

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
INTEREST ARBITRATION PANEL

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
CONCILIATION

In the Matter of the Arbitration :
between :
THE CITY OF PLATTSBURGH, :
Public Employer, :
-and- :
PLATTSBURGH POLICE OFFICERS LOCAL 812, :
COUNCIL 82, AFSCME, AFL-CIO, :
Employee Organization. :
PERB Case No. IA92-045; M92-414 :
_____ :

OPINION
AND
AWARD

BEFORE: Jeffrey M. Selchick, Esq.
Public Panel Member and Chairman

Peter Killian
Employee Organization Panel Member

James W. Roemer, Jr., Esq.
Employer Panel Member

APPEARANCES:

For City of Plattsburgh:
Roemer & Featherstonhaugh, P.C.
William M. Wallens, Esq., of Counsel

For Plattsburgh Police Officers Local 812,
Council 82, AFSCME
Christopher H. Gardner, Esq.
General Counsel, Council 82, AFSCME

BACKGROUND

Pursuant to the provisions contained in Section 209.4 of the Civil Service Law, the undersigned Panel was designated by the Chairperson of the New York State Public Employment Relations Board, to make a just and reasonable determination of a dispute between the City of Plattsburgh ("City") and the Plattsburgh Police Officers Local 812, Council 82, AFSCME ("Union").

The City of Plattsburgh is a municipal corporation located in Clinton County. Its population is currently estimated as approximately 21,000 people.

The Union is the certified bargaining agent for all Police Officers, Detectives, Corporals and Sergeants employed by the City, excluding all officers above the rank of Sergeant. Presently there are 39 filled positions in the bargaining unit.

The last collective bargaining agreement between the parties covered the period which commenced on July 1, 1990 and ended on June 30, 1992 (Joint Exhibit 4).

Prior to the expiration of the 1990-92 Agreement, the parties commenced negotiations for a successor contract. Negotiations were unsuccessful, and on February 10, 1993, the Union filed a Petition for Interest Arbitration (Joint Exhibit 1) pursuant to Section 209.4 of the Civil Service Law.

The City filed a Response to said Petition on February 17, 1993 (Joint Exhibit 2), and thereafter, on April 6, 1993 the Public Employment Relations Board designated the undersigned Public Arbitration Panel.

Hearings were conducted before the undersigned Panel on June 29 and August 16, 1993, at which time representatives of both parties were present and both were represented by Counsel. Both parties submitted numerous and extensive exhibits and documentation, and both parties presented argument on their respective positions. Both parties submitted post-hearing briefs to the Panel, received by the Chairman on October 14, 1993.

Thereafter, the undersigned Panel met in Executive Sessions, and reviewed all data, evidence, argument and issues. After significant discussion and deliberations at the Executive Sessions, the Panel members so designated below reached agreement on this Interest Arbitration Award. The positions originally taken by both parties are quite adequately specified in the Petition and the Response, numerous hearing exhibits, and post-hearing briefs, which are all incorporated by reference into this Award.

Set out herein is the Panel's Award as to what constitutes a just and reasonable determination of the parties' contract for the period July 1, 1992 through June 30, 1995.¹

In arriving at such determination, the Panel has considered the following factors, as specified in Section 209.4 of the Civil Service Law:

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 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 and 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 for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

¹ During the Executive Session deliberations, the parties authorized the Panel to render a three (3) year Award.

SALARYDiscussion on Salary

As is usually the case in interest arbitration, the priority issue in the instant dispute is that of an appropriate salary increase for members of the bargaining unit. The Union is seeking 6% retroactive salary increases for each year of the contract. The Union maintains that such proposed increases are warranted based on comparable salaries received by police officers in similar cities. The Union argues that granting the increases would still result in unit members being amongst the lowest paid in comparable cities. The Union also argues that the City Firefighters received a 4% increase on July 1, 1992 and a 2.5% increase on July 1, 1993, as well as an increased minimum starting salary (Joint Exhibit 6).

