

NEW YORK STATE PUBLIC EMPLOYMENT
RELATIONS BOARD
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CONCILIATION

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Arbitration :
Pursuant to Section 209 of The :
New York State Civil Service Law :

-Between- :

TOWN OF EASTCHESTER FIRE DISTRICT :

Case No. IA-102
M78-619

-and- :

UNIFORMED PROFESSIONAL FIREFIGHTER'S :
ASSOCIATION, INC., LOCAL 916 :

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APPEARANCES

FOR THE ASSOCIATION

Edward J. Finneran, President
Jerome Schulman, Vice President
Patrick Dotoli, Treasurer
Rick Lynch, Secretary
Lou Heydet, Firefighter
Guido Pagliaroli, Firefighter
Richard Davanzo, Firefighter

FOR THE DISTRICT

Louis J. Belserene, Esq.
Pasqualina I. Gruber, Treas.

BEFORE:

PUBLIC ARBITRATION PANEL:

THOMAS P. FLYNN, Vice President,
IAFF; Arbitrator

ROCCO J. LISCIO, District Commissioner;
Arbitrator

MURRAY BILMES, Chairman

BACKGROUND

The Town Fire District of the Town of Eastchester (hereinafter ("District")) and the Uniformed Professional Firefighter's Association, Local 1916 (hereinafter "Association"), began negotiations in June, 1978, for the purpose of renegotiating their collective bargaining agreement which was in effect at that time for a period of two years, terminating December 31, 1978.

These negotiations commenced when the Association submitted nineteen proposals for a new two year contract. The parties held five or six negotiation sessions, including one with a mediator, but were not able to reach an agreement.

On February 6, 1979, the President of the Association wrote to and requested the Public Employment Relations Board to refer the impasse to a public arbitration panel. In his letter, the President noted that there were no matters agreed to, stating, "When impasse was declared all agreed items were withdrawn."

The Response of the District, dated February 22, 1979, set forth three proposals of its own, and its position upon the matters not agreed upon.

On April 4, 1979, the Public Employment Relations Board, pursuant to Section 209 of the New York Civil Service Law, designated Rocco J. Liscio as Employer Panel Member; Thomas P. Flynn as Employee Organization Panel Member; and Murray Bilmes as Public Panel Member and Chairman as a Public Arbitration Panel for the purpose of making a just and reasonable determination of this dispute.

The positions of the parties on the terms and conditions of employment not agreed upon, as set forth in the Petition and Response, were, as follows (some of the items have been abstracted by the Chairman of this Panel):

ASSOCIATION PROPOSALS:

1. Salaries - 1979 - A cost of living increase and a raise not to exceed the total of 10%.
2. Longevity: 1980 - The cost of living - Increase to 4% after 15 years; 3% after 10 years.
3. Sick Time: - A retiree receive monies for his accumulated sick time in final year.
4. Dental Plan: - Fully paid.
5. Vacation: Eighteen days after 10 years
6. Differential: - Increase % between top grade firefighter and captain.
7. Food Allowance: - Increase the amounts.
8. Educational Fund:-Increase, clarify, and provide guidelines.
9. Union Officers - Guaranteed time off to attend Association or Union affairs.
10. Training Officer:-to be employed on full time basis.
11. Personal Day: - Clarify
12. Temperature and Weather: Under certain conditions, to require cancellation of outdoor activities.
13. Uniforms: - Eliminate wearing to and from work
14. Overtime: - Payment within two pay periods.
15. Personal Property: Reimburse and replace.
16. Job Description: To be defined and put into contract.
17. Overtime: - Clarify
18. Health and Safety Committee - Create.
19. Salary Schedule:- For employees hired after 1/1/77, upgrade.

DISTRICT RESPONSE:

1. Rejected Associations proposals above, Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 19, calling them "hard money items", and stating as basis, for its position, that they exceed presidential guidelines, comparative rates, and increases in budget and taxes due to increases of salaries and benefits, and future increases attributable to proposals.
2. Rejected Item 13 on traditional grounds.

3. Rejected Item 15 as an item impossible to cover by insurance.
4. Rejected Item 16 as one not covering duties and obligations.
5. Rejected Item 18 as being part of present grievance procedure.
6. Set forth three requests:
 - (A) Exclude Chief and Assistant Chief from terms and conditions of the parties' collective bargaining agreement.
 - (B) Continuance of annual inspection parade as in past years.
 - (C) Identity of entity to be recognized as sole bargaining agent.

