

STATE PUBLIC EMPLOYMENT RELATIONS BOARD
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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the
Interest Arbitration
between the
CITY OF LACKAWANNA
and the
LACKAWANNA POLICE
BENEVOLENT ASSOCIATION

Opinion and Award

PERB Case Nos.
IA93-006; M92-511

INTRODUCTION

On June 23, 1993 the New York State Public Employment Relations Board, pursuant to Section 209.4 of New York State Civil Service Law (provisions applicable to compulsory interest arbitration), appointed a Public Arbitration Panel for the purpose of making a just and reasonable determination of the contract negotiation dispute between the City of Lackawanna, hereinafter referred to as the City, and the Lackawanna Police Benevolent Association, hereinafter referred to as the Association.

The Public Arbitration Panel members so designated are:

Dale S. Beach, Public Panel Member and Chairman.

Andrew M. Eszak, Employer Panel Member

Albert Monaco, Employee Organization Panel Member.

The arbitration hearing was held on January 5 and 6, 1994 in the Lackawanna City Hall. At the hearing both parties were afforded full opportunity to present testimony, exhibits, and arguments in support of their positions and to cross-examine opposing witnesses. Witnesses were sworn.

APPEARANCES

For the City

William R. Regan, Esq., Assistant City Attorney, Spokesman
Arc J. Petricca, Esq., City Attorney
Robert C. Marciniak, City Comptroller (w)
William A. Eagan, Director of Economic Development Zone (w)

For the Association

Anthony J. DeMarie, Esq., Attorney, Spokesman
Edward Fennell, Municipal Finance Consultant (w)
Daniel Cardi, PBA Secretary
Nick Dlugosy, Negotiating Committee Member
Robert Friend, Negotiating Committee Member.

There are 41 police officers in the bargaining unit. Lackawanna has a population of about 20,585.

Our Public Arbitration Panel met in Executive Session at the Lackawanna City Hall on February 11, 1994. The eighteen issues that have been at impasse have been decided by this Panel and are shown in this report. The actual award for each issue is based upon a majority decision of the Panel members (in some cases a unanimous decision). In the final summary section of this opinion and award those members concurring and the individual dissenting are clearly shown for each issue.

STATUTORY CRITERIA

In analyzing the issues and making its determinations this Panel has given consideration to the criteria stated in Section 209.4 (v) of Article 14 of the Civil Service Law (Public Employees' Fair Employment Act). In substance Section 209.4 (v) states that in addition to other relevant factors the Panel shall take into consideration the following:

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

Section 209.4 (vi) states:

the determination of the public arbitration panel shall be final and binding upon the parties for the period prescribed by the panel, but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement then for a period not to exceed two years from the date of determination by the panel. Such determination shall not be subject to the approval of any local legislative body or other municipal authority.

SPECIAL CHARACTER OF POLICE WORK

It is well recognized that police work is hazardous. The Association brief states, "No other city employee is directed to bear firearms and required to stand between law-abiding citizens of the community and those who are known or believed to be dangerous." Police officers must contend with serious drug problems and crimes which are tied to drug trafficking. All police officers in New York State are required to meet specified education and training requirements.

BACKGROUND

The City's fiscal year is from August 1 through July 31 of the following year. Contracts with the Association have been on the same basis - August 1 through July 31. The last collective bargaining agreement expired on July 31, 1992.

The City of Lackawanna, like many other cities in upstate New York has experienced severe economic decline over the past 15 years due to the loss of manufacturing businesses. The Bethlehem Steel Company closed the vast steel plant in the early 1980's which it operated on land in the City and bordering on Lake Erie. At one time it employed about 20,000 people. Most of the buildings have been removed. Although Bethlehem Steel still owns the land, the tax revenue to the City has been drastically reduced.

For the contract year August 1, 1990 through July 31, 1991 the City and the Association agreed to a wage freeze - a zero pay increase. Again for the contract year August 1, 1991 to July 31, 1992 the parties signed a collective bargaining contract that provided for a zero pay increase. The Association did however gain an improved retirement benefit.

Lackawanna's Financial Situation

For fiscal year 1992 the overall real property tax rate per \$1,000 of full value (City, County, and School) was \$38.86. The overall tax rates for some other Western New York cities in the population range of 15,000 - 25,000 in 1992 were as follows:

Batavia	\$36.97
Lockport	39.91
Olean	40.78
Tonawanda	32.85.

