

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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**In the Matter of the Compulsory Interest  
Arbitration between**

**OPINION & AWARD**

**CITY OF NIAGARA FALLS POLICE CLUB INC.**

**-and-**

NYS PUBLIC EMPLOYMENT RELATIONS BOARD

**CITY OF NIAGARA FALLS**

**RECEIVED**

**IA2014-015; M2014-092**

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**NOV 19 2015**

**Before Interest Arbitration Panel:**

**CONCILIATION**

**Thomas N. Rinaldo, Esq., Chairman**

**Richard J. Rotella, Esq., Public Employer Member**

**Edward W. Guzdek, Employee Organization Member**

The New York State Public Employment Relations Board pursuant to the New York Civil Service Law, Section 209.04, designated the Chairperson and the Public Employer and Employee Organization Panel Members on January 12, 2105, in this proceeding.

Appearing on behalf of the City of Niagara Falls ("City") was Deputy Corporation Counsel Christopher Mazur, Esq., and on behalf of the Niagara Falls Police Club was attorney James B. Tuttle.

## **BACKGROUND**

The City of Niagara Falls, New York, and the City of Niagara Falls Police Club are parties to a collective bargaining agreement from January 1, 2001 through December 31, 2010. The Parties are and have been without an Agreement since the expiration date.

Representatives for both parties met in an attempt to reach a mutually acceptable agreement with respect to the terms and conditions of employment. More specifically, the parties met on December 5, December 11, 2013, January 23, January 29, February 24, March 17, April 24, May 13, and June 12, 2014.

As the parties could not reach agreement a Declaration of Impasse was filed. The New York State Public Employment Relations Board appointed a mediator and a mediation meeting was held on October 22, 2014. The parties were, however, unable to reach an agreement and subsequently a petition for compulsory interest arbitration was filed on November 10, 2014.

## UNION PROPOSALS

1. Term: Three year contract beginning January 1, 2011 and ending December 31, 2013.
2. Salary increases:     2011 (Jan) 5%  
                                  2012 (Jan) 5%  
                                  2013 (Jan) 5%
3. Section 6.01(A) - Starting pay for new hires: Starting pay for Police Officers shall be increased by \$2000.00 (two thousand dollars).
4. Section 6.02 - Shift Differential: Shift differential shall increase to \$1.00, one dollar, for all hours worked between 4:00 p.m. and 8:00 a.m.
5. Section 6.03 - Longevity Pay: Each officer shall be paid longevity increments as provided in the wage schedule E with an increase of \$500.00, five hundred dollars per increment.
6. Section 6.13 - Additional Compensation: Add to (4) Sub (A) Any officer assigned any "Ride Along Observer" will be paid two (2) hours training pay at straight time pay.
7. Section 6.17 - Additional Compensation: Add subsection (7) Education Pay \$500.00 for all officers with a Associates Degree or equivalent credit hours, \$750.00 for a Bachelor Degree, \$1000.00 for a Master Degree.
8. Section 9.01 - Holidays: Add Dr. Martin Luther King Jr. Day to the list of holidays.
9. Section 9.03 - Accumulation of Vacation: Increase to a maximum of twenty (20) weeks that each officer may accumulate.
10. Section 9.05 - Sick Leave: If a member works a six month period without using a sick day, eight (8) hours compensation pay would be granted to such member.
11. Section 9.08 Sub A - Payment of Sick Leave Upon Separation from Service: Upon retirement, any sick days will be paid at 75%.
12. Section 9.10 - Personal Leave: Each officer will be granted six (6) days personal leave per year and each subsequent calendar year. An officer may accumulate not more than five (5) unused personal leave days in a year, to a maximum of eleven (11) days.

13. Section 9.12 - Bereavement Leave: Add Grandparent to immediate family.
14. Waiver to City Ordinance "Residency for City Employees" - An officer with ten (10) years of service has the option to live outside of the City limits of th City of Niagara Falls.

