

AMERICAN ARBITRATION ASSOCIATION

CITY OF WOONSOCKET

Case No. 11 390 01400 08

- and -

ARBITRATION DECISION

INTERNATIONAL BROTHERHOOD of
POLICE OFFICERS, LOCAL 404

Re: Interest Arbitrations –
Four Contracts (2007-2011)

Board of Arbitration: Lawrence E. Katz, Esq., Chairperson
Joseph J. Rodio, Esq., Employer Designee
Ralph W. Ezovski, Union Designee

Hearing: Warwick, R.I., April 7, 2009

Board Meeting: Warwick, R.I., April 7, 2009

Appearances: Christopher Lambert, Esq., Rodio & Ursillo,
for the Employer

Gary T. Gentile, Esq., General Counsel, IBPO,
for the Union

OPINION OF CHAIRMAN

BACKGROUND

This consolidated interest arbitration proceeding involves four separate contract years – (1) 2007-08; (2) 2008-09; (3) 2009-10; and (4) 2010-11.

This is also the third time in three years that the parties have brought their contractual issues to arbitration. The two prior decisions set forth much of the relevant background information, which we will briefly recap.

The parties had been able to negotiate a three-year collective bargaining agreement running from July 1, 2002 to June 30, 2005 (Jt. Ex. 1). When they were unable to reach agreement as to the terms of a successor agreement, the matter proceeded to interest arbitration. In April, 2007, a Board of Arbitration issued a Decision and Award which established the terms of a new one-year contract, running from July 1, 2005 to June 30, 2006. *IBPO, Local 404 & City of Woonsocket, A.A.A. Case No. 11-390-01049-05* (Altman, Chairperson) (Jt. Ex. 3).

After the issuance of the Award of the "Altman panel" the parties attempted to negotiate a new agreement; however, once again they were unable to do so and the matter proceeded to interest arbitration. In September, 2008, a Board of Arbitration issued a Decision and Award which established the terms of a new one-year contract, running from July 1, 2006 to June 30, 2007. *City of Woonsocket & IBPO, Local 404, A.A.A. Case No. 11 390 02627 07* (Katz, Chairperson) (Jt. Ex. 7).

Thereafter (or in some cases, previously), the Union served upon the Employer four separate requests to bargain one-year agreements for the period from 2007-2011.¹ Once again, the parties were unable to agree upon any successor agreements. As a result, interest arbitration was sought pursuant to the statute (RIGL §28-9.2-7 *et seq.*). Rather than conducting four

¹ These requests were dated December 5, 2006, October 2, 2007, December 9, 2008 and March 20, 2009, respectively (Un. Exs. 10-13).

separate proceedings, the parties agreed to consolidate all four years in the instant proceeding (with separate Awards for each contract year). The above-noted Board of Arbitration was designated and the matter has now proceeded to hearing, as indicated above.

Before we proceed to consider each of the outstanding issues on an individualized basis, we may consider some more generalized evidence as to the City's economic situation during the course of major recession now being experienced throughout the country. That recession hit Rhode Island relatively early and with a relatively greater degree of magnitude than elsewhere in the country.

During the current fiscal year ('08-'09), which represents the second of the four years covered by this proceeding, the City has faced a major deficit due to declining revenues. The City's budget for the f.y. was based upon projected revenue of c. \$113.8 million.² In late February, 2009, based upon actual receipts as well as projections for the remaining four or so months of the fiscal year, the City's c.p.a. indicated in a report that there would be a shortfall in revenues in the amount of some \$4.3 million (c. 3.8% of the budgeted revenues).³ Most of this decrease was due to the loss of c. \$3.3 million in revenue-sharing from the State.

Although, in some instances, the City was able to cut expenditures in some areas, in other areas it was experiencing increased costs, beyond the budgeted amounts. On an overall basis, the cpa's report indicated that projected expenditures exceeded the budgeted amounts by c. \$772,000.

² Jt. Ex. 6, p. 3.

³ Er. Ex. 30.