The City offers a salary increase of 1.5% effective July 1, 1992, 3% effective July 1, 1993 and 3% effective July 1, 1994. The City argues that its economic condition is difficult due to the recent loss of revenues as a result of the closing of the Plattsburgh Air Force Base. Base personnel account for 5% of the City's population and the payroll accounts for approximately 7% of total County income (City Exhibit 15). The City also argues that it has been negatively impacted by the generally poor economic conditions in New York State resulting in a decrease in all revenues.

The City bases its salary offer on what it can afford to pay. The City also indicates that the City proposal contains the same salary increase accepted by the unit consisting of the majority of City employees (City Exhibit 16B).

The Panel has considered all of the data and arguments presented by both parties, and has applied such data to the criteria mandated by statute as specified in Section 209.4 of the Civil Service Law. It is clear that the proper comparables for Plattsburgh police officers must include other New York State cities of similar population and quality in upstate New York, with police departments of a comparable size as well.

As Plattsburgh has a population of slightly over 21,000 people, with a police department of 40 officers, the Panel finds that the proper comparables are the cities of Oswego, with a population of approximately 19,000 people and a police department of 50; Saratoga Springs, with a population of approximately 25,000 people and a police department of 60. Like Plattsburgh, both cities are County seats and serve as commercial and governmental centers for rural, upstate counties. As does Plattsburgh, both have colleges within their boundaries. The Panel also notes that both parties herein have cited Oswego and Saratoga Springs as proper comparables (see City Exhibit 18 and Union Exhibit 2).

Based upon a review by this Panel of the collective bargaining agreements in effect for police officers in Saratoga Springs and Oswego, the Panel was able to make a proper comparison with salaries provided to Plattsburgh police officers. Effective January 1993, a Saratoga Springs police officer has a starting salary of \$24,755 and an Oswego police officer has a starting salary of \$27,040. Currently, a Plattsburgh police officer has a starting salary of \$17,100.

Effective January 1993, a Saratoga Springs police officer with 5 years of service receives a salary of \$32,720 and an Oswego police officer with 5 years of service receives a salary of \$33,358. Currently, a Plattsburgh police officer with 5 years of service receives a salary of \$29,563.

Effective January 1993, a Saratoga Springs police officer with 10 years of service receives a salary of \$34,135 and an Oswego police officer with 10 years of service receives a salary of \$34,291. Currently, a Plattsburgh police officer with 10 years of service receives a salary of \$30,584.

Clearly, Plattsburgh police officers require reasonable salary increases to bring them into line with wages paid to police officers in comparable cities such as Saratoga Springs and Oswego. The Panel has also compared Plattsburgh police salaries with those in Cohoes, Watertown and Amsterdam, and finds that reasonable salary increases are warranted for Plattsburgh police.

The Panel understands that there are many factors that must be considered under the Taylor Law to reach a just and reasonable determination of the proper compensation to be awarded to the Plattsburgh police. While comparability is of great importance in any salary determination, it must be viewed against the City's ability to pay.

The Panel has carefully reviewed the financial data and testimony presented by the City. First and foremost, it is unclear as to what extent the Plattsburgh economy will be impacted by the closing of the Plattsburgh Air Force Base. As indicated in a study undertaken by the City, a good deal of the economic impact has been already absorbed due to prior Base downsizing (see City Exhibit 15). The Plattsburgh area continues to have a strong retail growth and may be able to utilize the Base property for new job-producing business. Additionally, the City's tax rate is currently among the lowest of smaller cities within New York State, which is the source of revenue used to balance the General Fund. The City also expects to receive significant amounts of additional revenue from sales tax revenues during the term of this collective bargaining agreement. While it is true that the City of Plattsburgh is having some financial difficulties due to the loss of the Air Force Base and the general downturn in the New York State economy, it is the considered determination of the Panel that the City can afford to pay the modest salary increases and other monetary benefits Awarded herein.

