

**COMMONWEALTH OF MASSACHUSETTS
JOINT LABOR MANAGEMENT COMMITTEE
TRIPARTITE ARBITRATION PANEL
JLMC-15-4470**

NEW ENGLAND POLICE BENEVOLENT
ASSOCIATION, INC. LOCAL 57,
POLICE SUPERIOR OFFICERS

- and -

CITY OF WOBURN

Michael C. Ryan, Esq., Chair
John E. Nelson, Police Panel Member
John D. Petrin, Management Panel Member

Date: October 18, 2017

Background

The Joint Labor Management Committee appointed this tripartite arbitration panel on October 24, 2016. We held hearings in Woburn on April 28 and May 16, 2017. The parties presented evidence, including testimony and exhibits, and both written and oral argument. Both filed post-hearing briefs by July 31, 2017. The issues involve proposed modifications to the expired collective bargaining agreement that would cover the three (or four) fiscal years: FY 15, FY 16, FY 17 (and FY 18).

For the City

Philip Collins, Attorney
Melissa R. Murray, Attorney

For the Union

Sean R. McArdle, Attorney

II. Discussion of Issues.

1. Duration

The parties have agreed during this process to a one-year contract effective July 1, 2014, through June 30, 2015, followed by a three-year contract effective July 1, 2015 through June 30, 2018.

Recommendation: A one-year contract effective July 1, 2014, through June 30, 2015, followed by a three-year contract effective July 1, 2015, through June 30, 2018.

2. Wages, Article 26, Section 1

Union:

Retroactive to July 1, 2014: 5% increase across-the-board
Retroactive to July 1, 2015: 5% increase across-the-board
Retroactive to July 1, 2016: 5% increase across-the-board

City:

Retroactive to July 1, 2014: 2.0% increase across-the-board
Retroactive to July 1, 2015: 2.0% increase across-the-board
Retroactive to July 1, 2016: 3.0% increase across-the-board
Retroactive to July 1, 2017: 1.75% increase across-the-board;
effective January 1, 2018: 1.75%.

Recommendation:

Retroactive to July 1, 2014: 2.0%% increase across-the-board
Retroactive to July 1, 2015: 2.0% increase across-the-board
Retroactive to July 1, 2016: 3.0% increase across-the-board
Retroactive to July 1, 2017: 1.75% increase across-the-board;
Effective January 1, 2018: 1.75% increase across-the-board

The Union argues:

The City has an undeniable ability to pay. It is reflected in the fact that it has never claimed to the contrary. In any event, a review of the comparable communities shows that the City's ability to pay is relatively strong. Indeed, it has \$31.6 million in reserves. It also has 2.7% lower long term debt and a 2.7% higher amount of resources per capita than the comparables. Its Moody's bond rating has improved in the last ten years to Aa1, at the level of the best of the group; its

long-term debt is 15% lower than average while its revenue is 3% higher than average. Its per capita long-term debt is middle of the pack. Meanwhile, each patrol officer faces a crime rate that is 25% above average among these 11 communities.

More directly, financial resources of the City are reflected by the fact that it has agreed to wage increases to its fire fighters of 58.4% over 14 years compared to 32.1% for its police officers over the same time period. Even if the panel awards the Union's proposal on wages, the wage increases, on a non-compounded basis, compared to firefighters, it would still be slightly below.

Superior officers are demonstrably underpaid; their salary should be increased to put them in line with their comparable universe. The City's proposal would just continue the disparity. The maximum Sergeant salary is 3.8% below the comparables in FY14; maximum Lieutenant salary is 6.0% below, and maximum Captain salary is 6.9% below.

The City argues that its City-wide pattern of 10.5% over four years, settled with five other City bargaining units—plus all school department bargaining units—should be awarded in light of this compelling comparison. This above average wage increase is offset by the unions accepting a 5% higher contribution to the cost of health insurance premiums (to 25%). Most of the statutory factors are identical City-wide, for

example, CPI and ability to pay. A pattern has been followed in the past, varied only by a specific trade-off. This internal comparability, important in many JLMC awards, should prevail since other things are essentially equal. In addition, no other bargaining unit received any significant economic benefit for all or most of its members.

The City's proposed wage increase of 10.5% clearly exceeds the average awards and settlements in the comparable communities, which average about 2% per year. This extra raise here more than offsets the increase in health insurance contribution. It is directly comparable to the other cities in the comparability universe. It notably exceeds the increase in the CPI. The statutory factor of overall compensation also supports the City's proposal.

