



City of Rochester

NY STATE EMPLOYMENT CONCILIATION BOARD

REC'D

AUG 13 1985

CONCILIATION

Bureau of Employee Relations
Office of the City Manager

City Hall
30 Church Street
Rochester, New York 14614

August 6, 1985

Sumner Shapiro, Chairman
Public Arbitration Panel - Case No. IA 84-43; M 84-358
64 Darroch Road
Delmar, New York 12054

Re: Case No. IA 84-43; M 84-358

Dear Chairman Shapiro:

The undersigned, for and on behalf of the parties, the City of Rochester and the Rochester Fire Fighters Association, Local 1071, I.A.F.F. (AFL-CIO) hereby stipulate and agree that the Public Arbitration Panel in the above-referenced matter shall have jurisdiction to consider and award terms and conditions of employment for a one year period beyond that for which the City of Rochester petitioned. Such one year period shall commence on July 1, 1986, and end on June 30, 1987.

FOR THE CITY OF ROCHESTER:



Gerald P. Cooper
Manager of Labor Relations

FOR THE ROCHESTER FIRE
FIGHTERS ASSOCIATION:



Daniel J. Cavuoto
President

Date: August 7, 1985

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In the Matter of Arbitration between

THE CITY OF ROCHESTER, NEW YORK

and

THE ROCHESTER FIRE FIGHTERS
LOCAL 1071
I.A.F.F., A.F.L. - C.I.O.

Interest Arbitration

AWARD

PERB Case #IA84-43; M84-358

The undersigned, having been designated as members of a Public Arbitration Panel under the provisions of New York Civil Service Law, Section 209.4, are charged with making a just and reasonable determination of unresolved items in a successor agreement to one which expired June 30, 1984. The statutory authority of the Panel to make such a determination covering a period of two years (24 consecutive months) is not in dispute and the parties have, by joint stipulation, extended this jurisdiction to a third consecutive one-year period.

The Panel hereby awards as follows:

A. Unanimous Determinations

1. Salary

The salary structure shall be adjusted as follows:

...Effective retroactively to July 1, 1984, the salary structure in effect June 30, 1984, shall be increased by five and one-quarter percent (5.25%).

...Effective July 1, 1985, the salaries in effect June 30, 1985, shall be increased by five and three quarters percent (5.75%).

...Effective July 1, 1986, salaries in effect June 30, 1986, shall be increased by five and three-quarters percent (5.75%).

Effective retroactively to July 1, 1984, there shall be established an entry level rate of \$20,000/annum to be applicable to the first six months of service.

Effective July 1, 1986, the entry level salary shall be increased by five and three-quarters percent (5.75%).

Persons incumbent on, or prior to, July 1, 1985, shall be "red-circled" at the Step 1 rate.

Every member of the Bargaining Unit who was on the payroll July 1, 1985, shall receive a one-time bonus payment of \$100.00 on about the time of payment of retroactive compensation for the period through June 30, 1985, and an additional payment of \$100.00 as soon as practicable after July 1, 1986. Persons severed from the Bargaining Unit prior to, or joining the Bargaining Unit after, July 1, 1985, shall not be entitled to either lump-sum payment.

2. Holidays

The contractual clauses of Article 4, Holidays, of the expired agreement shall be renewed in the successor agreement without modification; however, Section 8 (Rates for Holiday Payment), shall be amended by stating:

"Notwithstanding any contrary provision of this Agreement, the compensation for each holiday enumerated in Section 1 shall be the employee's annual base salary divided by two hundred fifty (250)."

The new method of calculation implicit in the Amendment to Section 8 shall become effective in calculating holiday pays covering the 1984-85 holiday period for which payment will be forthcoming in December, 1985. Retroactive holiday pays due for prior periods shall be calculated on the basis of the prior formula but shall be based upon the retroactively-adjusted step and bracket values. The step and bracket adjustments shall be similarly implemented in effecting calculations employing the new formula.

3. Service-connected injuries, Article 8, Section 3

Article 8, Section 3, of the expired agreement shall be incorporated in the successor agreement without modification.

4. Health Benefits, Funding, Article 9, Section 7

Article 9, Section 7, of the expired agreement shall be incorporated in the successor agreement without modification.

5. Health Benefits, Article 9, Miscellaneous Health Benefit Issues

The Union demands respecting the Two-in-One Rider, Outpatient Rider, Full X-ray Rider Covering Inpatients/Outpatients - and Dependent Student Rider are denied.

6. Article 14, Section 1, Work Schedule

Article 14, Section 1, of the expired agreement shall be incorporated in the successor agreement without modification.