The overall full value tax rates of some neighboring towns were as follows:

Orchard Park	\$27.32 - \$28.97
West Seneca	32.24 - 37.18
Cheektowaga	24.91 - 31.99
Hamburg	28.52 - 30.16.

These towns show a range because of the existence of two or more school systems.

Lackawanna has a taxing margin of \$1,081,551 which represents 16.2% of its legal limit of \$6,677,326 for the fiscal year ending 7/31/94. For fiscal year 1994 the maximum tax levy would be \$8,302,136. The actual tax levy is \$7,220,577. The tax margin of \$1,081,559 represents 7.9% of the general fund budget of \$13,603,399. The difference between \$8,302,136 and \$6,677,326 consists of exclusions such as debt payments and capital equipment items.

For cities of under 125,000 population the State constitutional debt limit is 7% of the average full valuation of taxable real property (recent five year average). As of 7/31/93 the City's total debt was \$3,511,260. The legal debt limit was \$23,370,639. Hence the City had exhausted 15.02% of its debt limit.

As of 7/31/93 the City reported that it has an unreserved - unappropriated fund balance of \$358,404.

THE ISSUES

1. DURATION OF AGREEMENT

The Association proposes a two-year contract, effective retroactively, from August 1, 1992 to July 31, 1994.

The City is not opposed to a two-year contract but argues that it should not be retroactive.

Discussion

Section 209 (vi) of the Public Employees' Fair Employment Act states that the Arbitration Panel can make an award not to exceed two years from the termination date of the previous collective bargaining agreement.

The last agreement expired on July 31, 1992. Over a year and two-thirds have passed since then.

Award

The term of the agreement (contract) shall be two years covering the period August 1, 1992 through July 31, 1994.

The Panel's award on certain issues shall be retroactive to August 1, 1992. On others it shall be effective as specified in the award on the particular item.

2. SALARY

As of 1990 the base salary for police officers (top rate after three years) in Lackawanna was \$30,241.

Position of Association

The Association proposes a salary increase of 7% for 1992-93 for all officers, detectives, lieutenants, and captains and another 7% for all personnel for 1993-94.

In support of its position the Association has submitted into evidence the 1990, 1991, 1992, and 1993 salaries for all four ranks of police for seven nearby communities (taken from their collective bargaining agreements). These communities are the cities of Buffalo, Lockport, and North Tonawanda and the towns of Cheektowaga, Hamburg, Orchard Park and West Seneca. For 1990 the average salary for police officers for the seven communities was \$33,479 compared with \$30,244 for Lackawanna. For 1991 the average salary for the seven communities was \$35,617 compared with \$30,241 for Lackawanna. Thus Lackawanna was \$5,376 behind the average. For 1992 the average salary for the seven communities was \$37,770 and for 1993 the average was \$38,731. Thus Lackawanna is very far behind the other communities in its salary levels. For Detective, Lieutenant, and Captain ranks the shortfall is even greater.

Using the New York State Comptroller's Report on Municipal Affairs for 1992 as a source document the Association notes that the assessed valuation of real property in Lackawanna increased \$95.7 million in 1992 over 1991 and

the full value increased \$76.6 million, yet the City reduced its tax receipts by more than \$900,000.

Tax revenue for 1993 increased \$167,467.

Position of the City

The City offers an increase in pay contingent upon the City paying only for the cost of health insurance provided by the Independent Health Plan (a health maintenance organization). If members of the bargaining unit wish to continue their enrollment in any of the other health insurance plans, they would have to pay the added cost of the selected plan.

For salary comparisons the City offers Amsterdam where officers were paid \$27,644 in 1989, Kingston where officers received \$28,769 in 1990, Lockport was \$33,049 (date not specified), and Plattsburg was \$31,142 for 1990.

Lackawanna, as do many other communities, has two tax rate classifications: homestead and non-homestead. For 1992-93 the homestead tax rate was \$9.22 per \$1,000 and for 1993-94 it is \$11.06 per thousand. For these two years the non-homestead rates were \$30.61 and \$30.86, respectively.

For 1992-93 the actual tax levy was 90.081% of the tax limit. For 1993-94 it was 86.973% of the limit.

