

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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JUN 30 1980

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In the Matter of the Public Arbitration :
- between - :
CITY OF LONG BEACH, :
Public Employer, :
- and - :
PATROLMEN'S BENEVOLENT ASSOCIATION :
OF THE CITY OF LONG BEACH, INC., :
Union. :
Pursuant to Section 209.4(c) :
of the Civil Service Law. :

~~CONFIDENTIAL~~
PANEL'S
DETERMINATION
AND
BASIS FOR
FINDINGS

Case No.
IA-142; M79-274

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APPEARANCES

For the Public Employer:

Caesar C. Guazza, Esq. Counsel
Edward Eaton City Manager
David N. Hilgendorff, Esq. Corporation Counsel
Sol Barnett Police Commissioner

For the Union:

Hartman and Lerner, Esqs. Counsel
By: Richard Hartman and Of
Michael Axelrod, Esqs. Counsel
George Voigt President, P.B.A.
Joseph Morrison Chairman, Nego-
tiating Committee

Before the Public Arbitration Panel:

Philip J. Ruffo, Esq. Public Member and Chairman
Moira Ryan Public Employer Member
Joseph Sanchez Employee Organization Member

SUMMARY OF THE AWARD

Set forth below are the matters of major significance considered and determined by the Panel:

1. Ability To Pay

The Panel concluded that the City of Long Beach does have the ability to pay the wage increases and benefits determined to be just and reasonable.

2. Term of Contract

Two (2) years. From July 1, 1979 to June 30, 1981.

3. Wages

3% effective July 1, 1979

8% effective January 1, 1980

3% effective July 1, 1980

8% effective January 1, 1981

4. Longevity

Increase to \$600 from \$450 after 6 years of service.

Increase to \$400 from \$350 after 10 years of service.

Increase to \$500 from \$350 after 15 years of service.

No change in the additional \$50 for each year thereafter.

5. Clothing Allowance (Effective 7/1/79)

\$300 annually for Patrolman (increased from \$260).

\$500 annually for Plain Clothes personnel and
Detectives (increased from \$360).

6. Cleaning and Equipment Allowance (Effective 7/1/79)

\$400 annually (increased from \$350).

7. Night Differential

\$1,300 effective 7/1/79 (increased from \$1,200).

\$1,400 effective 7/1/80 (increased from \$1,200).

8. Payment for Earned and Accrued Contract Benefits
At Time of Separation or Retirement

Money owed for benefits earned and accrued may be
paid within reasonable time after separation or retirement
if the City lacks sufficient cash flow.

9. Life Insurance Coverage

Increased from \$15,000 to \$50,000 effective July 1,
1980.

10. Guaranteed Ordinary Death Benefit

City to adopt resolution to comply with Section
360-b of the New York State Retirement and Social Security
Law within sixty (60) days of date of Award.

11. Unused Sick Leave Upon Retirement

Effective July 1, 1980, the present maximum of 260 sick leave days is increased to 400 and payment in cash is to be made for accumulated unused sick leave days up to one-half of the maximum, or 200 days.

12. Agency Shop Provision

Granted, effective as of July 1, 1980.

13. Grievance and Impasse Arbitration

Provision made for impartial final and binding arbitration as to grievances; and alternative procedure suggested for arbitration of impasse in collective negotiations.

I

Preliminary Statement

By a communication dated December 14, 1979, the New York Public Employment Relations Board designated the above named persons constituting a Public Arbitration Panel, pursuant to Section 209.4 of the New York Civil Service (Taylor) Law for the purpose of making a just and reasonable determination concerning the dispute between the parties in the above captioned proceeding as to the matters and issues hereinafter set forth and discussed.

In accordance with the above cited authority, hearings were held on March 10, 11, 12 and 17; April 28; and May 9, - 1980.

The parties agreed to dispense with a transcript.

The record made of the hearings was extensive, the parties having appeared by counsel and accorded the opportunity to give testimony and present evidence and exhibits relative to the issues in dispute and, in addition, were accorded the opportunity of cross-examination and to present arguments in support of their respective positions.

All of the evidence having been received, the hearings were closed on May 9, 1980.

Subsequent to the close of the hearings, the Panel met in Executive Session, on June / 8 , 1980, for the purpose of discussing and deliberating all of the issues in the record presented to the Panel for determination. After due consideration and deliberation of all of the evidence in the entire record, including the documents, exhibits, and arguments presented, the Panel's determinations, as hereinafter set forth, are concurred in by a majority vote of two members thereof (Chairman and Employee Organization Member), the Public Employer Member dissenting. (See Section 209.4(c)(IV) of the Civil Service Law).

II

Statutory Criteria

Consistent with statutory requirement, the Panel adhered to the criteria set forth in Section 209.4(c)(V) of the Civil Service Law to make a just and reasonable determination of the matters in dispute, specifying the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

(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 employ-

ment 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.

III

The Parties - Their Bargaining Relationship

The City of Long Beach is, essentially, a seashore community with a year round population of approximately 35 to 40 thousand inhabitants increasing during the summer months

to approximately 100,000 vacationers, transients and daily visitors because of its resort setting.

The sudden influx of substantial numbers of people who visit Long Beach, daily and throughout the summer months, in addition to the increase in traffic volume, places an added strain upon the normal and usual activities of the Long Beach Police Department. The number of arrests for disorderly conduct, assaults and crimes of a more violent nature increase substantially. Patrols are intensified in order to assure enforcement of Municipal ordinances relating to the safety of persons and property on the beaches and the boardwalk.

The Department's functions are carried out through the following programs: Administration, Patrol Activities, Detective Division, Crime Prevention, Juvenile Aid Bureau, and Identification and Records Section. Exclusive of the Police Commissioner, the uniformed force of the Long Beach Police Department consists of approximately 85 officers in the following numbers and ranks: 6 Lieutenants; 12 Sergeants; 13 Detectives (a few being in Lieutenant and Sergeant ranks, the most being in the Police Officer grade); and 54 Police Officers.