7. Article 25, Section 1, Release Time for Local Union President

Article 25, Section 1, of the expired agreement shall be incorporated in the successor agreement without modification.

8. Article 25, Section 2, Release Time for other Union Officers

Article 25, Section 2, of the expired agreement shall be incorporated in the successor agreement without modification.

9. Article 25, Section 3, Release Time for other Union Members

Article 25, Section 3, of the expired agreement shall be incorporated in the successor agreement without modification.

10. Article 25, Section 4, Release Time for Executive Board Members

Article 25, Section 4, of the expired agreement shall be incorporated in the successor agreement without modification.

11. Article 25, Section 5, Release Time for Trustees

The petition to delete Article 25, Section 5, of the expired agreement from the provisions of the successor agreement is sustained.

12. Article 25, Section 6, Release Time for Delegates

Article 25, Section 6, of the expired agreement shall be incorporated in the successor agreement without modification, except that it will become Section 5 thereof.

13. Article 25, Section 7, Negotiating Representatives

Article 25, Section 7, of the expired agreement shall be incorporated in the successor agreement and shall be amended as follows:

"Persons assigned to night tours, who are engaged in Union negotiation during their off-duty (day) hours shall report for their scheduled tour upon conclusion of the negotiations unless approval of an alternative has been obtained from the Fire Chief, which approval shall not be unreasonably withheld."

This provision, as amended, will appear as Section 6 in the successor agreement.

14. Article 25, Section 7 (Notice Provisions)

The following new provision shall be incorporated as Article 25, Section 7, of the successor agreement:

"The President will give the Fire Chief forty-eight (48) hours written notice of requested release time, and will specify the provision(s) being utilized. In event of emergencies, the President will contact the Fire Chief or appropriate Deputy Chief and make the request orally. An emergency for purposes of this clause shall be construed to be a circumstance under which the need for the release time could not have been anticipated prior to the commencement of the forty-eight (48) hour lead time."

15. Article 33, Section 5, Term of Agreement

This contract shall be effective for a period of three (3) years commencing July 1, 1984, and expiring June 30, 1987. These dates are to be incorporated into the contractual clause of the prior agreement, which is to be additionally emended to recognize that the agreement is executed on a date subsequent to July 1, 1984, but which is to be otherwise incorporated into the successor agreement.

16. Article 37, Impact of Manning

The Union demands respecting the Impact of Manning are denied.

B. Majority Determinations

17. Article 2, Section 5, Longevity

The longevity provision of the successor agreement should read as follows:

"A. Members hired prior to July 1, 1985. The City agrees, in addition to the salaries set forth in the Salary Schedule, to pay a longevity benefit to all Fire Fighters and Fire Officers. Such payment shall be made at a rate of \$50 for each year beginning on the employee's third anniversary to be increased by the amount of \$50 per year for twenty-two (22) years with a maximum of \$1,150. Said payments are to be made by adding the longevity payment to

the twenty-six (26) bi-weekly paychecks in the following manner:

When the anniversary falls between January 1 and June 30, the payment shall begin with the first pay period following that current January 1;

When the anniversary falls between July 1 and December 31, the payment shall begin with the first pay period following that current July 1.

B. Members hired on or after July 1, 1985. In addition to the salaries provided in Section 1 of this Article, each member of the Unit hired on or after July 1, 1985, shall receive a longevity benefit as follows:

1. Longevity payments will be made at the rate of \$40.00 for each year of service, beginning on the employee's fifth (5th) anniversary, and increased by the amount of \$40.00 per year until the twentieth (20th) year, with a maximum of \$640.00.
2. Payments are to be made by adding the longevity payment to the twenty-six (26) bi-weekly paychecks in the following manner: When the anniversary falls during a month, the payment shall begin in the first full pay period of the following month."

18. Article 9, Section 1, Health Benefits

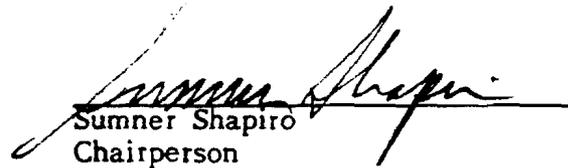
Persons hired on or after July 1, 1985, shall be required to contribute twenty percent (20%) of the premium cost of Blue Cross/Blue Shield Health Insurance, inclusive of the cost relating to the benefits attributable to additional maternity coverage (Article 9, Section 2, of the prior agreement) and the Prescription Rider (Article 9, Section 3, of the prior agreement). Additionally, any employee who is a member of a Health Maintenance Organization shall contribute the full additional cost attributable to that coverage.

