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#### **Contract Database Metadata Elements**

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Employer Name: **Haverstraw, Town of**

Union: **Town of Haverstraw Police Benevolent Association**

Local:

Effective Date: **01/01/03**

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POL / 7384

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In the Matter of the Interest  
Arbitration

- Between -

TOWN OF HAVERSTRAW

"Town"

- and -

TOWN OF HAVERSTRAW POLICE  
BENEVOLENT ASSOCIATION

"PBA"

1/1/03 - 12/31/04

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APPEARANCES

For the Town

Ronald A. Longo, Esq., Attorney  
 Lance Klein, Esq., Attorney  
 Michael Gamboli, Director of Finance  
 Paul B. Allison, Chief of Police  
 Charles Miller, Lieutenant  
 Michael Moore, Lieutenant

For the PBA

Raymond Kruse, Esq., Attorney  
 John Nugent, Sergeant  
 Richard Janelli, Detective  
 Michael J. Viohl, Detective  
 Ria Torres, Police Officer

**RECEIVED**  
 MAY 31 2006  
 NYS PUBLIC EMPLOYMENT  
 RELATIONS BOARD

BEFORE: HOWARD C. EDELMAN, ESQ., ARBITRATOR

66

**BACKGROUND**

The parties are signatories to a Collective Bargaining Agreement which expired on December 31, 2002. Negotiations did not produce a successor Agreement. Nor did mediation efforts. Consequently, and pursuant to a Stipulation of Agreement dated December 11, 2003, I was selected Interest Arbitrator to resolve the dispute. A hearing on this matter was held before me on December 11, 2003. Thereafter, a summation session in which counsel were given the opportunity to present arguments in support of their positions was conducted on February 2, 2004. At its conclusion, I closed the record. These findings follow.

**POSITIONS OF THE PARTIES<sup>1</sup>**

**PBA**

The PBA contends that its members deserve substantial wage and benefit increases, well above the average in Rockland County. As to wages, it argues that for 2002 and 2003 Rockland wages have increased by 3.6 per cent and 4.06 per cent, respectively. Moreover, it insists, current wages are very low when compared with

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<sup>1</sup>To expedite these findings, I have summarized the parties' positions.

other communities in Rockland. It notes that the Town's top grade Police Officer rate is lower than every other community except for the Village of Haverstraw whose department is to be disbanded. Consequently, the PBA contends that increases of 4.0 per cent or more per year are warranted to improve the poor relative ranking of its members. Also, as to Detective wages, the PBA asks that their differential be increased to 10.5 per cent above First Grade pay, as opposed to the current 7.5 per cent. Similarly, the PBA asks that certain special assignments not currently compensated be awarded a 7.5 per cent differential.

As to other wage rates, the PBA asks that longevity amounts be increased by ten per cent over current amounts. It contends that current figures are low when compared with other jurisdictions in the County, thereby justifying this increase.

The PBA maintains that the benefits the Town provides need substantial adjustment. It points out that currently no optical benefit exists here though a number of other communities provide this emolument. Also, it asks the Town to pay the full cost of the current dental insurance program.

Concerning personal days, the PBA suggests that

Police Officers now receive fewer days than in other Rockland County communities. Thus, it seeks a two day increase in the allotment for personal leave.

The PBA also seeks the following increases:

- additional ten per cent for those Officers who work between 1600 and 2400 hours;
- 21 days of sick leave;
- an increase in the sick leave bank to 2000 hours.

Finally, the PBA submits that the Town is well able to afford the wage and benefit improvements it seeks. It asserts that the Town has more property wealth than the average Rockland County community, that it has less debt than the average community and that it expends less on the Police Department than the others do.

Given these data the PBA insists that the Town has the ability to fund its proposals. Accordingly, it asks that they be adopted as presented.

**Town**

The Town maintains, initially, that relevant comparisons should include communities outside of Rockland County which are of similar size and demographics to the Town of Haverstraw. With the inclusion of these communities, the Town insists that the wage improvements the PBA seeks are excessive.