The Long Beach Patrolmen's Association is the exclusive representative of a bargaining unit of approximately

85 officers consisting of Lieutenants, Sergeants, Police Officers and Detectives in the grade of Police Officer, Lieutenant and Sergeant.

The bargaining relationship between the parties has been established through successive collective bargaining agreements, the most recent having expired on June 30, 1979.

The current dispute stems from an impasse in negotiations for a successor collective bargaining agreement effective July 1, 1979.

IV

Issues Settled by Withdrawal or Agreement

Prior and subsequent to the conclusion of the hearings, the parties advised the Panel that they had resolved most of the outstanding issues by the withdrawal of many matters and by otherwise agreeing to many matters in direct negotiations.

For the purpose of avoiding any question or uncertainty, the Panel deems it important to recite for the record those matters withdrawn and those agreed to by the parties.

A - The Matters Withdrawn (By the P.B.A.):

The matters withdrawn by the P.B.A., set forth by the item number representing the P.B.A. demand and the description of the particular matter are as follows: 5 - Foot Patrol, 7 - Sick Leave in Immediate Family, 11 - Death Leave (number of days), 13 - Civilian Complaints, 31 - Holiday Language, 36 - Release Time (Negotiating Team), 37 - Promotions, 38 - Disciplinary Action, 42 - Reimbursement for Personal Loss, 44 - Holiday Pay, 47 - Disciplinary Action (Overtime), 48 - Subpoena Fee (Former Employees), 52, 53 and 54 - Various Aspects of Meal period, Compensation for Overtime during meal period, 58 - Incentive days, 60 - Compensation cases, 63 - Optical Plan, 64 - Overtime Computation, 66, 68 and 69 - Equipment for Vehicles and for Station House, 70 - Hospitalization, Medical, Dental for Retirees, 72b - Twenty-four hour duty pay, 84 - Death benefit (Scholarship), 85 - Legal Services, 87 - Vacation (when taken), 89 - Job Security, 90 - Military Reserve Unit, 92 - Mini check Program, 94 - Gun Permit (Retirees), 95 - Health Insurance (Cash value), 97 - Leaves of Absence, and 98 - Promotions tied in with demand 37 above.

B - The Matters Agreed to by the Parties:

The matters which the parties agreed to will be incorporated in the successor collective agreement, set

forth by the item number representing the P.B.A. demand and the description of the particular matter, are as follows:

1 - Mileage Allowance, 2 - Travel Time (court recall), 6 - Sickness and Injury, 8 - Vacation (Accrual), 9 - Vacation (working), 10 - Compensatory Time (paid at termination or Employee's option), 12 - Death Leave (when entitled), 14 - Anonymous Complaints, 17 - Sickness and Injury, 26 - Funeral Expenses, 34 - Retirement Program, 35 - Release Time (organizational), 39 - Disciplinary Action (Procedure), 43 - Reimbursement for Personal Loss or Damage (Private Vehicles) up to \$200 - total maximum \$2,000 in one year for vandalism - employee must submit claim, 46 - Holiday Pay (while on vacation). Item 46 is tied in with Union's Item 44 (Holiday Pay), 49 - Grievance Procedure (rights arbitration), 49a - Interest Arbitration Provision, 50 - Terminal Leave, 55 - Schedule of Payments of Termination and Sick Pay, 56 - Hospital, Medical and Dental Benefits (while on suspension), 57 - Reporting Requirements - Contract to supersede any inconsistent Rules and Regulations, 59 - Sick days (subtraction), 62 - Working out of Rank or Designation, 65 - College Credit, 67 - Bullet-Proof Vests, 71 - Death Benefits (Line of Duty), 73 - Existing Benefits Clause, 79 - Guns (Off Duty), 80 - Blood Donors, 81 - Overtime (Computation during Night Tours), 82 - Chemical Tests - Statement of Policy - Reasonable Cause - no harassment and no arbitration of Tests, 83 - Confidentiality Limited to

Incorporation in Manual, all other aspects withdrawn, 88 - Injuries (Paid Leave for continued medical treatment), 91 - Traumatic Leave, 93 - College Credit, 99 - Sick Leave (no change for partial tour missed), and 100 - Absenteeism Excusable if by Act of God.

V

The Issues Referred Back to the
Parties for Further Negotiations
(Civil Service Law 209.4(c)(iv))

In accordance with the joint request of the two Panel members, representing the City of Long Beach and the P.B.A., respectively, and pursuant to Section 209.4(c)(iv) of the Civil Service (Taylor) Law, the following issues, identified by number and description, are referred to the parties for further negotiations:

22 - Court Recall (non-cancellation), 23 - Court Recall (excusal from prior tour), 40 and 41 - Release Time for President and Officers, 74, 75, 77 and 78 - Various Aspects of Disciplinary Procedure Including Language for a "Bill of Rights", and 96 - Holidays (special days declared).

VI

✓ The Issues In Dispute

The issues which the parties finally submitted to the Panel for determination were:

1. The financial ability of the City of Long Beach to pay any wage increase or grant any benefit for the first year of a collective bargaining agreement;
2. The term of the collective bargaining agreement;
3. Wages;
4. Longevity;
5. Clothing allowance;
6. Cleaning and Equipment Allowance;
7. Night Differential;
8. Accumulation of Sick Leave up to and at time of retirement;
9. Unused Sick Leave Payment upon Retirement;
10. Payment for Personal Leave Days and Compensatory Time upon Retirement;
11. Guaranteed Ordinary Death Benefit;
12. Life Insurance Increase;
13. Agency Shop;
14. Final and Binding Grievance Arbitration;
15. Interest Arbitration;
16. Hospital and Dental Insurance;
17. Personal Leave;
18. Basic Work Week;
19. Holidays;
20. Dental Plan; and
21. Vacation.