## CITY PROPOSALS

### TERMS AND CONDITIONS RAISED DURING NEGOTIATIONS

1. Term (§12.07): 1/1/11 through 12/31/13.
2. Base Pay (§6.01): 2011 - 1.5%; 2012 - 2%, and; 2013 - 1.0% raise in base pay effective July 1, 2013, 1.0% raise in base pay effective December 31, 2013.
3. Rules and Regulations (§4.01): Amend title of section to read "RULES AND REGULATIONS/POLICY AND PROCEDURE."
4. Employee's Rights (§4.01): Amend current language contained in Subsection "A. COMPLAINTS" to state: "*All complaints and/or charges against a member of the police department will be investigated in accordance with the Niagara Falls Police Department Policy and Procedure.*"
5. Indemnification (§4.06): The City will decline to indemnify officers found to be grossly or criminally negligent.
6. Overtime Distribution (§6.05): Amend to include the following:
  - B. The City shall have the right to post patrol and special events overtime five (5) days in advance; assignments will be given to the officer who signs up for the overtime having the fewest hours on the departmental overtime list. All selections will be made two (2) days in advance of the assignment. Should any officer fail to work his scheduled overtime assignment will be subject to discipline.*
  - C. The City will not be liable for any grievance or claim under this section if the City uses good faith efforts to distribute overtime equitably.*
7. Extra Duty Assignments (§6.06): The City will not indemnify officers in any claim

or action arising out of an extra duty assignment.

8. **Court Pay (§6.07)**: Amend language that is an officer is required to appear in any court in the City of Niagara Falls in the morning and the afternoon of the same day, the officer will be eligible for only one court appearance payment. Also, officer cannot use accumulated time off on the day of a scheduled court appearance.
9. **Out-of-Rand Pay (§6.12)**: Delete entire section from contract.
10. **Additional Compensation (§6.13)**: Amend various subsections as follows:
  1. Eliminate all references to Motorcycle Division; add “*Sworn Officers in the Field Intelligence Unit.*”
  2. Eliminate all references to Criminal Intelligence Unit (CIU); add “*Narcotics Intelligence Division.*”
11. **Payment (§6.15)**: Delete language providing officers with option of direct deposit of paychecks; replace with language directing that all payments made to officers pursuant to the collective bargaining agreement be made through direct deposit. Also, any payment of additional compensation or premium pay will be made between April 1 and May 31 each year.
12. **Standards and Principles (§8.03)**: Amend language so that grievances must be presented within 14 calendar days from the date the cause of the grievance occurs, except where the nature of the grievance is not readily known; grievance must then be presented within 180 days from the date the grievance occurred.
13. **Sick Leave (§9.05)**: Delete entire section and amend as follows:
  - A. *Each police officer shall be entitled to paid leave of absence due to illness or disability. Each officer will be credited with one day of sick leave, per month of employment, and may accumulate up to 180 days. In the event of absence, due to illness or disability, one accumulated sick day shall be deducted from the number of days standing to the credit of the officer, for each day of absence.*
  - B. *The City may, at its discretion, send a nurse to the home of the officer, at any time, to verify his illness and it may require an officer to be examined, at its expense, by a physician of its own choosing.*

*C. The City, at its discretion, will require an employee to verify their illness with verification from their attending physician or medical professional or undergo a medical examination by a medical professional of the City's choosing should the employee utilize three (3) consecutive sick days or the absence will not be charged against accumulated sick leave.*

*D. If an officer is absent because of illness more than 5 times in a calendar year, the Superintendent may, upon written notice, require the officer to supply a physician's letter for each additional absence in that year.*

*E. An officer who is absent on sick leave, who has reason to leave the City, may do so upon permission by the City's physician or the Superintendent and the permission may include conditions under which approval is granted.*

