

THE STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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IN THE MATTER OF THE COMPULSORY INTEREST  
ARBITRATION BETWEEN

THE KINGSTON P.B.A. UNION, INC (formerly the  
Kingston Police Benevolent Association, Inc.)

AND

THE CITY OF KINGSTON

PERB CASE NO.: IA89-39; M89-347  
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BEFORE THE ARBITRATION PANEL:

David C. Randles, Chairman  
Wayne C. Maisch, Employee Organization Member  
William M. Wallens, Esq., Employer Member

APPEARANCE:

For the Kingston P.B.A. Union, Inc:

Curran and Gruner,

William P. Curran J.D., Counsel to the P.B.A.

For the City of Kingston:

Andrew P. Zweben, Esq., Corporation Counsel

STATEMENT:

The City of Kingston (City) and the Kingston P.B.A. Union, Inc. (Union) have been unable to successfully negotiate a successor to their 1987-88 Collective Bargaining Agreement. The resultant impasse in negotiations, therefore, has been referred to Compulsory Interest Arbitration pursuant to the provisions of New York State Civil Service Law, Article 14, Section 2029.4 and the procedures of the New York State Public Employment Relations

JAN 10 1989  
OPINION  
AND  
AWARD

Board (PERB). Subsequently, the duly designated undersigned Public Arbitration Panel convened hearings on August 23, September 26, and October 22, 1990 in the City of Kingston, New York. At those times full and complete opportunity was afforded for the presentation of evidence and proof and for the examination and cross-examination of witnesses.

Subsequent to the hearings timely post-hearing submissions were received and the record was closed.

In its consideration and disposition of the issues before it, the Panel based its findings and Award upon the criteria set forth in the statutory provisions applicable to Compulsory Interest Arbitration, Article 74 CSL, Section 209.4 (c) (v):

- 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 employer to pay;
- c. comparison of peculiarities in regard to other trades and 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 bargaining agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provision for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

STIPULATION OF IMPASSE ISSUES  
(Joint Exhibit 6)

The following issues are at impasse; all other issues are resolved for the Contract Years 1989 and 1990.

PBA Proposals:

1. \$3881.00 adjustment in wages
2. 15% 1989 increase in wages
3. 15% 1990 increase in wages
4. Uniform allowance \$575.00 to \$750 per annum
5. Longevity increments from \$275.00 per step (5 steps) to \$350.00 per step (8 steps)
6. Career Incentive Plan 15% pay difference between ranks

City Proposals:

1. Health Insurance contribution (10%) for new employees
2. Reduction of Supplemental Days (2) for all employees.

ss/ William P. Curran      ss/ Andrew P. Zweben

By letter and brief the parties extended the authority of the Arbitration Panel to Award provisions for a three year contract, 1989, 1990 and 1991 rather than two years as was originally agreed. That agreement to extend the term of the Contract was predicated upon the fact that negotiations would need to commence immediately for the 1991 Contract if the duration of the Contract was not extended. The City proposed that the salary increase be 6% for each of the three years whereas the PBA allowed the Panel to determine the salary increase for the third year without making a specific proposal.

## PRELIMINARY FINDINGS

This collective bargaining dispute is entirely economic. The percentage increase for all proposals sought by the PBA is approximately 41.69% for 1989 (47.42% including FICA and retirement) and 15% for 1990 (17% including FICA and retirement) plus the cost of the increase in uniform allowance. The increase for patrolmen on the sixth step would be 32.45% in 1989 and 15% in 1990.

A comparison with increases of similar units of police reveals for the contract years 1989-91 (Joint Exhibit 10):

Department	1989 % >	1990 % >	1991 % >
Troy	6.0		
Rome	5.5	5.5	
Ithaca		6.0	
New Paltz	11.76	12.78	
Newburgh T/W	6.0	4.76	
Newburgh City (splits equal)	5.25	7.25	7.0
Monticello	5.66	5.65	
NYSP	4.76	5.2	
Ellenville	4.76		
Liberty	6.36	6.36	
Poughkeepsie-City		6.5	
Hudson	16.0	5.76	5.45
Beacon		5.66	5.65
Oswego	5.65	5.65	5.66
Oneida	7.5		
Ulster	6.0		
Lloyd	9.0	9.0	