In rebuttal, the City argues that the police unions, to the extent their "unadorned" base pay might be lower than that of firefighters, it is more than offset by financial benefits from the significant Quinn bill educational salary boost, in addition to a night differential, more vacation sooner in a career, defibrillator stipend, and others.

In sum, base pay with the City's offer is squarely in the middle of the pack. The Union's calculations in more than one way, in contrast, are somewhat misleading and less useful because, e.g., they do not distinguish a salary level that

might actually be based on a longevity reward and include some clerical errors. Even in the Captain's rank, where the wage lags somewhat, the larger increase offered here will close that gap slightly.

Sergeants are above average in total compensation regardless of education or years of service. Lieutenants receive above average compensation except for post-Quinn officers with BS degrees (which there are none currently). Captains are behind somewhat but are competitive except for a couple of communities.

Also, (1) the Union's data severely undervalues the City's Holiday Pay benefit in overall compensation. Its flawed analysis does not convince: it is actually comparable when all relevant factors are considered. (2) The City provides two generous incentives that set it apart from the comparables and are part of total compensation: an annual (not once in a career) sick leave buyback incentive and a 15% retirement incentive bonus. Thus, the City has no difficulty hiring police officers. Finally, (3) no catchup rationale because of a leaner settlement in the last contract can persuade. The State's pulling the rug out from under its payment of 50% of the Quinn benefits is a compelling context for the actual bargain last time. In return for the City picking up the State's 50% share of the substantial Quinn

benefits and adding significant incentives for those who did not have it, the Union agreed to a three-year contract with a lower than average wage increase. The Supreme Court subsequently ruled that the City would not have had to agree to continue paying Quinn benefits; so, the Union benefitted by making that below-CPI deal in return for far greater Quinn benefit payments from the City. Thus, its current argument does not hold water.

Finally, it would create anomalous wage disparities to have a higher increase for Superiors yet significant longevity payment increase for Patrol. This would break the City model and lead to more contentious bargaining in the future. It is also unprecedented.

The panel: To their credit, the parties have mutually agreed to a group of ten comparable communities based primarily on geography, population, and median family income in order to satisfy the statutory factor of comparable communities. This takes the common source of argument, and the uncertainty it results in, out of the arbitration process.

We essentially recommend the wages of the Model City contract in this case. Although internal comparability such as this is not a specific, identified statutory factor, it does

fall within the catchall provision of the statute¹ as a factor upon which past JLMC factfinders and interest arbitration panels have often placed great emphasis.

While the City does not dispute that it has the economic ability to pay, including a strong bond rating, wages and compensation justified by the statutory factors. The panel has decided to award the City's proposal because most of the statutory factors strongly support it. Also, the recommended wage increase will lead to some notable catch up against the average by the end of the last year.

The size of the increase per year over the four years is slightly higher than that of comparable communities during the same time period.² It slightly exceeds the CPI. It squares with the results of other settlements and awards in comparable communities. Finally, along with some other increases in benefits, it is sufficient to offset the increase in employee contribution to health insurance premiums to 25%. This last factor is quite plainly a meaningful justification for the slightly higher wage increase we have accepted than purely objective compensation factors might have called for due to the

¹ "Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages" Chapter 589.

² Although some other compensation benefits in many other communities are also indirectly increased by an increase in the basic wage, that is not so true here.

increase in health insurance premium payments to be shouldered by the bargaining unit.

3. Shift Differential, Article 26, §2

Union: Effective July 1, 2014, increase from 5% to 9%.

City: Opposed.

Recommendation: Effective June 1, 2018,
increase from 5% to 6%.

The Union argues that FY14 shift differentials for Sergeants were \$761 or 18.9% below the average on the evening shift and 24.1% below on the night shift. For Lieutenants, the shift differential was \$814 or 23% below on the evening shift and \$1,159 for the night shift. And for captains they were \$1,658 or 28% below for the evening shift and \$2,295 or 35% below for the night shift

Moreover, these amounts increase automatically with wage increases with the vast majority of the comparable communities, but not at Woburn. Thus, without an increase, the disparity will worsen. Finally, it was last increased in 1998; it is the time to adjust it again.

