

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

CASE: M 80-525  
IA 80-38

MAY 5 1981  
RELATIONS BOARD  
R E  
MAY 5 - 1981  
CONCILIATION

\* \* \* \* \*

In the Matter of Arbitration

A W A R D

- between -

O F

IRONDEQUOIT NICHTSTICK CLUB, P.B.A.

P U B L I C

- and -

A R B I T R A T I O N

TOWN OF IRONDEQUOIT

P A N E L

\* \* \* \* \*

Pursuant to the provisions of the Civil Service Law, Section 209.4, ~~Barry R. Whitman~~ **HAROLD NEWMAN**, Chairman of the Public Employment Relations Board designated the following individuals on February 23, 1981 to serve as Public Arbitration Panel in this proceeding:

- Samuel Cagalj, Public Panel Member and Chairman
- Steve Gerhardt, Employee Organization Panel Member
- Barry R. Whitman, Esq., Employer Panel Member

The Panel was charged by Section 209.4 to observe the following statutory requirements:

- "(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 interest 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."

This Arbitration Panel conducted its Hearing in Rochester, New York on March 24, 1981. Both parties, hereafter referred to as "INPBA" and "TOWN" were present, and were afforded full opportunity to present evidence in support of their positions. In addition to their Hearing brief, the INPBA filed eleven (11) Exhibits, and the TOWN fifteen (15) Exhibits, and one (1) Joint Exhibit. The parties were given the opportunity to file Post-Hearing Briefs and both accepted. They were received by April 9, 1981.

The Panel met in Executive Session on April 21, 1981 to discuss and review the issues. The results of these deliberations by the Panel, having duly heard the allegations and proofs, are contained in the Award below.

#### A W A R D

The following items have been stipulated by the parties as having been previously agreed to, and therefore have not been presented to this Panel:

Article 4, Section 10

11,	1
11,	2
11,	3
11,	4
20	
24,	2
25,	3
25,	4
26	
4,	6

ISSUE 1 - DENTAL INSURANCE (Article 15, Section 4)

The TOWN will implement, within 45 days of the date of this AWARD, a dental program through a commercial carrier, equal to or better than the G.H.I. Type "N" - Spectrum 2000 plan (without prosthetics or orthodontics).

The TOWN and employees will share equally in the cost of the monthly premium.

New employees hired after 1-1-81, will be eligible to participate in this benefit after twelve (12) months of service.

ISSUE 2- SALARIES (Article 4, Section 1)

Effective 1-1-81, third (3rd) year patrolman salaries will be increased by eight and one-half percent (8.5%). The TOWN will determine salaries for the first two (2) years, ensuring that second (2nd) year patrolmen will receive at least eight and one-half percent (8.5%).

Sergeant salaries are to be set at two thousand dollars (\$2,000) higher than the 1981 third (3rd) year patrolman salaries.

Lieutenant salaries are to be set at two thousand two hundred dollars (\$2,200) higher than 1981 Sergeant salaries.

All retro active salary monies are to be paid no later than thirty (30) days from the date of this AWARD.

ISSUE 3 - SHIFT DIFFERENTIAL

The request of the INPBA is denied.

ISSUE 4 - OUT OF TITLE PAY (Article 4, Section 6)

Any Patrolman or Sergeant, who is designated and works at least an eight (8) hour watch in a higher position, shall be paid at a rate equal to the rank they occupied for that period.

ISSUE 5 - LONGEVITY

A one time longevity adjustment of two hundred forty-five dollars (\$245.00) shall be paid to each member of the INPBA unit, in addition to contractual longevity payments earned under Article 4, Section 2. Longevity adjustment monies are to be paid no later than thirty (30) days from the date of this AWARD.

ISSUE 6 - MEDICAL EXAMINATION TIME PAYMENT (Article 11, Section 7)

The request of the INPBA is denied because the Panel believes the parties can better address the matter of shift employees having to come in for the examination on their day off.

ISSUE 7 - BC/BS PAYMENT FOR FUTURE RETIREES (Article 15, Section 3)

The request of the INPBA is denied.

ISSUE 8 - INSURANCE FOR ASSOCIATION OFFICERS (Article 17, Section 3)

The following will be added to the present clause:

The financial coverage described herein shall be for employees acting within the scope of authority and in the proper performance of their duties.

ISSUE 9 - DURATION OF AGREEMENT (Article 19)

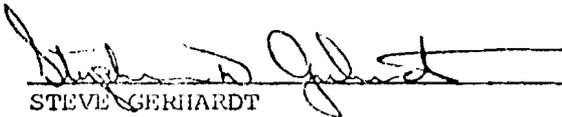
The Panel re-affirms the request of both parties that this AWARD should reflect a one (1) year Agreement, effective 1-1-81 and expiring on 12-30-80.

ISSUE 10 - RULES AND PROCEDURES

Inasmuch as the new Rules and Procedures have not been completed and presented to the Panel, there is no basis for changing this provision.

All other provisions of the Agreement which expired on 12-31-80, and not altered by this AWARD, remain intact.