With a 6% increase for 1989 as the City has offered, the starting salary for Kingston Police would be higher than the Municipalities exhibited above except Poughkeepsie and Beacon. In regard to the top of grade PO6 all but

Ellenville, Hudson and Oneida would have higher salaries and patrolmen in the exhibited comparables reach the top of grade in a shorter time, that is, within three to five years rather than the six in Kingston. Essentially, the same relationship exists for superior officers, Detectives, Sergeants and Lieutenants. (Joint Exhibit 12 and PBA Exhibit 28)

Kingston also ranks lower than the comparables in other benefits generally held by police employees, that is, longevity, sick leave days and uniform allowance and ranks average in the number of holidays, personal leave, union leave, health insurance and bereavement leave. It should be noted that none of the comparables require a contribution for health insurance by any police employee. (Joint Exhibit 13)

The City of Kingston has consummated three year agreements with all of its organized employees save the police at the rate of six percent per annum. The other City public safety unit is a unit of firefighters. If the Panel were to award the 6% salary increase per annum as negotiated with the firefighters, the salary comparison between the two units would be as follows on January 1, 1989:

STEP	POLICE	FIREFIGHTERS
1	\$22,499.00	\$23,830.00
2	23,882.00	24,390.00
3	24,693.00	25,042.00
4	25,650.00	25,827.00
5	26,158.00	26,626.00
6	27,119.00	27,559.00

Additionally, firefighters receive supplemental days (132 hours) which they can cash in. The potential cash that such days could have generated in 1989 was between \$1787.00 and \$2067.00.

The Statutory Criteria of comparability having been considered the Panel now turns to the criterion of the financial ability of the employer to pay. The City exhibited that its sales tax revenues are 1% lower than the previous year. State revenue is 5% lower in fiscal year (FY) 90 than in FY 89. Total revenue from all sources other than real property tax was \$9,509,052.00 in FY88, \$10,205,309.00 in FY89, \$9,553,471 in FY90; and it is expected that in FY91 the City will receive \$8,974,550.00. Moreover, the value of real property which the City is able to tax essentially has not increased in the last few years, and there is no anticipation that this trend will change. The only manner in which the City is able to fund salary increases is by increasing the real property tax rate.

The City argued that given the current economic downturn and the increasing burden upon local taxpayers its economic offer including the requirement of a health insurance contribution by new employees and the reduction of supplemental days is most reasonable and defensible. Furthermore, it relied upon the testimony of the PBA fiscal

expert, Edward Fennel, who stated that he knew of no salary settlement in the State of New York that equaled the PBA proposal. It also asserted that the City of Poughkeepsie which pays its police substantially more than does the City of Kingston has a greater tax base from which to draw the funds required to do so.

The PBA on the other hand asserted that the City has an obligation to pay its police officers at a level comparable to the City of Poughkeepsie, the community it deemed most comparable and the highest paid department in the Hudson Valley. Kingston having one of the most outstanding departments in the State should not be paid significantly below that comparable department and receive substantially less than the Kingston Firefighters.

Upon the foregoing analysis the items at impasse will now be considered and an Award issue.

#### FINDINGS ON THE IMPASSE ISSUES

##### Salary Increases:

Neither City or the PBA proposal may be Awarded. It is clear to the Panel that the level of salaries of the police herein are substantially below the firefighters within the very same City even without including the cash value of supplemental days. Within all the comparables exhibited by

the parties they are also below the salary levels enjoyed by police at the top of the grade and it takes them longer to achieve that level. The magnitude of increases sought by the PBA are neither supported by any percentage increase negotiated by a unit of public employees in the state of New York nor are increases over 40%, or even 15%, able to be justified by any measure except the desire of these employees to have parity with the City of Poughkeepsie police. While such a goal is understandable, it may not be sustained.

In the alternative, in order for these employees to achieve general comparability and comparability with the firefighters' salary schedule, but for the starting rate, a series of split increases are deemed warranted, the cost of which is not beyond the City's ability to pay nor beyond the general range of comparable salary settlements.

January 1, 1989	- 5%
July 1, 1989	- 2%
January 1, 1990	- 5%
July 1, 1990	- 2%
January 1, 1991	- 6%

The Cost to the City for these increases is 6% in 1989, 7% in 1990 and 7% in 1991.