VII

Major Terms and Conditions of Employment in
the Existing Collective Bargaining Agreement
(July 1, 1975 - June 30, 1979)

Working conditions of major importance now in effect

under the existing collective bargaining agreement, expiring June 30, 1979, representing base pay and other direct cash payments (exclusive of longevity) to the officers in the various ranks, are set forth below as follows:

JANUARY 1, 1979 TO JUNE 30, 1979

<u>Rank Or Designation</u>	<u>Base Pay</u>	<u>Holiday Pay (12 days)</u>	<u>Night Differential</u>	<u>Cleaning And Equipment</u>	<u>Uniform Or Clothing</u>	<u>Total</u>
<u>Patrolman</u>						
1st year	\$14,857.00	\$ 683.04	\$1,200.00	\$350.00	\$260.00	\$17,350.04
2nd year	16,077.00	739.20	1,200.00	350.00	260.00	18,626.20
3rd year	17,520.00	805.56	1,200.00	350.00	260.00	20,135.56
4th year	18,990.00	873.12	1,200.00	350.00	260.00	21,673.12
5th year	20,002.00	919.68	1,200.00	350.00	260.00	22,731.68
<u>Detective</u>						
1st year	21,451.00	986.28	1,200.00	350.00	360.00	24,347.28
2nd year	22,275.00	1,024.08	1,200.00	350.00	360.00	25,209.08
3rd year	23,215.00	1,067.40	1,200.00	350.00	360.00	26,192.40
<u>Sergeant</u>	23,816.00	1,095.00	1,200.00	350.00	260.00	26,721.00
<u>Det. Sgt.</u>	25,191.00	1,158.24	1,200.00	350.00	360.00	28,259.24
<u>Lieutenant</u>	26,893.00	1,236.48	1,200.00	350.00	260.00	29,939.48
<u>Det. Lieut.</u>	28,037.00	1,289.04	1,200.00	350.00	360.00	31,236.04
<u>Captain</u>	29,520.00	1,357.20	1,200.00	350.00	260.00	32,687.20
<u>Det. Captain</u>	30,807.00	1,416.36	1,200.00	350.00	360.00	34,133.36

Longevity Pay: Longevity Pay, based upon years of completed service is as follows:

<u>Completed Service</u>	<u>Amount</u>
6 years	\$ 450.00
10 years	350.00
15 years	<u>350.00</u>
Total after 15 years of Service	<u>\$1,150.00</u>

In addition, \$50.00 is paid for each year of completed service (after the 15th) until the completion of 35 years for a total aggregate of \$2,150.00.

Overtime: Overtime is payable at the rate of time and one-half for all officers, including Detectives.

Personal Days: Five personal days plus two incentive days for any officer who is not out sick for more than five days.

Vacation: Vacation is based upon years of service as follows:

After 4 years -- 25 working days (5 weeks)
Beginning 5th year -- 30 working days (6 weeks)

Sick Leave: Leave for illness or disabling line of duty injury is unlimited. Up to seven days a year of sick leave may be taken by an officer for the illness of a member of his immediate family under certain conditions. Also, up to 26 days a year for a maximum of 260 days with cash payment for 50% after ten years of service.

Basic Work Week: The basic work week consists of three tours rotated as follows:

1. Five days on duty (8 A.M. to 4 P.M.) with a 72 hour swing;

2. Five days on duty (4 P.M. to 12 P.M.) with a 72 hour swing; and

3. Four days on duty (Midnight to 8 P.M.) with a 96 hour swing.

VIII

Ability To Pay Issue

Strenuously litigated by the City of Long Beach and the P.B.A. was the issue of "Financial Ability To Pay" constituting a major point of contention stressed by both sides.

The P.B.A.'s Position:

The P.B.A. contends that the City of Long Beach does have the financial ability to pay the wage increase it demands. (The P.B.A.'s demand is for a 20% across the board wage increase for the year 1979 in addition to upward adjustments in various fringe benefits).

In urging the City's financial ability to pay, the P.B.A. contends that the City has the legal capacity to meet the P.B.A.'s demands without a tax increase based upon the following factors:

1. Acknowledging that the City has been beset by

substantial deficits (\$3.1 million at the onset of FY 1976-77), the City has to its credit made a remarkable come-back so that for FY 1980-81 the deficit has been totally eliminated enhancing the City's financial ability to pay the P.B.A. members an equitable wage increase and to afford an upward adjustment in fringe benefits.

3. Illustrative of the City's fiscal recovery is the Constitutional Tax Margin with respect to the City's ability to tax Real Property. In FY 1977-78, the City's Constitutional Tax Margin was \$1,067,545; in FY 1978-79 it was \$770,128; in FY 1979-80 it was \$390,621; and for FY 1980-81 the Constitutional Tax Margin is \$464,789. According to the P.B.A., a comparison of the Constitutional Tax Margins for Fiscal Years 1979-80 and 1980-81 indicates that the P.B.A.'s demands could be met without any increase in Real Property Taxes for FY 1980-81. In this connection further support is found in the dollar tax rate which is \$6.07 - the same for both fiscal years.

3. The Effective Tax Rate, as adjusted for residential property is 4.833 based on (full) value rate which is below the Effective Tax Rate of 5.957 applied to all properties, business and utilities included. Thus, if taxes were required to be raised, residential property is positioned to absorb a slightly higher increase.

Further, the Tax Rate of 4.833 (based on (full)

Value Rate) is in line with other communities of Nassau County and, therefore, the tax burden upon Long Beach property owners is neither better nor worse than the property owners throughout Nassau County.

