

STATE OF NEW YORK
Public Employment Relations Board
Case No. IA-84-20; M84-84

DECISION

In the Matter of the Interest Arbitration :
 : OPINION
 :
 - between - :
 : &
 :
 VILLAGE OF MONROE :
 : AWARD
 :
 - and - :
 : OF
 :
 TRI-COUNTY FEDERATION OF POLICE :
 : PANEL
 :

BEFORE: Edward Levin
Public Panel Member and Chairman

Terence M. O'Neil, Esq.
Employer Panel Member

Reynold A. Mauro, Esq.
Employee Organization Panel Member

APPEARANCES

For the Village of Monroe:
Ernest R. Stolzer, Esq.

For the Tri-County Federation of Police:
John P. Henry, Director of Labor Relations

On November 19, 1984, the Public Employment Relations Board designated the instant panel for the purpose of making a just and reasonable determination of the impasse and dispute between the Village of Monroe and the Tri-County Federation of Police representing the Monroe Patrolmen's Benevolent Association, in accordance with applicable statutory rules and procedures.

A hearing on the matter was held on June 27, 1985 at which time the parties were accorded an opportunity to present written documents, oral testimony, and arguments in support of their respective positions on the issues before the Arbitration Panel. An executive session was held on July 24, 1985 at which the Arbitration Panel deliberated over the evidence, taking into consideration among other things, the statutory requirements for arriving at a just and reasonable determination of the matters at impasse.

ISSUES IN ARBITRATION

1. Salary
2. Retirement
3. Clothing Allowance
4. Cleaning Allowance
5. Holidays
6. Minimum Call
7. Overtime
8. Line of Duty Injuries
9. Call in Time
10. Night Differential
12. Vacations
13. Welfare and Benefit Funds

TRI-COUNTY FEDERATION OF POLICE POSITION

Among the findings presented by the Federation in support of their economic position were the following:

SUMMARY OF FINDINGS

1. The Village has \$1,191,054 of taxing ability remaining which is 53.4% of its constitutional limit.
2. The Village tax rate for 1984 was lower than the average and median for Orange County Villages.
3. The Village has used only 3.7% of its debt limit.

4. The Village had a surplus of \$328,990 in the General Fund at year end 5/31/84. It may be subject, however, to a loss of \$250,000 of investments as a result of the Lion Capital Group collapse and bankruptcy.
5. The 1985-86 Budget for Police salary and wages contains an appropriation increase of 9.3% over 1983-84 actual expenses.
6. The Village had a contingency appropriation for \$53,600 in the 1984-85 Budget and has a similar appropriation for \$50,000 in the 1985-86 Budget.
7. The Village appears to have unbudgeted State Aid funds over the 1984-85 and 1985-86 budget years amounting to \$51,415.
8. Mortgage tax estimates for 1984-85 and 1985-86 are less than the amount collected in 1983-84 by \$13,936 and \$5,936 respectively.

The following summary of salaries and percentage increases were cited as justification for the Federation's salary proposals:

	<u>SALARY - TOP GRADE OFFICERS</u>						
	<u>6/83</u>	<u>1/84</u>	<u>6/84</u>	<u>1/85</u>	<u>6/85</u>	<u>1/86</u>	<u>6/86</u>
Chester	15,500		13,000				
Cornwall- (5) ** on-Hudson	19,199		20,542				
Goshen (7)	19,929		21,324		22,817		
Greenwood Lake (5)	18,690		20,092		21,599		
Tuxedo Park (3)	18,503		19,243				
Walden (15)	19,119		20,075	21,079	22,765	24,586	
Warwick (16)	19,577		20,877		22,227	23,727	
Washington- ville (5)	18,275		19,188		20,148		
Monroe (6)	20,329						

**Numbers in parenthesis indicate number of steps to reach top of salary schedule; Chester contract indicates only one officer and lists his specific salary.

PERCENTAGE SALARY INCREASES - TOP SALARY OFFICERS

	<u>1/83</u>	<u>6/83</u>	<u>1/84</u>	<u>6/84</u>	<u>1/85</u>	<u>6/85</u>	<u>1/86</u>	<u>6/86</u>
Chester								
Cornwall- on-Hudson				7%				
Goshen				7%		7%		
Greenwood Lake				7.5%		7.5%		
Tuxedo Park				3.9%				
Walden				4.8%		9.2%		8.0%
Warwick				6.6%		6.46%		6.75%
Washingtonville*				5.0		5.0		
Monroe								

The Federation believes that on the basis of the evidence the Village is in good financial condition and in a position to grant its proposals which are comparable with other settlements in similar adjacent municipalities. It believes that its proposals are consistent with public interest and welfare and the ability of the Village to pay.