Also, the Town contends that it has liabilities other communities do not face. For example, it notes that with the dissolution of the Village of Haverstraw Police force, it will have to pay the Village one million dollars in 2003 and 1.85 million dollars in 2004. Also, it suggests, taxes increased substantially in 2002, more than in most other comparable communities.

In addition, the Town argues that Police Officers here compare favorably with respect to certain benefits when compared to other similarly situated communities. For example, it notes that the longevity stipend here is paid after four years of service, compared with five or more in most other jurisdictions.

Given these circumstances, the Town maintains that any increases I award must fall below raises awarded elsewhere and it asks me to so find.

#### DISCUSSION AND FINDINGS

Several introductory comments are appropriate. As Interest Arbitrator I derive my authority from Section 209.4 of the Civil Service Law of the State of New York ("Taylor Law"). That statute sets forth the criteria I must apply in reaching my determination. These criteria are:

- 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 the 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.

Section 209.4(V) of the CSL.

With these criteria in mind and based solely on the evidence adduced at the hearings and the parties' arguments, I make the following findings.

1. Term of Award

The Taylor Law bars the issuance of an Award which exceeds two years, except by agreement of the parties. Their failure to do so in this case means that the Award I render will result in bargaining beginning shortly

after my findings are issued. Nonetheless, I am constrained by the statute and relevant case law in this regard. Consequently, the duration of the Award shall be from January 1, 2003 through December 31, 2004.

## 2. Wages

As all are aware, the wage determination is the most significant economic component of any Interest Arbitration Award. It directly affects the ability of Officers to provide for themselves and their families. It has the greatest economic impact on the Town, for police wages constitute a significant portion of the Town's budget. Thus, the wage determination and related benefits are entitled to the most extensive analysis.

Central to this analysis are the comparators which must be utilized. The Town vigorously asserted that communities outside of Rockland County with similar demographics to the Town should constitute relevant jurisdictions, including those within the County. The PBA insisted that only Rockland County communities should form the basis of comparison to the Town.

I have reviewed these arguments and I find that the PBA's position in this regard must be upheld. On October 1, 1999, Arbitrator Joel Douglas issued a finding on this matter. He upheld his prior finding, as follows:



The Arbitrator has considered all the cited statutory criteria addresses first the comparability standard. The parties were unable to agree to area comparables with the Town arguing that a wider net must be cast to include in addition to Rockland County, Orange, Putnam, and Westchester counties. The Union argued in opposite claiming that bargaining history, past practice and custom has always dictated that comparability was traditionally limited to Rockland County. Geographical proximity is a critical element of comparability. There are ten police departments in Rockland County. In addition to the Town of HAVERSTRAW Police Department, other Rockland County police departments include Town of Clarkstown, Village of Haverstraw, Town of Orangetown, Village of Piermont, Town of Ramapo, Village of South Nyack, Village of Spring Valley, Town of Stony Point, and the Village of Suffern.

The comparability position articulated by the PBA is persuasive in this matter. Rockland County police departments by custom and longstanding practice have utilized County comparability as a measure of comparison and have not looked to Westchester, Putnam or Orange County. Due to its geographical limitations as one of the smallest of counties within New York State the County is relatively homogeneous and compact. Should the parties wish to alter their comparability understandings they are free to so negotiate but for the arbitrator to upset over twenty-five years of bargaining history through an interest arbitration award and unilaterally revise comparability standards is unwarranted at this time. (P. 9)

Arbitrator Douglas rejected a change in a practice regarding comparability that existed for over 25 years. That period is now thirty years or more.

I do not suggest that such a finding may never be

modified. Circumstances vary and what may have been viable years ago may no longer obtain. However, to upset such a longstanding practice requires new evidence warranting a change. The record before me does not contain such evidence. Thus, I conclude, the pattern evinced by Arbitrator Douglas must be preserved.

A review of Rockland County jurisdictions reveals increases averaging 3.60 per cent for 2003. Even if the Village of Haverstraw, whose Police Department is disbanding, and the Village of Piermont, whose Officers received a low wage increase in return for enhanced retirement benefits are discounted, the average for the County is not materially affected.

