

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

**In the Matter of the Compulsory Interest
Arbitration between**

OPINION & AWARD

CITY OF NIAGARA FALLS POLICE CLUB INC

-and-

**CITY OF NIAGARA FALLS
IA2009-021; M2008-312**

Before Interest Arbitration Panel:

Thomas N. Rinaldo, Esq., Chairman

Richard J. Rotella, Esq., Public Employer Member

Edward W. Guzdek, Employee Organization Member

The New York State Public Employment Relations Board, pursuant to the New York Civil Service Law, Section 209.4, designated the Chairperson and the Public Employer and Employee Organization Panel Members on December 2, 2009, in this proceeding.

Appearing on behalf of the City of Niagara Falls ("City") was Deputy Corporation Counsel Christopher Mazur, Esq. and on behalf of the Niagara Falls Police Club was attorney William E. Grande.

BACKGROUND

The City of Niagara Falls, New York, and the City of Niagara Falls Police Club are parties to a collective bargaining agreement from January 1, 1997 through December 31, 1999. Later, the parties agreed to a written Memorandum of Agreement covering the period of January 1, 2000 to December 31, 2003. The terms and conditions of the Agreement were once again extended and modified through December 31, 2007 by an additional Memorandum of Agreement. The Parties are and have been without an Agreement since the expiration of that Memorandum.

Representatives for both parties met in an attempt to reach a mutually acceptable agreement with respect to the terms and conditions of employment. More specifically, the parties met on August 7, 2008, August 21, 2008, September 4, 2008, September 18, 2008, November 18, 2008, December 1, 2008 and December 19, 2008.

As the parties could not reach agreement a Declaration of Impasse was filed. The New York State Public Employment Relations Board appointed a mediator and a mediation meeting was conducted May 4, 2009. The parties were, however, unable to reach an agreement and subsequently a petitioner for compulsory interest arbitration was filed on October 2, 2009.

UNION PROPOSALS

1. **Term:** Four (4) year contract beginning January 1, 2008 and ending December 31, 2011.
2. **Salary Increase:**

2008 (Jan.)	4%
2009 (Jan.)	4%
2010 (Jan.)	4%
2011 (Jan.)	4%
3. Add \$2,000 to base pay.
4. Minimum manpower level - Patrol Division - nine (9) patrol vehicles are to be in service (manned) for all shifts (A, B, C). From Memorial Day until Labor Day of each year, eleven (11) patrol vehicles are to be in service (manned) for all shifts (A, B, C). The City agrees to keep the number of sworn officers at 120 and will hire within three (3) months of a vacancy.
5. Waiver to City Ordinance "Residency for City Employees" - an officer does not have to live in the City of Niagara Falls after ten (10) years of service from the date of hire.
6. **Section 5.10.B** - Equalization of Time Off: Change language in "B" - E Days may be used any time through the year at the request of the officer as long as the request falls in the guidelines of the amount of officers allowed off at any given time. The officer may use any amount of E-Days during the year as long as the amount does not exceed seventeen (17) days. In the event the officer has terminated employment and has used more days than earned, the amount over the earned days will be deducted from the officer's separation "Buy Out".
7. **Section 5.11** - Shift Compensation: Add C - All members assigned to CID and NID to receive two (2) hours pay (straight time pay) per pay period. Not to exceed 52 hours per year.
8. **Section 6.02** - Shift Differential: Shift differential shall be paid at the rate of \$1.00 per hour for all hours worked between 4:00 pm and 8:00 am.
9. Section 6.09 - On Call Compensation: Eliminate "uniformed" - on call for all member of Police Club.
10. **Section 6.13.1** - Additional Compensation: Change amount to \$1,000.00.
Add the following:
 - F. Booking Officer
 - G. CID Property/Evidence Control Officer
 - H. Computer Officer
 - I. Warrant Service Officers
11. **Section 6.13.2** - Additional Compensation: Change amount from \$750.00 to \$1,000.00. Change amount from five percent (5%) to ten percent (10%). Add the

following: Crime Scene Unit, Domestic Violence unit, Computer Forensic Unit and any other Investigative Position created.