*F. In the event of dispute between the officer's physician and the City's designated physician, the manner will be submitted to a physician mutually selected by the parties, whose opinion, regarding validity for reason for sick leave, will be binding on both parties.*

14. **Sick Leave for Family Illness (§9.06)**: Delete section in its entirety.
15. **Personal Leave (§9.10)**: Add the following language: "Upon election by the employee, unused personal days may be carried over and converted to sick leave days. An employee choosing to carry over personal leave as sick leave days must notify both the Department of Human Resources and their department head prior to December 1<sup>st</sup> of the previous year." Also, amend language to indicate that in the case of separation from service, personal days will be pro-rated for the entire year, also, upon retirement, any unused personal days will be forfeited.
16. **Issued Items (Uniforms)(§11.01)**: Delete "One winter coat with insignia" and "One raincoat"; add "One all-weather coat" and "One light jacket."
17. **Hearing Officers (§12.01)**: Amend language to state that the City will select the hearing officers for disciplinary proceedings.
18. **Productivity (§12.03)**: Amend to state: "All sworn officers will be subject to a yearly evaluation, conducted by the Superintendent or his designee, covering professionalism, work analysis, Use of Force incidents, skills, management and supervision, supervisory suggestions for item frame for improvement, risk management system, supervisor notes for RMS, departmental weapons certification, training attended, awards and commendations and additional comments."

19. **New Employees** (whose date of hire follows execution of this agreement):

**Vacation**: After ten (10) years or completion of five hundred twenty (520) weeks of service, vacation shall be capped at four (4) weeks.

**Sick Leave**: One-half (½) day sick leave credit per full month of service with the right to accumulate to a maximum of ninety (90) days. All unused sick days up to the maximum allowed will be bought back at 20% of their value at either retirement or termination of employment.

**Personal Leave**: Eliminate from agreement.

20. **Amendment**: The City reserves the right to amend, delete or otherwise modify this docket at any time during the negotiation process.

### **PANEL DETERMINATIONS**

This Opinion and Award constitutes the results of the Panel's consideration of the evidence presented within the context of the criteria set forth in Section 209.4 of the Civil Service Law. Before issuing this Opinion and the Award, the Panel met in executive session and engaged in substantial deliberations.

Specifically, it is noted that the evidence presented by the Parties and the Authority was considered against the criteria set forth in Section 209.4 of the Civil Service Law, including, but not limited to a comparison of wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions; the interest and welfare of the public and the financial ability of the public employer to pay; the peculiarities in regard to other professions such as hazards, educational

qualifications, training and skills; and the terms of collective agreements negotiated between the Parties in the past providing for compensation and fringe benefits.

This Panel finds that a wage increase must be sensitive to both the City's substantial fiscal difficulties and the right of Union members to receive fair compensation consistent with the other awards issued prior to this Panel convening.

### **Term of the Agreement**

The Parties, through their authorized representatives, have agreed and expressly given their consent and authorization to the Panel for a Four Year Award for the period covering January 1, 2011 through December 31, 2014. It was discussed by the Parties that a two year agreement which is required by the New York State Civil Service Law would serve neither parties best interest. A two year agreement would only result in an agreement through 2012 and would not give the Panel the opportunity to award fair compensation to these officers and also provide some cost savings for the City. The Parties therefore determined that a four year agreement would best serve their interests and worked with Panel members to achieve a fair and equitable resolution to this dispute.