The City Comptroller, Robert Marciniak, testified that the City budget for 1993-94 contains no provision for pay raises. The City's current Moody's bond rating stands at Ba.

When police salaries were frozen in 1990-91 and 1991-92 the parties did negotiate an improvement in the retirement plan. The plan was changed from 384-d to 384e (additional 1/60th after 20 years). This plan is more costly for the City.

Discussion

The Arbitration Panel is fully aware that Lackawanna police officers have been and are now paid substantially less than officers in neighboring

cities and towns. For example (using the data provided in the Association brief) in 1992 officers in Lackawanna were paid \$7,528 less per year than the average of officers in the seven neighboring communities. Even with the requested 7% pay increase for 1992-93, Lackawanna officers would still be \$5,442 behind the average. Detectives, Lieutenants, and Captains are even further behind.

The salary data contained in the City's brief is rather old and too limited to be meaningful for comparison purposes.

The Panel is fully aware that the City has suffered from the loss of its principal industrial company - Bethlehem Steel - with attendant loss of tax revenue. Its full value tax rate for 1992 is higher than the affluent neighboring towns but right in line with other small cities that have also experienced a loss of industrial tax-paying companies.

The City testified that it has placed no money in the 1993-94 budget for pay raises. This is surprising in view of the fact that the Association petitioned the Public Employment Relations Board for compulsory interest arbitration in May 1993. This Public Arbitration Panel was appointed on June 23, 1993. The City operates on a fiscal year of August 1 through July 31. Thus its budget was finalized after the City Administration knew that interest arbitration was occurring. As of August 1, 1993 the Association had gone for three years with no pay increase. Surely the City Administration and the Council must have expected that a salary increase would be awarded by the Arbitration Panel.

This Panel is awarding the bargaining unit a salary increase of 5.0% for the 1992-93 year and 4.0% for the 1993-94 year to be retroactive to the beginning of each of these contract years.

Among the options available to the City for funding these salary increases are the following:

- a. At the time of the arbitration hearing on January 5 & 6, 1994 Mr. Fennell, Municipal Finance Consultant, in his testimony for the Association stated that the City budgeted \$700,000 to be paid to the State Retirement System in 1993-94 whereas the State has only billed the City for \$529,604 plus interest.
- b. Reduce expenditures in other City departments.
- c. Issue short term budget notes to cover the short period from the the date of this award to the date the 1994-95 budget takes effect (August 1, 1994).
- d. Use the unappropriated fund balance of \$358,404.

During the executive session of the Arbitration Panel on February 11 we discussed another possible method for funding the salary increases. The City and the Association could draw up a contract stating that the pay increases in this Arbitration Award would be paid in August 1994 under the 1994-95 budget. In mid-February the Panel Chairman, Dale S. Beach, transmitted this idea to Mr. Petricca, City Attorney and Mr. DeMarie, Association Attorney. These two gentlemen and Albert Monaco met on February 22 and March 1, 1994 to discuss this suggestion by the Panel. However they were unable to reach agreement on this matter.

Using data contained in the City's brief the actual base salaries for the Police bargaining unit for 1993-94 totaled \$1,523,134. Thus for each 1% increase in pay the cost would be \$15,231. If FICA, Retirement, and Workers' Compensation are included the total would be \$20,351. The \$1,523,134 figure would be \$90,000 less if overtime were excluded.

The City's proposal regarding the Independent Health Plan is discussed under Issue 6 - HEALTH INSURANCE.

Award

For the period August 1, 1992 to July 31, 1993 increase every step on the salary schedule 5.0% retroactive to August 1, 1992.

For the period August 1, 1993 to July 31, 1994 increase every step on the salary schedule 4.0% retroactive to August 1, 1993.

Any police officers who have retired during the period of August 1, 1992 to July 31, 1994 shall receive their appropriate share of the retroactive pay increase.

2. PERSONAL LEAVE

Currently each police officer is allowed to take two personal leave days per year. The Association proposes that this be increased to four days per year. The City wants no change from the present two days.

Discussion

The average number of personal leave days per year allowed in the seven neighboring communities listed in the Association's brief (Buffalo, Cheektowaga, Hamburg, Lockport, North Tonawanda, Orchard Park, and West Seneca) is 4.7. The range is from four to seven.