With regard to the issues set forth in the Petition and Response, neither party raised any objections to their arbitrability.

This Public Arbitration Panel held one hearing, on June 26, 1979 at 1 P.M. at the Union Corners Fire House in the Town of Eastchester Fire District. The parties testified and submitted the following Exhibits:

JOINT EXHIBITS:

- A. Collective Bargaining Agreement of the parties for the two year period ending December 31, 1978.
- B. Budget of the Fire District, Town of Eastchester, County of Westchester for the Year 1979.

ASSOCIATION EXHIBITS:

- A. Association Opening Statement
- B. Association Opening Statement on Cost of Living As Support for Salary Proposals.
- B-1. Average Response of All Volunteers (1973-1978).
- B-2. Total Number of Alarms (1973-1978).
- B-3. Total Number of the Deputy Chief Response to Alarms (1973-1978).
- C. Answer to Response of District.
- C-1. Cost of 10% increase over 6% increase.

- C-2. Comparison of Consumer Price Index Increases and Wage Increases.
- C-3. Press Release of the Bureau of Labor Statistics of January 24, 1979 of C.P.I. for New York Northeastern New Jersey.
- C-4. SAME dated February 23, 1979.
- C-5. SAME dated March 23, 1979.
- C-6. SAME dated April 26, 1979.
- C-7. New York Post Story of June 26, 1979 on June, 1979 Press Release.
- D. "A Review of the Financial Documents of Town of Eastchester Fire District", dated April 30, 1979, prepared by Edward J. Fennell for the Association.
- E. Newspaper Copies - photocopies of nine articles.
- F. Statement on Productivity.
- F-1. Dispatcher's Sheets for one week, Jan. 21-27, 1979.
- G. Average daily traffic map.
- H. Top Salaries for Other Departments.
- I. Copy of Collective Bargaining Agreement of Village of Bronxville and Bronxville Police Taylor Act Committee, June 1, 1979, -May 31, 1982.
- J. Copy of Collective Bargaining Agreement of City of Yonkers and Mutual Aid Assn. of the Paid Fire Dept. of the City of Yonkers, dated Dec. 17, 1973.
- K. Statement on Longevity Increase and reference to other contracts.
- K-1. Calculations of Longevity at Proposed 10% Increase.
- L. Statement on Sick Pay Accumulation Payment upon Retirement.
- M. Statement on a fully paid Dental Plan and Comparisons, and amounts budgeted by District for 1973-1978.
- N. Statement on 18 working days vacation after 10 years and comparisons.
- O. Statement on percentage differential between top grade Firefighter and Captain and comparisons.
- O-1. Cost of increased Captain's differential.
- O-2. Westchester County Civil Service Promotion Opportunity for Fire Captain examination on 6/23/79.
- P. Statement on a Full Time Training Officer.
- Q. Statement on Temperature and Weather and Comparisons.
- R. Statement on Elimination of Wearing Uniforms to and from Work.
- S. Statement on Personal Property, broken, lost, or stolen, and reimbursement or replacement.
- T. Statement on a Job Description and comparison.
- T-1. Firefighter Job Description.
- U. Statement on Health and Safety Committee.
- U-1. Photocopy of news story of 12/28/78 on Diesel emissions.
- V. Statement on upgrading of top salary.
- W. Statement in Rebuttal of District proposal on annual inspection parade.

W-1. Copy of 3/18/75 letter of District re: Annual Fire Department Parade and Inspection.

DISTRICT EXHIBITS:

1. Eastchester Fire District Budget Item Showing Tax Increase from 1976 through 1979.
2. Final Budget of the Fire District Town of Eastchester County of Westchester for the year 1977.
3. Final Budget of the Fire District Town of Eastchester County of Westchester for the year 1978.
4. Eastchester Fire District Remuneration Schedule from 1968 through 1978.
5. PERB data on Fire Department Salary Schedules.
6. Several exhibits of newspaper stories.
7. Salary schedule for Teachers 1978-1979 of Eastchester Union Free School District, and 1979-1980; 1980-1981.
8. White Plains Salary Schedule, Fire Department, July 1, 1979.
9. Analysis of Hartsdale Fire Fighter and Captain salaries, 1978-1981 and 1979-1982, respectively.
10. Analysis of Greenville Fire District Firefighter and Captain salaries, 1978-1980, and 1978-1979, respectively.

