

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
CASE: M 89-395; IA 89-38

NY'S PUBLIC EMPLOYMENT RELATIONS BOARD
RECEIVED
AUG 10 1990
CONCILIATION

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In The Matter of Interest Arbitration

- Between -

TOWN OF HAMBURG

- and -

SOUTH ~~TOWN~~ POLICE CLUB, INC.

* * * * *

A W A R D

O F

A R B I T R A T I O N

O P I N I O N

REPRESENTATION

For The Town

Edward G. Piwowarczyk, Esq., Spokesperson
Matthew Czerwiec, Chief of Police
Joseph Coggan, Captain
John P. Gracon, Captain

For The Police Club

Michael F. Barone, Esq., Spokesperson

For the Panel

Samuel Cugalj, Public Panel Member, Chairman
Norbert Schnorr, Employee Organization Panel Member
James Spute, Public Employer Panel Member

BACKGROUND

On April 23, 1990 the New York State Public Employment Relations Board designated a three (3) member Public Arbitration Panel to resolve the labor contract impasse between the Town of Hamburg and the South-Towns Police Club (hereinafter referred to as "TOWN" and "POLICE CLUB" respectively). Following one (1) mediation session to reduce the number of open issues, a Hearing was held in Hamburg, New York on July 23 with regard to the remaining fifteen (15) issues. The parties presented the Panel with Hearing Briefs, twenty (20) POLICE CLUB Exhibits, and seventeen (17) TOWN Exhibits. The parties had full opportunity to present argument in support of their positions on the open items, introduce evidence and witnesses and to engage in their examination and cross-examination. They declined an opportunity to file Post Hearing Briefs.

The Panel reviewed the material presented, and the Chairman did independent research to validate the information presented. The Panel met in Executive Session on July 31 and August 2 to deliberate and determine the structure of the AWARD. They also met on August 9 to review the draft of the AWARD and the Chairman's Statement.

The Panel's deliberations took into account the following criteria as required in Section 209.4 of the Taylor Law as follow:

"(v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

a. comparison of the wages, hours and conditions of the employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of

employment of other employees generally in public and private employment in comparable communities.

b. the interest 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 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 of salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off, and job security."

A W A R D

ISSUE 1 - TERM OF AGREEMENT

Section 1.21 of their expired labor Agreement is amended to begin at 12.01 AM on January 1, 1990 and expiring at midnight, December 31, 1991.

ISSUE 23 - ERIE COUNTY FAIR DETAIL

After considerable discussion and research, the Panel believes it best serves the Department by denying this request at this time. However, the Panel strongly encourages and supports the fair distribution of these work assignments, taking into consideration job requirements, individual skills and job preferences.

ISSUE 24 - WAGES

- a) Effective January 1, 1990, all steps in the 1989 salary schedule in Section 6.11 are increased by five percent (5%). Detective Sargent will receive a two hundred (\$200) premium in addition to their Detective wage. Retroactive monies shall be paid as soon as possible, but no later than thirty (30) days from the date of this AWARD.
- b) Effective January 1, 1991, all steps in 1990 salary schedule in Section 6.11 are increased by five percent (5%). Detective Sargent will receive a two hundred (\$200) premium in addition to their Detective wage.

ISSUE 27 - OVERTIME SELL BACK

Effective the date of this AWARD, Section 6.21 is amended to allow for an overtime sell back option maximum of twelve hundred (\$1,200)/year.

ISSUE 28 - UNIFORM ALLOWANCE

- a) Effective from the date of this AWARD, Section 6.22 is amended to reflect an annual uniform allowance of four hundred (\$400) for patrolman.
- b) Effective January 1, 1991, Section 6.22 is amended to reflect an annual uniform allowance of four hundred fifty (\$450) for patrolman.
- c) The POLICE CLUB's request for uniform allowance in cash is denied.

ISSUE 29 - CLOTHING MAINTENANCE

- a) Effective January 1, 1990, Section 6.22 is amended to reflect an annual clothing maintenance allowance of two hundred seventy-five (\$275) for patrolman and four hundred fifty (\$450) for detective.
- b) Effective January 1, 1991, Section 6.22 is amended to reflect three hundred (\$300) for patrolman, and five hundred (\$500) for detective.