When the decreased revenues and increased expenditures are both considered, the overall negative variance amounts to c. \$5.1 million. Based upon the City's pre-existing fund balances as of the start of the fiscal year (July 1, 2008), the decreased revenues and increased expenditures were projected to lead to a deficit of some \$4.7 million by the end of the f.y. (June 30, 2009).⁴

The significant downturn in the City's economic position has resulted in a number of the outstanding disagreements between the parties. Although the Union has persisted in its role as an advocate and protector of employee rights, it also recognizes that there is some legitimate need to address the fiscal concerns of the City. Thus, as will be noted in some of the ensuing discussions of the individual issues, the Union has, in some instances, accepted the concept of providing temporary relief to the City during the 2008-09 and 2009-10 fiscal years. However, it would seek full adherence to the pre-existing contractual requirements thereafter (*i.e.*, during the fourth year at issue herein – 2010-11).

I. "MANNING" / "NO LAYOFFS"

At present, the contract does not include a "no layoff" provision. However, the subjects of "manning" and/or vacancy-filling are addressed in several different portions of the collective bargaining agreement (the 2002-05 agreement) – including §6.4, §7.8 and an appended Memorandum of Agreement (MOA), dated November 6, 2002, addressing certain Captain positions. The latter MOA includes a commitment to "keep ... the total number of

⁴ Er. Ex. 30.

officers at 101 including the Chief and Deputy Chief."⁵

The City made manning proposals, effective as of the second year involved herein (2008-09), whereby it would be afforded relief from the above-noted requirements through the end of the third year at issue herein (2009-10). Under this proposal, the requirements of those provisions would be suspended until June 30, 2010, as long as the Department was operated with 88 or more members during Year 2, and 91 or more members during Year 3 (as opposed to the prior figure of 101). The suspension of these provisions would end (or be "sunseted") as of July 1, 2010, at which point the pre-existing provisions would be restored.

The Union has countered with a no-layoff proposal (Un. Ex. 14A). This would not prevent the City from achieving savings when positions are voluntarily vacated (*e.g.*, by retirement). But it would prevent further savings through involuntary layoffs. The provision would be included in the latter three contracts (through June 30, 2011).⁶

Decision – in view of the fiscal realities, the Union appears to recognize that a suspension of the manning requirements, coupled with attrition, may enable the City to achieve some of the savings that it needs (by leaving positions vacant), while, at the same time, avoiding the necessity of layoffs.

⁵ Although the positions of Chief and Deputy Chief are not within the bargaining unit, the parties agreed that these positions would be counted in determining whether the "manning" figure (101) was satisfied.

⁶ The Union made one other proposal to change another unrelated portion of Article VI, involving so-called "rank-skipping" during the promotional process. The Union proposed to eliminate the language in Article 6.6 which, in some instances, permits a promoted employee to skip an intermediate rank. The City has not objected to that proposal. Thus, it should be granted and it will be included in the contracts and made effective with respect to any competitive examinations administered after the issuance of this Award.

In my view, both of these proposals should be adopted. The lowering of the manning requirement to 88 and then 91 will enable the City to achieve some savings over the next two years by leaving positions vacant when officers retire or leave the Department. Given the savings realized thereby, the City should not find it necessary to further reduce the staffing by involuntary layoffs.

The evidence demonstrated the direct savings involved (*i.e.*, the wages of the vacant positions). But there are other indirect savings, including the reductions in health insurance and other fringe benefits.

II. WAGES

The issue of wages was considered in the two prior interest arbitration decisions. The information set forth in those two decisions will not be reiterated herein. However, we may merely note that over from 2002 to 2007, under the terms of the negotiated agreement for 2002-05, as well as the two interest arbitration awards for 2005-06 and 2006-07, the bargaining unit police officers received pay increases of 3%-4% each year.

With respect to the four contract years at issue herein, the Union has sought increases of 4%, 3%, 3% and 5%, respectively. In contrast, the City has suggested that the first year (which has already ended) be left where it was – with no pay increase. It then proposes pay decreases of 5% during years 2 and 3. During year 4, it proposes no increase or decrease in the pay.

