

NEW YORK PUBLIC EMPLOYMENT RELATIONS BOARD
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CONCILIATION

In the Matter of the
INTEREST ARBITRATION

between

City of Niagara Falls

AWARD

and

Niagara Falls Captains and
Lieutenants Association

Public Employment Relations Board
Case #IA90-04; M89-366

APPEARANCES

- The Arbitration Panel:
 - Judith A. La Manna, Esq.
Public Panel Member and Chair
 - David A. Fabrizio, Esq., City Labor Relations Specialist
Public Employer Panel Member
 - Andrew Viglucci, Lieut., City of Niagara Falls Police Department
Employee Organization Panel Member
- Presenting, for the Employer: Douglas J. Crowley, Esq.
Second Deputy Corporation Counsel
- Presenting, for the Association: Anthony J. DeMarie, Esq.

The City of Niagara Falls occupies about 6.5 square miles in Niagara County and has a population of approximately 64,550. There are 134 persons in the fully paid police force of the City of Niagara Falls (City or Employer) with 25 officers who are bargaining unit members in the Captains and Lieutenants Association (Association).

This department is one of three major police departments in Niagara County.

The most recent contract between the City and the Association ran from January 1, 1986 through December 31, 1987, as extended by Memorandum of Agreement dated October 26, 1988, to cover the period through December 31, 1989. J.1.

In the fall of 1989 the parties began negotiations for a successor agreement to this contract. In December, 1989, impasse was reached. A mediator was appointed by the Public Employment Relations Board (PERB) and mediation meetings were held in January and early February of 1990. The parties were unable to resolve their contract through mediation.

Initially the City requested a list of impartial arbitrators through PERB. The Association thereafter formally petitioned PERB, on or about May 24, 1990, for interest arbitration and the appointment of a public arbitration panel in the matter of the contract impasse between the parties, pursuant to Section 209 (4)b of the New York State Civil Service Law (NYSCSL). J.2. The City/Respondent's Answer was received by PERB on June 8, 1990. J.3.

By letter dated July 11, 1990, and pursuant to Section 209.4 NYSCSL, PERB notified the above listed individuals of their appointment to service as a public arbitration panel on the matter herein. J.4. The Panel was charged with making a just and reasonable determination to resolve the impasse encountered by the parties in their efforts to negotiate a successor agreement, and, in particular, to consider comparative wage, hour and condition of employment information in comparable communities; the interests and welfare of the public; the financial ability of the public employer to pay; and other appropriate comparisons to other trades or professions and the terms of past collective bargaining agreements between the parties. This is all consistent with the provisions of Section 209.4 (C)(v)(a-d) of the NYSCSL.

The Panel convened and conducted one day of hearing on November 15, 1990 in Niagara Falls, New York, at which time the parties were afforded full opportunity to set forth their positions and supporting evidence and to examine and cross-examine witnesses. Appearances are noted above. During the course of the hearings and the submission of documents, a total of well over 700 pages of material, exhibits and narrative were presented for review by the Arbitration Panel.

Prior to the onset of the hearing, this Arbitration Panel held several telephone conference calls and presented a more defined list of outstanding issues for review by the entire panel, in preparation for the hearing. In addition, this Panel met in executive session on February 2, 1991, after preparation by the Public Panel Member/Chair of a draft award, to review same. On all occasions of contact and presentation and in all material, the parties were clear, thorough and articulate in their explanations of this often complex and detailed material and are to be complimented on same. Also, such time was spent by the Panel and by the Public Panel Member/Chair in review of the considerable information and material presented by the parties in support of their positions, as well as in deliberations over those issues. The parties are thanked for their cooperation throughout this process.

This opinion and award was drafted by the Panel Chair, Judith A. La Manna, Esq. She is solely responsible for the language selected.

ITEMS IN DISPUTE

The items below, listed by category heading and referenced to contract article, are those items which were addressed by the parties to this impasse and are those items which were reviewed for determination by this Interest Arbitration Panel.

1. Salaries (base pay) - Article 7.1
2. Shift premium pay - Article 7.2
3. Pay for briefing time - Article 7.13
4. Education Incentive Pay - NEW
5. Holidays - Article 10.1
6. Pay for accumulated sick leave - Article 10.5.4
7. Health Insurance - Article 11.1
8. Union president time - Article 4.7
9. Employee Evaluation - NEW
10. Duration of Agreement - Article 16

Item 1. Salaries (base pay) - Article 7.1

The Association is seeking an increase for 1990 of 10% on the 1989 base salary and an increase in 1991 of another 9% on the 1990 base salary. The City has expressed a willingness to pay between 5% and 5.75%, in line with what has been paid to "other City employees and uniformed Firefighters, as well as the State average". It is noted that longevity payments are added to the base when percentage increases are applied in this unit.