ISSUE 32 - LONGEVITY

- a) Effective January 1, 1990, Section 6.25 is amended to reflect an increase of one hundred (\$100) to each step of the 1989 longevity schedule.
- b) Effective January 1, 1991, Section 6.25 is amended to reflect an increase of fifty (\$50) to each step of the 1990 longevity schedule.

ISSUE 39 - HOLIDAY SELL BACK

Effective the date of this AWARD, Section 7.25 is renumbered as Section 7.13 and amended as follows:

"Each officer may 'sell back' up to ten (10) days of unused holiday compensation each contract year. Officers exercising the sell back option shall do so prior to November 1st of each year. When a request to sell back time has

been made, payment shall be accomplished within the pay period following the period within which the request was made."

Section 7.26 is renumbered as Section 7.25.

ISSUE 44 - SICK LEAVE BANK

Effective the date of this AWARD, the following will be added to Section 8.15,

"Unusual sick time requests can be brought to the attention of the Committee for their review and determination."

ISSUE 51 - SICK TIME SELL BACK

Effective January 1, 1991, Section 9.13 is amended to reflect the sell back of sick time at a rate of five (5) hours of pay for each unused sick day.

ISSUE 53 - HEALTH INSURANCE

The POLICE CLUB's request for one hundred (100%) of health maintenance (HMO) insurance premium coverage is denied.

ISSUE 56 - EDUCATIONAL INCENTIVE (NEW)

Effective from the date of this AWARD, a new Section 9.30 is added to the successor Agreement as follows,

"Members of this bargaining unit shall receive, as additional compensation, an educational incentive of one hundred (\$100) annually upon the granting of a two (2) year degree, and two hundred (\$200) annually upon the granting of a four (4) degree in Police Science or Criminal Justice. Only courses and degrees as offered by a State accredited junior college, college or university are to be counted, no matter where located.

Prior approval of the outline for the degree program shall be approved in writing by the Chief of Police to ensure consistency with the program and degree requirements stipulated herein."

ISSUE 58 - UPDATE OF CONTRACT WORDING

This AWARD reaffirms the parties' agreement to review and update the successor labor Agreement to reflect changes which have been mutually agreed to and put into practice.

ISSUE 62 - AMMUNITION

The Memorandum of Understanding on Uniform and Related Items is amended to allow a bargaining unit member to select their duty gun once during the term of each labor Agreement. Such request shall be in writing, and must be approved by the Chief of Police, in writing, before becoming official.

The TOWN is to provide ammunition for qualifying and on-duty use of their approved weapon.

ISSUE 65 - OPTICAL PROGRAM

Effective as soon as enrollment can be accomplished, but not later than thirty (30) days from the date of this AWARD, Section 9.21 is amended to change the current vision care program to the CSEA Optical Plan. The TOWN shall continue to pay \$5.09 per month per employee for this program. Bargaining unit members will pay the difference up to the monthly premium of the CSEA Plan.

ISSUE 7 - SHOTGUN TRAINING (TOWN PROPOSAL)

Effective from the date of this AWARD, the third (3rd) sentence in Section 5.37 will be amended by deleting the words,

"...and other weapons owned by the Department."

All issues previously agreed to in these contract negotiations are hereby reaffirmed.

All issues, not previously agreed to in these contract negotiations and not a part of this AWARD, are considered null and void.

All sections of their expired Collective Bargaining Agreement, not affected by this AWARD, and not affected by force of law, remain intact in the successor Agreement.