VILLAGE POSITION

The Village presented extensive documentation concerning current economic conditions and placed special emphasis on

*Contract actually starts March 1st

the reduced rate of increase in the consumer price index over the last few years and the corresponding reduced basis for salary increase compared with the amounts granted in previous contract negotiations. According to the Village the following table of Consumer Price Indices is significant and notes particularly the declining increase in the CPI revealed in this table.

CPI INDICES

N.Y.	CPI-U All Urban	12 Mo. % -	CPI-W Wage Earners Clerical	Mo. %
Jan. 1980	226.1	11.4	225.5	11.5
Dec. 1980	247.3	10.9	247.2	11.2
Jan. 1981	249.4	10.3	249.1	10.3
Oct.	268.0	10.2	267.0	10.1
Jan. 1982	268.5	7.7	266.5	7.4
Sept.	280.7	4.4	278.9	4.1
Dec.	281.8	5.2	280.3	5.0
Jan. 1983	282.6	5.3	280.8	5.0
April	286.5	6.8	282.2	5.9
July	289.1	4.3	286.1	3.6
Sept.	292.1	4.1	288.1	3.3
Nov.	293.9	3.6	287.3	1.9
Dec.	294.3	4.4	288.2	2.8
Jan. 1984	297.3	5.2	290.2	3.3
Feb.	299.0	5.6	290.5	3.9
March	299.9	5.8	289.9	3.4
April	300.9	5.0	291.2	3.2
May	200.8	4.7	291.6	2.7
June	201.6	3.7	293.0	2.5
July	302.9	4.8	294.7	3.0
Aug.	305.0	5.4	297.1	3.0
Sept.	306.9	5.1	299.9	4.1
Oct.	306.6	4.7	300.4	4.1
Nov.	308.0	4.8	301.2	4.8
Dec.	308.0	4.7	301.2	4.6
Jan. 1985	308.4	3.7	302.0	4.1
Feb.	310.2	3.7	303.6	4.5
March	310.9	3.7	304.2	4.9
April	311.8	3.6	305.1	4.8
May	312.6	3.9	305.8	4.9

In addition, the Village cited settlements in the private sector which showed that the average first year wage increases for workers covered by major settlements negotiated in first quarter 1985 remained unchanged from the 2.8 percent increase bargained in first quarter 1984.

The data presented by the Village also showed that annual increases over the life of contracts settled in the private sector in the first three months of 1985 average 3 percent.

The Village placed importance on salary increases granted to its highway and water departments which were considerably less than the amount asked by the Federation during these negotiations.

The following are the specific proposals presented by the Federation:

1. Salaries: The last offer made by the Federation was eight (8) percent in each of two years.

PANEL DETERMINATION: SALARY

After a consideration of the Village's ability to pay and salary increases in jurisdictions comparable to the Village of Monroe, as well as other applicable statutory criteria, the Panel finds that a 6% increase effective June 1, 1984 and an increase of 7% effective June 1, 1985 constitutes a just and reasonable salary increase for this bargaining unit.

2. Retirement: The Federation's last proposal on this subject provided for a twenty (20) year deferred concept of retirement which benefit the Village would not have to implement until someone was ready to retire. Therefore, this item would be without cost to the Village at the present time.

PANEL DETERMINATION: RETIREMENT

There was insufficient justification for the implementation of this proposal and it is therefore rejected by the Panel.

3. Clothing Allowance: The Federation proposes an increase in the Clothing Allowance from \$300 annually to \$400 annually.

PANEL DETERMINATION: CLOTHING ALLOWANCE

The Panel finds justification in this proposal due to the increased cost of uniforms that has increased noticeably above the cost of uniforms when the current uniform allowance was established. Therefore, the Panel finds that an increase in the uniform allowance to \$400 effective the second year of the Agreement is warranted.

4. Cleaning Allowance: The present cleaning allowance paid by the Village is \$180.00 paid in two installments at six month intervals.

PANEL DETERMINATION: CLEANING ALLOWANCE

The Panel finds that the reasoning applied to uniform allowances applies here and that the Cleaning Allowance shall be increased to \$250.00 in the second year of the contract payable in two installments.

5. Holidays: The Federation is asking for one additional holiday in the second year of the Agreement.

PANEL DETERMINATION: HOLIDAYS

The Panel finds insufficient justification for this proposal and it is therefore rejected.