Award

Increase the number of personal leave days from the current two to four days per year. This becomes effective upon the date of issuance of this award.

4. SICK LEAVE

Currently police officers are allowed to take 14 days per year of sick leave. The Association proposes that this be increased to 18 days per year. Its brief shows that the same seven area communities that it uses for comparison purposes provide an average of 16½ days of sick leave per year.

The City would like to reduce the number of allowable sick days per year. Its brief shows that Amsterdam allows 24 days, Kingston 0, Lockport 15, and Plattsburgh 15.

Discussion

An increase in sick leave days to align more closely with neighboring communities is reasonable.

Award

Increase the number of sick leave days from the present 14 to 16 days per year. This becomes effective upon the date of the issuance of this award.

5. SICK LEAVE FOR FAMILY ILLNESS

Currently each officer may use up to four days per year of accumulated sick leave in the event of illness of a member of his immediate family.

The Association wants this figure raised to six days per year. The Association's brief shows that Buffalo, Cheektowaga and West Seneca have no limitations for sick leave for family illness, Hamburg allows 10 days, North Tonawanda allows seven days, Orchard Park has three days, and Lockport has no such provision.

The City does not oppose the Association's proposal as long as the days allowed continue to come out of a person's earned or accumulated sick days provided under Section 11.01 of the contract.

Award

Officers may request a sick leave of absence in the event of the illness of a family member, but not more than six days per year. Such leave is deleted from the officer's annual sick leave accumulation. This provision is effective with the date of this award.

6. HEALTH INSURANCE

Part A: High Dental and Optical Coverage

The current contract makes no provision for dental and optical care. The Association proposes that high dental and optical coverage be provided

through the existing health insurance companies. It notes that several of the neighboring communities do provide such coverage in their contracts.

The City opposes the Association proposal because of the high cost.

Discussion

No specifics regarding dental and optical care were provided at the arbitration hearing. The City's financial situation at the present time makes the addition of a costly health insurance benefit unwise.

Award

The Associations' proposal to add high dental and optical coverage is denied.

Part B: Independent Health Plan

As a way of generating funds to help pay for salary increases the City proposed that it would only pay the cost for the Independent Health Plan (a health maintenance organization). If bargaining unit members wished to remain in other, more expensive health insurance plans they would have to pay the extra costs of enrollment in these plans. According to data in the City's brief the cost of the Independent Health Plan per month for a family is \$316.71 as of 12/6/93. The costs per month for families for the other plans are as follows:

Blue Cross	\$400.83
Health Care Plan	329.68
Community Blue	371.55

Thus the additional costs to be paid by employees per month for family coverage would range from a low of \$12.97 to a high of \$84.12.

As of 12/6/93 only four employees in the bargaining unit belonged to the Independent Health Plan.

The Arbitration Panel does not support the City's proposal because of the financial impact upon some police officers. Also much more information should have been provided regarding all the ramifications of a switch to the Independent Health Plan.

Award

The City's proposal regarding the Independent Health Plan is denied.

7. JOB SECURITY

Currently there is no provision in the contract regarding job security.

The Association proposes that the City should not lay off any of its police officers. It states that there is a need for such a provision in the contract because the City has laid off a large number of officers in recent years.

The City opposes the inclusion of a job security provision in the contract.

Discussion

Because of Lackawanna's economic situation a job security provision at this time is probably not feasible.

Award

The Association's proposal regarding job security (a no-layoff contractual provision) is denied.

8. FILLING OF VACANCIES

The Association proposes that the provisions contained in Section 14.01 of the contract be strengthened in order to provide fair opportunities for obtaining new or different assignments for all officers.

The City and the Association are in agreement on this issue.

Award

Add a new section called 14.01A to the collective bargaining agreement as follows:

"When the City decides to fill a vacancy in an assignment which does not require a promotional civil service examination, that notice of vacancy shall be posted on the Police Department bulletin board for 15 calendar days.

The notice of vacancy shall contain a list of reasonable qualifications for those who seek the position.

Officers who desire to be considered for such assignments will make their desire known by forwarding a signed notice to the Chief of Police and the Director of Public Safety. Selection and assignment to the vacancy must then be made from one of the three most senior and qualified officers, who request the assignment.

