

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

1979
CONCILIATION

In the Matter of the Arbitration Between
CITY OF NEWBURGH

-and-

OPINION AND AWARD

PATROLMEN'S BENEVOLENT ASSOCIATION
OF THE CITY OF NEWBURGH

CASE NUMBER IA 69; M 78 - 372

APPEARANCES:

FOR THE PBA: PETER BLOOM, ESQUIRE

FOR THE CITY: VAN DE WATER & VAN DE WATER
by JOHN M. DONOGHUE, ESQUIRE

This proceeding is being held pursuant to the provisions
of the Civil Service Law, Section 209.4.

On September 14, 1978, The New York State Public Employ-
ment Relations Board determined that a dispute continued to
exist in the negotiations between the above-captioned parties.
It designated the following Public Arbitration Panel:

PUBLIC PANEL MEMBER AND CHAIRMAN: Joseph P. Doyle

EMPLOYER PANEL: John Desmond

EMPLOYEE ORGANIZATION PANEL MEMBER: Al Sgaglione

Hearings were held at Police Headquarters, Newburgh, N. Y.
on October 11, October 31, November 1, November 8, December 27,
1978. The panel met in executive session on January 26, 1979.

During the hearings the parties were afforded the oppor-
tunity to present evidence, to examine and cross-examine their
respective positions. Post-hearing briefs were filed within the
time limits agreed upon by the parties. The Panel has studied

the evidence and supporting data, deliberated thereon, and renders this OPINION AND AWARD on the entire record.

THE FACTS

The parties hereto are at impasse in their negotiations on a successor agreement to their collective bargaining agreement which expired December 31, 1977.

The bargaining unit consists of 57 police officers of varying rank and has decreased from 93 in four years.

All efforts preceding this proceeding failed to produce a collective bargaining agreement hence this arbitration.

The panel heard and received considerable evidence both documentary and through testimony. It has inter alia given consideration to:

- 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 quali-

fications; (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.

Both sides to this proceeding advocated their respective positions vigorously and with great zeal. The evidence ran the full range of statutory provisions and more. Both parties are to be commended for their dedication.

POSITION OF THE PARTIES

The PBA proposes that it be granted a 12% increase across the board, for both the years 1978 and 1979. The reasons for such proposals, allegedly are to cover the anticipated inflation rate for 1979 and to put the police officers where they belong (salary-wise) in the light of the unique burden of their job. It is the position of the PBA that the City of Newburgh has one of the highest, if not the highest, rate of crime per capita in the state of New York and yet the City fathers have seen fit to preside over a truly frightening decrease in strength of the department (93 to 57 in four years). Furthermore, the rate of crime has increased, ergo, the burden of their job has increased.

It is alleged that the City traditionally and for political reasons under-estimates its income and over-estimates its expenses creating a paper deficit, so that it can cry inability to pay, thus no salary increases. This happened to the police in 1976 in an arbitration (no increase was awarded).

The PBA proposes it be granted an agency shop so that all members of the department will bear their fair share of the cost of doing business with the City et al.

The PBA proposes it be granted compensation for "stand by" time. This is time that the officer must be available but not actually on duty.

At present the City pays the premium on a life insurance policy having a face value of \$30,000. The City pays \$3500. for such policy. It is proposed that such premium be increased to \$4500. to maintain the face value of the policy.

It is proposed that the current clothing allowance be increased. This allowance has remained the same for the past ten years.

The PBA proposes that it be granted the right to convert 100% of his unused sick leave upon separation from the force.

It is proposed that the union president be granted one day off for union activities for every four days worked at full pay and benefits.

The PBA proposes that future disciplinary hearings pursuant to Section 75 of the Civil Service Law be conducted and a determination made by an independent arbitrator selected from a

panel furnished by the Public Employment Relations Board. It is the feeling of the Union that the present practice wherein the Police Commissioner appoints a hearing officer does not create an atmosphere of fairness and objectivity.

The Union seeks to have a "Bill of Rights" clause written into their agreement because, they say, the City in the past has refused to process certain grievances stating that they are not subject to the grievance procedure. Another basis for the proposal is to counteract the management rights clause negotiated into the agreement in 1976-77.

An additional day personal leave is sought. There has not been any increase in the present requirement of the one (1) in the last 10 years.

The City's position is crystal - clear it says the greatest single issue facing it today is the imminence of economic collapse. It alleges a shrinking tax base, uncollectable taxes, more abandoned housing and business exodus from the City. It presently taxes at almost the maximum permitted by statute.

The testimony of the mayor made it abundantly clear that the City fathers are unalterably opposed to a sales tax.

No funds have been budgeted for 1978 or 1979 for Police increases.