While the Panel recognizes that the City may indeed be hard pressed to provide the salary increases awarded herein, it is essential to acknowledge that no other group of employees, with the exception of the firefighters, have the same significance or impact upon public health, safety and general welfare as do the Plattsburgh police. All statistics indicate that crime, and particularly violent crime, has increased greatly within the past several years (Union Exhibit 1). Police officers are a necessary and essential service, which cannot be equated to the work performed by other City employees, and they must be treated with appropriate attention and fiscal priority. To allow the experienced Plattsburgh police officer to fall even further behind the average salaries paid to those of similar experience in comparable cities remains inappropriate even in light of the current difficult economic times.

Accordingly, after careful consideration and review of all the data and material presented herein, the Panel has concluded that salary increases to Plattsburgh police officers are warranted, and that the City does have the ability to pay such modest increases. Such increases are necessary when Plattsburgh police salaries are viewed against comparable police departments in upstate New York. The salary increases provided herein are modest however, due to the current financial and economic situation of the City.

With the salary increases provided by this Award, effective July 1, 1994, a starting Plattsburgh police officer will earn a base salary of \$18,776; a 5 year veteran will earn a base salary of \$32,461; and a 10 year veteran will earn a base salary of \$33,582. This will bring Plattsburgh police closer to salaries received by police working in comparable cities.

Accordingly, and after consideration of the extensive exhibits, documentation, and testimony presented herein; and, after due consideration of the criteria specified in Section 209.4 of the Civil Service Law, the Panel makes the following

AWARD ON SALARY

Therefore, this Panel Awards that effective July 1, 1992, and paid retroactive to such date, base salary shall be increased by 3% for all bargaining unit members.

Effective July 1, 1993, and paid retroactive to such date, base salary shall be increased by 3% for all bargaining unit members.

Effective July 1, 1994 base salary shall be increased by 3.5% for all bargaining unit members.

CORPORAL DIFFERENTIAL

Currently, there are 4 Corporals in the unit. Pursuant to Article IX, Section 1(b) of the current contract, each Corporal presently receives an additional sum of \$1,500 per annum, in recognition of the supervisory responsibilities performed as a Corporal. The Union seeks to increase this differential to \$2,000 per annum. The City maintains that the present differential is adequate and should not be increased, based on the City's lack of ability to pay.

Discussion

The Panel recognizes that Corporals perform important supervisory duties which should be recognized by a financial stipend, as already provided in the Agreement. An increase is warranted based upon a review of salaries of other police performing similar functions in comparable cities, and based on the work performed by an individual serving as Corporal.

AWARD ON CORPORAL DIFFERENTIAL

Accordingly, the Panel Awards that the Corporal Differential shall be increased to \$2,000 effective July 1, 1992.

DETECTIVE DIFFERENTIAL

Also pursuant to Article IX, Section 1(b) of the current contract, Detectives receive an additional sum of \$1,500 per annum in recognition of duties performed. Currently, there are 6 Detectives in the unit. The Union seeks to increase this differential to \$2,500 based on the fact that detective work is more difficult and complex than that performed by a Corporal. The City argues that the current \$1,500 differential is adequate, and based on the City's lack of ability to pay, should not be increased.

Discussion

The Panel finds that the current stipend paid to Detectives is low when compared to the salaries paid to detectives doing similar work in other comparable cities, such as Oswego, Saratoga Springs, Gloversville, Glens Falls and Auburn. An increase in the Detective differential is warranted.

AWARD ON DETECTIVE DIFFERENTIAL

Accordingly, the Panel Awards that the Detective differential be increased to \$2,000 effective July 1, 1992.

DETECTIVE ON-CALL PAY

Presently, 1 Detective is placed on-call for each weekend, and wears a beeper so that he can be reached for investigations as needed. The Detective must remain within beeper range, and must be in a condition to report for duty if called. If called in to work, the Detective would receive a minimum of 3 hours pay at time and one-half, or for pay for time worked, whichever is greater, also at the rate of time and one-half.

The Union seeks 3 hours pay at time and one-half for each weekend a Detective is required to be on-call status. The City opposes this request, claiming that the Detective can do all normal activities while carrying the beeper, and will receive call-in pay for work performed on the weekend.