19. Article 9, Section 5, Dental Plan

The contractual clause in the expired agreement shall be incorporated in the successor agreement without modification.

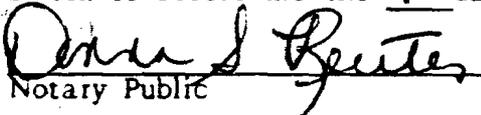
Respectfully submitted,

Concurring in all Determinations,


Sumner Shapiro
Chairperson

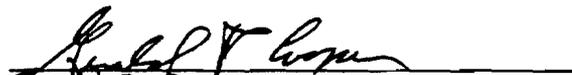
STATE OF NEW YORK)
) s.s.:
COUNTY OF ALBANY)

Sworn to before me the 9th day of August, 1985.


Notary Public

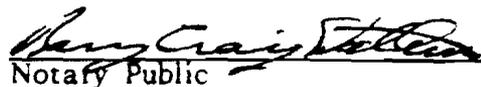
DONNA S. REITER
Notary Public, State of New York
No. 46, 1982
Qualified in Albany County
Commission Expires March 30, 1987

Concurring in all Determinations:


Gerald P. Cooper
Employer Designee

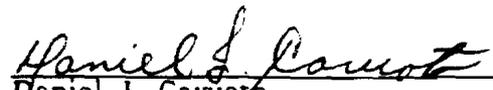
STATE OF NEW YORK)
) ss.:
COUNTY OF MONROE)

Sworn to before me the 7th day of August, 1985.


Notary Public

BARRY CRAIG WATKINS
Notary Public in the State of New York
MONROE COUNTY, N. Y.
Commission Expires March 30, 1987.

Concurring in Unanimous Determinations:
Dissenting from Majority Determinations:


Daniel J. Cavuoto
Employee Organization Designee

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

Sworn to before me the 7th day of August, 1985.


Notary Public

BARRY CRAIG WATKINS
Notary Public in the State of New York
MONROE COUNTY, N. Y.
Commission Expires March 30, 1987.

NYS PUBLIC EMPLOYERS' ASSOCIATION
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CONCILIATION

In the Matter of Arbitration between

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Interest Arbitration
OPINION
PERB Case #IA84-43; M84-358

I. INTRODUCTION

This document constitutes the Opinion of a Public Arbitration Panel convened under the provisions of New York Civil Service Law, Section 209.4, for the purpose of making determinations to resolve an impasse obstructing adoption of a successor collective agreement between a Public Employer and a Public Employee Union. The parties to the impasse are the City of Rochester, New York (hereinafter referred to as the "Petitioner," the "City," the "Employer," or the "Administration," and the Rochester Fire Fighters Local 1071, I.A.F.F., A.F.L. - C.I.O. (hereinafter referred to as the "Respondent," the "Union," the "Fire Fighters," or the "Employees." The predecessor agreement between the parties expired on June 30, 1984. The Award in this matter was issued earlier, on August 9, 1985.

The Public Employer Petitioner initiated this proceeding pursuant to Article 14 of the Civil Service Law and the Rules and Regulations of the New York State Public Employment Relations Board, with a request dated March 8, 1985. The Employee organization responded by April 16, 1985, and, pursuant to Section 209.4 of the New York Civil Service Law, the Public Employment Relations Board designated a Panel on May 1, 1985. The Panel was constituted as follows.

Public Panel Member	Sumner Shapiro 64 Darroch Road Delmar, NY 12054
Employer Panel Member	Gerald P. Cooper 102-A City Hall 30 Church Street Rochester, NY 14614
Employee Organization Panel Member	Daniel J. Cavuoto 40 West Avenue Rochester, NY 14611

The parties elected to submit prehearing briefs which were timely filed by June 21, 1985, and a hearing was convened at the Rochester City Hall on June 27, 1985.

Appearances were as follows:

For the City of Rochester, New York

Barry C. Watkins, Esq., Attorney,
City of Rochester, New York

Leonard J. Huether, Chief,
Rochester Fire Department

Daniel C. Wissman, Labor Relations
Specialist, City of Rochester, New York

Charles A. Dye, Labor Relations
Assistant, City of Rochester, New York

John G. Graham, Executive Deputy
Chief, Rochester Fire Department

Lawrence Peters, Deputy Chief,
Rochester Fire Department

Elin Thorgren, Executive Assistant,
Rochester Fire Department

Cheryl Ebdon, Bureau of Budget,
City of Rochester, New York

For Local 1071, I.A.F.F.

