

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
CASE: M 90-414; IA 91-024

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
RECEIVED

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In The Matter of Interest Arbitration

- Between -

CITY OF OGDENSBURG

- and -

POLICE SUPERVISORY UNIT

A W A R D

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A R B I T R A T I O N

- - -

C H A I R M A N ' S

O P I N I O N

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REPRESENTATION

For The City

John C. Krol, City Manager, Spokesman
Katherine Hannan Wears, Esq., City Attorney

For The Supervisory Unit

Sgt. Robert J. McPherson, Sr., Spokesman
Lieut. Andrew P. Wells

Arbitration Panel

Samuel Cugalj, Public Panel Member, Chairman
Philip A. Cosmo, Public Employer Panel Member
Sgt. Frederick P. Bean, Employee Organization Panel Member

BACKGROUND

The Collective Bargaining Agreement between the City of Ogdensburg and the Police Supervisory Unit (hereinafter referred to as "CITY" and "PSU" respectively) expired on December 31, 1990. Bargaining sessions were held between the parties and then with a State Mediator, which were unsuccessful in resolving the open issues. On October 15, 1991 the New York State Public Employment Relations Board designated a three (3) member Public Arbitration Panel to resolve the impasse. A Hearing was held in Ogdensburg, New York on December 20 with regard to the issues of wages and term of agreement; employee contributions to health insurance premiums and clothing allowance are included as issues brought up at the Hearing and agreed upon by the parties. The parties presented the Panel with Hearing Briefs, sixteen (16) PSU Exhibits, and two (2) CITY Exhibits. The parties indicated at the conclusion of the Hearing that they 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 independently, and the Chairman did independent research, in part, to validate the information presented. We decided to try and reach agreement via telephone first, leaving the possibility open of meeting in Executive Session later, if telephone discussions were not successful. These telephone discussions took place on several occasions on January 9, 10 and 14, when the Chairman determined there was unanimous agreement for this AWARD.

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

Article III of their expired labor Agreement is amended for a two (2) year Agreement beginning at 12:01 AM on January 1, 1991 and expiring at midnight, December 31, 1992.

ISSUE 2 - WAGES

- a) Effective January 1, 1991, all steps in the expired 1990 salary schedule in Article VI, Section 3 are increased by five and one-half percent (5.5%).

Retroactive wages are to be paid as soon as possible, but no later than thirty (30) days from the date of this AWARD.

- b) Effective January 1, 1992, all steps in the 1991 salary schedule in Article VI, Section 3 ("a" above) are increased by four percent (4%).
- c) Effective July 1, 1992, all steps in the 1992 salary schedule in Article VI, Section 3 ("b" above) are increased by two percent (2%).

ISSUE 3 - HEALTH INSURANCE PREMIUMS

Effective January 1, 1992, Article XIII, Section 5 is amended to require health insurance premium contributions of seven dollars and fifty cents (\$7.50) per payroll period.

ISSUE 4 - CLOTHING ALLOWANCE

Effective January 1, 1991, Article XIV, Section 3 is amended to reflect a lump sum clothing allowance of four hundred and five dollars (\$405.00) be paid to each member as close to February 1 (1992) as possible.

Effective January 1, 1992, Article XIV, Section 3 is amended to reflect a lump sum clothing allowance of four hundred seventy dollars (\$470.00) be paid to each member as close to February 1, 1992 as possible.

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.

CHAIRMAN'S OPINION

In determining the preceding 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 Chair believes the public is best served by encouraging stability in the relationship between the CITY and the PSU. Such stability can best come about when the parties are not in a state of constant adversarial bargaining. A one year agreement would mean an immediate resumption of collective bargaining for 1992, and the Chair believes this would be counter-productive. Furthermore, their 1989-1990 Agreement was a two (2) year contract, so this AWARD does not introduce a new term for them.

ISSUE 2 - WAGES

The CITY urged that any wage increase be effective July 1, 1991, while the PSU argued for full retroactivity. The Panel awarded its first year wage increase retroactive to January 1, 1991. There is no rationale for denying the PSU its increase from the beginning of the new term of the Agreement. No other CITY bargaining unit or non-bargaining unit employee was similarly affected. Furthermore, it is not an accepted method for settlement for it leaves

employers open to accusations of protracting bargaining in order "to save money", even though its intent was not deliberate. Bargaining units everywhere, would be prone to an ill-advised employer deliberately extending negotiations beyond the expiration date of an agreement. This action, coupled with the negative labor relations which would ensue, would most certainly affect morale, productivity and efficiency in an adverse manner, contrary to the public interest.

The CITY offered a five percent (5%), six (6) month wage increase in a one (1) year contract. The PSU argued for an eight and one-half percent (8.5%) in each of two (2) years. The AWARD consists of five and one-half percent (5.5%) in the first year, and four percent (4%) and two percent (2%) in the second year. The Panel considered police supervisory wages in comparable municipalities, and it appears PSU members are being paid fairly competitive wages. The AWARD attempts to continue that pattern. There is no justification to go to either extreme, by either accepting the PSU's 8.5% increase or the CITY's 5% increase. The Chair considered the fact that police salaries are not a growing part of the CITY's total revenue, and in fact show a decline from 13% of 1987 total revenue to 11% of 1989 total revenue. While the CITY's budget was not offered into evidence, they do show strong financial management, maintaining a reserve balance of approximately \$800,000. While there is uncertainty regarding State aid, which makes up approximately 12.4% of the municipal budget, sales tax show an increase of anywhere from \$200,000 to \$300,000 over budget. The tax base was reported to have increased approximately \$6 MM during calendar 1991, and a shopping mall was completed nearby. The latter is particularly noteworthy for it reflects a cognizance by business investors of favorable population and income per capita figures. The conclusion of

this evaluation is that the area is also benefitting from astute business development as well as sound financial management. The CITY's ability to pay then, while not unlimited, was favorable overall.

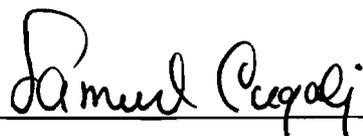
The nature of supervisory work performed by PSU members was thought to be an important part in the CITY's utilization of its police officers. After all, they are responsible for implementing management policies. Additional factors considered were other CITY employee wage settlements, training required, declining PSU staffing levels, as well as staffing levels in comparable municipalities.

ISSUES 3 & 4 - HEALTH INSURANCE AND CLOTHING ALLOWANCE (RESPECTIVELY)

At the Hearing, the PSU stipulated its agreement with the CITY's proposal to increase health insurance premiums to \$7.50 per pay period, effective 1-1-92. Likewise, the CITY agreed to pay the PSU the amount of the clothing allowance granted to police officers. This AWARD re-affirms those decisions.

In conclusion, the Chairman wishes to express his appreciation to the representatives of the CITY and the PSU for their professional approach to the Panel's mission, and especially to the two (2) Panel members, for their diligence, patience and cooperation in resolving this impasse.

January 22, 1992
Buffalo, New York



SAMUEL CUGALJ
PUBLIC PANEL MEMBER AND CHAIRMAN

cc: Richard A. Curreri, Director of Conciliation, PERB
Charles Leonard, Supervising Mediator, Buffalo PERB