Discussion

While there may be inconvenience to the Detective on-call, if he is called into to work during a weekend, he will receive call-in pay for work performed, which is sufficient compensation for this type of duty assignment. Being on-call is part of being assigned detective duties. No further compensation can be provided during this contract term.

Therefore, this proposal is rejected.

MILEAGE REIMBURSEMENT

Currently, the 90-92 contract provides in Article IX, Section 10, that mileage reimbursement for use of a personal vehicle shall be at \$.25 per mile. The Union seeks an increase to \$.28 per mile. The City indicates that this is a minor issue which should not be addressed by the Panel, as the total spent for mileage reimbursement in 1991 was \$81.25 and in 1992 was \$138.75.

Discussion

The Panel agrees that this issue is not of great impact as the mileage reimbursement has been minimal in this bargaining unit. However, the increase to \$.25 sought by the Union is appropriate, and is in fact the IRS approved reimbursement rate.

AWARD ON MILEAGE REIMBURSEMENT

Accordingly, the Panel Awards that the mileage reimbursement rate shall be increased to \$.28 effective January 1, 1994.

UNIFORMS-QUARTERMASTER

Currently, Article X, Section 2 of the contract provides that a Quartermaster shall be responsible for replacing necessary uniforms and equipment, as needed. The Union claims currently there are not enough items in stock, so that when an officer requires replacement of uniforms, there is often either a long wait, or the officer must accept equipment of an improper size. The Union seeks contract language which would require the Quartermaster to maintain 2 full uniforms in stock for each member of the unit. The City opposes this proposal, and indicates that it would be expensive and inefficient.

Discussion

The Panel is of the view that while there should be a way to insure fast replacement of needed uniforms and equipment, the method proposed by the Union is not the answer to the problem. While the stock sits on the shelf waiting to be needed by a particular officer, his size could change dramatically, the style of the garment could change, or the garment might simply become aged through the passage of time.

At the hearing held before this Panel on 8/16/93, the Chief of Police indicated that he was not aware of the problem concerning uniform replacement, and was going to further investigate to determine what actions could be taken to correct the time delay in replacing uniforms.

The Panel believes that this issue would be an appropriate subject for discussions between labor and management, particularly since it appears that the Chief shares in the concerns raised by the Union.

Accordingly, the Panel rejects this proposal.

CALL-IN TIME

Currently, Article 9, Section 4 of the 90-92 contract provides that officers who are called in shall receive a minimum of 3 hours of pay at time and one-half. This occurs primarily when officers are needed to appear in City Court. The City claims that often, these officers stay only a few minutes in Court, but still receive the equivalent of 4.5 hours pay. The City seeks to reduce the call-in pay to 2 hours at time and one-half, or the equivalent of 3 hours pay. The Union opposes this proposal, and points out that Court begins at 8:30 a.m. and an officer who works the night shift is inconvenienced by being called into Court and should receive compensation for that inconvenience. The Union believes that the current minimum of 3 hours pay at time and one-half should remain in the contract.

Discussion

The Panel finds that the current compensation is fair under the circumstances of call-in situations, and rejects this proposal.

HEALTH INSURANCE CONTRIBUTION

Currently, the City pays 100% of health insurance costs for members of the unit, for both individual and family coverage. The City claims that health insurance costs have increased dramatically in the past several years, and the City has had to bear 100% of such increased costs.

The City seeks to have all new police officers hired after this Award to pay 25% of the health insurance premium, for both individual and family coverage. The City indicates that in the recent past, other City employees, including the firefighters, municipal lighting employees, and the AFSCME bargaining unit have agreed to have new employees pay 25% of the cost of health insurance.

The Union opposes this proposal and indicates that a newly hired officer makes a low salary, and should not be made to bear an additional cost for health insurance.

Discussion

The Panel has carefully considered this proposal and believes that increased health insurance premiums must be the concern of both employee and employer. Within the past several years, most public and private employers have required employees to pay a portion of health insurance costs. In this case, the City is seeking a contribution only from new employees.

Based on the increased costs, and the City's consistent policy of seeking health insurance contributions from all newly hired City employees, the Panel finds that the City's proposal is appropriate and is accepted.