6. Minimum Recall: The Federation is asking that, subject to the Police Chief's discretion, there be a twenty-four (24) hour prior notice for the cancellation of overtime. In the event this is not done, three (3) hours overtime would be paid at time and one-half.

PANEL DETERMINATION: MINIMUM RECALL

The Panel finds insufficient justificaton for this proposal and it is therefore rejected.

7. Overtime: At the Present time the length of the workweek is defined as forty (40) hours for purposes of overtime. The Federation is asking that any hours in

excess of eight (8) hours per day as well as forty (40) hours per week be paid at time and one-half.

PANEL DETERMINATION: OVERTIME

The Panel finds this proposal consistent with practices in other comparable jurisdictions and therefore from the date of this award and thereafter time and one-half will be paid for work in excess of eight (8) hours per day as well as after forty (40) hours per week.

8. Line of Duty Injuries: The Federation proposes that police officers suffering line of duty injuries continue to receive full benefits and salary as if actively working.

PANEL DETERMINATION: LINE OF DUTY INJURIES

The Panel finds insufficient data to base an affirmative decision on this issue, and therefore this proposal is rejected.

9. Call in Time: The Federation is asking that the Village be required to pay a police officer a Minimum of three (3) hours overtime when called in to work overtime.

PANEL DETERMINATION: CALL IN TIME

The Panel finds insufficient data to base an affirmative determination, and this proposal is rejected.

10. Night Differential: The Federation proposes that police officers be paid \$130.00 as a night differential.

PANEL DETERMINATION: NIGHT DIFFERENTIAL

The Panel finds that this proposal is inconsistent with the practice in other jurisdictions and therefore this proposal is rejected.

11. Vacations: The Federation is asking for two additional vacation days per year for all the members of the bargaining unit.

PANEL DETERMINATION: VACATIONS

On the basis of comparison with other similar jurisdictions, the Panel cannot find sufficient justification to base an acceptance of this proposal and therefore rejects this proposal.

12. Welfare and Benefit Fund: The Federation proposes an increase in the Village's payment to this fund by \$100 per number per year to cover increased costs.

PANEL DETERMINATION: WELFARE AND BENEFIT FUND

The Panel finds justification in granting \$100.00 per year per member earmarked specifically to cover welfare fund payments, starting the second year of the agreement.

13. Detective Assignments: The last proposal on this subject was to permit the assignment of police officers to the position of detective at the Police Chief's discretion, and that detectives shall be granted a differential in lieu of overtime.

PANEL DETERMINATION: DETECTIVE ASSIGNMENTS

The Panel grants this proposal that permits the assignment of police officers to the position of detective at the Police Chief's discretion. Further, the Panel grants the proposal that detectives shall be granted a differential in lieu of overtime of 50% between the top grade for patrolmen and the Sargeant's rate of pay.

The Panel believes that the awards found in this document provide a fair and reasonable settlement of the impasse between the parties.

Date: September 10, 1985

Edward Levin
Edward Levin
Public Panel Member and Chairman

STATE OF NEW YORK
COUNTY OF NEW YORK ss:

Appeared before me this 10th day of September, 1985, EDWARD LEVIN, to me known, who did swear and affirm that he has executed the above and that all statements herein are true and correct to the best of his knowledge and belief.

Melba Kay Hynes
MELBA KAY HYNES
Notary Public, State of New York
No. 31-4713169
Qualified in New York County
Commission Expires March 30, 1986

Date: _____

Terence M. O'Neil
Terence M. O'Neil, Esq.
Employer Panel Member

STATE OF NEW YORK
NASSAU COUNTY ss:

Appeared before me this 21 day of October, 1985, TERENCE M. O'NEIL, ESQ., to me known, who did swear and affirm that he has executed the above and that all statements herein are true and correct to the best of his knowledge and belief.

Eileen M. Rathgeber
EILEEN M. RATHGEBER
NOTARY PUBLIC, State of New York
No. 30-8499400
Qualified in Nassau County
Commission Expires March 30, 1986

Date: _____

Reynold A. Mauro, Esq.
Employee Organization Panel Member

STATE OF NEW YORK
NASSAU COUNTY ss:

Appeared before me this _____ day of _____, 1985, REYNOLD A. MAURO, ESQ., to me known, who did swear and affirm that he has executed the above and that all statements herein are true and correct to the best of his knowledge and belief.