Decision – it is my conclusion that the following pay increases, if any, should be provided during the four contract years covered by this proceeding:

| | |
|---------|--------------------------|
| 2007-08 | 3% |
| 2008-09 | 0% |
| 2009-10 | 0% |
| 2010-11 | 2.75% - 4.75% (reopener) |

The current economic downturn did not prevent employees in other City bargaining units from receiving pay increases for the 2007-08 contract year. The Police Officers in this bargaining unit should also receive a pay increase for that year. The figure of 3% has been shown to be appropriate.

In the normal course of events, the payment of the retroactive pay differential would become due upon the issuance of the Award. Here, however, since the increase goes back almost two years, a significant amount of back pay would become due (approximately one year and ten months' worth). Given the major shortfall in revenues during the current fiscal year, it would be difficult for the City to make the retroactive payments on a lump-sum basis when this Award is issued.

In these circumstances, it appears appropriate to defer the retroactive payments until the upcoming 2009-10 fiscal year. At the same time, however, the 3% increase will be included in the employees' paychecks on a current basis, commencing on the first Monday after the date of this Award. The back pay for the first two years (July 1, 2007 to June 30, 2009) will be provided in three equal instalments of one-third of the amount due, which will be paid on:

August 15, 2009,
November 15, 2009, and
February 15, 2010

The current economic problems do justify a wage freeze for the current year ('08-'09) and next year ('09-'10). During the fourth year, in view of the prior freezes, the employees should return to positive ground. The contract will be reopened for the negotiation of a wage increase within the specified range (2.75% - 4.75%).

III. HEALTH INSURANCE / COORDINATION OF BENEFITS / PLAN DESIGN

During the course of the 2005-06 interest arbitration, the City had made several proposals in order to reduce its ever-escalating health insurance costs. It proposed a change in the array of plans being offered, with the more expensive plan being eliminated. It proposed an employee contribution to the premium costs, in the amount of 1% of their salary. It also sought increases in certain co-payments for drugs and health care visits (e.r., office visits, etc.).

The Altman Panel allowed the more expensive plan to be eliminated. It did not grant the requested employee premium contribution of 1% of salary. But it did grant increases in the employee co-payments for prescription drugs (a sliding scale based on the tier/category of the drug), as well as those for various types of medical visits (including a \$100 co-pay for e.r. visits).

The issue of health insurance was not involved in the 2006-07 interest arbitration.

In the present proceeding, commencing with the first year at issue (2007-08), the City has once again made a proposal to have active employees share in the payment of the premiums for their health insurance. For year one, the proposed contribution would be 20% of the premium/working rate. For the next three years, commencing with 2008-09, the employee contribu-

tion would increase to 25%. As in the 2005-06 proceeding, the Union has indicated that it is opposed to any such changes in the health insurance premium payments.

With respect to health insurance for retirees, the City has proposed adding a new "coordination of benefits" clause to the contract, whereby retirees eligible for health insurance from another source (such as their own post-retirement employment or the employment of their spouse) would be required to forego their City-provided coverage (however, the benefit would be reinstated if they lost their alternative source of coverage).

This proposal expands upon a "temporary suspension" clause that is already included in the final sentence of Article 4.5 of the collective bargaining agreement – indicating that the retiree's health insurance coverage "may be temporarily suspended by the City in avoidance of dual coverage if equal or greater benefits are provided through any other means to said retiree."⁷

The Union does not object to such a coordination of benefits, as long as the alternative plan that becomes available to the retiree is substantially similar to the City-provided plan – including such plan features as the choice of particular doctors (obviously, subscribers would be reluctant to find new doctors simply because their existing doctors do not happen to be on the panel of the alternative plan).