## WAGES AND OTHER ECONOMIC BENEFITS

After carefully reviewing the prior Public Interest Arbitration awards and after being granted the authority to issue a four year award this Panel after careful and extensive deliberation unanimously issues the following award:

1. **Term:** 1/1/11 through 12/31/14.
2. **Base Pay:** 2011 - 1.5%; 2012 - 2%, 2013 - 1.0% raise in base pay effective July 1, 2013, 1.0% raise in base pay effective December 31, 2013, and; 2014 - 1%.
3. **Longevity:** 2011 - \$250.00; 2012 - \$250.00; 2013-\$500.00, and; 2014 - \$500.00. All adjustments will be made at the 3 year, 5 year, 10 year and 15 year steps only.
4. **Shift Differential:** For all hours worked between 4:00 pm and 8:00 am, increase to fifty cents (\$.50) effective 1/1/2011; Increase to seventy five cents (\$.75) effective 1/1/2013. Shift differential will be rolled into the base pay effective 12/31/2014.
5. **Additional Compensation (§6.13):** Amend various subsections as follows:
  1. Eliminate all references to Motorcycle Division; add "*Sworn Officers in the Field Intelligence Unit.*"
  2. Eliminate all references to Criminal Intelligence Unit (CIU); add "*Narcotics Intelligence Division.*"
6. **Payment (§6.15):** Delete language providing officers with option of direct deposit of paychecks; replace with language directing that all payments made to officers pursuant to the collective bargaining agreement be made through direct deposit. Also, any payment of additional compensation or premium pay will be made between April 1 and May 31 each year.
7. **Sick Leave:** Delete current contract language in section 9.05 and add the following:

*A. Each police officer shall be entitled to paid leave of absence due to illness or disability. Each officer will be credited with one day of sick leave, per month of employment, and may accumulate up to 180 days. In the event of absence, due to illness or disability, one accumulated sick day shall be deducted from the number of days standing to the credit of the officer, for each day of absence.*

*B. The City may, at its discretion, send a nurse to the home of the officer, at any time, to verify his illness and it may require an officer to be examined, at its expense, by a physician of its own choosing.*

*C. The City, at its discretion, will require an employee to verify their illness with verification from their attending physician or medical professional or undergo a medical examination by a medical professional of the City's choosing should the employee utilize three (3) consecutive sick days or the absence will not be charged against accumulated sick leave.*

*D. If an officer is absence because of illness more than 5 times in a calendar year, the Superintendent may, upon written notice, require the officer to supply a physician's letter for each additional absence in that year.*

*E. An officer who is absent on sick leave, who has reason to leave the City, may do so upon permission by the City's physician or the Superintendent and the permission may include conditions under which approval is granted.*

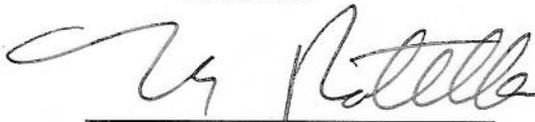
*F. In the event of dispute between the officer's physician and the City's designated physician, the manner will be submitted to a physician mutually selected by the parties, whose opinion, regarding validity for reason for sick leave, will be binding on both parties.*

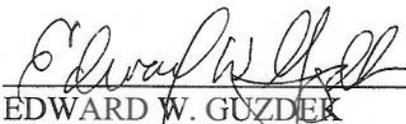
8. **Issued Items (Uniforms):** Delete "One winter coat with insignia" and "One raincoat"; add "One all-weather coat" and "One light jacket."
9. **Holidays:** Eliminate employee birthday holiday; add Dr. Martin Luther King Jr. Day to the list of holidays.
10. **Retroactivity:** Payments shall be deferred and issued in four (4) installments, March 1, 2016 (for the years 2011-12), July 1, 2016 (for the years 2013-2014), January 1, 2017 (for the year 2015) and July 1, 2017 (for the year 2016).

**Award on Remaining Issues**

Any item other than those specifically addressed by this Award remain "status quo" as they existed in the Parties' Agreement that ended December 31, 2010.

  
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THOMAS N. RINALDO  
Chairman  
Date 11/4/2015

I concur  
  
\_\_\_\_\_  
RICHARD J. ROTELLA, ESQ.  
Public Employer Panel Member  
Date 11/4/2015

I concur  
  
\_\_\_\_\_  
EDWARD W. GUZDEK  
Employee Organization Panel Member  
Date 11/4/2015