John R. Parrinello, Esq., Attorney,
Local 1071, I.A.F.F.

Vincent Boccardo, Negotiating Team
Member, Local 1071

Joseph J. Carrozzi, Negotiating Team
Member, Local 1071

Arthur Marrapese, Vice President,
Local 1071

Frederick J. Di Noto, Secretary,
Local 1071

Post-hearing briefs were timely filed by July 19, 1985.

The Panel, having considered and weighed all evidence, including comparisons of wages, hours and terms and conditions of employment of respondent employees with other persons similarly employed in public and private employment in comparable communities; comparisons of job characteristics and peculiarities, including hazards, physical demands, educational demands, intellectual requirements and training and skills; the provisions of prior collective agreements relating to the entire scope of terms and conditions; and the Employer's ability to pay and the public's interests and welfare in the involved jurisdiction, issued its Award of August 9, 1985. This document summarizes the underlying

rationale for those determinations.

In view of the exceptionally articulate statements on the issues and their respective positions relating thereto appearing in the parties' briefs, all of which are a part of the record of the proceeding, summary restatements thereof are not offered herein.

II. OPINIONS

A. Unanimous Determinations

1) General Provisions (Article 33)

This issue related to the duration of the agreement, with the Union requesting the City to consider enlarging the Panel's jurisdiction beyond a two-year term, commencing July 1, 1984, through June 30, 1986, by an additional year, commencing July 1, 1986, through June 30, 1987. The parties did, in fact, stipulate agreement to such an extension of the Panel's jurisdiction on August 7, 1985.

2) Salary (Article 2)

The essential argument of the Employer respecting salary is that, with the exception of one brief and troublesome interruption, parity between its Public Safety employees has prevailed historically throughout the life of the predecessor agreement. Salary adjustments of 5.25% for the year commencing June 30, 1984, and 5.75% for the year commencing July 1, 1985, were implemented for the other Public Safety group, are consistent with increases provided other City employees, and are proposed in the matter at hand as well.

The Union eschews this contention on two grounds, the first being that parity is not limited to comparisons with other Public Safety groups within the jurisdiction, but must also consider the earnings of comparably skilled persons in the immediate geographic area. Secondly, it asserts comparability with the other public safety group cannot be measured in salary terms alone because of other differences in terms and conditions of employment. Thus, the Union tacitly argues not against parity per se but, rather, against the methodology and indices used to measure same. Parity does, of course, presume a nominal equivalency in job demands of comparable level positions in each of the groups. If widely divergent disparate conditions so sharply differentiated two groups as to justify a premium for one relative to the other, the arrangement would not constitute a situation in which parity will reasonably apply. Disparity among terms and conditions is, as the term implies, the anti-thesis of that presumed where a wage parity philosophy is truly equitable. While we are in agreement with the Union about such a hypothetical situation, we think parity and differing salary structures are mutually exclusive conditions. We are unreceptive to the argument that the parity concept, properly applied, would justify differentials in salaries of equivalent ranks in the City's Public Safety Departments. Nonetheless, parity is not a dogma dictating that the Fire Fighters and the Police Locust Club are inseparable siamese or even identical twins. We do, however, view them as readily recognizable fraternal siblings and, as a consequence, are profoundly influenced by the Locust Club salary structure

presented as a comparable. At the same time, we do recognize that Fire Fighter Local 1071 is the only group empowered to bargain on behalf of the Fire Fighters, and that its proposals must properly be independently weighted. Thus, while the Police Locust Club salary structure sets a presumptively persuasive precedent as a valid comparable, it is not ipso facto an exclusive and conclusive measure of equity. The Panel acknowledges the obligation to weigh citations of Fire Fighter salaries in other jurisdictions. In so doing, it observed differences between the parties' claims beyond those explainable by diverse reference dates but, on the basis of the Union's own statistics, the claim that Rochester's salary base compares most favorably with the pattern among upstate cities weathers well. The Union relied upon New York City, White Plains and Yonkers as references with higher salary structures in place, but we believe these communities disqualify as comparables on geographic and population considerations, among others.

