

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

MAY 21 1981

IN THE MATTER OF THE ARBITRATION BETWEEN	:	
	:	<del>CONCILIATION</del>
TOWN OF MT. PLEASANT	:	
	:	<u>ARBITRATION</u>
-and-	:	
	:	<u>PANEL'S AWARD</u>
TOWN OF MT. PLEASANT POLICE WELFARE	:	
AND BENEFIT ORGANIZATION	:	
CASE NO. IA-80-18; M80-269	:	

The Public Arbitration Panel (hereinafter referred to as the "PANEL") comprised of Bertrand B. Pogrebin Esq. Town Appointee, John P. Henry Police Appointee, and Paul G. Kell Chairman was appointed in accordance with the provisions of the NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD to inquire into the cause and circumstances of the continued impasse between the TOWN OF MT. PLEASANT (hereinafter referred to as the "TOWN") and the TOWN OF MT. PLEASANT POLICE WELFARE AND BENEFIT ORGANIZATION (hereinafter referred to as the "POLICE"), and to render an Interest Arbitration Award.

An arbitration hearing was held in Mt. Pleasant, New York on March 31, 1981. As a result of discussions with the Parties, the Parties agreed to the following Consent Award.

APPEARANCES: FOR THE TOWN:

ERNEST R. STOLZER of Rains & Pogrebin, Esqs., Attorney for the Town.

FOR THE POLICE:

RON DAVIS, ESQ. of Richard Hartman, Esq., Attorney for the Police.

(A) IN GENERAL:

STATUTORY PROVISIONS APPLICABLE TO COMPULSORY INTEREST ARBITRATION  
PURSUANT TO CIVIL SERVICE LAW, SECTION 209.4 (As amended July 1,  
1977)

(iii) the public arbitration panel shall hold hearings on all matters related to the dispute. The parties may be heard either in person, by counsel, or by other representatives, as they may respectively designate. The parties may present, either orally or in writing, or both, statements of fact, supporting witnesses and other evidence, and argument of their respective positions with respect to each case. The panel shall have authority to require the production of such additional evidence, either oral or written as it may desire from the parties and shall provide at the request of either party that a full and complete record be kept of any such hearings, the cost of such record to be shared equally by the parties;

(iv) all matters presented to the public arbitration panel for its determination shall be decided by a majority vote of the members of the panel. The panel, prior to a vote on any issue in dispute before it, shall, upon the joint request of its two members representing the public employer and the employee organization respectively, refer the issues back to the parties for further negotiations;

(v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify 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 employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.

b. the interests and welfare of the public and the financial ability of the public employer to pay;

c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;

d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

(vi) the determination of the public arbitration panel shall be final and binding upon the parties for the period prescribed by the panel, but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement

then for a period not to exceed two years from the date of determination by the panel. Such determination shall not be subject to the approval of any local legislative body or other municipal authority.

(vii) the determination of the public arbitration panel shall be subject to review by a court of competent jurisdiction in the manner prescribed by law.

(B) The Public Arbitration Panel met with the Parties on March 31, 1981; after consultation with the Parties; after both the Parties and the Panel considered the Parties respective positions and weighed them against the statutory criteria contained in Section 209.4; and with the approval and concurrence of both Parties, the Panel renders the following Consent Award:

AWARD OF PUBLIC ARBITRATION PANEL:

THE PUBLIC ARBITRATION PANEL RENDERS THE FOLLOWING CONSENT AWARD:

1. The current Collective Bargaining Agreement, except as amended below, shall be carried forward for three years; covering the period January 1, 1980 to December 31, 1982.

2. Wages:

1st year: 8%

2nd year: Effective 1/1/81 - 4.5%

Effective 7/1/81 - 4.3%

3rd year: Increase in the cost of living for the New York Metropolitan area (all urban); comparison of September 1980 to September 1981, but no less than 6% and no higher than 9%.

Sergeants differential: Effective 1/1/82 - the differential shall be 11.5% above the 1st grade patrolman, stated in a flat dollar amount.

3. Welfare Plan: Effective 1/1/82, in lieu of existing Town contribution for dental and life insurance coverage for police, the Town shall contribute \$250.00 per bargaining unit member per year to the PBA Welfare Fund, for the provision of benefits for the members of the bargaining unit.

4. Overtime: Overtime shall be paid within two pay periods of the date the overtime request was submitted. Language to provide that decision to receive cash or compensatory time to be made on filing of voucher. The provisions of Section 3(b) shall be deleted and there shall be a provision providing that recall shall be a minimum of 2 2/3 hours at time and one-half.

5. Holidays: The present language shall be amended to provide that effective January 1, 1981, an additional holiday shall be added to make a total of twelve (12) holidays to be paid whether worked or not.

