

The Award is for the period January 1 - December 31, 1991 and January 1 - December 31, 1992.

BACKGROUND:

The City of Syracuse is located within Onondaga County, roughly in the center of New York State. It has a population of about 164,000 and is the fourth largest city in New York State, excluding New York City.

The bargaining unit is made up of six Deputy Chiefs with an average seniority of 33 years. The Fire Department also has a Chief and a First Deputy Chief and below the six deputies in rank are approximately 430 line firefighters, officers, and District Chiefs. The six Deputy Chiefs are supervisory officers whose duties fall within the areas of fire prevention, fire control, training, and personnel. All six also take turns at being the duty deputy in command, available to respond to working fires.

The Panel relied upon the evidence and arguments presented by the parties in support of their respective positions on the open items. The Panel determined the weight and relevancy of the evidence.

An arbitration hearing in this matter was held on February 5, 1993 at which time the parties were afforded full opportunity to set forth their positions, offer supporting evidence, and engage in response and rebuttal to the briefs presented for the hearing. Post hearing briefs were dated and exchanged on March 2, 1993, at which time the record was closed. The Panel met in executive session on March 11, 1993 and continued to confer by phone.

This Award is based upon consideration of the facts, testimony, and evidence, exhibits and background documents submitted by the parties. The Award is in accord with the statutory criteria as they apply to this dispute:

- (v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:
 - 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.

Other relevant factors were considered by the Panel. The timing of the Award, approximately four months after the conclusion of the years to which it is applied, is a factor. The recent collective bargaining agreement between the City and the uniformed firefighters is a consideration. Past agreements between these parties, while informal, have formed a basis for continuing agreements. Other relevant interest arbitration awards were reviewed, such as the one covering the same years as this one, but for the impasse between the City and the police and for the impasse between the City and the firefighters.

The Panel has considered each of the unresolved issues submitted for its determination and has made an award on all open issues with the exception of one issue remanded to the parties for negotiations by unanimous vote of the Panel. Pursuant to the statutory authority, the duration of this Award shall be for two years, from January 1, 1991 through December 31, 1992.

ITEMS IN DISPUTE:

Association Proposals:

I. Increase base salaries retroactive to January 1, 1991 from \$50,768 to \$57,983. Retroactive to January 1, 1992, increase base salaries to \$64,165.

First year chiefs (there presently are none) would receive \$49,996 in 1991 and \$61,066 in 1992. This increase represents about a 5.3% increase and a 25% differential between Deputy Chiefs and District Chiefs. The differential currently is 23.4%.

- II. Increase extra duty compensation from \$1,900 to \$4,000.
- III. Allow Deputy Chiefs to accumulate up to 72 hours in compensatory time.
- IV. Add three (3) personal leave days.

In support of its proposals, the Association makes these arguments, as summarized:

1. The City's alleged financial difficulties do not prevent the City from affording the salary increases proposed by the Association. The cost of increases for six chiefs is de minimus, amounting to only \$43,290 for 1991 and \$37,092 for 1992.

2. The Association contends that the City has sufficient funds to provide retroactive payments. Its interest on deposits or its surpluses provide ample funds for these increases. Ability to pay is evident, the Association says, but the City is unwilling to pay. This attitude does not serve the public interest, which presumes a fair minded attitude toward compensation of its employees.

3. Comparability considerations suggest that Syracuse deputy fire chiefs are to be compared to individuals in other communities which are similar in size, population, revenues, and expenses. The Association rejects the City's list of comparable cities and argues that the State legislature, in multiple laws, has indicated that Syracuse is only comparable to Rochester, Buffalo, and Yonkers. A comparison of similar job titles and duties in those cities with the deputy chiefs in Syracuse shows the disadvantage in salaries for the members of this Association.

4. It is unfair, unreasonable, and unjust to compare firefighters to other City employees. Special skills, different working conditions, physical hazards, and special mental qualifications differentiate these employees from other public sector employees.

City Proposals:

V. Freeze salaries for 1991 and 1992.

VI. Increase medical insurance contributions paid by the Deputy Chiefs to 20% of the total cost for medical insurance.

In support of its positions, the City's arguments may be summarized as:

1. The City's financial straits in 1991 and 1992 resulted in wage and benefit freezes for other bargaining unit employees. The 1991 revenue shortfall totaled \$9.9 million. For 1992, the City is projecting a revenue shortfall of nearly \$8 million. Shortfalls resulting from declines in revenues from sales tax, state aid, and property taxes led to hiring freezes, layoffs, and wage freezes. For 1993, moderate wage increases have been budgeted for bargaining unit members. The interest arbitration award for firefighters included a prospective wage increases of 4% for 1991 and 4% for 1992 awarded on the last day of 1992. The City and the firefighters have a memorandum of agreement for 1993 which incorporates Arbitrator Sands' Award.

2. The City argues that while the funds to pay the proposed increase to the Deputy Chiefs clearly would not be an intolerable financial burden, considerations of equity and a consistent approach to treatment of employees dictate a wage freeze for the Deputy Chiefs.

