

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Compulsory
Interest Arbitration Award between

RYE PAID FIRE FIGHTERS ASSOCIATION,
LOCAL 2029, I.A.F.F., AFL-CIO, CLC,

Petitioner,
and

THE CITY OF RYE,
Respondent,
-----X

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
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AUG 28 1998

CONCILIATION

Before the Public Arbitration Panel:

JOHN E. SANDS, Public Member and Impartial Chair
ARTHUR WILCOX, Employee Organization Member
CHRISTINE A. GAETA, Public Employer Member

OPINION

On October 24, 1996 Pauline R. Kinsella, Chairperson of the New York State Public Employment Relations Board, appointed me to chair a Public Arbitration Panel under Section 209.4 of the New York Civil Service Law for the purpose of making a just and reasonable determination of the above-captioned impasse in negotiations. The Association representative on the Panel was Arthur Wilcox and the Employer representative was Christine A. Gaeta, Esq. Pursuant to our authority under that statute, we conducted hearings in Rye, New York on March 21, 1997 and July 30,

1997. Both parties appeared by representative. The City's representative was Vincent Toomey, Esq. The Association's representative was Duncan MacRae. Each party had a full opportunity to adduce evidence, to cross examine each other's witnesses, and to make argument in support of its respective position. Neither party has raised any objection to the fairness this proceeding.

At the January 27, 1998 Executive Session of the Panel, the parties consented to allow the Panel four years' jurisdiction, covering the period of January 1, 1995 through December 31, 1998, to determine this dispute in accordance with Section 209.4's criteria:

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.

By virtue of the settlement of an Improper Practice Charge commenced by the City over the scope of bargaining, and after preliminary discussions between the parties and the Panel, the following demands were submitted to the Panel for determination:

FOR THE UNION

PROPOSALS

Salary:

9.0% increase January 1, 1995

9.5% increase January 1, 1996

2. Term

2 year contract

3. Longevity:

For firefighters hired after 1/1/77 : \$400 after completion of 9, 14, and 19 years.

4. Overtime:

Add to Article VI: E – Employees ordered to fill an assigned tour to receive double time.

5. Annual Leave:

Article VIII: I.3 – 200 hours after 10 years employment.

6. Holidays

156 hours of holiday time.

7. Health Plan:

Article XVI:

A – Add: after four years service the employer to pay 100%

B - \$575.00 per participating employee in 1995

- \$600.00 per participating employee in 1996

8. Life Insurance:

Increase City contribution to \$12.50 per participating employee.

9. Uniform Allowance:

Article XX:

Delete “whenever required” after dress blue uniform.

\$400.00 cleaning and maintenance in 1995

\$425.00 cleaning and maintenance in 1996

10. Personal Leave:

Article XXI:

Increase to 44 hours

11. Education and Training:

Article XXII:

Delete Training

Increase to \$200.00 budgeted annually, \$1000.00 per employee

12. Vacation List

Article XXXV:

Change to Vacation/Comp Time List

FOR THE CITY

PROPOSALS

Amend Article XVI, Health Plans, (p. 10), to provide:

(a) all members of the bargaining unit shall contribute 25% of the cost of their health insurance coverage not to exceed four percent (4%) of their base salary.

(b) Delete the last sentence of Section A of this Article regarding Retiree Health Insurance.

(c) The City shall have the right to provide health insurance coverage under either the alternate MEBCO plan or under the State Empire Plan.

Amend Article XXI, Personal Leave (p.12), to provide for maximum of 24 hours personal leave per year.

ABILITY TO PAY

Section 209.4(b) of the Civil Service Law requires the Panel to determine the financial ability of the City to pay a fair and just award. In support of its argument that the City is able to fund a fair and reasonable award, the Association offered a report prepared by its financial consultants, Edward J. Fennell Associates. In concluding that the City had the ability to

pay, Mr. Fennell made the following principal findings after his review of the the City's financial records:

- Rye has an overall real property tax rate which is the lowest of all other Westchester County cities.
- The City has a taxing margin of \$31,423,235 which represents 77.3% of its limit for fiscal year 1997.
- The City has exhausted 1.95% of its constitutional debt limit as of December 31,1995.
- The total projected fund equity balance in the General Fund as of December 31, 1996 was \$5,207,887. Unappropriated surplus as of this date amounted to \$3,684,397.

Although the City could not refute Mr. Fennell's principal findings, it offered evidence that its financial resources are not unlimited and that a general down-turn in the region's economy inhibits its its ability to fund the wage and benefit increases sought by the Association. In particular, the City cites potentials for diminished revenues due to lost assessables in pending tax certiorari cases and a loss of State and federal aid.