4. Revenues actually received for FY ending 1979 exceeded the estimate by \$675,533.12 demonstrating the City's capacity to generate and raise revenue. Complementing revenues, actual expenditures and encumbrances for the same fiscal year totalled \$289,519.47 less than what had been estimated for fiscal 1978-79. Adding the actual revenue excess to the over-estimated expenditures and encumbrances and the result is an operating surplus of almost \$1 million. Having started with a deficit of \$1,160,000 going into fiscal year 1978-79, the fund balance available at the end of that fiscal year was \$188,553.90. Thus, Long Beach not only overcame the year's beginning deficit but, commendably, wound up with a surplus at year's end.

5. Actual expenditures for FY 1980-81 are calculated to be approximately \$756,000 less than estimated. Adding the \$756,000, representing underestimated expenditures to the operating surplus of FY 1979-80, will yield approximately \$2 million available for employee wage increases.

6. It is apparent that the above amount, though not clearly shown or reflected in the budget, is the financial

resource for the wage increases given to the City's Firefighters and, generally, to the City's other employees. There is, moreover, a sufficient amount in FY 1980-81 to meet the P.B.A. demands. In fact, the City admits that it has allocated a similar percentage increase - 6% - in the 1980-81 budget for the P.B.A. members without a tax increase.

7. Helpful to the City in meeting an equitable wage increase is the fact that tax collections are good, the General Water Fund deficit is eliminated, and the increased earnings on investments will yield an anticipated amount of approximately \$210,000.00 for FY 1979-80.

The City's Position:

While acknowledging its recent fiscal and financial recovery from prior loose fiscal practices resulting in substantial deficits running into millions of dollars, the City of Long Beach stresses that the road to complete recovery is not yet accomplished. Its fiscal structure is still in a precarious position. In this respect, the City points to a number of fiscal reforms adopted which, as a result, have recently edged it over the rim of solvency and the continued need for stringent measures in the operation of its fiscal affairs is imperative in order to remain solvent. Thus, in asking for a respite of at least one year, that is, a freeze on wages for FY 1979-80, the City admits its fiscal posture

is brighter enabling it to offer an equitable increase to the P.B.A. members for FY 1980-81.

Depicting its fiscal posture as slightly encouraging, though still basically difficult, the City points to the downward trend in its real property values and the narrowing of its tax base resulting in less revenue. Real property taxes is the main source of its revenues. From 1976 to 1980 the City's real property values depressed from \$145,906,936 to \$143,979,561 - a difference of \$1,927,435. In contrast, surrounding communities witnessed an increase in real property values yielding greater revenue. For example, during the same time period, real property values of the following communities increased as follows: North Hempstead - from \$756,231,892 to \$779,401,382; Oyster Bay - from \$822,245,767 to \$852,188,259; Hempstead - from \$1,725,495,264 to \$1,736,081,414; and Glen Cove - from \$65,331,828 to \$66,623,915. Simultaneously, with the downward trend in Long Beach real property values, yielding less revenues, expenditures are on the increase. Also affecting the revenue yield of real property is the fact that many buildings have been abandoned and 16.5% of the City's property tax base is exempt from taxes. Exacerbating such exemption is the fact that the largest segment of tax property is residential thrusting a greater share of the tax burden upon homeowners. Thus, the City cannot depend on its main source

of revenue - real property taxes - alone for fiscal survival but must rely on other sources. But other sources are also limited. Federal and State aid for FY 1980-81 will be less than in FY 1979-80.

Coupled with a declining tax base, promising a decrease in real property taxes, and less federal and State aid, there are other economic indicators evidencing that the City still has serious deep-rooted problems. For example, construction starts have declined from 36 in 1971 to 3 in 1979; building permits issued have declined from 1,879 in 1971 to 854 in 1979. The number of mercantile licenses (including medallions, hack licenses, tow car licenses and vending machine licenses) have declined from 1,292 in 1976-77 to 1,261 in 1978-79. Long Beach, as of March, 1980, has an unemployment rate of 8.3% which is considerably higher than the County of Nassau as a whole, which is 5.15%. Other factors indicative of the City's precarious economic position are: A low family income. 40% of the City's families have an income of \$10,000 or less while for the County as a whole 23% of family income is \$10,000 or less. The welfare load has increased. Approximately 30% of the City's population is 65 years of age or older indicative of the fact that Long Beach has more non-productive persons than is normal for any other city. The adult population has increased with problems usually attendant in caring for the aged.

One source of serious concern is the need to cope with a court decision requiring the City to make substantial tax refunds by reason of prior overassessments. The liability in this respect is calculated to be in the neighborhood of 2-1/2 to 3 million dollars - an added burden on the City's taxpayers.

The Panel's Analysis:

Although the City's fiscal posture illustrates a rather grim picture, the evidence in the record as a whole documents an improved financial condition. In this respect, the Panel notes that the City has been able to reverse a prior deficit exceeding one million dollars and successfully wind up fiscal 1979-80 with a surplus of \$188,553.90. On a further encouraging note, the Panel notes that in the face of diminished outside assistance in the form of federal and State aid, and in spite of rising costs, the City has not found it necessary to raise the tax rate of \$6.07 for proposed fiscal 1980-81. Further, it may be noted that a fund balance in the sum of \$798,839 is projected in the 1980-81 budget. The City, it may be noted, "has once again attained fiscal credibility in the market place". (See page iii, Annual Budget, City of Long Beach, for the Fiscal Year July 1, 1980 to June 30, 1981). What is firmly encouraging is the fact that the viability of the City is such that it con-

cluded labor agreements with two substantial groups of its employees at increases approximating 6% and that the City's budget for FY 1980-81 appropriates a similar wage increase for the P.B.A. members - again without a raise in real property taxes. Thus, while the financial structure of Long Beach is not as resilient as other surrounding communities, it is not as bleak as it was two or three years ago and most encouraging is the fact that by maintaining a taut fiscal control, Long Beach has overcome a history of soft or flaccid fiscal policies.