Finding: An enormous amount of information was presented by both the Employer and the Association relative to the surrounding area police department contracts and settlements, as well as to contracts and settlements in similar sized departments in other parts of the state. Attempts were made to make those comparisons to jurisdictions of comparable size and/or, complexity and/or needs. No comparative base salary factors stood alone, but arose in each instance in conjunction with considerations related to work schedule, holiday pay, shift differential, uniform pay and a host of other items.

The Association made salary comparisons with the police departments of the Town of Amherst (137 officers), the City of Buffalo (1011 officers), the Town of Cheektowaga (136 officers), the City of Lockport (52 officers), the City of North Tonawanda (52 officers), and the City of Niagara Falls, for the titles of Lieutenant, Detective Lieutenant, Captain and Detective Captain (where existent). As well, the Association presented information on the City of Niagara Falls Firefighters contract (1990-91) showing an increase for 1990 of 5.75% on the 1989 salary and an increase in 1991 of another 5.25% on the 1990 base salary. It pointed out other "benefit" increases which were also provided, which compute to dollar values.

The City demonstrated the amount of City yearly salary increases since 1975 per unit. It showed other City units at 5.75 to 6.3 each year for 1990 and 1991 for those units with contracts. It showed other comparisons and presented base salary figures on the unit, as well.

Cost of living factors were argued by both Association and City advocates, along with arguments involving the consumer price index. The matter of City General Obligation Bonding and real estate tax base figures, relating to the City's ability to pay.

The City compared itself to Buffalo, Lockport (7/7), North Tonawanda (6.75), Tonawanda (6.5), and Amherst (5/3/3) and a variety of other cities state-wide.

Award: Effective January 1, 1990 the base annual salaries of bargaining unit members shall be increased by an amount equal to 6.5% of the rate in effect on December 31, 1989.

Effective January 1, 1991, the base annual salaries of bargaining unit members shall be increased by an amount equal to an additional 6.5% of the rate resulting from the prior year increase.

Item 2. Shift premium pay - Article 7.2

The Association seeks an increase of the present shift pay of 35 cents per hour for second and third shift, to 50 cents per hour.

Award: The shift differential shall be increased to 50 cents per hour effective January 1, 1991.

AMU
3/7/91
[Signature]
9/1/91
[Signature]

Item 3. Pay for briefing time - Article 7.13

The Association seeks payment effective January 1, 1990 for pre-shift briefing of fifteen minutes at time and one-half and that briefing time be paid for all authorized days off. In addition, effective January 1, 1991, the Association seeks payment for post-shift debriefing of fifteen minutes, with debriefing pay only for days actually worked.

The City has expressed a willingness to have required attendance briefing, pre-shift, at time and one-half for 15 minutes.

AMU 3/7/91
3/11/91
Award: The officers shall be required to attend a fifteen minute pre-shift briefing and shall be paid at the rate of time and one half for same, effective with the execution of this Award.

Item 4. Education Incentive Pay - NEW

3/11/91
The Association wants payment for officers who pursue their education beyond high school. They propose an annual education incentive of \$100 for a two year certificate or degree, a \$200 incentive for a 4 year degree and a \$300 incentive for a masters-doctorate degree.

The City maintains that the above-noted degrees are not required for appointment or for continued employment. It sees the request as discriminatory against non-collegiate officers.

Finding: Increased education of employees always accrues to the interest of the employer. Many law enforcement organization are, in fact, beginning to require degree education beyond high school for initial appointment and/or promotion. A masters or doctorate degree, however, has not been valued by law enforcement to date.

Award: There shall be an annual payment of a \$50 incentive to officers who have or receive an associate degree or an annual payment of \$100 for officers who have or receive a Bachelor degree. The payments shall not be cumulative. That is, if an officer has both degrees, he/she will receive payment only for the higher of the two degrees. The payments shall not be added to the base. There shall be no additional payment for masters or doctoral degrees. Payments will be made for degree work in criminal justice, business management/administration and sociology; payment for all other degree work is at the option of the City.

Item 5. Holidays - Article 10.1 -

The Association seeks the addition of one paid holiday to increase the total paid holidays to thirteen. It suggests Martin Luther King Day. The City seeks to delete election day and add Martin Luther King Day, claiming this conforms with other City agreements settled in 1990. The City, in comparison listing, shows their holiday offering is less than average by state-wide comparisons.

Award: We order that election day be deleted as a holiday and that Martin Luther King day be added, consistent with other City contracts. There shall be no net increase in paid holidays in this contract.

