

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

CASE NO. CA-0033; M74-784

* * * * *

In the Matter of Arbitration

- between -

CITY OF HORNELL

- and -

HORNELL POLICE ASSOCIATION

* * * * *

AWARD OF PUBLIC ARBITRATION PANEL

The undersigned Arbitrators, having been designated pursuant to the provisions of Section 209.4 of the New York State Civil Service Law, and having duly heard the proofs and allegations of the parties, hereby make the following

A W A R D

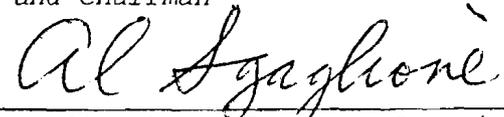
The terms and conditions of employment specified as "not agreed upon" in the petition for Compulsory Interest Arbitration filed by the Unions are decided as follows:

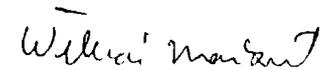
1. The Fact Finder's recommendation on Duration of Agreement is changed to a one (1) year agreement dated April 1, 1975 to March 31, 1976.
2. The Fact Finder's recommendation on Vacation is adopted.

3. The Fact Finder's recommendation on Holidays is adopted.
4. The Fact Finder's recommendation on Off Duty Injury or Illness is adopted.
5. The Fact Finder's recommendation on Health Insurance is changed to place maximum City annual premium contribution for Family coverage at \$550, Single coverage at \$235. The Panel strongly encourages both parties to seek possible alternative coverage, which might improve benefits at the same or less than present cost.
6. The Fact Finder's recommendation on Out of Title Work is adopted.
7. The Fact Finder's recommendation on Shift Differential is adopted.
8. The Fact Finder's recommendation on Salary is changed to the following schedule:

Start	\$ 9,150
1	\$ 9,700
2	\$10,250
3	\$10,800
4	\$11,350
5	\$11,900
10	\$12,450
Sergeant	\$12,950


 SAMUEL CUGALJ, Public Panel Member
 and Chairman


 AL SGAGLIONE, Employee Organization
 Panel Member


 WILLIAM MOMBERT, Employer Panel Member
 Dissenting Only From Award #8

STATE OF NEW YORK)
 COUNTY OF ERIE) SS:

RAYMOND A. MAIOLO -- Reg. No. 3949
 Notary Public, State of New York
 Qualified in Niagara County
 My Commission Expires March 20, 1976

On this sixteenth day of December 1975, before me personally came and appeared SAMUEL CUGALJ, AL SGAGLIONE and WILLIAM MOMBERT, to me known and known to me to be the individuals described herein and who executed the foregoing instrument and they acknowledged to me that they executed the same.


 Notary Public

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

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* * * * *

STATEMENT OF CHAIRMAN OF PUBLIC ARBITRATION PANEL

Pursuant to the provisions of the Civil Service Law, Section 209.4, Robert D. Helsby, Chairman of the Public Employment Relations Board designated the following individuals on September 26, 1975 to serve as a Public Arbitration Panel in this proceeding:

Samuel Cugalj, Public Panel Member and Chairman
William Mombert, Employer Panel Member
Al Sgaglione, Employee Organization Panel Member

The Panel was charged by Section 209.4 to heed the following statutory guidelines:

(v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel may, but shall not be bound to, adopt any recommendation made by the fact-finder, and shall, so far as it deems them

applicable, take into consideration the following and any other relevant circumstances:

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. such other factors which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment.

The Panel conducted its Hearing in Hornell, New York on November 12, 1975. The Employer and Employee Organizations were present, and they were afforded full opportunity to present evidence and argument in support of their respective positions. Post-hearing briefs were filed with the Panel within 14 days of the Hearing.

The Panel agreed that each would spend the next several days reviewing the exhibits and arguments presented at the Hearing.

The Panel met briefly before the Hearing, and in executive session on December 16, 1975 and deliberated on each of the issues presented to it in the Petition For Compulsory Interest Arbitration filed by the Employee Organization. The results of these deliberations are contained in the Award issued by the Panel on December 16, 1975.

The Panel was unanimous in 7 of the 8 issues, with Mr. Mombert dissenting on Award #8.

Deviation from the Fact Finding recommendation was made in Award #8, which increased the Police salary schedule effective April 1, 1975. For reasons I believe pertinent to the Fact Finding stage, the Fact Finder did not appear to use salary data for employees in local private employment, as one criterion for his recommendation. However, to carry out its regular mandate, the Panel felt that 209.4 requires that consideration be given to local salaries, as well as the comparison with others performing similar work in other comparable communities. The Panel majority felt in this comparison, that Hornell Police salaries were found wanting. There was no correlation between the average police officer's salary and their average years of service. Comparison of the schedule in Award #8 to salaries of local private and other public City employees place the Police in a more reasonable and comparable salary position to their neighbors. Many would, in fact, argue with the validity that the more appropriate relationship between salary/cost of living to the police officer and his family is his general locale, rather than a sole comparison of what another community, with a different cost situation might pay their police officers.

Strong sentiments for the Shift Differential issue were finally

resolved because of consideration given to the salary schedule in Award #8. The majority did not adopt the Police request for expansion of the present salary schedule, or in their suggested step values.

A word of caution, though, that the Panel unanimously agreed that Award #8 was in effect, a "catch up" situation. The Cost of the Award is reasonable overall, and within the ability of the City to pay, as the latter was conceded by the City. The time to "catch up", is best achieved under the present favorable financial ability of the City to pay.

The Panel agreed to the City request to place a maximum limit on its annual Health Insurance premium, although frankly, disagreement was present. The Panel felt the Fact Finder overlooked the basic City position.