I do not suggest that the Town's Police Officers should receive exactly the average increase of the rest of the County. After all, special circumstances may exist here which warrant greater or lesser increases than those achieved in the rest of the County. However, what other Officers in relevant jurisdictions receive is of considerable importance. Criterion (a) of the Taylor Law makes this clear. Thus, I conclude, the increases to be awarded in the Town of Haverstraw should reflect the

increases in the rest of Rockland County.<sup>2</sup>

Also, I find the Town's ability to pay justifies granting average or near-average wage raises. As of the fiscal year ended in 2000, the Town had less outstanding debt per capita than the rest of the County (\$483 to \$566). It also taxed its citizens less than the rest of the County (\$360.11 per capita v. \$571.00 per capita).<sup>3</sup> Thus, I conclude, while the Town is not "wealthy," its ability to pay is consistent with awarding average increases.

To what extent should salaries be raised? For 2003, I conclude that a 3.75 per cent increase is justified. Though slightly above the County average of 3.60, this increase reflects the fact that the current wages are below the County average, so that in real dollars the relative ranking of the Town will remain where it is now.

As to 2004, I note the County average increase of 4.06 per cent, as cited by the PBA. However, this average reflects the two aberrations cited above - Village of Haverstraw and Town of Piermont. When these are discounted the average raise is 3.67 per cent, a

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<sup>2</sup>I note also that Arbitrator Douglas reached a similar conclusion in his Award cited above.

<sup>3</sup>See PBA Exhibit 7.

figure only .1 per cent above the 2003 average. Consequently, I conclude, a raise of 3.75 per cent for 2004 is also justified for the reasons set forth above.

I note the Town's contention that the Consumer Price Index ("CPI") has increased by less than 3.75 per cent and that previous increases in 2000-2002 also exceeded adjustments in the CPI. This is so. However, it is equally true that in times of low inflation public sector wages generally rise faster than the CPI while during periods of high inflation public sector salary increases lag behind CPI increases. Thus, while the Town's claim in this context has some merit, it does not justify awarding a lower increase, I find.

On the other hand, I also note the PBA's contention that substantial "catch-up" increases are justified since Police Officer wages here are below that paid in most other jurisdictions in the Town. This argument, too, has some merit. However, the Town has pointed out that real property taxes rose substantially in 2003, either 13.3 per cent if the Village of Haverstraw disbands, or 26.1 per cent if it does not. Estimates for 2004 are similarly high and it would be unfair, I am convinced, to burden the Town with increases beyond what I have ordered. Also, there is the cost impact of other benefit

improvements awarded below to consider. Consequently, after weighing the relevant statutory criteria and in light of the evidence adduced, I conclude that Police Officers' wages should be increased by 3.75 per cent in 2003 and 3.75 per cent in 2004.

3. Insurance

The PBA sought increased payments for dental insurance and the adoption of an optical insurance program. As to the former proposal, the record does not justify awarding an increase at this time. This is so even if the Town currently does not pay the maximum premium amounts listed in the Collective Bargaining Agreement.

On the other hand, the PBA has made a compelling case for optical coverage. Currently there is none. Almost every other municipality in the County provides some form of this benefit.<sup>4</sup> Thus, I am persuaded, some coverage for optical costs is justified.

Given this finding, I shall direct that, effective January 1, 2004, Police Officers and their immediate families shall be entitled to reimbursement for eye exams, eyeglasses and/or contact lenses, not to exceed \$100 per family unit per year. The Town in its

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<sup>4</sup>See PBA Exhibit 16.

discretion may self-insure this program and make payment upon the presentation of a valid receipt from the Officer. While this program affords a benefit less than that provided elsewhere, it constitutes a first step in granting Officers needed eye care coverage, I am convinced.

4. Longevity

The record reveals that a modest improvement in the longevity stipend is warranted. Though the longevity payment in the Town begins earlier than in many other communities, at the maximum it is below that paid elsewhere.<sup>5</sup> Therefore, I shall direct that, effective January 1, 2003, longevity payments be increased by \$25, with a second \$25 increase effective January 1, 2004.