The Union, in its Exhibit M, compares Rochester Fire Fighters to whom they impute a \$12.18/hour rate, with certain private industry hourly rates. While these references may indicate a range of wage levels in Rochester relative to other communities, were their wage levels to be listed on the same job title basis, they do not, as presented, refute or challenge the deductions drawn respecting the relative salary position enjoyed by the respondent employees when compared with Fire Fighters in other upstate jurisdictions. The contours for construction wages may provide an insight into the degree of comparability among

communities, but do not, in our view, persuade that hourly rates of those occupations and imputed Fire Fighter rates should be expected to be more than loosely clustered as they are in fact.^{1/} While we are not certain of the geographic range over which the private industry rate cited purportedly applies, we note firstly that Rochester Fire Fighters are not paid on an hourly basis and are not subject to the casual work patterns characterizing construction work in particular. Moreover, the comparison does not consider the differences in non-cash compensation. Furthermore, even assuming an hourly rate comparison to be appropriate, we do not know whether the construction rates shown are the values used by the Secretary of Labor pursuant to Davis/Bacon Act enforcement or the rates actually paid on the average. Finally, there is an implied presumption that the doctrine of Comparable

^{1/}The concept of pay contours and clusters in private sector employment was extensively explored by former U. S. Labor Secretary John Dunlop in his earlier academic years, and his findings are formalized in his Theory of Wage Determination, St. Martin's Press, New York, 1957. His study shows that a single job category may be compensated over a diverse range among different localities or industries forming a "contour" and that compensation for different job categories in a given enterprise, industry, or locality tend interactively to be influenced to form "clusters." Thus, pick-up truck drivers in the same locality performing clearly comparable work are paid at differing levels depending upon whether they are employed in construction, trash collection, newspaper delivery, laundry collection, local parcel transfers, etc., with the rates paid being clustered among those of other less comparable jobs in the employing industry or enterprise. Similarly, within the same industry, say construction, the rate paid drivers may vary among localities to form a contour. These terms are descriptive, rather than controlling of the market place. The concept is helpful in assessing and weighing difference as we believe one would be more prone to expect clustering between Local 1071 and the Locust Club than to view the statewide contour as a distortion crying out for reconstructive levelling about the peak.

Worth is controlling and that its application would dictate a more favorable ranking for the Fire Fighters. We choose not to enter the controversy involving the concept of Comparable Worth, particularly as we are spared the challenge of comparing widely dissimilar jobs in circumstances where, as here, very comparable occupations in both the same and relevant other jurisdictions may be relied upon. A review of the data describing these practices justifies, in our judgment, the preservation of parity for the first two years, and the Award, therefore, grants a salary increase retroactive to July 1, 1984, of 5.25% to be applied uniformly across the Fire Fighters' salary structure in effect June 30, 1984, to establish salaries commencing July 1, 1984. We, similarly, award a second increase effective retroactively to July 1, 1985, in the amount of 5.75%, to be applied uniformly across the salary structure in effect June 30, 1985.

The Panel's obligations were enlarged to include the year commencing July 1, 1986. No parity consideration is involved here and we are charged with breaking a new trail. The task is eased by the proximity of July, 1986, when the third year commences. Forecasts generally are more reliable as their reach contracts. In reviewing recent and projected changes in the Consumer Price Index and considering the Employer's projected income stream, an additional 5.75% increase appeared equitable. This increase is to be applied uniformly to all positions in the salary structure in effect on June 30, 1986.

Additionally, the Panel has addressed several incidental collective

bargaining considerations, including the lengthy time span of the impasse resolution process, along with certain assumptions involved in quantifying its views - and will award two one-time bonus payments of \$100.00 each to be paid to members of the bargaining unit on the payroll July 1, 1985, with the first bonus amount being paid with the retroactive compensation for the period through June 30, 1985, and the second \$100.00 payment being paid promptly after July 1, 1986.

The Employer further proposed adoption of an entry-level rate (Bracket 80, Step 1) of \$20,000/annum to be effective for the life of the agreement, retroactive to July 1, 1984. An entry-level rate of that magnitude has been implemented in the agreement with the Locust Club. The Union has vigorously opposed this proposal on the ground that it would constitute a two-tiered system which carries especially severe negative implications for individuals like Fire Fighters who live and work together, frequently in life-threatening situations, as a closely-knit unit. The Panel recognizes that Police members do not generally share housing facilities but that is attributable to differences in the character of the work and in the way staff must be deployed to discharge its missions. We do not concur in the suggestion that reliance upon mutual support to survive confrontations with life-threatening challenges is unique to Fire Fighters. Moreover, adoption of a separate entry-level rate will not constitute introduction of a new multi-tiering concept in public employment generally or in the dealings of the parties to the present proceeding specifically. Longevity and Step increments, whatever their rationale,