After careful consideration of the arguments and evidence submitted by the parties, the Panel concludes that that the City has the resources to pay the salary and benefit increases called for in this Award. Although we are mindful of the financial trends discussed by the City, we find that, based upon comparisons to other comparable municipalities, the City of Rye is in

no worse a position than other jurisdictions; and in many respects it occupies a substantially superior financial position

COMPARABILITY

In support of the Association's argument that its demands are appropriate in comparison to terms and conditions of employment for comparable employees in comparable communities, the Association produced evidence regarding terms and conditions of employment of all other fire departments in Westchester County. The City, on the other hand, argued that, based upon previous Interest Arbitration Awards pertaining to the City of Rye, certain adjoining municipalities are more comparable than a County-wide sample. The City contends that, within Westchester County, the most relevant comparison is between the City of Rye and the so-called "Long Island Sound Shore." The Panel finds that all Westchester County Fire Departments are comparable although fire departments which provide services similar to Rye's are most comparable.

WAGES

The Association seeks wage increases of 9.0% for 1995 and 9.5% for 1996. The City argues that an increase of between 3.0% and 4.0% per year is appropriate in light of other fire settlements in Westchester County and settlements for other Rye employees.

The City argues that the arbitration award for the City's Police Association should be the maximum increase awarded. The City also notes that the Police Association raises of split increases of 2.0% and 1.8% for 1995 and 3.75% for 1996 were offset by a conversion to the alternate MEBCO plan, which provided a substantial reduction to the City in the cost of health insurance.

The Association acknowledges that its proposed wage increases are ambitious, but it argues that they are justified based upon the fact that the Rye firefighter salaries are substantially lower than those of firefighters in comparable communities. The Union further argues that while the salaries for Rye Police and CSEA members are already at or above salaries of their counterparts in comparable communities, Rye firefighters lag substantially behind.

The Association further contends that the City has acknowledged this disparity and has previously indicated its willingness to allow a measure of "catch-up" to other fire departments by providing general wage increases in the last contract between the parties which exceeded the percentage increases given the Rye PBA and CSEA.

The Union alleges that if Rye's firefighters receive only the same percentage increases as the City's PBA and CSEA, they will continue to lose ground to other firefighters. This is particularly true since the Village of Port Chester, the only Westchester fire department which paid less than Rye, recently negotiated a contract which provides increases totaling 6.0% for 1995.

The Panel finds that neither position is acceptable. The Association has demonstrated that its members are substantially behind comparable fire departments. Although there may be appropriate historical reasons for the disparity, the fact that other Rye employees receive salaries which meet or exceed those of similarly-situated employees in other communities makes the gap between Rye firefighters and other firefighters questionable.

At the same time, the Association, although demonstrating willingness to take on additional responsibilities with many members

having received certifications as First Responders, still has not demonstrated that its workload at this time would dictate a salary award which would be higher than that granted in this Award. An increase as demanded of 9.0% per year is simply not warranted.

Nevertheless, the Panel finds that some salary movement by the Association is warranted and that the City has the ability to pay increases that will close the gap between Rye firefighters and those in comparable communities. This is particularly true since the Panel's award on health insurance, which granted the City's demand to provide coverage under the alternate MEBCO plan, will provide some relief to the City to allow funding of the wage increases.

The Panel finds that the wide disparity which had existed prior to this Award has closed to the point where the parties will be negotiating on a more level playing field in the future.

HEALTH INSURANCE

The City currently provides health insurance under a health insurance plan known as MEBCO. The City has offered substantial evidence that the alternate MEBCO plan will produce savings for the City and its

taxpayers on the cost of health insurance while continuing to provide a quality health insurance plan to bargaining unit members. Although the Union opposes this change, the record reveals that the City's police and non-represented employees are already covered by the alternate MEBCO plan. Accordingly, effective January 1, 1998, or as soon as practicable thereafter, the City shall be permitted to provide health insurance under the alternate MEBCO plan. The Panel also finds that future consideration should be given to the potentials for alternate and possibly equivalent coverage, including consideration of New York State's Empire plan. In order to address that concern, a Labor-management Committee consisting of two representatives of the Union and two representatives of the City will meet to discuss mutually-acceptable optional health plans. This is not to be considered as an automatic reopener of negotiations.

RECOGNITION CLAUSE

The Union has, or seeks to, change its name from the Rye Paid Fire Fighters Association to the Rye Professional Fire Fighters Association. The City does not oppose this change. The Panel grants this proposal. When PERB acts to amend the Union's certification to reflect its change of name,

Article I, the Recognition clause of the contract, will automatically be conformed. The cover page of the printed version of the contract may, however, reflect the new name.

VACATION LIST

The Union seeks a nominal change in the title of the vacation list clause of the contract. The City does not oppose this demand. The title of Article XXXV shall be changed from Vacation List to Vacation/Comp Time List.

RESIDUAL MATTERS

As to any other issues, after full consideration of the record evidence the Panel finds that neither party has adduced sufficient evidence to justify a change of the status quo. Accordingly, all other proposals are rejected.