There has been a reduction in Federal and State funds which heretofore were available.

Succinctly put - the City says it is broke and, therefore,

can not grant any improvements to its Police.

DISCUSSION - AWARD

The plight of the City is lamentable. Police protection and public safety are indispensable and must be maintained. Uncontroverted evidence indicates that the City of Newburgh has a high crime rate and that the policeman's job is in a high-risk category. They have every right to expect to be adequately compensated for their work.

By comparison the police in the City fare well, they should be permitted to maintain their ranking.

It is not and should not be the province of the arbitrator to tell the city officials how to raise funds. Nor should the ploy of legislative-executive fiat in not budgeting funds be permitted to prevent a fair and reasonable settlement to this impasse.

After giving due consideration to all the statutory requirements and due deliberation having been given to all the evidence presented, the majority of the panel renders the following AWARD:

The agreement between the parties which expired December 31, 1977 shall be renewed as written except for the following changes:

SALARIES - effective January 1, 1978 an increase of 3.5% across the board. Effective July 1, 1978 an additional increase of 3.5% across the board.

Effective January 1, 1979, an additional increase of 7%.

This is in line with national guide lines and is fair and reasonable.

AGENCY SHOP - Effective January 1, 1979 an agency shop provision be written into the agreement which meets with and conforms to all statutory safeguards.

The cost of a collective bargaining relationship should be borne by all of its beneficiaries.

CLOTHING ALLOWANCE - Effective January 1, 1979, the clothing allowance be increased to \$250. This is the first such increase in ten (10) years.

PERSONAL LEAVE - Effective January 1, 1979, one (1) additional personal leave day be granted.

LIFE INSURANCE - Effective January 1, 1979, the City pay a sum, not to exceed \$4500. (present is \$3500) to maintain the \$30,000 face value of a life insurance policy for the membership.

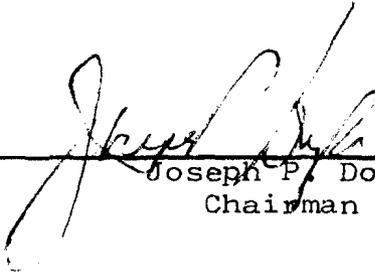
This arbitrator is of the opinion that since both parties to this proceeding are represented by capable counsel, it would be presumptuous for him to write specific language to be used in the agreement. However, should the parties be unable to agree on language, this arbitrator will retain jurisdiction and, if necessary, write language as supplemental to this Award.

DISCIPLINARY MATTERS - Effective January 1, 1979, the hearing officer be a person whose name is on a panel of independent arbitrators maintained by the Public Employment Relations Board.

BILL OF RIGHTS CLAUSE - Effective January 1, 1979, a clause be negotiated and written into the agreement setting forth the rights of members of this bargaining unit. Such clause shall not be retroactive i.e. resurrecting grievances beyond January 1, 1979.

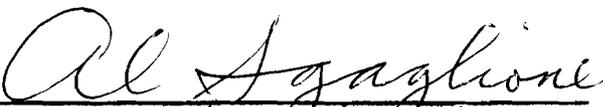
Hopefully, the preceding will help to establish and maintain a better collective bargaining atmosphere.

Dated: Plainview, New York
March 15, 1979



Joseph P. Doyle
Chairman

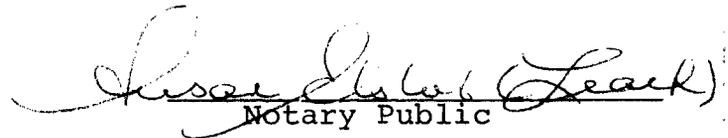
Concurring - Dissenting
John Desmond



Concurring - ~~Dissenting~~
Al Sgaglione

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

On the *10th* day of March, 1979, before me personally came JOSEPH P. DOYLE, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.


Notary Public

SUSAN ELSTOB
Notary Public, State of New York
No. 40350
Qualified in Nassau County
Commission Expires March 30, 1982



JOHN J. DESMOND
City Manager

CITY OF NEWBURGH

CITY MANAGER'S OFFICE

CITY HALL
NEWBURGH, NEW YORK
12550
Phone (914) 565-3333

March 13, 1979

Joseph P. Doyle, Esq.
102 Morton Boulevard
Plainview, New York 11803

Re: City of Newburgh - PBA - IA 69; M78-372

Dear Mr. Doyle:

In reply to your letter of March 8, 1979 which reached my office late March 12, 1979, please be advised I see no purpose in making the trip to Long Island for the sole purpose of affixing my signature to the award.

Very truly yours,

John J. Desmond
City Manager

JJD:dlf