have historically resulted in persons performing ostensibly identical jobs being paid at different rates at a given point in time. Multi-tiered retirement pension systems have been in force for Public Safety employees without evidence of employee resentment or pernicious impact upon departmental elan and commitment. We are, therefore, impelled to deny the Union defense urging categorical denial of the Employer's proposal. Reliance upon entry-level rates during indoctrination and initial training periods is a common feature of salary administration plans. Recruiting is the Employer's responsibility and its view that a \$20,000/annum entry level rate will not impair its performance must be accorded substantial weight. Moreover, intuitive assessment suggests no thinking individual seriously considering a professional Fire Fighter's career would be dissuaded by the requirement for brief service in an entry-level classification. The duration of this period of brief service is, of course, a second dimension which the Panel debated. We infer that the initial six months of service will encompass substantially all of the entry-level training and indoctrination, and will, therefore, award the entry-level starting rate of \$20,000 to be applicable for the first six months of service only. While this rate will be retroactive to July 1, 1984, we support the Union argument that incumbents who entered at the Step 1 rate should not be penalized as a consequence of the adoption of this new provision. Consequently, the Award will exempt incumbents on or prior to July 1, 1985, from any impact the implementation of this provision would otherwise have upon them.

3) Holidays (Article 4)

The Union has proposed the addition of one holiday to the twelve (12) provided in the predecessor agreement, while the Employer has proposed the substitution of Memorial Day and Veterans Day for all Fire Fighters, rather than only for those who are military veterans and work on those days. The inclusion of these two holidays in the schedule for all Fire Fighters would be accompanied by deletion of Election Day and St. Patrick's Day, thereby providing a uniform twelve-holiday benefit to all bargaining unit members.

The Panel finds that retention of the Veterans holiday, set forth in Section 6, does not do violence to the concept of parity and imposes a de minimus economic impact. It, therefore, finds for preservation of the twelve (12) holidays and the contractual language of the expired agreement. However, we do uphold the Fire Fighters' contention that the formula employed to calculate holiday pay entitlement for members of their unit inevitably results in a lower pay per holiday than does the formula employed for Locust Club members. The basis of this discrepancy is reliance upon two slightly different aggregate annual base hour levels for calculating the imputed hourly and per diem salaries. The appropriate formula adopted by the Panel is based upon the inference that holiday pay entitlement is earned on the basis of 50 work weeks of five days each, or a total of 250 days. While there is a measure of arbitrariness in the adoption of this figure, we believe it to be one to which others popularly subscribe and one which is realistic in the circumstances here obtaining. On this basis, the imputed per diem pay

for the Fire Fighters' representative work day is clearly 1/250 of annual salary. The Award will, therefore, provide that per diem holiday pay be computed by dividing annual salary by 250, any contrary provision of the agreement notwithstanding.

The new method of calculation will apply to the computation of holiday pays for the 1984-1985 holidays to be paid in December, 1985, with retroactive holiday pays for prior periods being computed on the basis of the prior formula but with application of the retroactively-adjusted Step and Bracket values.

4) Service Connected Injuries (Article 8)

On the basis of the evidence before us, the Panel finds no basis for altering the contract language set forth in Article 8, Section 3, of the expired agreement.

5) Health Benefits Funding (Article 9)

Article 9, Section 7, of the expired agreement provides for funding of certain health benefits out of proceeds from the Foreign Insurance Fund. These are additional benefits relative to those received by other city employees and the Union is seeking to have the benefit continued without benefit of the supporting allocation from the Foreign Insurance Fund, which allocation it would elect to employ in other activities beneficial to members of the bargaining unit.

The contractual language upon which this arrangement is based and which the Union now seeks to modify was adopted in 1981, and we are aware of no development since that time which justifies its deletion

or modification at this time. The Panel will, therefore, award that the provisions of Article 9, Section 7, of the predecessor agreement be incorporated without modification in the successor agreement.

6) Miscellaneous Health Benefits (Article 9)

The issue involved here is a Union demand for additional health riders. The rationale underlying these demands is that the cost to the Employer of providing coverage for Fire Fighters is below that incurred in funding similar coverage for other groups, and that these savings should translate into further improved benefits for the Fire Fighters. The resources of the Foreign Insurance Fund referred to above are involved here because the Union views them as non-Employer monies which are merely channeled through the Employer for the Fire Fighters' benefits. A review of the positions of the parties lends support to the Employer's contention that the Fire Fighters enjoy health insurance benefits superior to those of other city employees without deduction from the individual member's pay. Any questions relating to the character and status of the Foreign Insurance Fund are not properly before this Panel and we are, therefore, constrained to hold that the Fire Fighters are not disadvantaged by deficiencies in their health insurance package relative to those enjoyed by comparable groups, and its petition for a further enlargement of coverage to include what has been designated as the "2 in 1 Rider," "Out-patient Rider," "Full X-ray Coverage Rider," and "Dependent Student Rider Coverage" will be denied.