AWARD

TERM

The term of the parties new contract shall be for four years from January 1, 1995 through December 31, 1998.

COMPENSATION

Taking into account all of the evidence discussed above, including our conclusions concerning Rye's financial ability to pay, we direct that the base contract rates be increased by these amounts:

The entry rate will be frozen through 12/31/98.

Effective 1/1/95: The salary increase at top step shall be \$1,975.00, with proportionate increases for those who were hired during that period or before and who are not yet at top step.

Effective 1/1/96: The salary increase at top step shall be \$1,990.00, with proportionate increases for those who were hired during that period or before and who are not yet at top step.

Effective 1/1/97: The salary increase at top step shall be 3.4%, with corresponding increases for those who were hired during that period or before and who are not yet at top step.

Effective 1/1/98: The salary increase at top step shall be 3.3%, with corresponding increases for those who were hired during that period or before and who are not yet at top step. Those unit members who were hired after 1/1/98 shall be paid at the following rate:

Effective 1/1/98: One step will be added to the salary schedule and the steps will be equalized, making the top rate at Step Six. The 1998 salary schedule will be as follows:

| | |
|--------|-------------|
| Step 1 | \$26,020.00 |
| Step 2 | \$31,156.40 |
| Step 3 | \$36,292.80 |
| Step 4 | \$41,429.20 |
| Step 5 | \$46,565.60 |
| Step 6 | \$51,702.00 |

HEALTH PLAN

Effective January 1, 1998, or as soon as practicable thereafter, the City shall be permitted to provide health insurance coverage under the alternate MEBCO Plan.

A Labor-management Committee comprising two representatives of the Union and two representatives of the City will meet to discuss mutually-acceptable optional health plans. This is not to be considered as an automatic reopener of negotiations.

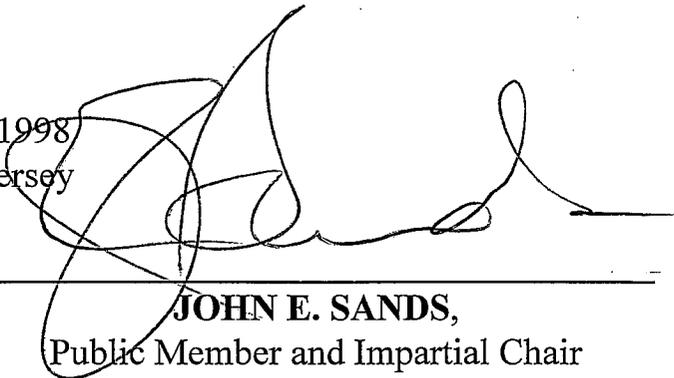
RECOGNITION CLAUSE

When PERB acts to amend the Union's certification to reflect its change of name from the Rye Paid Fire Fighters Association to the Rye Professional Fire Fighters Association, Article I, the Recognition Clause of the contract, will be automatically conformed. The cover page of the printed version of the contract may, however, reflect the new name.

VACATION LIST

The title of Article XXXV shall be changed from Vacation List to
Vacation/Comp Time List.

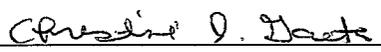
Dated: June 26, 1998
Roseland, New Jersey



JOHN E. SANDS,
Public Member and Impartial Chair



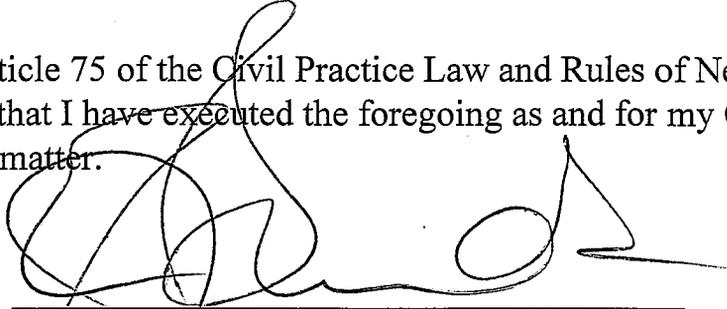
ARTHUR WILCOX,
Employee Organization Member



CHRISTINE A. GAETA,
Public Employer Member

AFFIRMATIONS

Pursuant to Article 75 of the Civil Practice Law and Rules of New York State, I affirm that I have executed the foregoing as and for my Opinion and Award on this matter.

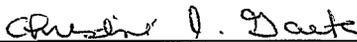


JOHN E. SANDS,
Public Member and Impartial Chair

Pursuant to Article 75 of the Civil Practice Law and Rules of New York State, I affirm that I have executed the foregoing as and for my Opinion and Award on this matter.

ARTHUR WILCOX,
Employee Organization Member

Pursuant to Article 75 of the Civil Practice Law and Rules of New York State, I affirm that I have executed the foregoing as and for my Opinion and Award on this matter.



CHRISTINE A. GAETA,
Public Employer Member