During the hearing, the parties agreed to Association proposals Numbers 7 and 14, and agreed to set aside proposals Numbers 8, 9, 11, 17 and 19.

At the conclusion of the hearings, the parties were offered the opportunity to submit post-hearing briefs. The parties declined to do so.

During the course of the deliberations of the Public Arbitration Panel, the two members representing the District and the Association, referred several issues back to the parties for further negotiations, and this award reflects the result of such negotiations.

In arriving at its determination, this Panel, took into consideration the factors set forth below, and, in addition, other relevant factors, as required by law, to make a just and reasonable determination of the matters in dispute.

The Civil Service Law, Section 209.4 factors in this Compulsory Interest Arbitration Proceeding are:

- (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.

The Panel members met in two executive sessions on August 6, 1979 and September 27, 1979 at Tarrytown, New York.

SALARIES - ASSOCIATION PROPOSAL #1

The Association and the District presented to this Panel a considerable volume of data. The many exhibits with respect to the wage and fringe benefits applicable to firefighters are in the record. The exhibits compare the Eastchester firefighters with firefighters in communities in the County of Westchester predominantly, and in some instances, in other areas. Some comparisons are also made with other groups, such as police officers and teachers in the surrounding areas. Results of negotiations of other groups in the area such as CSEA, as well as firefighters and police, were also put into evidence.

The cost of living was considered, as a relevant factor, though it is not singled out under Civil Service Law, Section 209 (4) (V). Evidence relating to the cost of living in the years preceding 1979, to salary increases of the Association for the same period were put into evidence. Similar comparisons for the District tax rates were also introduced at the hearing.

While the District claimed that the Town of Eastchester was paying its firefighters "far in advance of those similarly situated in the County of Westchester", the Association stated, "we are no longer paid far in advance of similarly situated departments in the county." Neither of the parties put into evidence sufficient data to prove their own contentions or to disprove the other party's contentions, and one reason for such is that the question of what is a comparable community for wage rate fixing purposes

becomes a very complicated question. In one particular community, it is possible that generous fringe benefits were agreed to in place of wage increases. In another, high wage rates may show meager fringe benefits. Even if the parties had produced the total cost of one particular collective bargaining agreement for firefighters in one agreed upon comparable community, such comparison would be meaningless without data showing the tax base and tax rates of such a similar community before any relevant comparison could be made.

The evidence which was submitted to this Panel justifies a finding that the salary schedule of the firefighters requires an upward adjustment, and that the District has the ability to pay a reasonable increase in salaries for its firefighters, but not the amount requested by the Association, and that it is in the interest and welfare of the public.

The basic salary schedule for the Association as of January 1, 1977, as set forth in Paragraph 13 A. of Joint Exhibit "A", is as follows:

Assistant Chief		\$22,727.00
Captain		20,512.00
Firefighters	5th Year	17,378.00
	4th Year	16,846.00
	3rd Year	16,368.00
	2nd Year	15,836.00
	1st Year	15,304.00

Paragraph 13 B. of the Joint Exhibit "A" provided for an increase of .064% per annum to each members salary according to his position on the salary schedule, effective January 1, 1978.

It is the determination, and award, of this Panel, and this Panel so directs the parties to this dispute to amend the above salary schedule and adopt and implement the following, retroactively to January 1, 1979, and for two years thereafter:

1. For the year commencing January 1, 1979, an increase amounting to .060% per annum.
2. For the period commencing January 1, 1980, an increase amounting to .080% per annum.
3. For the period commencing July 1, 1980 an increase amounting to .010% per annum.
4. Each of the above increases to be applied to each members salary according to his position on the salary schedule.

DENTAL PLAN -- ASSOCIATION PROPOSAL #4

Paragraph 14 of Joint Exhibit "A" provided for a dental plan, the cost of which was shared equally by the District and the individual members participating in the plan.

This Panel determines, awards and directs the parties, for calendar year 1979, to continue the equal sharing of the cost, and for calendar year 1980, commencing January 1, 1980, the Fire District shall pay the full cost of said dental plan for any individual member participating in the plan.