7) Work Schedule (Article 14)

The Union maintains Fire Fighters do not enjoy parity with members of the Police Locust Club in the matter of work hours per week, alleging that the work week of the other Public Safety group is nominally 38.2 hours, whereas theirs is a full 40 hours/week. The Fire Fighters are seeking either a reduction in the work week or compensatory compensation.

The evidence before us indicates both groups work nominal 40-hour weeks if superficial differences in allowed lunch periods, reporting and roll-call times, and the like, are considered. Moreover, the Union's own Exhibit J indicates Fire Fighters enjoy considerable flexibility in deviating from official work hours by modifying the official schedule and relieving each other at times better-suited to individual convenience. The character of a Fire Fighter's worktime is often different. For example, a night shift worker, who commences work at 6 p.m., is permitted to retire at 9:30 p.m., with the only additional duty until shift-end at 8 a.m. being an additional two-hour watch, barring, of course, response to alarms. Such standby time is, of course, critical to providing the public with adequate protection from fires and potential catastrophes. There is no intent to deprecate the quality of services rendered by Rochester's Fire Fighters at all times as the parties are in firm agreement that the Department is an excellent one and that such excellence is maintained by a pervasive, diligent commitment of which all are justifiably proud. These differences do, however, support the

inference that small differences in official work schedules do not necessarily constitute inequities. On the basis of the record before us here, the Panel will award preservation of Article 14, Section 1, of the expired agreement in the successor agreement.

8) Release Time (Article 25)

The Employer has proposed a number of reductions and modifications in the release time provisions of the prior agreement. The Panel has reviewed the various sections and determined that, for the most part, the responsible use of release time is beyond question and that these Employer proposals would generate extremely modest savings at best. The Union proposal which, in essence, would involve transferring 100 hours/year of available release time from one use category to another would similarly exert a minimal impact on its operations. The Award will, therefore, provide for retention of Article 25, Section 1, Section 2, Section 3, Section 4 and Section 6 of the expired agreement in its successor without modification, except that Section 6 will be renumbered Section 5. The Panel will uphold deletion of Article 25, Section 5, which provided release time for trustees which, in its judgment, is not required in light of release time available under other categories. The Panel has similarly taken note of the potential for abuse by persons assigned to night tours who are involved as negotiating representatives under the provisions of Article 25, Section 7, of the expiring agreement. It has addressed this concern by providing that negotiating representatives assigned to night tours are expected to report unless some other arrange-

ment has been made with the Fire Chief, subject to the proviso that release time will not be unreasonably withheld. Due to the deletion of Article 25, Section 5, the amended Section 7 will appear as Section 6 in the successor agreement.

The Panel has also awarded a Notice Provision to appear as Article 25, Section 7, in the successor agreement, which provision requires the Union President to provide the Fire Chief with advance notice of requested release time, specifying the provision under which said time is sought. The advance notice period will be 48 hours, except where circumstances are such that the need for release time could not be anticipated that far in advance and that, in such emergencies, the President will be expected to contact the Fire Chief, or appropriate Deputy, to make an oral request.

9) Impact of Manning (Article 37)

The Union notes that departmental strength for the past decade has dropped from 701 members to 553, and it maintains that this has imposed additional burdens upon the retained Fire Fighters. In its Exhibit D, it sets forth a progression of injury frequencies dating from 1980, subdivided to show separately those where Fire Fighters were disabled from duty as a result. In its Exhibit D, it presents a listing of Fire Fighters who have succumbed to cancer and that list, encompassing 20 Fire Fighters, shows that 5 worked out of a single Fire House (Engine 5). This has aroused a suspicion of a possible link which is currently being further investigated.

The Panel encounters several difficulties in treating with this issue. Firstly, the data is too sparse to support a statistical inference with any degree of confidence. Secondly, the suspicions aroused by the listing in Exhibit D are unsupported by any epidemiological data. Is cancer, in fact, occurring with uncommonly high frequency among Rochester Fire Fighters? Are they of a common type? Are they linked with some common exposure, etc.? The epidemiological sophistication required to gather the necessary data and draw the conclusions urged here clearly requires the input and evaluation of experts who, in our judgment, are nowhere involved in this proceeding. So-called "common sense" correlations and cause-and-effect conclusions based upon them can be very misleading as relationships are not always what they seem to be. The survival of rain dancing, one suspects, is attributable to the fact that the ritual exercise is sometimes followed by rain. Beyond this, one must question whether it would be appropriate to treat with continuing unprotected exposure to lethal insults by resort to a doctrine of inherent risk. In face of the numerous unexplored questions raised by the Union proposal, the Panel is denying the demands relating to the impact of manning set forth in Article 37.