12. **Section 6.13.4** - Additional Compensation: Add to (4) - (A) Officer assigned to any 'Ride Along Observer' will be paid two (2) hours training pay (Straight Time Pay).
13. **Section 6.13**- Additional Compensation: Add (7) Education Incentive Pay: \$250.00 Associates Degree, \$500.00 Bachelors Degree, \$750.00 Masters Degree.
14. **Section 16. 14** - Uniform Allowance: Uniform Allowance \$1000.00 Patrol, \$500.00 Police Dispatchers and \$500.00 Communication Technicians.
15. **Section 6.16** - Police Dispatcher: Any member assigned to train will be paid two (2) hours (Straight Pay) pershift.
16. **Section 6.16** - Police Dispatcher: Any member scheduled to return to work with eight (8) hours or less off from the last previous hours worked will be paid at Time & One Half Pay Rate for the returning shift.
17. **Section 7.01**- Retirement Plans: Tier-Two Equalization Retirement Plan
18. **Section 9.01**- Holidays: Add Martin Luther King Jr. Holiday
19. **Section 9.03**- Accumulation of Vacation: Increase 20 weeks.
20. **Section 9.05** - Sick Leave: Change five (5) days to twelve (12) days (Physician letter) change "One Day" to twelve (12) hours. If member does not use a sick day in a six-month consecutive period - add eight (8) hours compensation.
21. **Section 9.08** - Payment of Sick Leave Upon Separation Fom Service: Sick Time Buy Out - 75%
22. **Section 9.10** - Personal Leave: Increase Carry Over to five (5) days, maximum ten (10) days.
23. **Section 9.12** - Bereavement Leave: Add Grandparent to Immediate Family.
24. **Section 11.01** - Issued Terms: Update to 'Issued Uniformed Items'.
25. Add all new Agreements and past Arbitration Awards to contract.

CITY PROPOSALS

TERMS AND CONDITIONS RAISED DURING NEGOTIATIONS

1. **Term (Section 12.07)**: 1/1/08 through 12/31/11.
2. **Base Pay (Section 6.01)**: 2008 - \$500.00 (not on base); 2009 - \$500.00 (not on base); 2010 - 2%, and; 2011 - 2%.
3. **Negotiating Committee (Section 3.04)**: Amend Language to limit the number of members on the Negotiating Committee to four (4).
4. **Out-of-Rank Pay (Section 6.12)**: Delete entire section from contract.
5. **Payment (Section 6.15)**: Delete language providing officers with option of direct deposit of paychecks; replace with language directing that all payments made to

- officers pursuant to the collective bargaining agreement be made through direct deposit. Also, any payment of additional compensation or premium pay will be made between April 1, and May 31 each year.
6. **Standards and Principles (Section 8.03)**: Amend language so that grievances must be presented within 14 calendar days from the day the cause of the grievance occurs, except when the nature of the grievance is not readily known; grievance must then be presented within 180 days from the date the grievance occurred. Also, any grievance submitted to Third Stage is deemed dismissed if it is not withdrawn, resolved or sent to arbitration within one (1) year of the submission date to this stage.
 7. **Health Insurance (Section 12.1)**: Proposed amendments to be submitted to the Healthcare Committee.
 8. **New Employees** (whose date of hire follows execution of this agreement):
 - Vacation**: After ten (10) years or completion of five hundred twenty (520) weeks of service, vacation shall be capped at four (4) weeks.
 - Sick Leave**: One-half (½) day sick leave credit per full month of service with the right to accumulate to a maximum of ninety (90) days. All unused sick days up to the maximum allowed will be bought back at twenty percent (20%) of their value at either retirement or termination of employment.
 - Personal Leave**: Eliminated from agreement.
 - Health Insurance**: Twenty percent (20%) co-pay (from first day of coverage); cap opt-out payment at \$1,500.00.
 9. **GML 207-c Program (New)**: City proposal currently in development and shall include formal transitional duty policy; item to be submitted to Union in coming weeks.
 10. **Amendment**: the City reserves the right to amend, delete or otherwise modify this docket at any time during the negotiation process.

PANEL DETERMINATIONS

The Panel is mindful of the three public arbitration awards issued before this panel met in executive session, two were issued by Arbitrator Michael S. Lewandowski one involved the Niagara Falls Uniformed Firefighters Association dated August 15, 2010, and the other involved the Niagra Falls Fire Department Officers Association dated May 25,

2010. A third award was issued by Arbitrator Ronald E. Kowalski dated April 29, 2010 involving the Niagara Falls Police Captains' and Lieutenants' Association. Each Arbitrator held hearings and was given extensive evidence to comply with statutory criteria specified Section 209 of the Civil Service Law and Section 205.4 of PERB's Rules and Regulations and each Arbitrator issued a well reasoned and fair decision.