5. Personal Leave

The PBA has convinced me that an improvement in the personal leave entitlement is justified. Currently, only the Village of Haverstraw has five personal days, the current allotment here. While the Village of Spring Valley's Collective Bargaining Agreement also contains five personal days, that number may rise to eight based on an Officer's attendance. In all other jurisdictions

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<sup>5</sup>See, for example, \$5,425 in Orangetown and \$4,800 in Ramapo, while the current maximum is \$4,200 here.

either six or seven personal leave days are granted. PBA Exhibit 12. This inequity needs to be addressed and I shall direct that, effective January 1, 2004, Police Officers shall be entitled to six personal leave days per year.

On the other hand, the Town has a right to reasonable notice regarding the use of personal leave. This is necessary to permit the Town to cover the impending absence with appropriate manpower and to avoid unnecessary overtime costs. Thus, I shall direct that, effective with the issuance of this Award, Officers shall be required to give 120 hours' notice of the need to take personal leave, except in emergencies.

6. Evaluation Guidelines

The parties have reached agreement on this issue and have asked that these guidelines be incorporated into this Award. Consequently, they are attached as Appendix "A".

7. Other Proposals

I have carefully reviewed the other proposals of the parties. I find they are not justified either because the record does not warrant awarding them or because granting them would unduly increase the cost impact of this Award, given my findings above.





**AWARD**

**1. Term of the Award**

The term of this Award shall be from January 1, 2003 through December 31, 2004.

**2. Wages**

Wages shall be increased as follows:

Effective January 1, 2003 - 3.75 per cent

Effective January 1, 2004 - 3.75 per cent

**3. Insurance**

Effective January 1, 2004, the Town shall reimburse Police Officers for eye exams, glasses or contact lenses for them or members of their immediate family up to a maximum of \$100 per family unit per year. Reimbursement shall be made upon presentation of a valid receipt for the service indicated.

**4. Longevity**

Longevity shall be increased as follows:

Effective January 1, 2003 - \$25

Effective January 1, 2004 - \$25

**5. Personal Leave**

Effective January 1, 2004, personal leave shall be increased to six days per year.

Effective upon the issuance of this Award,

members of the bargaining unit shall be required to give 120 hours' notice of their intent to take personal leave, except in emergencies.

6. **Evaluation Procedures**

They are to be implemented in accordance with Appendix "A".

7. **Other Proposals**

All other proposals of the parties, whether or not addressed herein, are rejected.

DATED: April 23, 2004 Howard C. Edelman  
HOWARD C. EDELMAN, ESQ., ARBITRATOR

STATE OF NEW YORK     )  
                                  ) S.:  
COUNTY OF NASSAU     )

I, Howard C. Edelman, Esq., do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

DATED: April 23, 2004 Howard C. Edelman  
HOWARD C. EDELMAN, ESQ., ARBITRATOR

**APPENDIX "A"****EVALUATION GUIDELINES - POLICE OFFICERS****I. POLICY**

- A. The department bears an obligation to the public and its own personnel to hire and maintain the best qualified police officers. To that end, the department shall regularly and formally evaluate the performance of officers.
- B. The purpose of this order is to outline and describe the departmental evaluation procedure.
- C. This procedure is for internal use only. The evaluations made are not considered disciplinary actions, nor are they considered to be warnings or counseling letters. Any such actions, warnings and/or letters shall be communicated by separate writings. These procedures shall not be used, nor are they intended to be used, in whole or in part, as the basis for, or evidence of any disciplinary charges or actions against any individual officer, nor shall the evaluations be used as evidence in any disciplinary proceeding against the ratee.
- D. This procedure should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims.
- E. Prior any further instructions, explanations or revisions of this procedure being issued by the administration to department raters, such shall be given first to the PBA for any comment or action to which it may have a right by contract or by law.

**II. PROCEDURES**

- A. General procedures shall be as follows:
  - 1. All police officers shall be evaluated

annually, for a longer period of time, or, at the department's discretion, using the form located in section III of this procedure.