STATE OF NEW YORK }
 }
COUNTY OF ERIE } ss:

On this 10th day of August 1990, before me personally came and appeared Samuel Cugalj, to me known and known to me to be the individual described in, and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

Shirley A. Beale

SHIRLEY A. BEALE
Notary Public, State of New York
Qualified in Erie County
My Commission Expires
October 31, 1991

Samuel Cugalj
SAMUEL CUGALJ
Public Panel Member and Chairman
Concurs

STATE OF NEW YORK }
 }
COUNTY OF ERIE } ss:

On this 10th day of August 1990, before me personally came and appeared Norbert Schnorr, to me known and known to me to be the individual described in, and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

Shirley A. Beale

SHIRLEY A. BEALE
Notary Public, State of New York
Qualified in Erie County
My Commission Expires
October 31, 1991

Norbert P. Schnorr
NORBERT SCHNORR
Employee Panel Member
Concurs

STATE OF NEW YORK }
 }
COUNTY OF ERIE } ss:

On this 10th day of August 1990, before me personally came and appeared James Spute, to me known and known to me to be the individual described in, and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

Shirley A. Beale

SHIRLEY A. BEALE
Notary Public, State of New York
Qualified in Erie County
My Commission Expires
October 31, 1991

James M. Spute
JAMES SPUTE
Employer Panel Member
Concurs

CHAIRMAN'S OPINION

In determining the preceeding AWARD, the Panel did take into account its statutory responsibilities under Section 209.4 of the Taylor Law. I have summarized our rationale below.

ISSUE 1 - TERM OF AGREEMENT

The Panel took note of the productive relationship that exists between the parties, and believes a two (2) year agreement would best serve them. They also appeared to favor the longer term.

ISSUE 23 - FAIR DETAIL

This issue, involving work assignments to the County Fair, was unique to the parties, and comparison information with other police departments was not readily available. Further, the Panel thoroughly discussed the need for equitable work assignments for the Fair, given the needs of the particular assignments themselves. We also did considerable research on previous Fair assignments. It was felt that, at this time, it would be more appropriate to allow the TOWN to continue to make such assignments, but encourage them to take our discussions into consideration in the future.

ISSUE 24 - WAGES

The Panel awarded a five (5%) wage increase in the previous step schedule, in each of two (2) years. The POLICE CLUB sought a six (6%) increase, while the TOWN offered four (4%). Comparison wage data included several towns neighboring Hamburg and a more limited number, such as Amherst and Tonawanda, from the general Western New York area. The POLICE CLUB's wage ranking was near the top, and the Panel had no reason to justify why their position should not be maintained. The TOWN's assessed valuation vis-a-vis its full valuation was slightly lower than the town comparison group. Its population showed a negligible increase from 1980 to 1986, reflecting a maturing municipality. The TOWN's per capita income, last estimated in 1985, kept pace generally with the town comparison group. The TOWN's ability to pay was not at issue, and budgetary information was not provided indicating so. However, ability to pay was always given serious consideration by the Panel. It is deemed in the public interest to continue police morale at a high level with a wage settlement which is competitive in the general Western New York area, and we believe we have done so. Also, other TOWN bargaining units settled their labor negotiations with a five to five and one-half (5%-5.5%) wage increase. Finally, the Panel took into consideration other issues agreed to before the Hearing and in our AWARD, in making our determination on wages.

ISSUE 27 - OVERTIME SELLBACK

The Panel increased the maximum overtime sellback to \$1,200 annually from its present \$750. We reviewed the operational and monetary impact of our determination, and reviewed other police labor contracts in the town comparison group. Our AWARD compares favorably in all these areas.

ISSUE 28 - UNIFORM ALLOWANCE

In this issue and in Issue 29, the POLICE CLUB preferred to better equalize the amounts for patrolman and detective. The Panel made a basic decision in both issues that an increase was needed for both, but weighed more heavily, the job requirements of each. In this issue, the patrolman is required to wear formal uniforms, and they alone were awarded an increase in each year. The Panel reviewed the cost of our determination, and other police labor contracts in the comparison group. The POLICE CLUB's request to change from a voucher to a cash system of payment was denied to ensure the uniformity of clothing and equipment.

ISSUE 29 - CLOTHING ALLOWANCE

The history of prior negotiations was reviewed and emphasis given to awarding a higher annual allowance to detective than patrolman. As stated in Issue 28, job requirements were used. Detectives were awarded four hundred fifty (\$450) and five hundred (\$500) in each of two years,

while patrolmen received two hundred seventy-five (\$275) and three hundred (\$300) respectively. Again, the Panel reviewed the cost of our determinations, and other police labor contracts in the comparison group.