STATE OF NEW YORK
Public Employment Relations Board
- - - - - X

In the Matter of the Interest Arbitration

-between-

VILLAGE OF MONROE

-and-

TRI-COUNTY FEDERATION OF POLICE
- - - - - X

DISSENT OF
PANEL MEMBER
Case No. 1A-84-20
M84-84

Before commenting on the merits of the Opinion and Award of Panel as issued by Ed Levin, Panel Member and Chairman and signed by Terrence M. O'Neil, Employer Panel Member, I wish to make the following observations with regard to the procedures that led to this arbitration award: an executive session was held on July 24, 1985 wherein it this panel member's opinion that the employer panel member succeeded in avoiding discussion by the panel members of the most significant aspects of this arbitration award by presenting a take-it-or-leave-it attitude. It appeared that the Chairman was much more interested in what the Village would accept in his award rather than what constituted a just and reasonable award under all the circumstances presented.

At the conclusion of the meeting, the Chairman stated that he would draft an award and forward it in draft form to both the employee and employer panel member for their comments.

On September 10, 1985, as employee member of the panel,
I received correspondence addressed as follows:

"Dear Mr. O'Neil and Mr. Mauro:

Enclosed please find six copies of the opinion and award of panel on the above captioned matter.

The first step in the round robin will be Terry. If you will, please sign and notarize your signature on all copies and forward them to Rey. Rey, sign and notarize same and send the copies back to me, I will then send out the appropriate number to the parties and PERB and forward one fully signed copy to each of you.

I would like to express my pleasure in serving on this panel with both of you and my appreciation for your contribution in all phases of our deliberations.

Sincerely,

Edward Levin, Chairman

The problem with the correspondence was that this panel member never received any copies of the proposed arbitration award by virtue of that correspondence. On or about the 13th day of September, 1984, I phoned Edward Levin, Chairman of the panel, informing him that I had not received any copies, at which time I was informed by Mr. Levin that all copies had been sent to Mr. O'Neil. I suggested to Mr. Levin that it defied logic to forward all copies to one panel member and not to forward at least a draft to the other panel member. Once again, the dominant influence of the employer panel member with regard to the Chairman became apparent.

Mr. Levin informed me at that time that he would forward a draft of the award but I did not receive that draft for over a month after that representation was made. In the interim,

the very members of the Unit whose interest I represented on the panel began to inform me of some of the details of the award.

On or about the 21st day of October, 1985, I did receive a draft of the award. However, that draft was missing two of the most important pages of said award since those pages dealt with the adjustment of salary. The final award was not received by this panel member until the 25th of October, 1985. It is interesting to note that the Chairman of the Panel signed the award on September 10, 1985 and the Employee Panel Member apparently signed it on the 21st day of October, 1985.

By the time the final award was received by the undersigned, the entire membership of the Monroe Unit of the Tri-County Federation of Police had been informed of the details of that award by the Administration of that Village and this panel member was placed in the embarrassing position of being the last to be informed of the award. This is a procedure that cannot be countenanced and one that should be investigated by the Public Employment Relations Board.

I will now address myself to the award itself. It is interesting to note that the Chairman of the Panel found, at page 5, "The Village presented extensive documentation concerning economic conditions and placed special emphasis on the reduced rate of increase in the consumer price index over the past few years and the corresponding reduced basis for salary increase compared with the amounts granted in previous negotiations."

Unless evidence was introduced independent of the hearing, the only exhibits introduced by the Village during the course of the hearing consisted of an agreement between the Village and the Water Department Employees (Village 1), an attachment from the Village's agreement with its general unit of employees (Village 1A), a breakdown of CPI, 1980-85 (Village 2), a four page article and a three page article entitled "Facts for Bargaining" (Village 3 and 4) and a Stipulation of Agreement dated the 12th day of March, 1985 containing negotiating terms for one PBA Unit (Village 5).

I find it hard to believe that the Chairman of the Panel, in his years of experience could designate these exhibits as "extensive documentation". On the other hand, the PBA, both through witnesses and through numerous exhibits, clearly established the following:

1. The Village had a surplus.
2. The Village had a comparatively low tax rate.
3. The Village has exhausted a minimal amount of its debt limit and the Village maintained a general fund surplus of in excess of \$300,000.
4. The Village appropriated 9.3% for Police salary and wages for 1985-86.
5. The Village has a contingency appropriation for 1984-85 in excess of \$50,000 and a similar appropriation for \$50,000 in the 1985-86 budget.

6. The Village has underbudgeted State aid funds by in excess of \$50,000.

7. The Village has underestimated mortgage taxes by in excess of \$13,000 for 1984-85 and in excess of \$5,000 for 1985-86.