Decision – in view of the current economic climate, as well as the treatment afforded to police officers in other comparable communities, it is

⁷ There is a similar suspension of payments clause at the end of Article 4.3, dealing with health insurance for widows and children of deceased officers. Although it is not clear whether the City's proposal applied to this group of individuals, for purposes of consistency, the Union has no objection to the new coordination of benefits language being the same in both cases.

altogether reasonable to expect the Woonsocket police officers to make some contribution towards the cost of their health insurance premiums (sometimes referred to as "working rates"). At this point, however, rather than make the relatively more drastic change to a percentage of their pay, it seems appropriate to require fixed weekly payments, in the form of a blended rate, starting at \$25 per week this year (2008-09), commencing on the Monday after the issuance date of the Award.⁸ This requirement shall then be continued in the contracts for years 3 and 4, with the amount being increased to \$28 per week.

The evidence indicated that this change will produce savings of more than \$130,000 per year. This will afford the City some relief from the costs of health insurance, without imposing an undue financial burden upon the employees (who, after all, are already bearing the burden of two years without pay increases, as indicated in Section II, *above*).

The current "coordination of benefits" language for retirees (and widows/children) is somewhat vague and does not yet appear to have been invoked. A new provision should be adopted, along the lines proposed by the City, with the reference to the alternative coverage being changed to the following phrase:

"substantially equivalent medical insurance."

The City has also agreed, in return for this new version of the "suspension" provision, that it will hold the covered individuals harmless in those

⁸ The parties recognize that certain proposed State legislation, if passed, may require employees to contribute a percentage of their pay. They recognize that any such statutorily-required employee payments may supercede those otherwise required under the collective bargaining agreement. Thus, they may be obliged to adjust the employee payments, consistent with any such law that may be enacted.

instances where their alternative coverage results in adverse treatment or changes that increase their out-of-pocket costs (including drug costs and the cost of visits to pre-existing doctors, who may not be included on the panel of the alternate health insurance plan). However, the details for providing that reimbursement have not yet been determined.

The new language will take effect on July 1, 2009, with respect to employees who retire on and after that date, or widows/children who become eligible for coverage after that date. However, before any changes are implemented pursuant thereto, the parties will agree upon a method to provide reimbursement to the covered individuals for any increased costs (as discussed in the prior paragraph).

Finally, in accordance with new statutory provisions that prohibit the designation of a particular health insurance plan or carrier, the Union has made a proposal to delete such references from Article 4.2 and to replace them with its language on Plan Design, which sets forth the designated elements of the health insurance plan (Un. Ex. 14B). This proposal is granted.

IV. OTHER COST SAVINGS – HOLIDAY PAY / CLEANING ALLOWANCE

In order to achieve further savings, the parties have considered the effects of foregoing two holiday payments during the current f.y. ('08-'09) – which would produce a saving of c. \$43,000; and foregoing the cleaning allowance during the current f.y. and the next f.y. – which would produce approximate savings of c. \$65,000 each year.

Decision – in view of the current economic climate, these two temporary changes should be adopted; however, the benefits will be subject to

reinstatement, if, as may occur, additional outside funding is received (such as the restoration of some portion of the State Revenue Sharing, or Federal grants, including those under the economic stimulus program).

V. PRORATED LONGEVITY PAY FOR YEAR OF RETIREMENT

Under Article 3.1(d) of the current collective bargaining agreement, longevity has been paid to employees on a calendar year basis in one lump-sum payment, issued on December 1. That provision further indicated that officers who retired before December 1 were not entitled to any longevity payment. The parties recognize that it is desirable for would-be retirees to receive a pro-rated payment, without regard to whether their retirement takes effect earlier in the year.

The City has incorporated the changes in one of its proposals, whereby the retirees will receive a prorated payment during the year of retirement. Also, that portion of the subsequent definition of base pay, in sub-par. (b), which involves longevity pay, will be amended to reflect the pro-rata payment (rather than the amount that would have been paid, as in the present definition). These amendments will be included in the year 2 contract ('08-'09).

Newton, Mass.
May 1, 2009



LAWRENCE E. KATZ, Esq.
Chairperson

American Arbitration Association

VOLUNTARY LABOR ARBITRATION TRIBUNAL

In the Matter of the Interest Arbitration between:

CITY OF WOONSOCKET

- and -

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, Local 404

CASE NUMBER: 11 390 01400 08 - year 1 (2007-08)

AWARD OF INTEREST ARBITRATORS

THE UNDERSIGNED ARBITRATOR(S), having been designated in accordance with the Rhode Island Municipal Police Arbitration Act, and having been duly sworn and having duly heard the proofs and allegations of the Parties, AWARD as follows:

The terms of the 2007-08 collective bargaining agreement between the parties shall include the following:

(1) The un-amended portions of the 2002-05 collective bargaining agreement, including the signed memoranda of agreement included therein.

