

PUBLIC EMPLOYMENT RELATIONS BOARD

RECEIVED

JUL 23 1979

CONCILIATION

-----x

In the Matter of the Arbitration :

between :

CITY OF MOUNT VERNON :

"City" :

-and- :

MOUNT VERNON UNIFORMED FIRE FIGHTERS ASSOCIATION :

"Union" :

-----x

Case No. IA-78;
M77-666

PUBLIC ARBITRATION PANEL

Stanley L. Aiges, Chairman
Terence M. O'Neil, City Member
Thomas P. Flynn, Union Member

APPEARANCES

For the City:

RAINS, POGREBIN & SCHER
Bruce Millman, Esq., Of Counsel

For the Union:

Edward Bruno, President, Local 107

BACKGROUND

The New York State Public Employment Relations Board ("PERB") determined that a dispute exists in negotiations between the parties hereto. That dispute falls under the provisions of the Civil Service Law, Section 209.4. Pursuant to the authority vested in it under that provision, PERB designated a Public Arbitration Panel for the purpose of making a just and reasonable determination in this dispute. On November 22, 1978, the following individuals were appointed to that Panel: Stanley L. Aiges, Chairman; Terence M. O'Neil, City Member; and Thomas P. Flynn, Union Member.

Hearings were held on January 17, April 3 and 5, 1979.* All matters related to this dispute were heard. The parties were provided a full opportunity to present evidence, testimony and argument in support of their respective positions. The parties waived their right to have a verbatim transcript taken. The City filed a post-hearing brief. The Union elected not to do so.**

* A hearing scheduled for February 16, 1979 was postponed at the Union's request on February 15, 1979.

** See Mr. Bruno's letter of April 17, 1979.

This dispute involves the following issues:

1. Salaries*
2. Holidays
3. Clothing Allowance
4. Longevity Bay
5. Additional Compensation
6. Overtime
7. Contract Administration
8. Prevailing Rights
9. Joint Safety Committee
10. Retiree Insurance
11. Upgrading
12. Vacations
13. Sick Leave
14. Clean-up Time
15. Cost of Living Allowance
16. Lieutenants' Differential
17. Emergency Calls
18. Tuition Reimbursement
19. Life Insurance
20. Other Differentials

Before proceeding to the merits of this dispute, several introductory comments are necessary.

First, this dispute evolves out of efforts to replace an Agreement which expired on December 31, 1977. Negotiations for a successor Agreement seemed to be successful. That is, the parties' Negotiating Committees reached a tentative accord. The terms of their settlement were reduced to writing and a Stipulation of Agreement was executed on September 6, 1978. (See City Ex. 5.) The principal

* The parties agree that a two-year term (i.e., January 1, 1978 - December 31, 1979) would be appropriate.

elements of that accord included:

- (a) a \$900 salary increase effective 1/1/78;
- (b) a \$850 salary increase effective 1/1/79;
- (c) one additional holiday in 1979, for a total of ten; and
- (d) a \$25 increase in clothing allowance (to \$250) effective 1/1/79.

The membership of the Union refused to ratify the terms of the tentative settlement. The parties entered mediation. They were unable to resolve their differences. Hence, PERB appointed us to sit as a Public Arbitration Panel.

Second, in order to reach a judgment in this case, we were obliged to consider all relevant factors presented to us. We were, in particular, concerned with the following factors:

- (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 Town to pay;
- (c) comparison of peculiarities in regard to other trades or professions, including specifically: hazards of employment; physical qualifications; educational qualifications; mental qualifications; job training and skills; and

- (d) the terms of collective bargaining 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.

All of these factors are, of course, relevant. However, none is necessarily controlling. It is necessary to weigh and balance all of these factors in order to reach a just and reasonable determination.

Third, at this writing this dispute is over 18 months old. A final resolution is long past due. (It serves no useful purpose to review reasons for the delay. Suffice it to say, the "blame" can be spread.) In the face of this, the Panel has decided to forego the usual analysis of the parties' respective arguments. Instead, we believe an AWARD can be expedited if we present our findings directly.

SALARIES

The Union asks that salaries be raised in accordance with the following schedule:

Effective January 1, 1978:	by 8 percent
Effective July 1, 1978	: by 8 percent
Effective January 1, 1979:	by 8 percent
Effective July 1, 1979	: by 7.5 percent

(This would raise a First Grade Fire Fighter's salary from \$16,550 to \$22,412 by July 1, 1979.)

The City proposes that each Fire Fighter receive a \$500 across-the-board increase on January 1, 1978 and a second such increase on January 1, 1979. This would raise

a First Grade Fire Fighter's salary to \$17,550 by January 1, 1979.)

It is apparent that the Union now seeks salary raises which far exceed those tentatively agreed upon earlier. The City, by the same token, now proposes a lower level of raises be granted than it was willing to agree upon in September 1978.

In our judgment, neither of these positions can be justified. We are not, of course, bound by the terms of the parties' earlier settlement. But we are convinced that if the bargaining process is to remain viable, it must be given strong consideration. There are other factors we believe should be weighed heavily. To wit: salaries paid Fire Fighters in comprable Westchester County communities (i.e., White Plains and New Rochelle); raises recently awarded Policemen in Mount Vernon in Case No. IA-65; and the fiscal problems facing the City (which are greater today than a year ago).