3. The City says that in the past, the comparable communities used by the City for comparisons in interest arbitration proceedings have included the top ten upstate cities measured by population. For this proceeding, the City compares its Deputy Chiefs to similar positions in Albany, Binghamton, Buffalo, Niagara Falls, Rochester, Rome, Schenectady, Troy, and Utica. But the City urges the Panel to consider comparisons as secondary to its arguments of inability to pay increases for 1991 and 1992. Even so, with the generous benefits added to base salaries, the Deputy Chiefs fare well compared to their counterparts in other communities.

AWARD:

On the record before it, the Panel is persuaded that the Deputy Chiefs are entitled to a 4% increase for 1991 and a 4% increase for 1992, to be paid prospectively on December 31, 1992. The rationale for this Award is in accord with the statutory criteria and with other relevant factors.

While the Association correctly states that the impact of retroactive raises on the City's total budget would not be devastating, a fact conceded by the City, the arguments against granting retroactivity go beyond mere cost at this moment in time. When the City and the Deputy Chiefs were negotiating in 1991 and 1992, the City's financial condition was different from what it is three and four months into 1993. The wage freeze negotiated with other city bargaining units obviously saved far more dollars than the amount of any raises for the six Deputy Chiefs, but the City makes a cogent and persuasive point. Equity is involved here. Deputy chiefs are not entitled to an increase simply because there are fewer of them. The Association is not entitled to retroactive increases simply because it pursued negotiations to the point of interest arbitration, while other bargaining units reached agreements with the City. The Association is entitled to argue its points, but not to be rewarded only because its members held out longer. Therefore, believing the City did not have the ability to pay increases during 1991 and 1992 to other bargaining units, the Panel, in the interests of equity, reaches the same conclusion with regard to this bargaining unit.

The prospective raise is awarded because the Panel believes this unit within the fire department should not be treated differently from line firefighters. In the interest arbitration award of John Sands, the prospective increases took

into account the City's financial straits during 1991 and 1992. We do the same, and also note the improved financial conditions for 1993. The City has included wage increases for all employees in its 1993 budget.

Comparability with personnel in like or similar positions in other comparable cities was also factored into the determination that a salary increase is justified. The Panel agrees to some extent with the Association's list of comparable cities, with the exception of Yonkers. Buffalo, Rochester, and Albany are the closest comparable cities in population. The Association's argument that the State legislature distinguishes between cities with populations over 125,000 and those below for the purpose of law-making is valid. The Panel votes that Albany, while smaller than Buffalo and Rochester, is considered to be economically closer to these upstate cities than to any other community cited by the City. In reviewing the other cities listed by the City, the Panel finds that Deputy Chiefs, or personnel with different titles, but in similar functions, are paid somewhat less in some smaller cities, such as Binghamton, Rome, and Schenectady. However, some smaller cities, such as Albany, Niagara Falls, and Troy, show higher salaries in 1991 than would be paid to the Syracuse Deputy Chiefs with a wage freeze keeping their salaries at \$50,765.

The particular hazards, qualifications, job training, and skills of the firefighting personnel are not disputed by the City and have been considered by the Panel in making this Award.

The Memorandum of Agreement between the Syracuse Firefighters Local 280 and the City of Syracuse also has been considered in the Panel's determination to award general increases of 4% on December 30, 1992. While recognizing that the terms of Arbitrator Sands' award are not binding upon the Deputy Chiefs, the same reasoning applies to its relevance as was applied to the consideration of equity with other City employees' negotiated agreements. Obviously, the comparison with other firefighters is a significant factor. The Panel realizes the duties and responsibilities are different for Deputy Chiefs than for line firefighters but also views firefighters, no matter what rank, as having more in common with one another than with non-firefighters.

II The Panel awards extra duty compensation to be increased from \$1,900 to \$4,000 annually. This portion of the Award is retroactive for 1992. The 149 extra duty hours at the hourly rate of \$24.40 amounts to \$3,636. The Panel believes that \$4,000 is an appropriate level of compensation for extra duty that requires nights and weekend time from each Deputy Chief. While not amounting an overtime rate, the extra pay beyond the hourly rate takes into account the degree

of responsibility for the individual on duty and the time required in addition to a usual work schedule.

III The Association demand for the ability to earn compensatory time is denied.

IV The Association proposal for 3 personal leave days is denied.

V The City proposal for a 20% contribution to the cost of health insurance premiums is denied.

VI The matter of disciplinary disputes is remanded to the parties. While this issue was raised, insufficient information and the lack of specificity in the proposal make this subject one for the parties to negotiate and determine.

ALL OTHER ITEMS

Any other items submitted to the Panel for its consideration that have not been addressed in this Award are deliberately omitted, either by explicit requests of the Parties or by the Panel's belief that an item has not been clearly presented for its determination.

AFFIRMATION

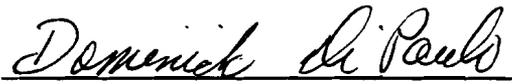
This Award constitutes the entire Award of the Panel concerning all issues properly before it. The undersigned have indicated their concurrence with each and every one of the items of this Award.

Dated: 5/10/93



Mona Miller
Public Panel Member & Chair

Dated: 5/10/93



Dominic DiPaulo
Employee Organization,
Panel Member

The undersigned dissents in part with the items of this Award as set forth and so signifies by the signature below.

I dissent from the salary and extra duty pay compensation based upon the economic conditions of the City during this contract award period.

Dated: 5/10/93



Renee Baker
Employer,
Public Panel Member