Each officer who works on the holidays listed below shall be paid an additional day's pay at straight time or compensatory time, at the officer's option:

1. New Years Day
2. Easter Sunday
3. Thanksgiving
4. Christmas Day

Any officers who have been paid for Lincoln's Birthday or Washington's Birthday in 1981 shall be counted as one of the above four days in the event they work one of the four days cited above.

6. Effective immediately, new employees, including those employees now on probation shall have the sick leave plan annexed hereto as Exhibit "A".

The present employees shall have up until January 1, 1982, the option to be covered by the plan for new employees in lieu of the existing plan. It is understood that in the event they exercise the option for such plan, those who have the 30 day "pre-retirement" bank shall retain such. The option, if exercised shall be retro-active to January 1, 1981, and charges for 1981 days used against the bank.

7. Swaps of Duty: Article IV Section 5 shall be amended to add that requests for swaps shall not be unreasonably denied.

8. Personal Days: The provision of Article VII Section 1 shall be amended to provide as follows:

Three paid personal days shall be granted upon written request made except in an emergency, within five (5) days notice of the use of the day requested, and a response shall be made in writing within three (3) days of the request. The request shall, consistent with the needs of the department, not be unreasonably refused.

9. Article XIX Section 5: Amended to read as follows:

The alteration of any existing terms and conditions of employment shall be subject to the grievance procedure.

Section 7: The Town shall indemnify and save harmless any member of the bargaining unit....(all references to bargaining unit members rather than Association members).

10. Relief Schedule:

There shall be language providing for an exception to the chart for police officers assigned to a relief schedule. The assignment shall be with the understanding that such officer shall receive a minimum of nine (9) days off in thirty (30).

DATED: April 2, 1981.

Respectfully submitted,

*Paul G. Kell*  
PAUL G. KELL, Chairman

*Bertrand B. Pogrebin*  
BERTRAND B. POGREBIN (Concur)

*John P. Henry*  
JOHN P. HENRY (Concur)

STATE OF NEW JERSEY )  
COUNTY OF HUDSON ) ss:

On this 30<sup>th</sup> day of April 1981, before me, the subscriber, a Notary Public of New Jersey, personally came and appeared PAUL G. KELL, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged that he executed the same.

RAMONA R. ROBERTS  
A Notary Public of New Jersey  
My Commission Expires Sept. 10, 1985

*Ramona R. Roberts*  
RAMONA R. ROBERTS, Notary Public  
of New Jersey; Commission  
Expires September 10, 1985

STATE OF NEW YORK )  
COUNTY OF MASSA ) ss:

On this 8<sup>th</sup> day of April 1981, before me, the subscriber, a Notary Public of New York, personally came and appeared BERTRAND B. POGREBIN, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged that he executed the same.

BRUCE R. MILLMAN, Notary Public  
State of New York No. 31-4518008  
Qualified in New York County  
Commission Expires March 30, 1982.

*Bruce R. Millman*  
Notary Public of New York;  
Commission Expires 3/30/82

STATE OF NEW YORK )  
COUNTY OF ) ss:

On this 27 day of April 1981, before me, the subscriber, a Notary Public of New York, personally came and appeared JOHN P. HENRY, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged that he executed the same.

*Ralph Andrew...*  
Notary Public of New York;  
Commission Expires 1983  
Notary Public of New York  
Commission Expires March 30, 1983

EXHIBIT "A"

SICK LEAVE:

A. Definitions

a-Days shall mean work days not calendar days.

b-Sick Leave Reserve: Shall mean days credited to each employee as of January 1, 1981.

c-Accumulated Sick Leave Bank: Shall mean days credited to each employee at the rate of one (1) day per month of active employment after January 1, 1981. Days shall be credited on first day of month.

d-Extended Sick Leave: Shall mean days absence from active work which exceed monthly credited accumulated sick leave bank.

e-Conversion Days: Shall mean only days accumulated after January 1, 1981.

f-Supplementary Pay: Shall mean payments provided by Town above statutory payments made under Worker's Compensation and N.Y.S. Disability laws to insure employees continuation of full weekly payment.

B. It is the purpose of this plan that the Town will obtain insurance coverage for worker's compensation statutory sickness disability benefits for employees subject to this section and in addition, will make supplemental pay benefits as hereafter set forth. It is not intended that said employee will in any way lose or forfeit any other rights, privileges or benefits for other than sickness disability as is defined under the provisions of the sickness disability section of the Worker's Compensation Law.