The Panel felt that a one-year agreement was more in the best interest of both parties, instead of the two-year agreement recommendation by the Fact Finder.

Based on all of the factors which Section 209.4 charged the Panel to consider, it is my opinion that the Award of the Panel was fair, equitable and warranted by the evidence presented at the arbitration hearing.



SAMUEL CUGALI, Public Panel Member
and Chairman

DATED: December 16, 1975

Sam Cugalj
93 Candy Lane
Hamburg, New York 14075

December 23, 1975

Mr. Harold Newman
Director of Conciliation
State of New York
Public Employment Relations Board
50 Wolf Road
Albany, New York 12205

DEC 29 1975

CONCILIATION

Dear Harold:

Per your telephone inquiry this morning, I thought I would jot down the points that we discussed for clarification purposes. As regards the Police Arbitration Panel Hearing in Hornell, the following points stand out in my mind:

1. No reference whatsoever was made by the City representative, Bob Granger, with respect to setting an outside limit, however general, to the ability-to-pay position of the City.

In fact, he stated that, "Further, the City while not invoking ability to pay, is invoking a willingness (his emphasis) to pay" (City Exhibit #3); "Since ability to pay is not a question here, the whole question of the tax rate and its relationship to the respective proposals of the parties, is just not germane to the Arbitration Panel" (City Post-Hearing Brief); "We have the ability to pay" (Hearing Transcript). These would not normally by themselves set the tone for the Award, except that police salaries were non-competetive with other police communities, but were also out of line with local salaries, as outlined in Police Exhibits.

2. From Police Exhibit #1, we computed the average salary at \$9,943 and the average years of service for the H.P.A. at 9.5 years, and felt this was wholly inadequate.

3. From Police Exhibit #12 (A-H), and Police Exhibit #1, a sampling of local private salaries indicates that police salaries are considerably lower, given that overall police responsibilities are much greater than many of the positions indicated in the Exhibit. The City did not challenge the data as far as their accuracy is concerned, and the Panel used them accordingly. The City did not produce any figures that would indicate that these salaries did not represent a fair sampling of salaries in the local community. The salaries reported were from National Fuel Co., the Electric Company, N.Y. Telephone Co., A & P, Wegman's, Postal employees, Erie Lackawanna Railroad employees, Foster Wheeler Corp., N.Y.S. Dept. of Transportation (Regional Office) and non-teaching Association of Hornell Schools.

Generally, it is not my inclination to place much emphasis on local salaries, except where the disparity between public and private sectors is substantial, as it was in this case. Our thinking was that if police salaries were low in general, a comparison between police salaries in various communities would only be matching low vs. low. It was felt a greater need was to adjust, if

local private salaries considerably out-distanced police salaries; and from Police Exhibits introduced and not controverted, this appeared to be the case in Hornell.

From the tone of Mr. Granger's Post-Hearing Brief, I was convinced that any change in the Fact Finder's Report would prompt him to seek judicial review. Since the money was available, and the police were respectively low-paid, we felt that 1975-76 was the best time to bring their salaries up.

4. The Hornell Fire Department salaries in the second year of a two-year contract, offers a starting rate of \$9,075, the police starting in 1974-75 schedule is \$7,850, the Fact Finder starting salary recommendation is \$8,550. We could find no rationale for this disparity. We felt that it does not properly reflect the overall responsibilities of the police. Additionally, we could not use the Fireman salary schedule as a frame of reference, as the difference between Step 10 and starting salary is \$1,000, which we felt inadequate.

5. The City representative on the Panel, William Mombert, computed the additional cost of the Award (over 1974-75) at \$48,200, vs. the cost of the police proposal of \$51,265. The Award was \$33,150 over the cost of the Fact Finder's recommendation. Again, our main frame of reference was the complete lack of any position taken by the City to limit its ability to pay.

6. The Award for police with 10 years is \$12,450. The firemen on the 10th year is \$10,075.

7. In Executive Session, the Panel strongly considered the position taken by Mr. Mombert. He stated at the outset that while he would be required on the record to vote against any change in the Fact Finder's Report, he did agree that police salaries are low; he did ultimately agree with the schedule in the Award privately, although dissenting in the Award itself, for obvious reasons; he did make a frame of reference himself with regard to the Panel's schedule by looking at a few positions in the City Building Employees' Association current contract with which he apparently was very familiar; he commented that the schedule in the Award would prevent leap-frogging on the part of the firemen; he also did agree to the concept of shift differential privately, but felt it was better to have that drop by the wayside if a salary increase would make up for it. We provided Mr. Mombert with several points for him to explain to Mr. Granger as the rationale for the Award.

8. If the disparity between police and local private salaries were not so great, as indicated in the representative sampling of the police (uncontroverted by the City), and the complete lack of an outside position on the City's ability to pay, the majority of the Panel would have voted for the shift differential issue. The Panel felt, however, that the salary adjustment was sufficient to cover shift differential. (Note - cost of shift differential projected at \$6,552 in City Exhibit #3).

9. The Panel did not hesitate to alter the Fact Finding report on another issue. It was felt that the Report did not properly reflect the basic City issue. On the Health Insurance issue, the Panel felt that the position of the City was more proper and reflected that change in its Award.

December 23, 1975

In arbitration of the Lackawanna Police Department Fact Finding, a review of my Report, notes and Exhibits indicated that on the contrary, the City took a "strong position" in its alleged lack of ability to fund police salaries. In fact, the Police Association submitted the last four City budgets, to show in various areas where there were funds overlapping, funds available and not accounted for, etc.

I hope this information is of assistance to you. Please do not hesitate to contact me if I can elaborate on any point in this letter.

With best regards,

 (P.P.)
Sam Cugalj

SC/pp