2. Evaluations reflect observations and perceptions by rating personnel, and are, therefore, inherently subjective.
3. Each area of evaluation for an individual officer shall be rated on a scale of 1 through 5. Each individual evaluation shall be weighed with the evaluations of all other officers in the department in order to determine possible areas of department-wide deficiencies or weaknesses. Based on such analysis the administration shall determine the need, if any, for department-wide training. All such training shall be given during regular work hours or on overtime.
4. Inasmuch as these procedures are being followed solely for department-wide evaluation, all documents created under these procedures shall be kept in a single file, which shall be accessible by the PBA on reasonable notice.

B. Scale Value Application

1. Any numerical rating of 3 or below must be documented anecdotally with date, time, location and detailed description of conduct observed. The rater must personally observe the conduct being described in the evaluation.

C. Evaluations of Sergeants and Detectives

1. The Detective shall be evaluated using the same form as that used for officers.
2. The Sergeants shall be evaluated using the same form as that used for officers. The categories listed under section III, items 28 through 32, shall apply to Sergeants only.

III. PERFORMANCE EVALUATION

- A. Raters may comment on any personally observed behavior, but specific anecdotal comments, including date, time, location and description of conduct observed shall be reported with any rating of 3 or below.
- B. The performance evaluation form shall be as follows:

Name \_\_\_\_\_

Title \_\_\_\_\_

Date of Evaluation \_\_\_\_\_

Only conduct personally observed by the rater shall be evaluated. Where a particular item of conduct has been observed it shall be evaluated using a number 1 through 5.

CRITICAL PERFORMANCE TASKS

- (1) Driving Skills (stress conditions) \_\_\_\_\_
- (2) Driving Skills (non-stress conditions) \_\_\_\_\_
- (3) Orientation Skills (stress conditions) \_\_\_\_\_
- (4) Field Performance (stress conditions) \_\_\_\_\_
- (5) Officer Safety (general) \_\_\_\_\_
- (6) Officer Safety (with suspicious persons  
and prisoners) \_\_\_\_\_
- (7) Control of Conflict (voice command) \_\_\_\_\_
- (8) Control of Conflict (physical skill) \_\_\_\_\_
- (9) Investigative Procedures \_\_\_\_\_
- (10) Report Writing (organization/details) \_\_\_\_\_
- (11) Proper Form Selection (accuracy/details) \_\_\_\_\_

- (12) Radio (listens to and comprehends transmissions)\_\_\_\_\_
- (13) Radio (articulation of transmissions)\_\_\_\_\_
- (14) Orientation Skills (non-stress conditions)\_\_\_\_\_
- (15) Report Writing (grammar/spelling/neatness)\_\_\_\_\_
- (16) Report Writing (appropriate time used)\_\_\_\_\_
- (17) Field Performance (non-stress conditions)\_\_\_\_\_
- (18) Self-Initiated Activity\_\_\_\_\_
- (19) Problem Solving/Decision Making\_\_\_\_\_

KNOWLEDGE

- (20) Knowledge of Department rules and orders\_\_\_\_\_
- (21) Knowledge of Criminal Law\_\_\_\_\_
- (22) Knowledge of Traffic Law\_\_\_\_\_

ATTITUDE/RELATIONS

- (23) Acceptance of Feedback\_\_\_\_\_
- (24) Relationship with Citizens\_\_\_\_\_

(PRINT NAME AND SIGN)

Chief of Police's Signature\_\_\_\_\_

Date\_\_\_\_\_

- (25) Relationships with co-workers/supervisors\_\_\_\_\_
- (26) General Demeanor

APPEARANCE

- (27) General Appearance\_\_\_\_\_

SERGEANTS ONLY

- (28) Ability to instill in officers a higher regard and respect for the rule of law, civil rights, and concern for victims\_\_\_\_\_
- (29) Ability to perceive performance weakness in his officers, conduct remedial training, and document improved proficiency\_\_\_\_\_
- (30) Command of patrol techniques, methods and investigative proficiency\_\_\_\_\_
- (31) Ability to reprimand, counsel, praise or otherwise discipline his officers\_\_\_\_\_
- (32) Ability to take responsibility for the performance of his officers\_\_\_\_\_

Rater\_\_\_\_\_Date\_\_\_\_\_  
(PRINT NAME AND SIGN)

Chief of Police's Signature\_\_\_\_\_

Date\_\_\_\_\_