

IN THE MATTER OF:

THE CITY OF LACKAWANNA
AND
THE LACKAWANNA PROFESSIONAL
FIREFIGHTERS ASSOCIATION,
LOCAL 3166. IAFF, AFL-CIO

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
PERB CASE NO: **RECEIVED**
IA92-052
JUN 27 1994
CONCILIATION

Appearances:

For the City:

Arcangelo Petricca, Esq.
City Attorney

For the Association:

W. James Schwan
Counsel

BACKGROUND

There is no dispute that the City of Lackawanna has suffered unparalleled economic and political trauma over the last two decades. Nor is there any dispute that City workers have endured considerable economic and psychological pain in the process. The question before the negotiators in 1992 was how to grant some relief to Association members within the constraints of the fiscal realities faced by the City. The parties made a noble effort and, during mediation and in additional negotiations preceding arbitration, made substantial progress reducing the differences between them and creatively fashioning a framework for settlement. However, they were not able to take the last few steps to settlement and, accordingly, have presented the issues below to the panel for determination.

TERM OF AGREEMENT

The parties have mutually empowered the Arbitration Panel to determine an award of greater duration than the two year limit imposed by sub-section vi of Section 209.4 of the Civil Service Law. The agreement granting such jurisdiction and stipulating the parties willingness to be bound by such determination is made Appendix A of this award.

AWARD

The term of the agreement will be for four(4) years, from August 1, 1992 through July 31, 1996.

COMPENSATION

In 1989, Lackawanna Firefighter wage rates were roughly in the same ball park as those of comparable and neighboring municipalities, including the City of Buffalo. Chart I below shows that in 1989, the Lackawanna entry level rate was 7% higher than the Buffalo rate, about the same at the top of the firefighter scale and lower by 4% to 7% in the officer ranks.

However, Lackawanna firefighters have received only one increase since 1989. As other municipalities gave their firefighters increases a negative gap was created between the wages of Association members and those of firefighters in comparable bargaining units. For instance, as Chart I shows, by 1991 Lackawanna rates were already significantly below those of Buffalo Firefighters; 9.4% lower at the entry level, 16.8% lower at the top firefighter rate and 25.7% and 23.1% lower at the Lieutenant and Captain rates respectively.

Further, since 1991, the non-competitiveness of Lackawanna rates has obviously become more pronounced as other units have received increases and the parties have not been able to agree on increases for Lackawanna Firefighters. Chart 1 indicates that, by the summer of 1995, if no increases are granted by this panel, Lackawanna rates will be so substantially below Buffalo rates; 34.7% below the entry rate, 43.9% below the top firefighter rate and 54.8% and 65.6% below the lieutenant and captain rates respectively.

CHART 1
COMPARISON OF LACKAWANNA AND BUFFALO FIREFIGHTER
WAGE RATES (1989-1995)

<u>RANK</u>	<u>Lackawanna 1989</u>	<u>Buffalo 1989</u>	<u>% diff</u>	<u>Lackawanna 1991</u>	<u>Buffalo 1991</u>	<u>% diff</u>	<u>Buffalo 1995</u>	<u>% diff</u>
Entry level Firefighter	\$ 22,305	20,842	7.0	22,905	25,060	(9.4)	30,860	(34.7)
Top level Firefighter	\$ 28,396	28,176	0.8	28,996	33,878	(16.8)	41,723	(43.9)
Lieutenant	\$ 30,600	32,625	(6.6)	31,200	39,220	(25.7)	48,310	(54.8)
Captain	\$ 32,822	34,217	(4.3)	33,442	41,141	(23.1)	55,349	(65.6)

Comparisons with Buffalo are obviously relevant in that Buffalo and Lackawanna are not only contiguous cities, but clearly share the same labor market. However, they are vastly different with regard to size and tax base. Therefore, a comparison with similarly sized cities within the area will be helpful in deciding the appropriate level of pay for Association members. The Association offered as its Exhibits L and K a definition of and data from the six cities in Western New York with populations ranging from 15,000 to 65,000 which have paid fire departments. Those cities are Batavia, Jamestown, Lockport, Niagara Falls, North Tonawanda and Olean. Chart II compares Lackawanna firefighter rates with rates from these cities.

CHART II
COMPARISON OF LACKAWANNA FIREFIGHTER RATES
AND RATES FROM SIX WESTERN NEW YORK CITIES
1993

<u>CITY</u>	<u>Entry Level</u>	<u>Top Level</u>	<u>Lieutenant</u>	<u>Captain</u>
Batavia	\$26,636	\$32,763	\$36,040	\$39,644
Jamestown	27,003	36,506	38,486	39,657
Lockport	27,264	35,885	37,791	39,508
Niagara Falls	27,607	35,714	38,752	43,291
North Tonawanda	29,378	34,943	----	39,034
Olean	21,012	32,780	35,383	38,493
<u>AVERAGE</u>	<u>26,548</u>	<u>34,765</u>	<u>37,290</u>	<u>39,938</u>
Current Lackawanna	22,905	28,996	31,200	33,422
Percentage Differential	(15.9)	(19.9)	(19.5)	(19.5)

Comparisons with other firefighter units is the first criterion in New York's statutory scheme for interest arbitration. The teaching of Charts I and II is that Lackawanna firefighter rates are significantly below those of " other employees performing similar services or requiring similar skills under similar working conditions ... in comparable communities" (Civil Service Law, Section 209.4, subsection (v)(a)).