VACATION - ASSOCIATION PROPOSAL # 5

Paragraph 30 of Joint Exhibit "A" provides a schedule of vacations, and those with fifteen or more years of service shall receive eighteen working days, those with less than fifteen years and more than two years shall receive fifteen working days.

This Panel determines, awards, and directs that, commencing January 1, 1980, that all personnel with less than fifteen years of service and more than ten years of service shall have a vacation of sixteen working days, and for calendar year 1979 the existing provisions shall remain in effect.

DIFFERENTIAL BETWEEN TOP GRADE FIREFIGHTER
AND CAPTAIN - ASSOCIATION PROPOSAL #6

There is nothing written into Joint Exhibit "A" which creates a specific differential, but the parties at the hearing agreed that a differential was in existence, and that it was approximately an 18% differential.

This Panel determines, awards, and directs the parties to provide in their collective bargaining agreement that:

- A. For the year commencing January 1, 1979, that the existing differential be increased 1% per annum.
- B. For the year commencing January 1, 1980, that the differential be increased an additional 1% per annum.

UNIFORMS, ELIMINATE WEARING TO AND
FROM WORK - ASSOCIATION PROPOSAL #13

A regulation of the District requires the Firefighters to wear their uniforms going to and from work.

This Panel determines, awards, and directs the parties to provide in their collective bargaining agreement that:

Commencing January 1, 1980, that suitable civilian attire may be worn by the members traveling to and from duty stations; that the member must change into uniform and be in proper uniform at the time his tour of duty commences, and to continue until it terminates, and the District shall have sole discretion as to when replacements are necessary (this last provision to modify Paragraph 9 of Joint Exhibit "A").

CHIEF AND ASSISTANT CHIEF
DISTRICT PROPOSAL - 6 (A)

The parties historically have included the persons filling the above positions in the group of employees covered by this collective bargaining agreement.

This Panel determines, awards, and directs the parties to provide in their collective bargaining that, effective January 1, 1980, that the Chief and Assistant Chief positions are excluded from the coverage of the collective bargaining agreement.

TERM OF AGREEMENT

This Panel determines, awards and directs the parties to provide for a continuation of the contract submitted by the parties as Joint Exhibit "A", for a two year period starting January 1, 1979 and terminating December 31, 1980, said contract to incorporate the determinations and awards made herein and other provisions as may be agreed to by the parties; and to exclude Association Proposals 2, 3, 10, 12, 15, 16, 18 and the two requests of the District set forth in its response, 6 (B) and 6 (C).

CONCLUSION

This Award was drafted by the Chairman of the Public Arbitration Panel. The employer panel member and the employee panel member contributed and rendered invaluable assistance and guidance to the chairman but are not responsible for the specific language employed by the chairman.

However, the majority is responsible for the specific determinations and awards contained herein.

DATED: Pine Bush, New York
October 17, 1979

Murray Bilmes

MURRAY BILMES, Chairman and
Public Panel Member

DISSENTING

Thomas D. Flynn

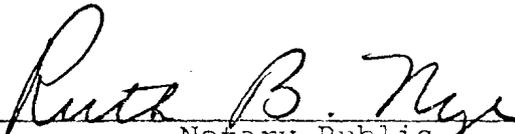
THOMAS D. FLYNN, Employee Organiza-
tion Panel Member

Rocco J. Lisco

ROCCO J. LISCO, Employer Panel Member

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

On this 17th day of October, 1979, before me personally came and appeared MURRAY BILMES, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.


Notary Public.

RUTH B. NYE
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ORANGE COUNTY
COMM. EXPIRES MARCH 30, 1980

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER

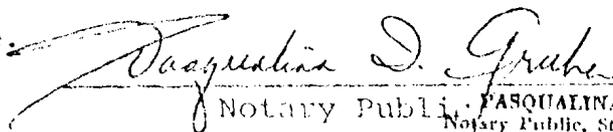
On this 19th day of October, 1979, before me personally came and appeared THOMAS P. FLYNN, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.


Notary Public.

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER (

PASQUALINA I. GRUBER
Notary Public, State of New York
No. 60-6691375
Qualified in Westchester County
Term Expires March 30, 1980

On this 19th day of October, 1979, before me personally came and appeared ROCCO J. LISICIO, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.


Notary Public. **PASQUALINA I. GRUBER**
Notary Public, State of New York
No. 60-6691375
Qualified in Westchester County
Term Expires March 30, 1980

