

State of New York  
Public Employment Relations Board  
Case No. IA89-8; M89-006

REC'D  
BUREAU  
APR 20 1990  
COMMUNICATIONS

In the Matter of the Arbitration  
between  
Village of Hammondsport  
and  
Hammondsport Police Benevolent Association

**AWARD OF THE  
ARBITRATION PANEL**

In accordance with the provisions of Section 209.4 of the New York Civil Service Law the parties hereto submitted the following issues to the undersigned arbitration panel for its determination:

1. Overtime
2. Personal Leave
3. Salaries
4. Premium Pay
5. Degree Pay
6. Merit Pay and Evaluation

A hearing on the above matter was held on October 2, 1989 in Hammondsport, New York. At this hearing both sides were represented and given full opportunity to present oral and documentary evidence. Upon completion of these presentations, the arbitration panel deliberated in executive session. This Award is based upon these deliberations, as well as upon the respective beliefs of the individual panel members.

The panel has attempted to take a balanced approach, realizing that not all proposals can be granted at the same time. More important, however, was the fact that the panel used specific criteria in reaching its conclusions. Some of these criteria were afforded great weight and others lesser weight. Where applicable, the undersigned have given great weight to comparative data. The Award, therefore, attempts to reflect police settlements in communities near Hammondsport and similar to it in nature.

The panel would have given considerable weight to the Village's ability to pay had the Village presented any specific evidence of lacking this ability. The Village, however, merely pointed out that it could not be expected <sup>to</sup> be bear the financial burdens of the larger municipalities with which the Union attempted to compare it. The panel has given careful consideration to this contention so that it may avoid placing undue economic burden upon the employer.

Some weight has been given to the issue of attracting and maintaining a high quality police force. In addition some weight has been given to the history of bargaining between the parties as well as the problems created by increases in the cost of living.

It should be noted that in the course of the hearing it became clear that the parties were in essential agreement over certain issues. Where applicable, the Award will reflect that fact.

#### 1. Overtime

The Association has proposed that the current overtime provision, which requires pay at time and one-half for work done in excess of forty hours per week, be amended so that it would also require time and one half to be paid for work done in excess of eight hours per day. The Association reasons that the Village skirts the current overtime language by hiring officers whose regular schedule does not exceed forty hours but whose daily schedule is greater than eight hours. In addition the Association maintains that some officers are scheduled to work a week that only slightly exceeds forty hours but with individual days that greatly exceed eight hours. Part-time officers, the Association notes, may not work more than twenty hours per week. Thus, says the Association, they have no opportunity for overtime even when they work more than eight hours per day.

The Village is unwilling to change the current contract language because it believes that its officers were aware of the overtime restrictions when they were hired. Moreover,

says the Village, it can see no reason why employees should get more than an hour's pay for an hour's work when their workweek is less than forty hours.

The panel is not persuaded that the current contract creates an unjust situation. By and large the overtime issue has its greatest impact on part-time personnel. These employees may be happy or unhappy to work shifts that extend beyond eight hours depending upon their personal situations. The function of premium pay for overtime is threefold. First it is designed to force the employer to schedule work such that unexpected demands for extra hours are not made upon employees. Second it is designed to encourage the employer to hire more employees rather than simply make current employees work longer hours. Third it is to reward employees for the fatigue they suffer when they are overworked.

In the instant matter the bargaining unit is too small to have either of the first two reasons come into play. While the issue of fatigue is certainly present, it must be noted that part-time employees may very well have chosen this type of status because they would rather work four ten hour days for two employers than five eight hour days for one. Moreover, it is quite possible that the part-time employee is already working an another job on the day he or she works for Hammondsport. Under these circumstances it can only be assumed that extra work does not present an unmanageable extra burden.

Last it must be noted that the Association presented the panel with no evidence indicating that its proposal is the norm for area police forces. For these reasons the Association's proposal is rejected.

## 2. Personal Leave

The Association has proposed that the current contract which provides for one personal leave day per year be changed to provide for two. The Association believes that this is a reasonable request given the fact that personal leave clauses in comparable area

contracts provide from three to six days of leave. Moreover, says the Association, an additional day would permit the Hammondsport police to augment their sick leave bank.

The Village rejects the Association's comparisons arguing that they all represent contracts in larger municipalities. The Village maintains that its size prevents it from granting additional personal leave because the lack of a notice requirement in the clause would result in a manpower shortage.

The panel cannot find any solid evidence that the inclusion of an additional personal leave day would likely result in a shortage of officers. There is, however, clear evidence that nearby small villages having two or three full time officers have at least three personal leave days in their respective contracts. For this reason it is ordered that as of March 1, 1989 the number of personal leave days for the Hammondsport police be ~~incre~~ased to two per year.

### 3. Salaries

The Village and Association have mutually agreed to increase the salaries of the part-time employees to \$7.00 per hour in the first year of the contract and \$7.50 per hour in the second year. The parties have further agreed that these amounts will become part of the salary settlement contained in this Award and will be retroactive to March 1, 1989.

The remaining issues regarding salary deal with the salary of the Dispatcher and that of the newly created position of full time patrolman. The District believes the appropriate salary for the latter position is \$12,000.00 per year. The Association maintains that the annual salary should be \$16,500.00 in the first year of the contract and \$17,800.00 in the second year.