This Panel was originally scheduled to convene a hearing on June 4, 2010, but the hearing was adjourned by the City because the Union in October of 2009, filed an improper practice charge concerning the City's proposal to change health insurance provisions for new employees. In light of the filing of the improper practice charge the City refused to conduct hearings until the State of New York Public Employment Relations Board resolved this issue. In the meantime the three other public interest arbitration panels met conducted hearings and after carefully reviewing the evidence and considering the statutory criteria mandated by Section 209.4 of the Civil Service Law issued their awards.

The Chairman of this Panel then arranged for the Parties to meet and discuss the status of our dispute. A meeting was held on November 23, 2010, with all parties present and a discussion concerning the outstanding issues was discussed. The Union at that time indicated that they were willing to withdraw their improper practice charge after the city reassured them they would get the same economic relief the other units received in their public arbitration awards. The Union offered a willingness to agree to a three year award. The City could not agree but said they would take it under consideration once the improper charge was

resolved. The Union then consented to withdraw said improper practice charge. Dates were then set for the Panel to meet in executive session and at the first session held on December 6, 2010, the City advised the panel that we could issue a three year contract.

This Opinion and Award constitutes the results of the Panel's consideration of the evidence presented within the context of the criteria set forth in Section 209.4 of the Civil Service Law. Before issuing this Opinion and the Award, the Panel met in executive session on November 23 and December 8, 2010 and engaged in substantial deliberations.

Specifically, it is noted that the evidence presented by the Parties and the Authority was considered against the criteria set forth in Section 209.4 of the Civil Service Law, including, but not limited to a comparison of wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions; the interest and welfare of the public and the financial ability of the public employer to pay; the peculiarities in regard to other professions such as hazards, educational qualifications, training and skills; and the terms of collective agreements negotiated between the Parties in the past providing for compensation and fringe benefits.

This Panel finds that a wage increase must be sensitive to both the City's substantial fiscal difficulties and the right of Union members to receive fair compensation consistent with the other awards issued prior to this Panel convening. This award except for the third year is substantially identical to the awards issued by Arbitrator Michael S. Lewandowski for the Uniformed Firefighters Association and their Officers and similar to Arbitrator Ronald

Kowalski's award for the Police Captains' and Lieutenants'.

Term of the Agreement

The Parties, through their authorized representatives, have agreed and expressly given their consent and authorization to the Panel for a Three Year Award for the period covering January 1, 2008 through December 31, 2010. It was discussed by the Parties that a two year agreement which is required by the New York State Civil Service Law would serve neither parties best interest. A two year agreement would only result in an agreement through 2009 and would not give the Panel the opportunity to award fair compensation to these officers and also provide some cost savings for the City. The Parties therefore determined that a three year agreement would best serve their interests and worked with Panel members to achieve a fair and equitable resolution to this dispute.

WAGES AND OTHER ECONOMIC BENEFITS

After carefully reviewing the three prior Public Interest Arbitration awards and after being granted the authority to issue a third year this Panel after careful and extensive deliberation unanimously issues the following award:

1. **Effective January 1, 2008- 3 %**
2. **Effective January 1, 2009- 3 %**
3. **Effective July 1, 2010- 1 ½ %**
4. **Effective December 31, 2010- 1 ½%**

Longevities

Effective January 1, 2008 Increase steps by:

- \$250 at 15 year Step
- \$300 at 20 year Step
- \$350 at 25 year Step
- \$450 at 30 year Step

Uniform Allowances

~~Effective January 1, 2008 increase uniform allowance by \$ 500~~

Health Insurance for New Hires

Any Police Officer hired after the execution of this award shall Contribute five (5%) percent towards their health insurance premium. This contribution shall begin three months after the date of their hire but in no event later than July 1, 2011.

Award on Remaining Issues

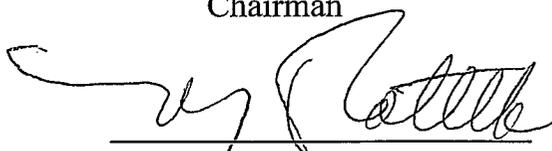
Any items other than those specifically addressed by this Award remain "status quo" as they existed in the Parties' Agreement that ended December 31, 2007.



THOMAS N. RINALDO
Chairman

12/13/2010
Date

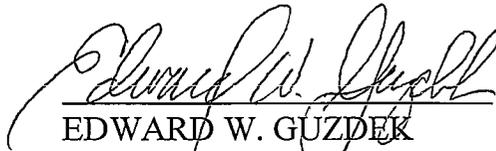
I concur



RICHARD J. ROTELLA, ESQ.
Public Employer Panel Member

12/13/2010
Date

I concur



EDWARD W. GUZDEK
Employee Organization Panel Member

12/13/2010
Date