Item 5. Pay for accumulated sick leave - Article 10.5.4

The contract presently allows for a payment of 20% of the value of accumulated sick leave on termination or retirement. The Association seeks to increase those percentages in increments as follows:

1 - 49 days	20% of daily rate
50 - 99 days	40% of daily rate
100 + days	60% of daily rate

The City, agreeable to an increase which it claims brings this unit in line with other City contracts, proposes the following:

1 - 99 days	20% of daily rate
100-199 days	40% of daily rate
200 + days	60% of daily rate

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3/7/91

[Handwritten notes]
Qm U
3/7/91
3/11/91

Award: The value of accumulated sick leave on termination shall be raised to that offered by the City.

Item 7. Health Insurance - Article 11.1

The City, in seeking more flexibility in medical insurance coverage cost, wants to delete reference by name to the insurance carrier, claiming, as well that this is standard in other City contracts. In addition, the City indicates it is willing to provide a Blue Cross 90/91 Plan now provided to all other City Employees and offers to provide the City Dental Plan also available to all City employees. The City provides 100% premium payment presently. The Association opposes dropping the reference to the named carrier and wants Blue Cross Dental-Plus coverage.

Award: As the City represents that the Blue Cross 90/91 Plan contains all the health insurance coverage presently provided under the collective bargaining Agreement, that shall be the plan made available to this unit, to take effect as soon as it is administratively possible for that to occur without a lapse in coverage, after execution of this Award. There shall be no change in this plan until the parties mutually agree to change carriers.

Item 8. Union president time - Article 4.7

The City is seeking language that it deems standard in all of its other City contracts relative to time off for Union Presidents to conduct union business. The offered language requires prior coordination with the Department Head or other designated person prior to leaving one's work area and calls for scheduling of union activity with "every effort to ... minimize interruption" of his assigned responsibilities.

Finding: The present language of the contract covers Union president leave. Given the higher level of these positions, as officers of the force, additional language as proposed by the City is unnecessary.

Award: There shall be no change in this contract article.

Item 9. Employee Evaluation - NEW

The City currently conducts an annual evaluation and seeks to have its ability to do so incorporated into the collective bargaining Agreement.

Award: There shall be no addition of this requirement to the contract at this time. The parties will continue to discuss this matter after execution of this Award.

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3/7/91

10. Duration of Agreement - Article 15 -

The Association is seeking a two year contract, effective retroactive from January 1990 through December 31, 1991. The City seeks to have a two year agreement, effective upon the issuance of the arbitration award, with no retroactivity.

Award: The terms of the contract imposed by this Award shall be in keeping with the Taylor Law two year maximum, effective January 1, 1990 through December 31, 1991.

AMU
3/7/91
②
3/11/91
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AFFIRMATION

The Awards on proposals Items 1 through 10 of this Interest Arbitration are set forth in detail on the preceding pages, pages 3 through 6, herein above. The undersigned are all in agreement and concur with each and every one of the items of this Award as set forth, and so signify by their signatures below. All other provisions and language contained in the prior collective bargaining Agreement are hereby continued, except as specifically agreed by the parties or as modified by this Award.

Dated: 3/11/91

Judith A. La Manna

Judith A. La Manna

Dated: 3/7/91

Andrew M. Viglucci

Andrew M. Viglucci

Dated: 3/7/91

David A. Fabrizio

David A. Fabrizio

City of Niagara Falls and Niagara Falls
Captains and Lieutenants Association

Public Employment Relations Board
Case #IA90-04; M89-366

State of New York)
County of Onondaga SS.:

On this 11th day of March, 1991, before me personally came Judith A. LaManna

to be known and known to me to be the individual described in the forgoing instrument, and he/she acknowledged to me that he/she executed same.

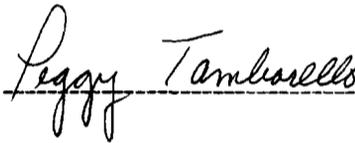


FRANCIS R. RIVETTE
Notary Public, State of New York
Queens County Co. No. 4665743
Commission Expires June 30, 1992

State of New York)
County of Niagara SS.:

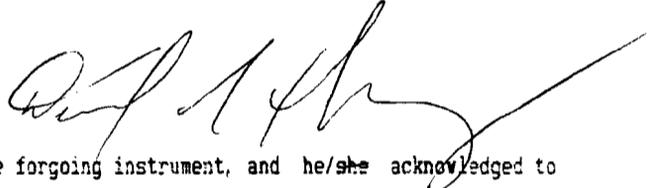
On this 7th day of March, 1991, before me personally came Andrew M. Viglucci

to be known and known to me to be the individual described in the forgoing instrument, and he/she acknowledged to me that he/she executed same.



PEGGY TAMBORELLO
COMMISSIONER OF DEEDS
for and for the City of Niagara Falls, N. Y.
My Commission Expires April 1, 1992

State of New York)
County of Niagara SS.:

On this 7th day of March, 1991, before me personally came 

to be known and known to me to be the individual described in the forgoing instrument, and he/she acknowledged to me that he/she executed same.