The Association has supplied comparative salary data from the towns of Erwin, Painted Post, Dansville, Bath, Elmira Heights and Watkins Glen. In none of the places is the salary for full time officers as low as that proposed by the Village of Hammondsport. While the Village argues that these suggested areas of comparison are too large to be

applicable, the Village has offered no comparable statistics of its own. It appears, instead, to rest its position solely on the fact that the person who will fill the full time position has stated that he is willing to work for \$12,000.00.

The panel believes that the Erwin Police Department may fairly be compared to that of Hammondsport because it has three full time officers while Hammondsport will have two. While Erwin is somewhat larger than Hammondsport, it does not have the heavy summer tourist traffic enjoyed by the Village. The 1989 salary for full time patrolmen in Erwin is \$14,200.00. For 1990 the salary is \$15,200.00. The panel, or a majority thereof, believe that these are appropriate figures for Hammondsport and, therefore, orders the Village to pay its full time patrolman \$14,200.00 prorated for the remainder of the first year of the contract and \$15,200.00 for the second year of the contract.

Regarding the Dispatcher's salary, the Association seeks an increase to \$13,650.00 for the first year of the contract and \$15,650.00 for the second. It believes that this is representative of comparable salaries in the area paid to Dispatchers with thirteen years of service. The Village has proposed that the current salary of \$10,032.00 be increased to \$10,333.00 for the first year of the contract and \$10,643.00 for the second. The Village agrees that the thirteen years of service completed by its current Dispatcher have been excellent, but maintains that, given its size it cannot afford to pay what the Association seeks.

The panel finds that the Village produced no tangible evidence of financial hardship. Nor has the Village offered any comparable salaries to support its position. The Association has cited the Dispatcher's salaries in Watkins Glen, Dansville, Bath and the Steuben County Sheriff's Department. Watkins Glen has three full time officers serving a population of approximately 3000. Hammondsport will have two full time officers (including the Dispatcher) serving a population of 1600. According to the unrefuted evidence presented by the Association, a Dispatcher in Watkins Glen with thirteen years of experience would make \$16,071.00. Both Watkins Glen and Hammondsport have

substantial tourist traffic. We conclude, therefore, that Watkins Glen yields a good, if somewhat rough, basis of comparison with Hammondsport.

Considering Watkins Glen and considering the panel's order with respect to the newly created position of full time patrolman, the panel orders that the Dispatcher's salary be increased to \$13,200.00 in the first year of the contract and \$14,200.00 in the second year of the contract. This will result in a Dispatcher's salary which is both less than that paid to a Dispatcher with thirteen years experience in Watkins Glen and less than that paid to a full time patrolman in Hammondsport. The panel, or a majority thereof, believes that a differential between a patrolman and a Dispatcher should be maintained because of the danger inherent in police work which danger is not faced by a Dispatcher.

#### 4. Premium Pay

Under the current contract when the Chief of Police is unavailable to perform his duties for more than five days, the officer performing the duties of the Chief receives an extra \$10.00 per day. The Association asks that this amount be increased to \$15.00 and that it be paid from the first day an officer assumes the acting Chief role. The Village argues that the Chief leaves on vacation only when his responsibilities are at a low point. It, therefore, believes that \$10.00 per day is sufficient.

The panel finds that the only testimony adduced at the hearing indicated that no great hardship was worked on an officer assuming the Chief's duties. For this reason there is no necessity to increase the stipend at this time. It does seem clear, however, that whatever increased responsibilities do occur, happen from the first day that the Chief's duties are assumed. For this reason the panel orders that the rate remain unchanged but that it be paid from the first day that the Chief's duties are assumed by a member of the bargaining unit.

It is noted in passing that the panel has no jurisdiction to determine what the Village does when the Chief is absent. It, therefore, makes no ruling on the Village's proposal that, in the absence of the Chief the Police, Commissioner should serve in his place.

#### 5. Degree Pay

Under the current contract bargaining unit members holding an Associate degree in Police Science or Criminal Justice receive a one time payment of \$100.00. Those with a B.S. receive \$200.00. The Association has proposed that these figures be changed to \$250.00 and \$500.00 respectively and that the stipends be paid yearly rather than on a one time basis.

The panel is not persuaded that the current contract is in need of modification on this issue. If the Village wished officers with more formal education, it could voluntarily grant the Association's proposal. The fact is that municipal employers vary greatly as to the amount of educational stipends granted. As the Association pointed out, there are many places that offer no such stipends at all. Given this fact and given the small size of the Hammondsport Police Department, the panel find that the current contract is sufficient.

#### 6. Merit Pay and Evaluation

The Village has proposed that some form of merit system be instituted so that employees with the best performance receive the highest pay increases. In the words of the Village, however, "The proposal is new and the specifics are sketchy." The panel finds that the Village has not made a concrete proposal on evaluation and merit pay. Without a specific proposal the panel recommends that the current pay system remain in force.

December 22, 1989



James R. Markowitz  
Public Panel Member and Chairman

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Brian Flynn, Esq.\*  
Public Employer Panel Member



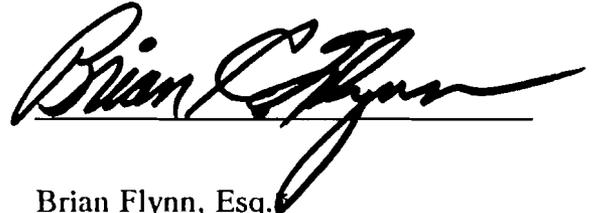
Diane McMordie  
Employee Organization Panel  
Member

\*Mr. Flynn has recused himself from that portion of this Award dealing with the salary of the Dispatcher.

December 22, 1989



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