(2) The applicable amendments effectuated by the two prior interest arbitration awards:


(a) for 2005-06, per the "Altman panel" (April 27, 2007);

(b) for 2006-07, per the "Katz panel" (September 22, 2008).

(3) The following change for 2007-08:

(a) A pay increase of 3%, effective as of July 1, 2007, albeit with payment to be deferred, as indicated in Section II of the annexed Decision.

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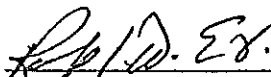


Lawrence E. Katz, Esq., Chairperson

May 1, 2009



Joseph J. Rodio, Esq., *April 29th, 2009*
Concurring as to: *The Award except as to*
Dissenting as to: *3a*



Ralph Ezovski, *April 29, 2009*
Concurring as to: *award*
~~Dissenting as to:~~

American Arbitration Association

VOLUNTARY LABOR ARBITRATION TRIBUNAL

In the Matter of the Interest Arbitration between:

CITY OF WOONSOCKET

- and -

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, Local 404

CASE NUMBER: 11 390 01400 08 - year 2 (2008-09)

AWARD OF INTEREST ARBITRATORS

THE UNDERSIGNED ARBITRATOR(S), having been designated in accordance with the Rhode Island Municipal Police Arbitration Act, and having been duly sworn and having duly heard the proofs and allegations of the Parties, AWARD as follows:

The terms of the 2008-09 collective bargaining agreement between the parties shall include the following:

(1) The applicable portions of the 2002-05 collective bargaining agreement and the three prior interest arbitration awards, as set forth in the concurrent Award for "year 1" (2007-08) in this proceeding.

(2) The following changes for 2008-09:

(a) The manning and vacancy-filling requirements will be temporarily suspended and/or amended to permit the Department to be operated with 88 or more members.

(b) Concurrent with the change effected in ¶(2)(a), there will be a "no layoff" clause in the form proposed by the Union.

(c) Article 6.6. will be amended to delete the provision that now permits promoted employees to skip an intermediate rank. This will be effective as to any competitive examinations administered after the date of this Award.

(d) There will be no pay increase for this year.

(e) The payment of the pay increase set forth in ¶3(a) of the Year 1 Award, shall commence on the Monday after the date of this Award.

(f) Commencing on the Monday after the date of this Award active employees will be required to make a contribution to their health insurance premiums in the amount of \$25 per week (blended rate).

(g) Article 4.2 will be amended to reflect the Plan Design set forth in the Union's proposal.


(h) The holiday pay provision may be temporarily suspended for two holidays, as indicated in Section IV of the annexed Decision.

(i) The cleaning allowance provision may be temporarily suspended, as indicated in Section IV of the annexed Decision.

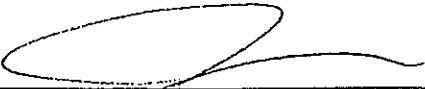
(j) As indicated in Section IV of the annexed Decision, in the event funding should be restored, the suspended holiday pay and cleaning allowance benefits referenced in ¶¶(h) and (i), *above*, shall also be restored in an amount proportional to the additional funding received.

(k) Article 3.1(d) will be amended to provide for pro-rated longevity pay during the year that an employee retires, as indicated in Section V of the annexed Decision.