The City argues that an 80% increase in the shift differential should be rejected and, instead, the panel should consider it as part of overall compensation. Also, it is (1) at odds with the pay treatment of firefighters, (2) part of the reason why police are above average in total compensation, (3) way above the average of 6%, and (4) at odds with the City's model contract, which had no significant economic benefit for a large part of any unit. This increase would break the model as a significant economic cost aside from wages: it would apply to more than half of each bargaining unit.

In contrast, in the 1990s, firefighters agreed to have \$700 per year added to their pay in recognition of their night work. It is roughly equivalent to \$1000 per year now, way below this current benefit.

The panel: We recommend an increase to 6%. At 5%, the bargaining unit is third from the bottom and well below the median for the comparable communities. This is an important distinction. An increase to 6% will bring the benefit close to both the average and the median. Although we rely upon the model for the primary economic issue in this case, wages, other factors dictate this change.

4. Health Insurance

City:

The City proposes and

Union:

the Union agrees to the following change;

Effective January 1, 2018: (a) that the City pays 75% and employees pay 25%; (b) for PPOs that the City pay 60% and the employees 40% and that specific co-pay language be deleted; and (c) re "Opt Out," in accordance with the mayor's policy implemented for other employee groups, the City will pay \$1500 per year for eligible active employees who opt out of an individual health plan and \$3000 per year for eligible active employees who opt out of a family health plan, as long as such employee had been covered on the city's health insurance for the previous 24 consecutive months. Employees who opt out of the City's health insurance cannot re-enroll for at least 12 months, unless a qualifying event occurs.

Recommendation:

We adopt the above based on the argument stated in the Union's closing brief.

5. Educational Incentive. Article XXII, §4

Union:

Non-Quinn Bill Eligible Officers:

Effective July 1, 2014, increase the annual payments in Article 22, §4:

Associates Degree	...	from \$3,000 to \$5,500
Bachelor's Degree	...	from \$6,000 to \$8,500
Masters or JD Degree	...	from \$7,500 to \$10,500

City: Opposed.

Recommendation:

Non-Quinn Bill Eligible Officers:

Effective July 1, 2017, increase the annual payments in Article 22, §4:

Associates Degree ... from \$3,000 to \$3,250

Bachelor's Degree ... from \$6,000 to \$6,500

Masters or JD Degree ... from \$7,500 to \$8,125

Effective June 30, 2018, increase the annual payments in Article 22, §4:

Associates Degree ... from \$3,250 to \$3,500

Bachelor's Degree ... from \$6,500 to \$7,000

Masters or JD Degree ... from \$8,125 to \$8,750

The Union argues that its educational incentive is \$1441 below average for AD, \$3196 below for BS and \$4344 below for master's degree (32%, 35% and 37% low). Six of the 10 comparable communities pay 100% of the Quinn benefits to post-2009 employees.

The City argues that the proposal is flawed because it does not follow the percentage proportionality of the Quinn bill benefits by adding the same amount at each level, skewing the percentage relationship. More importantly, the pay increases are huge on the one hand, and lacking any evidence that they are necessary on the other hand. The facts show that it would be absurd to raise these because it is necessary. Finally, even with lower educational benefits, the officer's average total compensation is above average.

The panel: There is no disputing, particularly in this day and age, that police officers should be strongly encouraged

with incentives, to achieve the higher education that can help officers deal appropriately with the increasingly complex matters facing them, for example, the appropriate use of force when facing a threat to the community and/or themselves, or the importance of culturally appropriate behavior. Higher education can improve community understanding and improve the quality of policing in any city. Accordingly, although the non-Quinn eligible benefits are still significantly below what they used to be pre-2009, we think two small increases are justified. We do so maintaining the percentage relationships.

6. Flex Shift

City: The Chief shall have the right to assign police officers (and a sergeant) to a flexible, impact shift working primarily 6:00 pm to 2:00 a.m., but subject to assignment to work at other times based on special needs (night differential payable at all hours.

Union: No change.

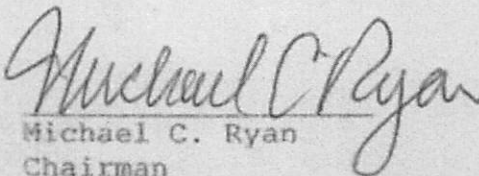
Recommendation: The panel can see the need to address whether the proposal will assist in enhancing public safety needs and concerns. We strongly recommend that the parties convene a labor/management committee to address this matter.


Respectfully submitted,

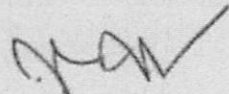
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