  
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SAMUEL CUGALJ, CHAIRMAN  
PUBLIC ARBITRATION PANEL

  
\_\_\_\_\_  
STEVE GERHARDT  
EMPLOYEE ORGANIZATION PANEL MEMBER

  
\_\_\_\_\_  
BARRY R. WHITMAN, ESQ.  
EMPLOYER ORGANIZATION PANEL MEMBER

May 1, 1981  
Buffalo, New York

State of New York      ss:  
County of Erie

On this 1<sup>st</sup> day of May 1981 before me personally appeared Samuel Cugalj, to me known and known to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Kathleen A. Mills

Kathleen A. Mills  
Notary Public  
State of New York  
Commission Expires March 30, 1983

State of New York      ss:  
County of Monroe

On this 28<sup>th</sup> day of April 1981 before me personally appeared Steve Gerhardt, to me known and know to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that he executed the same.

John A. Schum

John A. Schum, Notary Public  
State of New York, Monroe County  
Commission Expires March 30, 1983

State of New York      ss:  
County of Monroe

On this 28<sup>th</sup> day of April 1981 before me personally appeared Barry R. Whitman, Esq. to me know and know to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that he executed the same.

[Signature]

[Signature]  
Notary Public  
State of New York  
Commission Expires March 30, 1983

MEMORANDUM OF AGREEMENT

As part of the Public Arbitration Panel's AWARD of May 1, 1981, in the dispute between the Irondequoit Nightstick Club, P.B.A. and the Town of Irondequoit, the following understanding is acknowledged:

A one time longevity adjustment of two hundred forty-five dollars (\$245.00) shall be paid to each member of the INPBA unit, in addition to contractual longevity payments earned under Article 4, Section 2. Longevity adjustment monies are to be paid no later than thirty (30) days from the date of this AWARD.

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For the Irondequoit  
Nightstick, P.B.A.

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For the Town of  
Irondequoit

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Date

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Date

  
\_\_\_\_\_  
For the Public Arbitration Panel

5-1-81  
Date

STATEMENT OF THE CHAIRMAN OF THE PUBLIC ARBITRATION PANEL  
REFLECTING EITHER THE UNANIMOUS OR MAJORITY VIEW OF THE PANEL

ISSUE 1 - DENTAL INSURANCE (Article 15, Section 4)

The INPBA seeks a Dental Program from G.H.I. - Type "N", with full prosthetics and orthodontic coverage; 100% premium paid by the TOWN; and no waiting period for new unit members.

The TOWN prefers a Program with a commercial insurance carrier, which duplicates the "N" plan, but without prosthetics and orthodontic coverage; they would like the employee to share in the monthly premium cost; and a one (1) year waiting period for new unit members.

The G.H.I. Program pays for dental services according to a fixed schedule, which are accepted as payment in full by participating dentists. There are currently seven (7) participating dentists in the greater Rochester area. The employee pays any additional amount if he chooses a non-participating dentist whose fees are greater. The fixed schedule does not account for differences in various geographical regions. On the other hand, commercial companies utilize a "reasonable and customary" payment system which applies to any dentist, local or out of state. A reasonable and customary policy also accounts for general changes in dentist's fees throughout the year, again providing broader coverage than a fixed payment schedule. The TOWN cited a recent survey by the American Dental Association revealing that

fifty-seven percent (57%) of Americans are covered by dental plans written by commercial insurers. They testified that the monthly rates of the latter, locally, are at a minimum twenty-five (25%) less than the INPBA proposal, and the going-in rate is guaranteed for thirty (30) months vis-a-vis fifteen (15) months.

In Monroe County, there are five (5) other law enforcement units with dental programs, and all are more expensive than a commercial carrier's rate. In at least four (4), there also is an employee co-pay requirement.

In the Town, there are two (2) teachers units that have dental coverage, but the School District acts only as the carrier. The District does not contribute to the premium cost. The Town's Highway unit has a reasonable and customary program, without prosthetics or orthodontics. The Town pays the premium cost.

The Panel believes that the INPBA will receive a broader dental program through the Panel's recommendation; the fifty percent (50%) co-pay determination is in line with those in the County that have similar programs; and the one (1) year waiting period to be reasonable, affecting very few, relative to the benefits for the vast majority.

#### ISSUE 2- SALARIES (Article 4, Section 1)

The INPBA sought a twelve percent (12%) salary increase, plus a cost of living allowance; and a fifteen percent (15%) rank differential for

Sergeant and Lieutenants.

The TOWN proposes a seven percent (7%) salary increase, with no cost-of-living allowance; and a two thousand dollar (\$2,000) rank differential for command officers.

The Panel took note that the Consumer Price Index is not sufficiently accurate to warrant using it as an exact measurement of cost of living, but it can indicate a general price movement. The Buffalo Consumer Price Index, which from February 1980 to February 1981 was 9.6%, is more appropriate for Irondequoit's reference, than the U.S. Cities' average Consumer Price Index.