The Panel does not believe that the overall City's financial condition can or should be ignored or that it is a wholly irrelevant consideration in determining wage scales for its employees. However, as a practical matter and with circumspection and in good conscience, the Panel feels it incumbent, in complying with the statutory criteria, to try to balance the needs of the City's police force for a wage increase and the City's ability to meet the cost of a wage increase.

Accordingly, the Panel has considered the City's fiscal facts of life and notes, again, that while its financial condition is not optimum, its obligation to members of the City's police in terms of a cost factor is no less than its obligation to pay the going rate for whatever resources it requires to sustain the City as a viable municipality.

Finally, the Panel cannot help but observe that while Long Beach may find it difficult to pay its employees wage increases, the difficulty is universal in varying degrees throughout the public sector community. The difficulty in meeting the rising cost of a municipal payroll is not, however, the same as an inability to meet the payroll. Statutorily, the implications are diverse. Ability is concomitant with power to raise revenue while difficulty indicates the existence of fiscal problems which may be overcome by the exercise of the power to raise revenue, though the impact on the taxpayers is perceptible.

In sum, the evidence, in its totality, establishes the commendable conclusion that the City of Long Beach is managing its fiscal affairs showing a surplus, no deficit, in complete control of its management and operations, having overcome any threat of liquidation or default, with no need of emergency measures or assistance to extricate it from any financial distress and, very significantly, with its credit rating in the market place unimpaired.

The Panel's Determination:

Accordingly, based upon an analysis of the entire record, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the CITY OF LONG BEACH does have the financial ability to pay

its police force officers, members of the bargaining unit, the wage increases and other benefits as herein determined.

IX

The Term Of the Agreement

It is the Panel's judgment, based upon the record in its entirety, that the interests of the parties are better served by a collective bargaining agreement of at least two years. The need for sound fiscal and budget planning is self-evident, particularly in light of the City's statutory obligation to negotiate with the representatives of its employees, including the police force. Thus, the general and overall operations of the City are better assured by the stability associated with multiple year commitments. As it is, the City requires a surcease from the tedium of see-saw negotiations and both sides may profit by devoting their time and energies to the needs of the police force rather than retracking their efforts in immediate negotiations.

A studied analysis of the record discloses that there is sufficient factual data and material to predicate an agreement of two years commencing July 1, 1979, and terminating June 30, 1981.

It may also be noted that the Panel is possessed of

the statutory authority to determine the period of a collective bargaining agreement not to exceed two years from the termination date of any previous bargaining agreement. (Civil Service Law, Section 209.4(vi)).

Accordingly, based upon the entire record, and the statutory authority cited, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the successor collective bargaining agreement between the parties be for a term of two (2) years, commencing July 1, 1979, and ending June 30, 1981.

X

The Economic Issues In Dispute
(Including Fringe Benefits)

1. Wages

The P.B.A. Position

Essentially, the P.B.A. seeks parity with the wage structure of the Nassau County police force in comparable ranks. In this respect the P.B.A. points to the historical tandem relationship in wages between the Long Beach and Nassau County police forces. However, due to the distressed fiscal plight of the City in 1975, the bargaining unit members

fell behind and have continued to lag behind so that the parity relationship between the Long Beach police officer and his counterpart on the County payroll is substantially out of balance. At the expiration of the last agreement in 1978 the base pay of a Long Beach Patrolman (after 5 years) was \$20,002.00 while that of his counterpart on the County payroll was \$22,600.00 - a difference of \$2,598.00.

However, parity with Nassau County aside, the P.B.A. adverts to other factors which, it claims, amply support its demand for a substantial wage increase. Those factors are:

- a) Comparisons with wage structures in other jurisdictions within the County.
- b) The Cost of Living Increase.
- c) The higher rate of Productivity.
- d) The stress and hazards of the job.

a) Comparisons of Wage Structures in Other Jurisdictions Within The County:

The P.B.A. stresses that the Long Beach Police Officer lags substantially behind the following jurisdictions: Floral Park - \$22,500; Freeport - \$24,268; Glen Cove - \$22,600; Hempstead - \$20,378; Kings Point - \$22,953; Lake Success - \$21,998; Lynbrook - \$21,900; and Old Brookville - \$21,910.

b) The Cost of Living Increase:

The P.B.A. documents the constant rise in the CPI index, double digit inflation, and the erosion that the cost of living increase and inflation make into real income.

c) The Higher Rate of Productivity:

The P.B.A. emphasizes that it lacks a year round stable community pointing to the influx of transients and visitors during the summer months of June, July and August. The influx is substantial, tripling the normal population and imposes added heavy burdens upon the same size police force. The P.B.A. documents a dramatic increase in the number of traffic offenses during the summer season as well as the increase in assaults and loitering arrests.

d) As to the Hazards and Stresses of the Job:

The P.B.A. adduced a number of studies and surveys documenting the hazards and stress of the job with the concomitant impact upon the families of the police force members and the intrusion upon their social life. The job is one which requires constant alertness while on duty to cope with sudden emergencies and a life-long dedication to the job since the community expects 24 hour service of its policemen.

The City's Position:

In response to all of the foregoing P.B.A. conten-

tions, the City points to its unique financial position which is still grave and not entirely free from the doldrums.

Though the City does not refute the evidence presented by the P.B.A. in support of an equitable wage increase, it documents other fringe benefits which should be considered in the total cost package and concludes with a stated willingness to grant the P.B.A. members the same wage increases granted to its other employees.