This becomes effective on the date of this award.

9. REPORTING OR BRIEFING PAY

Presently the City has no formal system for briefing police officers who are coming on to duty. Also there is no arrangement for inspection or line-up.

The Association requests that officers be required to attend briefing sessions, inspections, and line-ups for 15 minutes before the beginning of each shift and that they be compensated accordingly for the time so spent. It notes that Buffalo, Hamburg, Lockport, and North Tonawanda have some provisions in their contracts for briefing pay.

The City opposes briefing pay because it would be an added expense.

Award

The briefing pay proposal of the Association is denied.

10. UNIFORM ALLOWANCE

The present allowance for uniforms is \$500 per year. The Association proposes that the allowance be increased \$150 effective August 1, 1992 and another \$150 effective August 1, 1993. This would place the allowance at \$800 for 1993-94.

The seven neighboring communities (which have been used throughout the Association's case) have uniform allowances which range from a low of \$674 per year in Hamburg to a high of \$775 in West Seneca. In two communities the uniforms are supplied but there is an annual allowance ranging from \$400 to \$480.

The City opposes any change from the current \$500 allowance. Its brief shows uniform allowances as follows: Amsterdam \$450, Kingston \$700, and Lockport \$750.

Discussion

The City should bring its annual uniform allowance more in line with the amounts paid in area communities and the allowance should reflect the higher current costs involved in buying and maintaining uniforms.

Award

Raise the annual uniform allowance from the present \$500 to \$600 effective August 1, 1993.

11. SHIFT DIFFERENTIAL

Police officers in the City work steady or fixed shifts. Currently there is no premium pay for working the afternoon and night shifts. The A-Platoon works the night shift, the B-Platoon works the day shift, and the C-Platoon works the afternoon shift.

The Association proposes that the C-Platoon be paid a premium of 15¢ per hour and that the A-Platoon be paid a premium of 30¢ per hour. Starting August 1, 1993 the premium should be raised to 30¢ per hour for the C-Platoon and 50¢ per hour for the A-Platoon.

Offering comparative data for area communities the Association brief shows that Hamburg and Lockport have rotating shifts and thus have no shift premiums. The other five communities have shift premiums ranging from 15¢ per hour to 40¢ per hour.

The City offers a shift premium of 15¢ per hour for both the A and C shifts.

Award

The A-Platoon (12 midnight to 8 a.m.) shall be paid a shift premium of 25¢ per hour. The C-Platoon (4 p.m. to 12 midnight) shall be paid a shift premium of 15¢ per hour.

These rates shall be effective on March 15, 1994.

12. RECERTIFICATION

Sometimes, in the past, Lackawanna police officers who were certified in special fields of police service were not given an opportunity for recertification. Thus some officers no longer qualify for positions or job tasks previously performed. If continued certification is required for particular assignments, the Association asks that the officers involved be granted the opportunity to be recertified.

The City agrees.

Award

Police officers who have been certified in special fields of police service or training shall be provided with the opportunity for recertification as may be required.

13. RESIDENCY

Currently Lackawanna police officers are required to reside within the City limits. The City's residency rule was adopted in 1988.

The Association proposes that after 10 years of service police officers should be allowed to reside outside the City limits and such non-residency should not be considered for purposes of promotion or job assignments. The Association notes that in Buffalo residency is not required, in Orchard Park after 12 years residency is not mandated, and in Cheektowaga and West Seneca it is not required after 15 years of service.

The City wants to retain the present residency requirement. It argues that officers should be an integral part of the City and that they are more effective if they live within the City.

Discussion

If officers work day after day within Lackawanna they certainly become well acquainted with neighborhoods and activities in the City. A reasonable concession is to allow them to move outside the City after many years of service.

Award

After 12 years of continuous service police officers will be allowed to reside outside the Lackawanna city limits. After such 12 years officers shall be assured that non-residency will not be a factor for purposes of promotion or job assignments.

14. SHOOTING PROFICIENCY

The Association asks that officers be paid for time spent in shooting matches in order to maintain shooting proficiency. Some area communities do pay officers for limited time that may be spent in practice shooting.

The City opposes this request.

Award

Police officers will be allowed two paid hours per year for shooting proficiency.