ISSUE 32 - LONGEVITY

The Panel considered the cost of its determination, and police labor contracts in the comparison group in awarding an increase of one hundred (\$100) and fifty (\$50) to the previous longevity schedule in each of the years respectively.

ISSUE 39 - VACATION/HOLIDAY SELBACK

The Panel was responsive to the inequity of a past interpretation of vacation sellbacks on this bargaining unit. Continuing the past practice may unnecessarily adversely affect the morale of senior members of the department. The Panel believes the TOWN has little interest, if any, in having a member of this bargaining unit penalized retirement-wise. We reviewed other police labor contracts in the comparison group on the issue of holiday sellback, and the TOWN's command officer's labor contract, and found our AWARD consistent with them.

ISSUE 44 - SICK LEAVE BANK

The Panel did not find applicable outside sources of data for this issue. It believes the impact of an actual experience both parties experienced earlier was unique, and the Panel's Sick Bank Committee determination was the most appropriate for future such occurrences.

ISSUE 51 - SICK TIME SELL BACK

The Panel reviewed other police labor contracts in the comparison group, the costs of having unlimited exposure and the need to be a more competitive in this area in determining its AWARD.

ISSUE 53 - HEALTH INSURANCE

The Panel denied the CLUB's request for 100% HMO medical insurance premium payment by the TOWN. The latter's basic health plan is competitive, and it was felt reasonable that those preferring a HMO plan should pay the difference between the provided plan and HMO they choose. Other police labor contracts in the comparison group were also reviewed, as was the cost of this request.

ISSUE 56 - EDUCATION INCENTIVE (NEW)

The Panel recognized the importance of education to the efficiency with which bargaining unit members perform their duties and serve the public. It was careful to assess the cost of its determination and weigh it against the overall public good. Other police labor contracts in the comparison group were reviewed in coming up with this determination. The Panel believed it important to structure the AWARD to ensure it is used as an incentive, vis-a-vis a vehicle to increase wages. Therefore, only two (2) or four (4) year degrees, in Police Science and Criminal Justice, with preapproval from the Chief of Police, qualify for this benefit. The preapproval would benefit budgetary considerations of the TOWN and help to minimize misinterpretations of this benefit.

ISSUE 58 - UPDATE CONTRACT WORDING

Their expired labor Agreement needs to be updated to account for changes mutually implemented over its previous term. This would enhance respect, understanding and compliance with the Agreement. The parties agreed to work on updating the Agreement, and the Panel reaffirms their consent.

ISSUE 62 - AMMUNITION

The Panel was responsive to the CLUB's position that some members prefer to use their private weapon as their duty gun instead of the issue gun. The Panel was concerned with the costs and variety of multiple weapons to the TOWN. Our determination to allow members one (1) selection of duty gun, with the approval of the Chief of Police, for the term of each labor Agreement addressed these concerns.

ISSUE 65 - OPTICAL PROGRAM

The CLUB desires to upscale its present optical coverage to the CSEA Program, which the TOWN provides for its other employees. The Panel reviewed other considerations in the AWARD, looked at the additional cost to the TOWN, and other police labor contracts in the comparison group. We felt it was appropriate to have bargaining unit members contribute the difference between the cost of the present coverage and the CSEA program.

ISSUE 7 - SHOTGUN TRAINING (TOWN PROPOSAL)

The Panel took into account the TOWN's operational weapons requirements and efficiency, and the safety of bargaining unit members and the public. The Panel felt even though shotguns are used occasionally, it is important for bargaining unit members to be proficient with it by qualifying annually. However, there is no need for the TOWN to continue to train the all members in other weapons, since specialty teams are already in place and are required to qualify with these other weapons.

In conclusion, the Chairman wishes to express his appreciation to the two (2) Panel members, for their diligence, patience and cooperation in resolving this impasse.

August 10, 1990
Hamburg, New York



SAMUEL CUGALJ
PUBLIC PANEL MEMBER AND CHAIRMAN