C. Employees agree to comply with the provisions of the Worker's Compensation Law as defined in Section 200 through 242 of the Worker's Compensation Law and in addition to submit, upon request, to medical examinations as may be requested by the Town for determination of benefits herein described. Refusal to submit to medical examination as defined under the Worker's Compensation Law shall be subject to the penalties and provisions of the Worker's Compensation Law. Refusal to submit to medical examination or to provide medical evidence of disability for the supplemental benefits provided by the Town as defined herein shall serve as just cause for the Town to deny any supplemental benefits described herein.

D. This plan shall be effective January 1, 1981

E. Current Employees

All current Employees will be credited with sick leave at the rate of one (1) day per completed calendar month. Earned sick leave not taken in any calendar year will be accumulated. Sick leave is defined as absence from duty because of illness; pregnancy; child birth; injury; quarantine resulting from exposure to contagious disease.

F. New Employees

All newly hired employees will be credited with five (5) sick days on the Employee's first (1st) day of service. After the Employee completes five (5) full calendar months (each of which begins on the first (1st) of the month), the Employee will, thereafter, be credited with sick leave at the rate of one (1) day per completed calendar month.

G. Sick Leave Credits

Sick leave credits may not be earned while on leave without pay, on military leave of over twenty (20) days or on extended sick leave of over twenty (20) days.

- H. Days paid for extended sick leave will be deducted from employee's accumulated "sick leave bank". Unearned monthly anticipated credits cannot be used for extended sick leave.

I. Illness in Family Leave

Accumulated sick leave balance may be used for illness in the family upon approval of Department Head.

J. Bereavement Leave

Any available accumulated sick leave bank balance may be used for death in the family. This will be used after Bereavement leave allowance has been depleted. This usage is subject to approval of Department Head and priority management of Departments.

K. Sick Leave Bank Accumulation

Sick leave taken in any year which exceeds the earned monthly allocation shall be paid from the employees sick leave reserve. At the year end compilation those unused days would be returned to the accumulated sick leave bank.

- L. All sick leave reserve days are forfeited at termination of employment for any reason.

M. Accumulation of unused sick leave days

Unused sick leave days may be accumulated to the limit of 180 days commencing January 1, 1981.

N. Conversion of unused Sick Leave Bank

Upon the employee's retirement all unused accumulated sick leave days will be converted as follows:

1-First 60 days or part thereof are converted at  $\frac{1}{2}$  value  
(60 days equal 3 weeks pay)

2-Next 60 days or part thereof are converted at  $\frac{1}{3}$  value  
(60 days equal 4 weeks pay)

3-Last 60 days or part thereof are converted at  $\frac{1}{2}$  value  
(60 days equal 6 weeks pay)

Payment of this conversion shall be remitted in a lump sum in addition to previously granted "pre-retirement" lump sum payment as identified in personnel sick plan annual statement issued during month of January.

O. Maternity Leave

1. A pregnant employee shall be allowed to perform the duties of her job as long as she is medically able except where physical disability may endanger the employee or constitute a liability in the performance of her duties. The town shall not be liable for any injury to the employee or child in the event the injury was due to remaining on duty too long into the pregnancy.
2. A pregnant Employee upon filing appropriate medical evidence, that she is unable to perform the duties of her position due to this pregnancy, shall be permitted to use, in addition to N.Y.S. Disability benefits granted, any credited or accumulated sick leave days, vacation days credit, personal leave and compensatory time credit. Option of employee not to use credited leave, sick leave bank, vacation days credit or personal leave days will limit compensation for maternity leave to weekly amount established by New York State Disability Law.
3. While on maternity leave, the Employee may continue to use any or all leave she has theretofore accumulated.
4. An employee may be granted a leave of absence without pay to a maximum of two years, provided such leave shall not exceed the amount permitted under Civil Service Law.

P. Accumulated Sick Leave Reserve Bank

- a. All employees hired prior to January 1, 1980 shall have a commencement sick leave reserve bank equivalent to 12 days per year multiplied by the number of years employed.
- b. For employees who have been actively employed for a period of less than five (5) years, the Town will advance a sick leave reserve bank of thirty (30) days in addition to 12 days/year of employment.

Q. Submission of Disability Forms

1-Employees who are absent from work for a period of four (4) days must submit Doctor's Note explaining disability and disability forms as required by the Comptroller's office by the fifth day to continue to receive disability payments.

2-Employees who are absent for eight (8) consecutive days must submit a DB450 duly executed to the Comptroller's office by the 20th day from date of first absence.

R. Medical Examination

The Town has the right to schedule a medical examination for each employee who is absent for five (5) consecutive days. Failure of the employees compliance with medical examination scheduled will result in cessation of all disability payments. Reinstatement of payments shall be made only after approval is received from the Town Board after a hearing, as required, by the Board.