On balance, we believe the following across-the-board raises represent a fair and reasonable AWARD:

Effective January 1, 1978:	\$500.00
Effective July 1, 1978	: \$500.00
Effective January 1, 1979:	\$850.00

HOLIDAYS

The Union seeks one additional holiday in 1978, plus two additional holidays in 1979.

The City proposes that one additional holiday be granted in 1979.

We believe that there is no inherent justification for more than one additional holiday in 1979 in Mount Vernon. We so AWARD.*

CLOTHING ALLOWANCE

The Union asks that the current \$225 clothing allowance be raised to \$275 in 1978, and to \$325 in 1979.

The City proposes that a \$25 increase (to \$250) be made effective in 1979.

We adopt the City's position on this issue. No more than a \$250 clothing allowance was negotiated in September 1978. There is no justification for increasing that figure now.

OVERTIME

The Union asks that time and one-half be paid for all time worked beyond an employee's "regular" tour of duty.

The City rejects this demand.

The Union's proposal cannot be granted. It would represent an extraordinary expense for the City. It simply cannot be justified. The Agreement now provides for the payment of time and one-half for hours worked beyond regular tours "as authorized by the Commissioner." Historically, Superiors, the Fire Alarm Superintendent, the Assistant Fire Alarm Superintendent and Mechanics have not

* We note the City does not object to payment for holidays in two separate checks.

received such payments. Instead, they receive compensatory time off. There is no compelling reason to alter this historical practice. The Union's request must be denied. To do otherwise would eliminate an essential control factor now enjoyed by the City. We are unprepared to permit such a result.

However, we do award the following addition to Article VI:

"The distribution of overtime shall be on an equitable rotating basis except in the event of an emergency."

PREVAILING RIGHTS

The Union seeks the adoption of the following change:

"The City is to agree that during the term of this Agreement no existing practice or condition of employment not specifically covered by the terms of this Agreement shall in any way be impaired or diminished. That the omission of a statement of any existing practice or condition of employment presently enjoyed by members of the UFFA shall not be deemed as a waiver of the UFFA or as a basis for the denial of responsibility for the continuation thereof by the City."

The City resists the Union's proposal. However, it is prepared to add the following to Article XI:

"Existing terms and conditions of employment not covered by this Agreement shall not be changed during the term of this Agreement without prior discussion with the UFFA."

We believe the Union's proposal goes too far. The City's position is more reasonable. We so AWARD.

SAFETY

The Union asks that a General Health and Safety Committee be created. The City resists this proposal.

We note that the Agreement (Article XIX) already contains a clause establishing a Joint Safety Committee. In our judgment, the text of the last sentence of its second paragraph contains a "loophole." It should be closed.

We award that that sentence be revised to read:

"The Committee shall be advisory and may make recommendations to the Mayor upon a majority consensus."

VACATIONS

The Union proposes that vacations should be improved to provide:

Captains:	28 days
Lieutenants:	26 days
Fire Fighters:	24 days (after one year of service)

The City strongly resists the Union's proposal. It stresses that existing vacation benefits are already generous. To wit:

Captains:	25 days
Lieutenants:	23 days
Fire Fighters:	21 days

The Union simply has failed to persuade us that the amount of vacation now granted under the Agreement is

inadequate.

However, we believe Article IV should be amended to provide that vacation selection within each classification should be based upon seniority. So AWARDED.

ALL OTHER PROPOSALS

It serves no useful purpose to review the numerous remaining proposals put forth by the Union. Suffice it to say we find no justification on the record before us to grant them.

* * * *

AWARD

In terms of a new two year (January 1, 1978 - December 31, 1979) Agreement, we award:

1. SALARIES

To be increased across-the-board as follows:

Effective January 1, 1978: \$500.00

Effective July 1, 1978 : \$500.00

Effective January 1, 1979: \$850.00

2. HOLIDAYS

One additional holiday (to be selected by the parties) in 1979, with payment for contractual holidays to be issued in two separate, equal checks.

3. CLOTHING ALLOWANCE

To be increased by \$25 (to \$250) in 1979.

4. OVERTIME

Article VI to be amended by adding:

" The distribution of overtime shall be on an equitable rotating bases except in the event of an emergency."

5. SAFETY

The last sentence of the second paragraph of Article XIX is to be amended to read:

"The Committee shall be advisory and may make recommendations to the Mayor upon a majority consensus."

6. VACATIONS

Article IV to be amended to provide that:

"Vacation selection within each classification shall be based upon seniority."

7. ALL OTHER PROPOSALS

Denied. That is, except as provided above all other terms of the Agreement which expired December 31, 1977 shall remain unchanged.



Stanley L. Aiges, Arbitrator
Public Panel Member and
Chairman

July 20, 1979

COUNTY OF BERGEN)
STATE OF NEW JERSEY} S.S.

On this 20th day of July 1979, before me personally came and appeared Stanley L. Aiges, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



LEILA AIGES
NOTARY, PUBLIC OF NEW JERSEY
My Commission Expires Aug. 1, 1983