The Panel's Analysis:

While there is merit to the P.B.A.'s contentions concerning the aspects of Productivity and the Stresses and Hazards of the job, the Panel is of the view, based upon the record as a whole, that the other factors - wage comparisons with other comparable or closely comparable jurisdictions and the cost of living increase - offer a sounder and more probative basis upon which to base a determination concerning a just and reasonable wage increase.

a) As to Wage Comparisons:

The Panel is aware that circumstances and conditions vary in each jurisdiction which may uniquely account for the wage scale as eventually fixed in each jurisdiction. While, therefore, different circumstances and conditions spawn different individual results, the aggregate picture may, nevertheless, be useful as a guide, helpful in arriving at a deter-

mination concerning the justness and fairness of the wage increase being considered. Taking this approach, and using the Long Beach Patrolman rank as illustrative, the Panel finds that the Long Beach Patrolman, compared to his counterpart in jurisdictions whose financial resources and problems encountered by the police forces, as well as the relative sizes of the police forces, is substantially behind one of such jurisdictions and slightly behind the other. The following table is illustrative:

<u>Public Employer</u>	<u>Wage Scale</u>	<u>Amount Behind</u>
Freeport (65 Members)	\$22,470.00	\$2,468.00
Hempstead (65 Members)	\$20,398.00	396.00
Long Beach (80 Members)	\$20,002.00	

b) As to the Cost of Living Increase:

The increased cost of living factor requires no elaboration being a recognized fact of life. The Consumer Price Index increased dramatically during 1979 having risen to 14.1% nationally and 11.1% for the New York area. It may be noted that the 11.1% CPI increase represents the third largest annual increase since the end of World War II and the second largest increase in the 1970 decade. (See BLS, U.S. Dept. of Labor Release, Friday, January 25, 1980, for the Middle Atlantic Region). Current reports indicate the continuation of double digit increase in the CPI during 1980.

A recent survey, in so far as it is herein relevant, shows that the real wages of a 20-year Nassau County Policeman - \$24,350 - the pay in relation to the cost of living - compared to his counterparts across the country, is on an index of 102, that is, 2 percentage points above what it takes to maintain a Long Island family of four. A wage of \$23,856 on Long Island is indexed at 100. As of the end of 1978, the Long Beach Patrolman's annual base wage was \$20,002 - considerably below the index, though longevity and other direct cash payments may have brought total pay slightly closer to the index.

There is no magic formula for determining wage or salary levels in the public sector. Certainly, no single criterion can be relied upon for a conclusive answer. Persons with equal intelligence and integrity might well differ as to the applicability or weight to be given to any one criterion. The Panel has taken all statutory criteria into consideration and has concluded that the members of the Long Beach P.B.A. bargaining unit in the ranks or grade of Patrolman, Detective, Sergeant, Detective Sergeant, Lieutenant, Detective Lieutenant, Captain and Detective Captain, are entitled to a fair and equitable upward adjustment in their current base pay.

The Panel's Determination:

Accordingly, based upon the analysis of the evidence in the entire record, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the following across-the-board wage increases be granted to the Long Beach P.B.A. bargaining unit members as follows:

3% effective July 1, 1979.

8% effective January 1, 1980.

3% effective July 1, 1980.

8% effective January 1, 1981 - June 30, 1981.

It may be noted that with the increases granted up to and including July 1, 1980, the 15 year Long Beach Patrolman will have come close to the index which, according to the survey hereinabove mentioned, enables a patrolman with 20 years service to support a family of four. Thereafter, the Long Beach Patrolman is poised to forge ahead. The Panel also observes that at the end of 1979 the Long Beach Patrolman will have narrowed the gap between him and his Nassau County counterpart. The Panel notes that wage increases in the public sector do not, generally, keep pace with the CPI increase. Further, the Panel is persuaded that the record as a whole does not demonstrate that the City of Long Beach is in a financial position to grant more with respect to a wage increase.

The Panel has made what it in good conscience believes is a realistic judgment, balancing the equities by considering the needs of the P.B.A. bargaining unit members and in not ignoring the impact that a wage increase may have upon the City's total fiscal posture.

2. Longevity

The P.B.A. has demanded a longevity increase of 5% of base pay after five years of completed service and 1% thereafter for every year of service.

The Panel has compared the City's longevity benefit with other jurisdictions in Nassau County and finds that, while the P.B.A. bargaining unit members are in a comparable context, an equitable improvement is warranted.

The Panel notes that longevity pay is not only viewed as a bonus for long years of dedicated service but, in addition, is an inducement for experienced officers to remain on the job and that such experience is to the advantage and benefit of the City.

Thus, it is the judgment of the Panel that the present longevity structure should, fairly and reasonably, be brought in line with its basic purpose but, at the same time, not cause any distortion in the totality of the economic package awarded to the P.B.A. bargaining unit members.

Accordingly, based upon the record in its entirety,
it is the:

JUST AND REASONABLE DETERMINATION of the Panel that
longevity pay, effective July 1, 1979, be as follows:

1. An increase of \$150 after six (6) years of
completed service - from the present \$450 to \$600.

2. An increase of \$50 after ten (10) years of com-
pleted service - from the present \$350 to \$400.

3. An increase of \$150 after fifteen (15) years
of completed service from the present \$350 to \$500.

All other longevity payments and the time for such
payments after fifteen (15) years of completed service, shall
remain the same as prescribed in the expired agreement.

It will be noted that the longevity improvement will
entitle the Long Beach P.B.A. members to \$1,500 in longevity
pay after fifteen (15) years of completed service and thus pro-
vide them with full parity to their counterparts on the Nassau
County payroll and ahead by \$200 of their counterparts on the
Suffolk County payroll.

3. Clothing Allowance and Cleaning and Equipment Allowance

The prior agreement provides for a clothing allowance
for uniformed Patrolmen in the sum of \$260 annually and for

Plain Clothes officers and Detectives the sum of \$360 annually. The P.B.A. demands an increase of \$500 annually for both categories of officers.