8. The average raises for comparable departments were in excess of 8% in each of the contract years in question.

The Chairman of the Panel has obviously made his determination in total disregard of the evidence submitted by the PBA and issued an increase of 6% for 1984 and a second increase of 7% for 1985. This increase totally contradicts the record established. With regard to the remaining issues, the following comments are suggested:

A. Retirement: An award was issued rejecting the PBA proposal without analyzing the evidence submitted.

B. The panel increased clothing allowance from \$300 to \$400 only after panel member O'Neil indicated, during executive session, that that increase was acceptable to the Village.

C. The Panel increased the cleaning allowance from \$180 to \$250 only after receiving an approval from the employer panel member during the executive session.

D. The PBA proposal for holidays was rejected without reference to the Exhibits submitted.

E. The PBA proposal for minimum recall was rejected

without any analysis of the extensive evidence submitted by the PBA.

F. The PBA proposal for overtime (asking nothing more than basic overtime rights enjoyed by employees generally throughout the United States) was accepted only after the indication of approval and consent from the employer panel member during the executive session.

G. The PBA proposal with regard to continuation of benefits and salary in the case of line-of-duty injuries was rejected without analysis of the evidence.

H. The PBA proposal on call-in time was rejected by the chairman of the panel without any analysis of the evidence produced.

I. The PBA proposal on night differential was rejected by the Chairman. At least in this instance there was some reference to the exhibits with the statement "this proposal is inconsistent with the practice in other jurisdictions..." It is this panel member's position that the general assertion about inconsistency is incorrect and not valid.

J. With regard to the PBA proposal on vacations, the proposal was rejected on the basis that there is insufficient justification to base an acceptance of the proposal. However, the Chairman has obviously disregarded the evidence produced.

K. With regard to the PBA proposal to increase Welfare Funds by \$100 per year, this was accepted but only after approved by the employer panel member during the executive session.

A proposal 13 was ruled upon as Detective assignments. The Chairman should have clearly delineated this proposal as being a management proposal as the award is silent on this subject. This, incidentally, is the one area where the PBA's position was seriously sought in executive session and the PBA did indicate that this proposal that had been made by management during the course of negotiations, had been favorably received by the parties during the course of negotiations.

This brings us to another issue with regard to procedures. It is my understanding that the initial draft award, a full copy of which had never been forwarded to the undersigned, did contain certain errors with regard to the proposals. Specifically, this last item, I am led to believe, (by a member of management) was earmarked initially in the draft as a PBA proposal. I am informed by that management member (not Counsel for the Village) that, as a result of communications between Village representatives and the Chairman of the Panel, this and at least one other item in the package was changed. This was all done without consultation with me, a member of the panel. If conversations, in fact took place between Mr. O'Neil as employer panel member and the Chairman without said communications having

been shared with me as a member of the panel, a dastardly deed has been accomplished.

One last point that should not be forgotten is that during the course of the Arbitration Session, the advocate for the PBA attempted to introduce evidence with regard to a settlement that had been reached but was later aborted. During the course of the executive session, I attempted to discuss terms of a financial settlement that had been reached. However, Mr. Levin refused to discuss, directly or indirectly, the settlement. In effect, Mr. Levin ruled (as he did during the formal arbitration proceeding) that he would not accept any information with regard to an aborted settlement that took place during the negotiation process. This is a ruling that we could accept if it was uniformly applied.

During the course of that same executive session, the employer panel member advised the Chairman of the Panel of other items of the proposed settlement and with regard to the employer's position on various subjects, the Chairman perceived those prior settlement conversations as being extremely relevant and, in fact, the award pretty much reflects the position taken by the employer panel member with regard to the position of the parties in negotiations prior to the declaration of impasse with the exception of the financial agreement that had been reached. To this panel member it appears untenable to rule that prior settlement discussions were not relevant with regard to the

financial settlement, but other settlement discussions on the remaining items appeared to the Chairman to be relevant.

The procedures that took place during the course of this arbitration should never be repeated. A copy of this dissent is being forwarded to the appropriate members of the New York State Public Employment Relations Board and the PBA will be advised to take appropriate action upon the final issuance of this award.

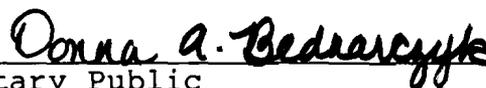


Reynold A. Mauro
Employee Panel Member

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

Appeared before me this 12th day of November, 1985, REYNOLD A. MAURO, to me known, who did swear and affirm that he has executed the above and that all statements herein are true and correct to the best of his knowledge and belief.

DONNA A. BEDNARCZYK
NOTARY PUBLIC, State of New York
No. 4718078
Qualified in Suffolk County
Commission Expires March 30, 1991



Notary Public