Further, the gap between Lackawanna and other comparable communities will increase in 1994 as rates increase in those communities. For instance, Buffalo rates are scheduled to increase 5% in 1994 as are those in Jamestown. Niagara Falls rates will escalate 4.5%, Olean 3% and the other cities in Chart II are currently in negotiations with wage increases probable. We conclude then that at the moment of this writing Lackawanna rates are one the order of 20% to 25% below those of comparable communities.

Another common criterion of wage policy is productivity. To the extent that the productivity of workers increases, unit labor costs are lowered, and the cost of the product or, in the case, services to the user is lowered. Over the last two decades the manpower complement of the Lackawanna Fire Department has dropped from 104 (December 1982) to 50 (July 1993), a decrease of 52%. During the same period, the number of fire calls dropped off from on the order of 1500 per year to a little over 1000, but simultaneously the number of first aid calls increased from on the order of 500 per year to almost 1000; thus the number of total "runs" has remained at approximately 2000 per year while the workforce has been cut by more than half. (Association Brief, Exhibits P and Q) This represents a remarkable increase in productivity and is a tribute both to the City which insisted on such increases and the firefighting force which has able to bring them about. Increases in productivity of this magnitude provide a strong argument for maintaining wage rates at equitable, competitive levels.

The statute also requires that we consider and balance "the interest and welfare of the public and the financial ability of the public employer to pay" (Civil Service Law, Section 209.4, subsection (v)(b)) While it is true that all of the communities cited in Charts I and II have been subjected to severe economic dislocation over the last few decades, there is no contest that Lackawanna has the dubious distinction of being the most severely affected. The City, to its credit did not argue an inability to pay, but, rather, admonished us to reflect carefully on the City's desire to give due weight to both the public interest and welfare by providing support for its Fire Department and its diminished ability to pay. It asked that we fashion a wage package that would bring these two factors into an intelligent balance.

We have attempted to fashion such an optimal balance by providing a wage increase schedule which is "rear end loaded" and features lump sum retroactive payments. A major objective of this schedule is to provide the City with sufficient time to plan for and provide the increased funding required. While the increases granted will make some inroads in the significant gap between the wages of Lackawanna firefighters and those in comparable units, a sizeable gap will remain. Hopefully, by the time the parties again reach the

bargaining table the economic fortunes of the City of Lackawanna will have improved to the point that further progress can be made towards bringing Association members up to at least the average rates of comparable cities.

AWARD

WAGE INCREASES

<u>Effective Date</u>	<u>Amount</u>
August 1, 1992	2%
August 1, 1993	3%
August 1, 1994	5%
August 1, 1995	8%

Payment

- Increases of August 1, 1992 and August 1, 1993 will fully retroactive and compounded. Payment for such increases will be paid in a lump sum the first pay period in January, 1995.
- Although a 5% increase will be effective August 1, 1994, said increase will be calculated and paid effective the first pay period in January 1995. The differential for pay from August 1, 1994 through the first pay period in January, 1995 shall be paid in a lump sum

DISSENT

MEMBER ESZAK, REPRESENTING THE CITY OF LACKAWANNA
DISSENTS FROM THIS PORTION OF THE AWARD

LONGEVITY PAY

Presently, the agreement provides for longevity payments in accordance with the following schedule:

After 10 years of service.....	\$550
After 15 years of service.....	\$650
After 19 years of service.....	\$750
After 24 years of service.....	\$900

Chart III below compares the Lackawanna longevity pay schedule with those of the six other Western New York cities with paid fire departments and in the 15,000-65,000 population range.

CHART III

COMPARISON OF LACKAWANNA
LONGEVITY PAY SCHEDULE
AND SIX WESTERN NEW YORK CITIES
1992

<u>CITY</u>	<u>5 Years</u>	<u>10 Years</u>	<u>15 years</u>	<u>20 Years</u>	<u>Maximum</u>
Batavia	\$200	\$300	\$400	\$1000	\$1000
Jamestown	410 (4)	510 (9)	610 (14)	710 (18)	910 (24)
Lockport	600	650	850	950	1050 (25)
Niagara Falls	350	650	1000	1350	2050 (30)
North Tonawanda	200 (7)	400	600	800 (20)	800 (20)
Olean	350	600	850	1000 (19)	1100 (20)
<u>AVERAGE</u>	<u>352</u>	<u>518</u>	<u>718</u>	<u>968</u>	<u>1152</u>
Current Lackawanna	NONE	550	650	750	900 (24)
Percentage Differential		6.2	(9.5)	(22.5)	(21.9)

* Years in parenthesis () are years closest to chart schedule

Clearly, even in 1992 the longevity schedule for Lackawanna firefighters was non-competitive with those of comparable cities. Not only was there no five year payment but the percentage differentials in the out years were significant, the last two exceeding 20%. Of course, there have been increases in other city schedules negotiated since 1992 which have increased the gap.