As for Cleaning and Equipment allowance the sum of \$350 is provided annually for all officers and the P.B.A.'s demand is for \$500.

Upon consideration of the respective contentions of the parties and a comparison of jurisdictions in the County, regarding allowances for clothing and cleaning and equipment, the Panel finds that a modest increase will position the Long Beach officers on the same level as their counterparts throughout most of the jurisdictions within the County, including the Nassau County officers.

The Panel deems it important that the wage increases herein determined are not eroded by the need of the P.B.A. members to purchase clothing or equipment, or to absorb cleaning expenses, at the present inflationary costs and prices. The Panel does, however, feel that the wage and longevity increases the City is expected to bear for the two year period of the collective bargaining agreement requires recognition of the impact of their increases upon the fiscal posture of the City.

Accordingly, based upon an analysis of the evidence in the entire record, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that, effective July 1, 1979 the clothing allowance be as follows:

\$300, annually, for uniformed Patrolmen
(increased by \$40 from \$260);

\$500 annually for Plain Clothes personnel
and Detectives (increased by \$140 from
\$360);

and

That effective July 1, 1979, the Cleaning and Equipment allowance be as follows for all P.B.A. bargaining unit members:

\$400 annually (increased by \$50 from
\$350).

As previously indicated, the foregoing determined allowances, as increased, will place the P.B.A. bargaining unit members at least equal to and, in most instances, ahead of their counterparts in jurisdictions throughout the County, including the County since the County allowances, though identical, did not take effect until January 1, 1980.

4. Night Differential

The P.B.A. demands that night differential pay be increased from the present annual \$1,200 to 10% of base pay, including longevity.

Upon consideration of the respective contentions of the parties and a comparison of jurisdictions in the County, regarding night differential pay, the Panel finds that a small increase is warranted and will place the City's police officers either slightly ahead or on the same level as their counterparts in other jurisdictions throughout the County, including the County itself. However, the Panel is of the view that the impact of such increase should, as other benefits herein determined, be within the parameters of a fair and equitable total economic package in order to avoid dislocations in the City's financial and fiscal posture. Therefore, to achieve the foregoing objective, night differential pay increase will be in two stages, July 1, 1979, at the inception of the successor agreement, and July 1, 1980, midway through the successor agreement, i.e. on the annual anniversary date.

Accordingly, based upon an analysis of the evidence in the entire record, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the P.B.A. bargaining unit members receive night differential pay as follows:

\$1,300 effective July 1, 1979
(increase by \$100 from \$1,200).

\$1,400 effective July 1, 1980
(increase by \$200 from \$1,200).

As previously indicated the night differential pay of \$1,400 will place the City's police officers ahead of several jurisdictions within the County and on the same level with their counterparts in other jurisdictions, including the County.

5. Payment at Retirement or Separation from Service for Certain Earned and Accrued Contractual Leave Benefits

The P.B.A. demands that certain contractual time leave benefits, earned and accrued by its members while in service, be paid to them at the time of their separation from service or upon their retirement.

Since the demand is predicated upon contract benefits earned and accrued, an equitable basis is laid for such payment. (The benefits referred to are for Personal Leave Days, Sick Leave Days and Compensatory Time which has not been taken).

Again, while there is a supportable basis in equity for the demand, the Panel is concerned that such payments, due at any one time for a number of police officers, may be substantial, placing an undue financial strain upon the City. In order to avoid such strain and, simultaneously, accord due recognition to the P.B.A. demand, the Panel has decided to allow the City, provided the state of its cash flow does not permit immediate payment upon separation or retirement from

service, the alternative of liquidating such obligation within a reasonable time period following the police officer's separation or retirement from service.

The foregoing constitutes the JUST AND REASONABLE DETERMINATION of the Panel.

6. Life Insurance

The P.B.A. demands that life insurance coverage be increased from the present \$15,000 to \$100,000.

Having analyzed the record as to this item, the Panel is of the view that while the evidence in the record is insufficient regarding comparisons with other jurisdictions, there is, nevertheless, a supportable basis in the record as a whole to warrant an increase in life insurance coverage. Considering the present state of inflation, and its predictable trend during the term of the successor agreement, the present coverage is insufficient.

Accordingly, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the existing life insurance coverage be increased from \$15,000 to \$50,000 for each and every P.B.A. bargaining unit member, effective July 1, 1980.

7. Guaranteed Ordinary Death Benefit

At the present time the City, pursuant to the prior collective bargaining agreement, guarantees all P.B.A. bargaining unit members an ordinary death benefit pursuant to Section 360-b of the Retirement and Social Security Law (NY) provided the annual cost does not exceed \$2,000.00. The City has adopted the foregoing provision by Resolution.

The P.B.A. demands that the \$2,000.00 limitation be removed since the benefit does not involve a cost factor to the City.

The Panel has considered this item and concludes that the benefit is in the best interest of the City and its Police Officers.

Accordingly, based upon the record in its entirety, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the City adopt, no later than sixty (60) days from the date of this Award, a Resolution, the effect of which will incorporate the provisions of Section 360-b of the New York State Retirement and Social Security Law.

8. Unused Sick Leave Upon Retirement

At the present time, the P.B.A. unit members are en-

titled to 26 days sick leave for every year of service (less any leave taken for non-line of duty injury) up to a maximum of 260 days and upon termination of employment an employee with at least ten years of service is entitled to cash payment equal to one-half of unused accumulated sick leave.

The P.B.A. demands 50 days of sick leave for each year of service with an unlimited amount of unused accumulated sick leave and to be paid 100% of unused sick leave with no maximum.