AWARD ON HEALTH INSURANCE CONTRIBUTION

Effective after the date of this Award, all newly hired police officers shall pay 25% of the cost of their health insurance premium, either individual or family.

BI-WEEKLY PAY

Currently, bargaining unit employees are paid on a weekly basis. The City seeks to institute a bi-weekly payroll, in order to save administrative costs. The Union opposes this proposal, in that officers would have to wait an extra week for pay.

Discussion

While the City may desire to implement a bi-weekly payroll for bargaining unit members, police officers have traditionally been paid on a weekly basis in upstate New York comparable cities. The City has not presented any compelling reason to implement this payroll change.

Therefore, the City's proposal is rejected.

SICK LEAVE INCENTIVE

Currently, the 90-92 contract provides for a Sick Leave Incentive in Article XII, Section 1(c). The current incentive provides that if an officer uses 4 or less sick days in any 1 contract year, he/she will receive 3 additional sick leave days. Without the incentive, employee receive 15 sick days per year. As unit members can receive full pay for 180 sick days upon retirement, this benefit translates to a significant monetary cost. The City seeks to remove the current Sick Leave Incentive, in that employees receive sufficient sick leave, and under the circumstances, it is not a true incentive. The Union is opposed to any change in the Sick Leave Incentive benefit.

Discussion

While the Panel does find the Sick Leave Incentive to be generous, it is a benefit which should not be reduced in a contract which provides the modest salary increases provided herein.

The Panel rejects this proposal.

SICK LEAVE PAYOUT UPON RETIREMENT

The current contract also provides, in Article XII, Section 2, that officers shall receive full pay for up to 180 accumulated unused sick leave days upon retirement. The City also pays the full cost of health insurance for all retirees. The City seeks to freeze current sick leave accruals at current salary level and establish a reserve account to pay for retiree health insurance; further sick leave can be accrued and credited toward the reserve at the rate of 50% of the employee's salary at the time of retirement, with the reserve to be used to pay for health insurance upon retirement. After the reserve is exhausted, the retiree shall pay 50% of the cost of health insurance. The City shall also pay 50% of the cost of retiree health insurance. The City also seeks to eliminate any cash payment for unused sick leave. The Union is opposed to this proposal as it eliminates a significant benefit to the employee upon retirement.

Discussion

The Panel finds that the sick leave payout upon retirement is a costly benefit, and one that is not enjoyed to the same extent by other comparable police officers. The Panel finds that adjustments must be made, both for existing employees in the unit, and for employees hired after the date of this Award.

AWARD ON SICK LEAVE PAYOUT UPON RETIREMENT

The Panel Awards that Article XII, Section 2 of the existing contract shall be modified to reflect the following:

1. All accumulated unused sick leave accrued by a current police officer prior to 6/30/92, shall be paid at 100%, up to a maximum of 180 days, upon permanent separation from employment for any reason, except if convicted of a crime that leads to a disciplinary discharge.

All unused sick leave accrued by current police officers on or after 7/1/92, shall be paid at 75%, up to a maximum of 180 days, upon permanent separation from employment for any reason, except if convicted of a crime that leads to a disciplinary discharge.

2. Police officers hired after the date of this Award shall be paid for accumulated unused sick leave at 75%, up to a maximum of 130 days, upon permanent separation from employment for any reason, except if convicted of a crime that leads to a disciplinary discharge.

3. Any sick leave utilized by police officers employed prior to the date of this Award, shall be deducted first from those accumulated unused sick days accrued after 7/1/92. The last days earned shall be the first days used when sick leave is necessary.

