger for the Village of Scotia, and Anthony V. Solfaro for the Scotia Patrolmen's Benevolent Association, Inc., to issue an award covering the period from June 1, 2009 through May 31, 2014.

Respectfully,

  
Kris Kasberg, Mayor

  
Thomas Gifford, Deputy Mayor

  
Rory Fluman, Trustee

  
John Lockwood, Trustee

  
Joseph Rizzo, Trustee

Concurring Opinion – Public Employer Panel Member

I concur with the award issued in this matter but take issue with certain of the underlying assumptions made by the panel majority in the areas of comparability, ability to pay, and the panel's Determination on Base Wages.

This award is the result of extensive discussions and compromise by the members of the panel. I cannot agree, however, with the panel majority's analysis on comparability to the extent that it equates the Village of Scotia with the Town of Glenville and, to a lesser degree, the Towns of Niskayuna and Rotterdam with limited consideration given to the Village of Hudson Falls. While the panel majority's analysis of geographical proximity has merit, the exclusion of the Villages of Herkimer and Ilion from any consideration as relevant comparability confounds me. Consideration of similar governmental structures and populations are, to me, extremely relevant to a determination of comparables. Pursuant to the criteria set forth in the Taylor law, the panel majority could just as easily have made an argument for some consideration of the Villages of Ilion and Herkimer as relevant comparables as not - they simply chose not to.

The discussions which ultimately generated the award herein were largely based upon what had transpired with the Village's other bargaining units, including its other public safety unit. I want to be clear that the analysis on comparability and ability to pay were fashioned by the panel chair after these discussions and were not, to my recollection, discussed or considered in reaching the actual award herein. I therefore disagree with the panel majority's statement on page 15 of the Award that this Award was premised on a direct comparison with other Police Officers.

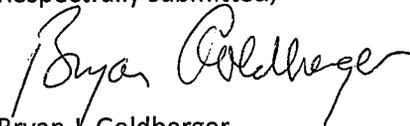
With respect to the panel's determination on health insurance, I must take issue with certain of the statements made by the panel majority. Again, this Award is the product of extensive discussion and negotiation between the members of the panel. The panel agreed to a change in health care language to enable the Village to go into the marketplace to shop for health care coverage. It was simply determined that based upon the panel members' compromise on that issue, the panel was not going to award the Village's proposal to have new employees contribute 20% toward the cost of health care. I, as a member of the panel, did not reject the Village's proposal on that issue as stated in the award. In addition, I do not agree with the panel majority's statements that employees' current contributions ranging from 10% to 15% are at the higher end of the spectrum, thereby somehow justifying the alleged "rejection" of the proposal. The issue which was of paramount importance to the

Village was achieving the ability to shop for competitive pricing on health care. As this goal was achieved as a result of the Award, the compromise reached among the panel members was to not award the Village's proposal to have new hires pay 20% of the health insurance premium.

Regarding the panel majority's determination concerning the Village's ability to pay, I do not agree with many of the observations made by the Panel majority relevant to the issue. The Village, like almost all upstate municipalities, is struggling with increasing personnel costs for health insurance and pensions while contending with a 2% (1.66% this year) property tax cap. While the Village's administration has done an admirable job managing the Village's resources, I find no support in the record for the panel majority's statement that "... the fundamental economic conditions of the Village are strong." What fundamental economic conditions are being referred to and why they may be "strong" are not known to me.

In sum, I concur with the Award but strongly disagree with the panel majority's determination on comparability and ability to pay. This Award was the product of extensive negotiations between the panel members as evidenced by the parties' agreement to extend the panel's jurisdiction for a period of five (5) years. The extensive comparability analysis by the panel Chair was developed after the parameters of the award were determined. I simply cannot agree that a determination of comparability excludes municipal entities similarly structured and populated with similar sized police forces in favor of alternate municipal entities with significantly greater populations and larger police forces and budgets. While I believe that the geographical area around which Scotia is located, including the Town of Glenville, is relevant to the analysis of comparability, I also believe that the type and size of a municipal entity, its population and composition of its police force must also be considered, at least on some level. The analysis of comparability could have been modified so that I could have agreed with it, but since it was not, I am unable to concur with it.

Respectfully submitted,



Bryan J. Goldberger  
Public Employer Panel Member

CONCURRING OPINION- EMPLOYEE ORGANIZATION PANEL MEMBER

I write briefly to respond to certain points raised by Mr. Goldberger in his concurring opinion.

Mr. Goldberger states that the Panel Majority's analysis and conclusions with respect to comparability and ability to pay are in his opinion, incorrect in certain respects, and he implies that the analysis and conclusions were not as they would have been or might have been if the panel members had not agreed upon the terms for an award.

There is no basis to suggest to readers of this opinion and award that the Panel Majority's analysis and conclusions were anything other than what he thought they should be based on the law and the facts of record and their understanding and beliefs as to the meaning and proper application of the Taylor Law's interest arbitration criteria.

The Village had the opportunity to enter into a multi-year collective bargaining agreement. It chose not to do so. That required the Panel to issue an award. It did so on the basis of the record and the statutory criteria as the Panel Majority, in good faith, believed them to be based upon their many years of interest arbitration experience.

To respond to certain particulars in Mr. Goldberger's concurrence, comparability is a search for a market within which to compare prevailing wages and benefits. Governmental structure and population size are immaterial to comparability, although those factors can relate to the criterion of ability to pay.

There is nothing unusual or surprising in the analysis that compares the wages and benefits of these police officers with other police officers. That apples-to-apples comparison is what interest arbitration panels have been doing for the nearly 40 years there has been interest arbitration under the Taylor Law.

As to Mr. Goldberger's limited criticism of the ability to pay analysis, the readers can be assured that when the Panel Chairman finds the "fundamental economic conditions" within the Village to be "strong", he means it, and would not have included that finding despite Village disclaimers.

Respectfully submitted,



Anthony V. Solfaro,  
Employee Organization Panel Member

DATED: November 14, 2013