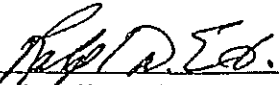
✦ ✦ ✦



Lawrence E. Katz, Esq., Chairperson *may 1*
April, 2009



Joseph J. Rodio, Esq., *29th* April, 2009
Concurring as to: *The award*
~~Dissenting as to:~~



Ralph Ezovski, *April 29* April, 2009
Concurring as to:
Dissenting as to: *2D*

American Arbitration Association

VOLUNTARY LABOR ARBITRATION TRIBUNAL

In the Matter of the Interest Arbitration between:

CITY OF WOONSOCKET

- and -

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, Local 404

CASE NUMBER: 11 390 01400 08 - year 3 (2009-10)

AWARD OF INTEREST ARBITRATORS

THE UNDERSIGNED ARBITRATOR(S), having been designated in accordance with the Rhode Island Municipal Police Arbitration Act, and having been duly sworn and having duly heard the proofs and allegations of the Parties, AWARD as follows:

The terms of the 2009-10 collective bargaining agreement between the parties shall include the following:

(1) The applicable portions of the 2002-05 collective bargaining agreement and the four prior interest arbitration awards, as set forth in the concurrent Award for "year 2" (2008-09) in this proceeding.

(2) The following changes for 2009-10:

(a) The manning and vacancy-filling requirements will be temporarily suspended and/or amended to permit the Department to be operated with 91 or more members.

(b) The temporary suspension of some holiday payments, as set forth in ¶(2)(g) of the Year 2 Award, shall cease.

(c) The "suspension" language of Articles 4.3 and 4.5 will be amended in accordance with the City's proposal on "coordination of benefits" so that covered individuals may be required to accept substantially equivalent medical insurance that is available to them through other sources. The amended provision will only apply to active members who retire on or after July 1, 2009. As indicated in Section III of the annexed Decision, this change will not be implemented until the parties agree upon a method to provide reimbursement to the covered indivi-

duals for any increased costs incurred by them as a result of the changeover to the alternative coverage.

(d) There will be no pay increase for this year.

(e) The payment of the retroactive portion of the pay increase set forth in ¶3(a) of the Year 1 Award, shall be made in three equal instalments on August 15, 2009, November 15, 2009 and February 15, 2010.

(f) Active employees will be required to make a contribution to their health insurance premiums in the amount of \$28 per week (blended rate).

◆ ◆ ◆



Lawrence E. Katz, Esq., Chairperson

May 1, 2009



Joseph J. Rodio, Esq., *29th April*, 2009

Concurring as to:

~~Dissenting as to:~~



Ralph Ezovski, *April 29*, 2009

Concurring as to:

Dissenting as to: 2D

American Arbitration Association

VOLUNTARY LABOR ARBITRATION TRIBUNAL

In the Matter of the Interest Arbitration between:

CITY OF WOONSOCKET

- and -

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, Local 404

CASE NUMBER: 11 390 01400 08 - year 4 (2010-11)

AWARD OF INTEREST ARBITRATORS

THE UNDERSIGNED ARBITRATOR(S), having been designated in accordance with the Rhode Island Municipal Police Arbitration Act, and having been duly sworn and having duly heard the proofs and allegations of the Parties, AWARD as follows:

The terms of the 2010-11 collective bargaining agreement between the parties shall include the following:

(1) The applicable portions of the 2002-05 collective bargaining agreement and the five prior interest arbitration awards, as set forth in the concurrent Award for "year 3" (2009-10) in this proceeding.

(2) The following changes for 2010-11:

(a) The temporary changes with respect to manning, vacancy-filling and layoffs, as set forth in ¶(2)(a) and (b) of the Year 2 Award, shall cease.

(b) As indicated in Section II of the annexed Decision, wages will be increased between 2.75% and 4.75%, pursuant to a "wage reopener" to be negotiated by the parties.

(c) The temporary suspension of the cleaning allowance, as set forth in ¶(2)(h) of the Year 2 Award, shall cease.

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Lawrence E. Katz, Esq., Chairperson

May 1, 2009

YEAR 4 AWARD (cont'd)
City of Woonsocket & IBPO Local 404
AAA Case No. 11 390 01400 08


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Joseph J. Rodio, Esq., *29 April*, 2009

Concurring as to: *AWARD*

~~Dissenting as to:~~



Ralph Ezovski,

Concurring as to: *award*

April 29, 2009

~~Dissenting as to:~~