### Uniform Allowance

The Kingston Police are given \$575.00 for the purchase of uniforms at the time of hire and \$575.00, in two installments, annually thereafter to replace worn uniforms and provide for the cleaning and upkeep of them. Many of the departments exhibited provide replacement uniforms at no cost to sworn personnel and also provide an allowance for cleaning. The uniform and cleaning allowance must be increased in order to maintain the City's level of participation in these costs. That allowance shall be increased by the same percentages applied to salary which will result in an allowance of the following amounts.

1989 -	\$615.00
1990 -	\$655.00
1991 -	\$700.00

### Longevity Increments

Payments for longevity are also below the comparables for Kingston Police; however, the Panel does not deem that the step schedule for longevity payments warrants change due to the extra cost for that emolument. Accordingly, it shall be Awarded that the longevity increment shall be increased to \$300.00 beginning January 1, 1991.

### Career Incentive Plan

Due to the cost of this proposal and the fact that there is little comparability upon which to justify a finding, it may not be granted.

### Health Insurance Contribution

The City asserts that due to the spiraling cost of health insurance it must begin to put in place cost saving measures. In this contract it contends that requiring new employees to pay 10% of the cost is an effective means to begin that program. It also asserts that since other City employees have agreed thereto it makes it feasible for the Panel to accede to the City's proposal. The PBA on the other hand vehemently resists any such change and points to the fact that there is not a majority of police contracts among the comparables that have such a provision for new employees.

The Panel must Award the status quo. While it may understand the need of this employer to control costs of health insurance, it may not order the change requested. While the Kingston firefighters, the unit deemed to be most comparable, have agreed to such a change, the impact upon a new hire in the police unit would be substantially greater than for a firefighter since even after the increases

awarded herein the beginning police salary is approximately \$1000.00 (\$966.26) less than that of a firefighter. If the starting salaries were the same, then such a change would have sufficient merit. Furthermore, a clear majority of other comparable police units do not have such a contractual provision.

#### Reduction of Supplemental Days

The City seeks to eliminate two supplemental days for all the employees herein. The PBA resists that proposal because the firefighters retain such days and, moreover, they may cash them in, a right not afforded police.

Given the status of supplemental days in the firefighters' contract, the Panel would deem it improper to further erode the rights of policemen in relation thereto.

Now, therefore, it is, and hereby is, Ordered and Awarded:

#### AWARD

Salaries shall be increased in the following manner:

January 1, 1989	- 5%
July 1, 1989	- 2%
January 1, 1990	- 5%
July 1, 1990	- 2%
January 1, 1991	- 6%

Uniform allowance shall be:

January 1, 1989	- \$615.00
January 1, 1990	- 655.00
January 1, 1991	- 700.00

Longevity increments shall be increased to \$300.00 on January 1, 1991.

All salary increases shall be applied to the salary schedule.

Retroactive payments for the increases directed by this Award shall be made as soon as possible.

The Public Arbitration Panel

Dated: January 14, 1991 David C. Randles  
David C. Randles, Chairman

State of New York)  
County of Saratoga)SS:

On this 14th day of January, 1991, before me personally came and appeared DAVID C. RANDLES 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.

Mary Patricia Randles  
MARY PATRICIA RANDLES  
Notary Public, State of New York  
Reg. No. 4640824  
Qualified in Saratoga Co.  
My Commission Expires 11-30-91

Dated: January 14, 1991 Wayne C. Maisch  
Wayne C. Maisch, Employee Member  
AGREE ON ALL ITEMS EXCEPT SALARY

State of New York)  
County of Ulster)SS:

On this 14th day of January, 1991, before me personally came and appeared WAYNE C. MAISCH 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.

Douglas C. Gaston  
DOUGLAS C. GASTON  
NOTARY PUBLIC, State of New York  
Qualified in Ulster County  
4/30/92

Dated: 1/14/91 William M. Wallens  
William M. Wallens, Employer Member  
AGREE ON ALL ITEMS EXCEPT HEALTH INSURANCE

State of New York)  
County of Albany)SS:

On this 14th day of January, 1991, before me personally came and appeared WILLIAM M. WALLENS 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.

Jane K. Hartnett  
JANE K. HARTNETT  
NOTARY PUBLIC, State of New York  
Qualified in Dutchess County Washington  
Commission Expires April 30, 1992