B. Majority Determinations

1) Longevity (Article 2, Section 5)

The Employer has proposed changes in longevity benefits for employees hired on or after July 1, 1984. The predecessor agreement provided for payments of \$50.00/year of service commencing with the

third anniversary, for a period of 22 years, with a resultant maximum of \$1,150.00. The Employer's proposal is to reduce this benefit to \$25.00, commencing with the employee's fifth anniversary, and to continue the increments until the 20th year, reaching a \$400.00/year maximum. The Union's vehement opposition to this proposal has been consistently and vigorously advanced in its oral and written arguments, and in the executive conferences of the Panel. It argues first that this benefit in the expired agreement met the equity test relative to comparables, but its most strident voice is directed against the two-tiered system of benefits for Fire Fighters.

The Panel's opinion respecting this argument, as set forth earlier herein in treating with the question of entry-level rates, is believed by the majority to be largely applicable to the question at hand. Indeed, the longevity-payment system in itself has created a multi-tiered system for Rochester Fire Fighters for at least 15 years as a 25-year veteran earned \$50.00/year more than a 24-year veteran who, in turn, earned \$50.00/year more than a 21-year veteran, etc., with the 25-year veteran earning \$1150.00/year more than a three-year veteran performing the same job. The principle of differential payments for equivalent work wherein senior persons receive higher pay is not alien to members of the bargaining unit, and it apparently has not undermined morale or impeded the continuing upgrading of a department which is the object of both Union and Employer pride. At this juncture, therefore, our attention turns to the merits of the specific terms proposed by the Employer.

We concur in the Union urging that present members of the department be held safe/harmless from the impact of a less advantageous schedule, which had not advanced beyond the proposal stage at the time their service commenced. The adoption of a July 1, 1985, cut-off date will achieve that result. For persons hired on or after July 1, 1985, the Panel majority has agreed upon a new schedule based upon parity and gross cash compensation considerations which it believes to be equitable. This schedule will provide for longevity payments of \$40.00/annum, commencing with the fifth anniversary, payable through the twentieth anniversary, for a maximum of \$640.00/annum. The Award will provide for payments to be made by adding to the biweekly paychecks, with payment commencing the first full pay period of the month following that during which the anniversary occurs.

2) Health Benefits (Article 9, Section 1)

The Employer has proposed that persons hired after July 1, 1984, be required to contribute 20% of the premium cost of Blue Cross/Blue Shield insurance, inclusive of the cost of additional maternity coverage and the prescription rider. If the employee is a member of a Health Maintenance Organization, the employee would be required to pay personally the full amount of the additional cost attaching to such coverage. The Union has not only opposed imposition of such a requirement, but also has sought enlarged health-related coverage, a subject to which the Panel has addressed itself at an earlier juncture herein. The Union dissent notwithstanding, the majority finds the Fire Fighters

do and apparently will continue to benefit from the most comprehensive health insurance coverage of any employee group in the jurisdiction. While monies from the Foreign Insurance Fund are involved in the funding thereof, Fire Fighters are nonetheless the beneficiaries at no cost to the individual member. In a period when Employers generally, both public and private, are seeking to rein in and control health benefit costs, the principle of premium sharing between Employer and individual employee has been widely applied. The Administration proposal is hardly unique and the evidence is to the effect that it has been adopted in its agreement with all other bargaining units. The Panel majority is constrained to hold that future members of Local 1077 entering the City's employ after July 1, 1985, are not uniquely entitled to an exemption from the general practice in the jurisdiction. The July 1, 1985, date has been adopted in lieu of the Employer's proposal of July 1, 1984, to hold safe/harmless individuals who entered Fire Department employment prior to the date of the Panel's determination.

3) Dental Plan (Article 9, Section 5)

The Union has proposed GHI Spectrum 2000 coverage for all bargaining unit members and their families - without contribution by the Foreign Insurance Fund. Thus, the proposal is for a continuation of an existing benefit with a change in funding and, as such, relates to opinions previously expressed by the Panel majority in connection with Article 9, Section 1. The application of that earlier analysis constrains the Panel majority to deny the Union proposal in the immediate matter