Further, the panel feels that senior firefighters, who have been important factors in creating the changes necessary to continue high levels of service in the face of a more than 50% decrease in personnel, are deserving of increases in this schedule.

AWARD

Effective August 1, 1992 Article IV of the collective bargaining agreement will be modified as follows:

Schedule

- After 5 years of service.....\$ 250
- After 6 years of service.....\$ 300
- Additional increments of \$50 per year
of service to:
- After 19 years of service.....\$1000

Payment

- Payments will be retroactive to August 1, 1992
- Retroactive payments due August 1, 1992 and August 1, 1993 and the payment due August 1, 1994 will be paid in a lump sum in the second pay period of August, 1994

HEALTH INSURANCE

The City asked for some relief in present health insurance costs. During negotiations both parties tried to creatively react to this request considering a wide variety of approaches, including the possibility of restricting the choice among plans to specific carriers, premium cost sharing by the present work force, etc. However, we feel that the most immediate and direct approach is one aimed at cost control of present plans plus premium cost sharing for any employees hired after August 1, 1994.

AWARD

Effective August 1, 1994, Article XV of the collective bargaining agreement will be modified as follows:

- Section 1: The \$100 deductible will be increased to \$500

Language will be modified to provide that new employees hired after August 1, 1994 will pay twenty (20%) percent of the premium of selected coverage.

- Section 5: The \$3.00 prescription co-pay will be increased to \$5.00

OTHER ITEMS

The following items are awarded without comment:

Bereavement Leave-Article XII

Section 1 will be modified to add "sister-in-law, brother-in-law, and step parents" to the definition of "immediate family".

New Appointments-Article XIV

- "Bunker Pants" will be added to the list of equipment provided for new appointments effective November 1, 1993
- Bunker Pants for present firefighters will be provided in accordance with the following terms:
 - To be eligible the firefighter must purchase or now own OSHA approved bunker pants
 - Eligible employees will be reimbursed up to \$150 for the purchase of such pants payable to the employee upon submission of receipt or other appropriate proof
 - The City will repair or replace damaged, worn or outdated Bunker gear.

Emergency Medical Technician Pay: Article XX

- Section 6 will be modified to provide that effective January 1, 1994 the rate for supplemental pay for EMT's will be seventy-five (\$.75) cents per hour

Vacation: Article IX

- Section 5 will be modified to read as follows:

"Two members shall be permitted time off during the year. The total of two men off could consist of two men on vacation or any combination of accrued earned time.

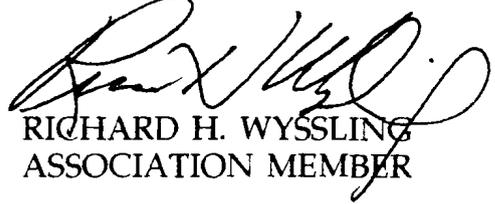
If four or more members are retiring during the first sixty (60) days of any given year, then Management has the option to schedule only one (1) member off during these sixty (60) days."

FOR THE ARBITRATION PANEL:

JUNE 22, 1994



ROBERT W. AHERN
PUBLIC MEMBER



RICHARD H. WYSSLING
ASSOCIATION MEMBER



DREW ESZAK (Concurring in Part, Dissenting in Part)
CITY MEMBER

APPENDIX "A"

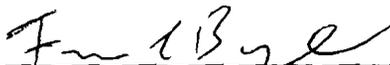
City of Lackawanna and
Lackawanna Professional Firefighters
Local 3166, 1AFF, AFL-CIO

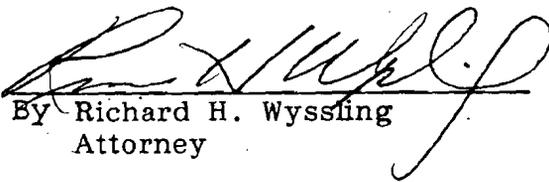
MEMORANDUM OF AGREEMENT
December 6, 1993

The parties agree that the Arbitration Panel consisting of Robert Ahern, Drew Eszak and Richard H. Wyssling are empowered to resolve the terms and conditions of outstanding issues (including Health Insurance) from August 1, 1994 to July 31, 1996 pursuant to Civil Service Law, Section 209(2). The Arbitration Panel may incorporate its award for such additional two (2) years within the current impasse process for the period August 1, 1992 to July 31, 1994, presently pending before the Panel.

City of Lackawanna

Lackawanna Professional
Firefighters
Local 3166, 1AFF, AFL-CIO


By Frank Bybel
Acting City Attorney


By Richard H. Wyssling
Attorney