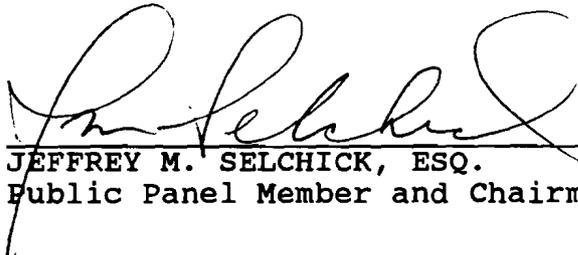
4. Upon permanent separation from employment, except if convicted of a crime that leads to a disciplinary discharge, payment of accumulated unused sick leave days shall be made to a police officer, or his beneficiaries, over a two (2) year period as follows: one-half (1/2) paid upon retirement, and one-half (1/2) paid 1 year after the date of actual separation from employment.

TERM OF AGREEMENT

During deliberations of this Interest Arbitration Panel at Executive Session, the parties advised this Panel that they desire any Award to cover a three (3) year period, and have specifically authorized this Interest Arbitration Panel to render an Award covering the period commencing July 1, 1992 and ending June 30, 1995.

REMAINING ISSUES

The Panel has made specific determinations on certain proposals in this arbitration Award. Any proposals not awarded or discussed herein are rejected. All other provisions and language contained in the 1990-92 collective bargaining agreement are hereby continued, except as specifically modified by this Award.



JEFFREY M. SELCHICK, ESQ.
Public Panel Member and Chairman

2/22/94
Date

Concur



PETER KILLIAN
Employee Organization Panel Member

2/22/94
Date

Concur

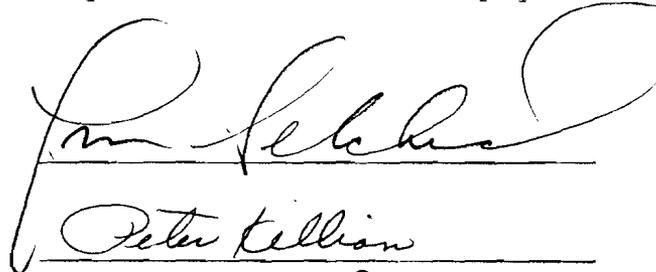


JAMES W. ROEMER, JR., ESQ.
Employer Panel Member

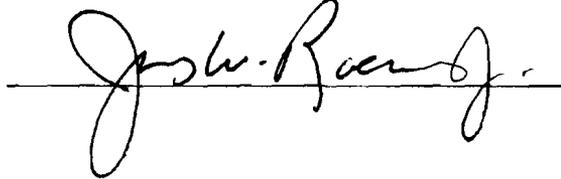
2/22/94
Date

ADDENDUM TO AWARD
PERB Case No. IA92-045; M92-414

The undersigned arbitrators stipulate that it is the intent of the foregoing Award at page 23, paragraph 1, to provide that no current police officer may accumulate more than a total of 180 days of accumulated sick leave by virtue of the two payout rates contained in paragraph 1.

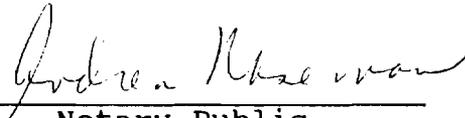


Peter Kellian



STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

On this 22nd day of February 1994, before me personally came and appeared Jeffrey M. Selchick, Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

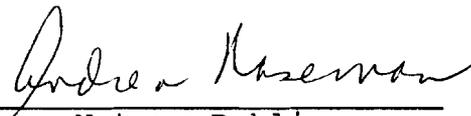


Notary Public

ANDREA S. NASEMAN
Notary Public, State of New York
No. 4773541
Qualified in Albany County 10/31/94
Commission Expires _____

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

On this 22nd day of February 1994, before me personally came and appeared Peter Killian, to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

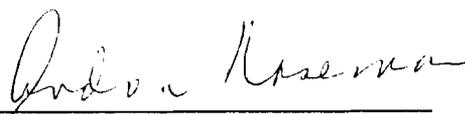


Notary Public

ANDREA S. NASEMAN
Notary Public, State of New York
No. 4773541
Qualified in Albany County 10/31/94
Commission Expires _____

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

On this 22nd day of February 1994, before me personally came and appeared James W. Roemer, Jr. Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.



Notary Public

ANDREA S. NASEMAN
Notary Public, State of New York
No. 4773541
Qualified in Albany County 10/31/94
Commission Expires _____