15. EDUCATION AND TRAINING

Section 12.01 of the present contract states that upon authorization by the City, officers may attend police training facilities. It also states that the Chief should arrange compulsory training programs so that officers may attend during regular scheduled hours.

The Association simply asks that language be added to the contract to provide for formal posting of announcements of available courses and training programs and to provide a mechanism for officers to apply for such courses.

The City agrees with the Association's proposal as long as selection continues to be a management prerogative.

Award

When courses, seminars, and training programs are offered by Central Police Services, the Director of Public Safety, the Police Chief and the Training Officer shall post notices of same on the Police Department bulletin

board. Interested officers shall submit a written request to attend such courses to all three of the above named individuals who are responsible for the posting.

This becomes effective on the date of the award.

16. POLYGRAPH EXAMINATION

The Association requests that City police officers not be given polygraphic examinations. Every police department surveyed prohibits the use of polygraph examinations of police officers.

The City agrees with this proposal.

Award

Lackawanna police officers will not be given polygraph examinations.

17. EDUCATION INCENTIVE PAY

Currently the City pays officers who have obtained an associate's or a bachelor's degree, education incentive pay, annually in the amount of \$200.

The Association requests that a new scale of pay be as follows:

Associate Art & Science Degree	\$200
Bachelor of Science & Arts	\$500
Masters Degree	\$600

The Chief of Police would determine which fields of study are relevant, but relevant fields should include police science, sociology, psychology, computer science, business administration and criminal justice. The Association shows that most neighboring communities do have education incentive pay in their contracts.

The City wants no change from the present flat \$200 figure.

Discussion

The City should benefit by having police officers who have obtained college educations. Over the years police work has become more technical and involved.

Award

The following schedule of education incentive pay shall be adopted:

Associate Degree	\$200
Bachelor of Arts or Science	\$400
Masters of Arts or Science	\$500

These payments shall be made for degrees earned in the following fields of study:

Police Science
Sociology
Psychology
Computer Science
Criminal Justice.

Any police officers now possessing a bachelors or masters degree in any of these fields will be reimbursed retroactively over the current \$200.

18. COST OF ARBITRATION

Currently the costs of arbitration including the payment of the services of the arbitrator and expenses are shared equally between the Association and the City.

The Association proposes that the cost of arbitration and payment for the arbitrator's services should be borne solely by the unsuccessful party. It argues that such a policy would encourage the parties to settle grievances without the necessity of going to arbitration. The Association acknowledges that the almost universal practice in labor-management relations is for the costs of arbitration to be shared equally.

The City opposes any change from the current policy.

Discussion

Not every arbitration award results in a clear win for one party and a clear loss for the other. In Study Time, a quarterly newsletter published by the American Arbitration Association for arbitrators, Issue #4, 1993, it states that for the period October 1992 to October 1993, 19.75% of the arbitration awards upheld the grievance in part and denied it in part. The total number of cases covered in this survey was 2,228.

Thus when it is not possible to identify a clear winner and loser, how could the costs of arbitration be allocated according to the Association's proposal?

Award

The Association's proposal that the costs of arbitration be borne solely by the unsuccessful party is denied.

LISTING OF FINAL POSITIONS TAKEN BY PANEL MEMBERS ON EACH ISSUE

1. DURATION OF AGREEMENT

The Panel is unanimous on this issue.

2. SALARY

Members Beach and Monaco concur. Member Eszak dissents.

3. PERSONAL LEAVE

Members Beach and Monaco concur. Member Eszak dissents.

4. SICK LEAVE

Members Beach and Monaco concur. Member Eszak dissents.

5. SICK LEAVE FOR FAMILY ILLNESS

The Panel is unanimous on this issue.

6. HEALTH INSURANCE

PART A: Dental and Optical Coverage

Members Beach and Eszak concur on Part A. Member Monaco dissents.

PART B: Independent Health Plan

Members Beach and Monaco concur. Member Eszak dissents.

7. JOB SECURITY

Members Beach and Eszak concur. Member Monaco dissents.

8. FILLING OF VACANCIES

The Panel is unanimous on this issue.

9. REPORTING OR BRIEFING PAY

Members Beach and Eszak concur. Member Monaco dissents.

10. UNIFORM ALLOWANCE

The Panel is unanimous on this issue.