The Panel has reviewed and compared the sick leave benefit received by police force members in other jurisdictions within the County and has concluded that while some improvement is warranted, the P.B.A.'s demand is not warranted.

The Panel's view is that a fair and equitable solution would be to continue with the existing sick leave benefit for 1979 - the first year of the successor agreement - and to improve the benefit during the second year of the agreement, i.e. July 1, 1980 to June 30, 1981.

Accordingly, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that for the first year of the successor agreement (7/1/79-6/30/80) there be no change in the existing Sick Leave benefit, but that

effective July 1, 1980 the present benefit be modified so as to provide for a maximum of 400 days and that the P.B.A. bargaining unit members be entitled to cash payment up to one-half of the maximum (or 200 days) unused accumulated sick leave.

The benefit so modified will place the P.B.A. bargaining unit member in the same position as most other jurisdictions within the County.

XI.

Other Issues In Dispute (Non-Economic)

9. Agency Shop

The Panel has considered the respective contentions of both sides and concludes that it is fair and equitable to grant the P.B.A. the agency shop. The same is authorized by statute (Section 208.3(b), Civil Service Law). The Panel refers the parties to the cited section in anticipation of drafting an appropriate agency shop provision.

Accordingly, it is the JUST AND REASONABLE DETERMINATION of the Panel that the P.B.A. be, and hereby is, granted an agency shop provision, effective July 1, 1980, to be included in the successor collective bargaining agreement.

10. Grievance (Rights) and Interest (Impasse) Arbitration

A - Grievance Arbitration: The grievance procedure now in effect is internal in nature, the City Manager being the final arbiter of a grievance.

The Panel is of the view that an employer unilateral resolution of an employee grievance does not serve the collective bargaining relationship in a constructive or productive sense. Impartial final and binding arbitration is the equitable antidote to instability on the job, particularly when no alternative remedy exists to a justifiable employee grievance. The only remedy - impermissible under the law - is strike action. Such action does not serve the City's interest. Yet, the City cannot reasonably object to a fair and impartial resolution of an employee's grievance.

Accordingly, it is the

JUST AND REASONABLE DETERMINATION of the Panel that the successor collective agreement include a grievance-arbitration provision which shall provide for final and binding arbitration of employee grievances. The Arbitrator may be selected by the parties from a panel maintained by the New York Public Employment Relations Board or by the parties directly whenever there is a mutual agreement that it would be more appropriate to select an arbitrator by reason of the need for an expeditious resolution of a particular grievance.

B. - Interest (Impasse) Arbitration: The Civil Service (Taylor) Law (Section 209.2) empowers public employers "to enter into written agreements with recognized or certified organizations setting forth procedures to be invoked in the event of disputes which reach an impasse in the course of collective negotiations. Such agreements may include the undertaking by each party to submit unresolved issues to impartial arbitration."

The Panel suggests, without deciding, that it would serve the best interest of the City and the P.B.A. to include in the successor collective agreement a provision availing themselves of the statutory authorization as an alternative to resorting to the PERB for a Public Panel provided, however, that the parties mutually agree to proceed under the alternative procedure.

XII

All Other Issues

As to all other issues submitted to the Panel for determination, not otherwise disposed of herein under "IV" (Issues Settled by Withdrawal or Agreement), "X" (The Economic Issues in Dispute) and/or "XI" (Other Issues in Dispute), the same, having been considered, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that all such other issues be, and the same hereby are, DENIED.

As to those issues which have been withdrawn or agreed to by the parties, set forth under "IV" hereof, the same, to the extent such issues are now set forth in the prior collective agreement, shall be carried over and included in the successor collective bargaining agreement.

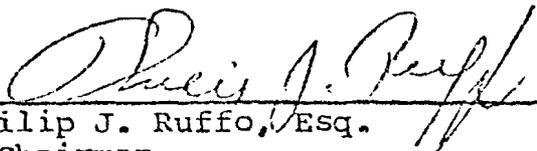
As previously stated, should any question arise between the parties, the Panel will hold itself available to be of assistance to the parties. The Panel, however, would urge the parties to call upon the Panel only as a last resort and to make every effort to compromise, directly between them, any differences which may arise.

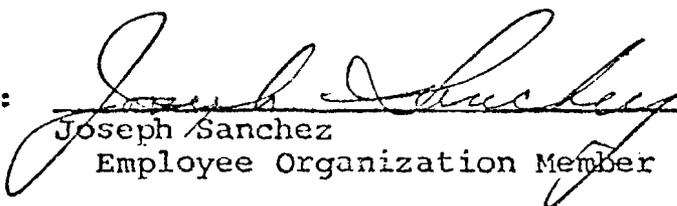
Conclusion

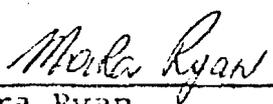
In rendering the several determinations herein, the Panel has made a good faith effort to understand and weigh the fiscal posture of the City and the services rendered to the City by its police force. The Panel has concluded that (a) the City does have the ability to pay the wage increases and other benefits herein granted, and (b) that such wage increases and benefits granted constitute a just and reasonable determination of all issues submitted to the Panel based upon all of the facts and circumstances, supported by a rational analysis

of the evidence contained in the record. While the City's police force may be asked to share some of the burden in considering the fiscal posture of their employer, the City of Long Beach, they cannot reasonably be expected to bear the full brunt of such fiscal problems and that it would be inequitable to foist upon them and their families the full impact of a tight fiscal and financial posture. It is, in the final analysis, to the interest of the City's taxpayers that the City have a well organized and properly motivated police force whose compensation meets standards that are fair and objective and just and reasonable.

Dated: June 17, 1980.


Philip J. Ruffo, Esq.
Chairman

Concurs: 
Joseph Sanchez
Employee Organization Member

Concurs,
~~Disconsents:~~ 
Moira Ryan
Public Employer Member