The third (3rd) year patrolman salary ranks the highest of surrounding municipalities 1980 police salaries by two hundred fifteen dollars (\$215.00); Sergeant salaries are second highest at one thousand eighty-seven dollars (\$1,087.00) less than the highest; and lieutenant salaries rank second highest at two thousand six hundred thirty-two dollars (\$2632.00) less than the highest. Recent settlements included the Town of Brighton at eight percent (8%), and the Town of Greece and Webster at ten percent (10%). Their dollar rank differentials reflect a fifteen percent (15%) increase for Sergeant and Lieutenant for Brighton, eleven percent (11%) for both in Greece, and eight percent (8%) for both in Webster.

The Panel took note of the seven and one-tenth percent (7.1%) average annual salary increase for negotiated/arbitrated settlements among town police units statewide through 2-4-81.

The Panel believes its salary determination provides for positive morale and performance, which is in the best interest and welfare of the community as a whole. No specific inability to pay claim was made, nor was specific documentation provided to support such a position. General relevant budgetary data provided to the Panel was reviewed by Panel members as was comparability relative to assessed and full value tax rates.

The impact of the Panel's determination in other areas of this AWARD was also a strong factor in reaching the determination of an eight and one-half percent (8.5%) salary increase.

Relative to rank differential, the Panel accepted the TOWN's position on a two thousand dollar (\$2,000) spread for Sergeant salaries, and increased this by two hundred dollars (\$200.00) for the Lieutenant's salary. Although both differentials were granted in dollars, the percentage works out to ten percent (10%), which is the third highest of four (4) area townships.

ISSUE 3 - SHIFT DIFFERENTIAL

This was denied because the percentage concept requested is not well established among suburban police units and because of cost considerations elsewhere in this AWARD precluded development of this issue.

ISSUE 4 - OUT OF TITLE PAY (Article 4, Section 6)

The Panel granted this request because of its broad acceptability among police units in the County, and because of its inherent equitability. To

prevent the Town from getting into excessive record keeping, however, the Panel limited payment to when a minimum of eight (8) hours is worked in the higher position when so designated. From past experience, it is believed that out of title pay would not occur with any degree of regularity to have a significant cost impact on the TOWN, yet would be highly motivating and rewarding to the employee when it did occur.

ISSUE 5 - LONGEVITY

The INPBA requested a change in the current method of paying longevity from a dollar to a percentage schedule. There was no clear trend in the County for doing so. While the Panel rejected the latter concept, it did feel that a one-time longevity adjustment would not only be apropos, but would be generally acceptable. On that basis, the adjustment was granted. Since it was a one-time adjustment, the Panel felt this benefit would be best administered through a Memorandum of Agreement.

ISSUE 6 - MEDICAL EXAM PAYMENT (Article 11, Section 7)

This request centered around the mandatory requirement of INPBA members checking with the TOWN'S physician after an absence due to illness. The INPBA particularly feels this is inequitable for shift employees, who are required to report on their day off. While the Panel denied this request, it was felt that the parties should address the matter directly, in order to explore ways of making the medical check more equitable.

ISSUE 7 - BC/BS FOR FUTURE RETIREES (Article 15, Section 3)

The INPBA requested consideration in having the TOWN contribute towards the health insurance premium for retirees, up to age 55. At 55, the Agreement requires the TOWN to make a contribution. Although many police units in the County and the local teacher's unit receive the benefit being requested, the TOWN'S resources are not endless, and the Panel believes that its monetary outlay in other areas of this AWARD are more advantageously beneficial to the entire unit than a monetary outlay in this area.

ISSUE 8 - INSURANCE FOR ASSOCIATION OFFICERS (Article 17, Section 3)

The TOWN sought to delete this benefit in an overall local administration effort to reduce the TOWN'S liability exposure and insurance costs. The main concern was that the present language in the Agreement covered INPBA officials on Association business, activity which the TOWN has no jurisdiction over or opportunity to voice its opinion on. The Panel agreed to keep the present language, and add clarifying language that limited liability to circumstances where employees act under proper authority and in the discharge of their duties.

ISSUE 9 - DURATION (Article 19)

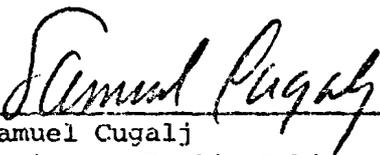
Both the INPBA and the TOWN requested a one (1) year Agreement, and the Panel had a little choice but to re-affirm their mutual choice.

ISSUE 10 - RULES AND REGULATIONS

Since the new Rules and Regulations were not completed and presented to the Panel, it was believed best not to change this provision.

The Chairman would like to publicly acknowledge the professionalism and completeness of the presentations, exhibits, briefs, etc. submitted by Gary Von Son, Esq. for the INPBA, and Peter G. Smith, Esq., on behalf of the TOWN. The Chairman also acknowledges the fine effort put forth by the two Panel members, Steve Gerhardt and Barry R. Whitman, Esq., the parties can rest assure that their interests were fully and vigorously represented.

May 1, 1981  
Buffalo, New York

  
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Samuel Cugalj  
Chairman, Public Arbitration Panel