11. SHIFT DIFFERENTIALS

Members Beach and Monaco concur. Member Eszak dissents.

12. RECERTIFICATION

The Panel is unanimous on this issue.

13. RESIDENCY

Members Beach and Monaco concur. Member Eszak dissents.

14. SHOOTING PROFICIENCY

The Panel is unanimous on this issue.

15. EDUCATION AND TRAINING

The Panel is unanimous on this issue.

16. POLYGRAPH

The Panel is unanimous on this issue.

17. EDUCATION INCENTIVE PAY

The Panel is unanimous on this issue.

18. COST OF ARBITRATION

The Panel is unanimous on this issue.

The members of this Public Arbitration Panel, whose names and signatures follow, hereby affirm that we are the individuals who have executed this instrument which is our award.

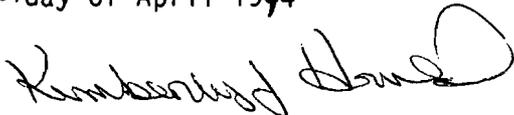
State of New York SS.:
Albany County

On this ~~22~~ day of April 1994, before me personally came and appeared Dale S. Beach to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me he executed the same.



Dale S. Beach
Public Panel Member
and Chairman

Sworn to before me this
~~22~~ day of April 1994



KIMBERLY J. HOWLAND
Notary Public, State of New York
Qualified in Schoenectady County
Reg. No. 4991081
Commission Expires May 15, 1995

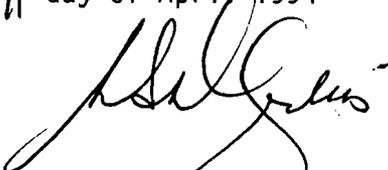
State of New York SS.:
Erie County

On this 11 day of April 1994, before me personally came and appeared Albert Monaco to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me he executed the same.



Albert Monaco
Employee Organization Panel Member

Sworn to before me this
11 day of April 1994



EDWARD J. GODIOS
Notary Public, State of New York
Qualified in Erie County
Reg. No. 4991081
Commission Expires May 15, 1995

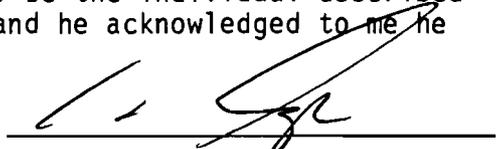
State of New York SS.:
Erie County

On this // day of April 1994, before me personally came and appeared Andrew M. Eszak to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me he executed the same.

Sworn to before me this
// day of April 1994



MARK D. DODIOS
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1995



Andrew M. Eszak
Employee Panel Member

ANDREW M. ESZAK
DIRECTOR



DEPARTMENT OF DEVELOPMENT
CITY OF LACKAWANNA
ERIE COUNTY, NEW YORK

CITY HALL, 714 RIDGE ROAD, ROOM 309
LACKAWANNA, NEW YORK 14218

716-827-6474
Fax 716-827-6665

April 18, 1994

Mr. Dale S. Beach Esq.
118 Latham Ridge Rd.
Latham, NY 12110

Dear Mr. Beach:

Dale

As the City's representative on the arbitration panel for the Lackawanna Police Benevolent Association, I wish to summarize the six(6) dissenting positions I have taken. The items I have dissented on are:

- #2 Salary
- #3 Personal Leave
- #4 Sick Leave
- #6 Part B/Health Insurance
- #11 Shift Differential
- #13 Residency

All items, excluding residency, our being disagreed with due to the financial and economic condition that exists in the City of Lackawanna.

Presently, our Non-Homestead tax rate is approximately \$60.00 per \$1,000. As Director of Development, I must state any increase in that tax rate will make the City of Lackawanna non-competitive in attracting businesses and almost impossible to retain businesses.

The dissent for residency collides with the PBA argument that it is difficult for officers to live in a community and keep their families buffered from the problems that exist. Accepting such an argument would mean Erie County Sheriff's must live in a neighboring County and New York State Troopers must live in a neighboring State. We all know this is a ridiculous concept. The City's position that an

employee in a community receiving compensation from the community should contribute to it.

I hope this clarifies and explains my dissenting position.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andrew".

Andrew M. Eszak
Director of Development

AME/km

cc: Albert Monaco, Panel Member PBA