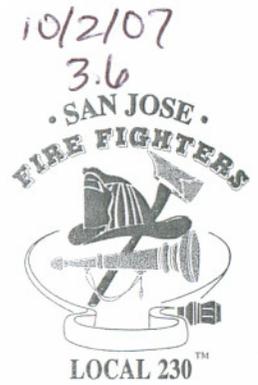




San Jose Fire Fighters • Local 230

425 E. Santa Clara Street, Suite 300, San Jose, CA 95113 • (408) 286-8718 • FAX (408) 286-2577



September 27, 2007

Honorable Mayor Reed and City Council members,

I know that you will be reconsidering the September 18th memo (attached) and recommendation from OER Director Gurza regarding the arbitration award. Specifically the pay that is due to all members of the bargaining unit relative to anti-terrorism training and response.

I have attached for your review the relevant section(s) of the arbitration award. As you will see the award is explicit in stating that the pay associated with anti terrorism training and response is due and payable. There are no stipulations tied to the pay that requires the Local and the City to meet and discuss anything relative to this issue.

Director Gurza's recommendation to not pay this compensation is an unjustified misreading of the award and invites improper interference with the requirement of the Charter to implement the unambiguous award.

The Arbitration panel awarded the Union its request for 2% in additional pay for anti-terrorism training the fire fighters already perform.

I urge you in your "reconsideration" to give clear direction to staff to immediately pay all members of Local 230's bargaining unit any and all pays as required by the arbitration award.

Thank you in advance for your support. If you have any questions, please feel free to call me at 408-828-3726.

Respectfully,

Randy Sekany, President
San Jose Fire Fighters IAFF Local 230
4th District Vice President
California Professional Fire Fighters

2007 SEP 28 P 1:28
RECEIVED
San Jose City Clerk



Distribution:

Honorable Mayor Chuck Reed
Pete Constant, City Council Member, District 1
Forrest Williams, City Council Member, District 2
Sam Liccardo, City Council Member, District 3
Kansen Chu, City Council Member, District 4
Nora Campos, City Council Member, District 5
Pierluigi Oliverio, City Council Member, District 6
Madison Nguyen, City Council Member, District 7
David Cortese, City Council Member/Vice Mayor, District 8
Judy Chirco, City Council Member, District 9
Nancy Pyle, City Council Member, District 10
Debra Figone, City Manager
Alex Gurza, Director of Employee Relations
Darryl Von Raesfeld, Fire Chief



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

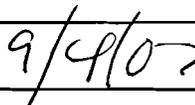
FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: September 4, 2007

Approved

Date

SUBJECT: AWARD RESULTING FROM THE INTEREST ARBITRATION BETWEEN THE CITY AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 230

COUNCIL DISTRICT: N/A
SNI AREA: N/A

RECOMMENDATION

Adoption of a resolution to implement the terms of the award resulting from the interest arbitration between the City and the International Association of Firefighters, Local 230, and authorizing the City Manager to execute the award.

OUTCOME

Adoption of the resolution will implement the terms of the Interest Arbitration Opinion and Award pursuant to San Jose City Charter Section 1111.

BACKGROUND

The City of San Jose has a labor contract with the International Association of Firefighters, Local 230 covering approximately 750 full time positions. Employees in this bargaining group include Firefighters, Fire Engineers, Fire Captains and Battalion Chiefs. The contract expired on February 28, 2004. An agreement on a successor agreement was not reached during negotiations or during the mediation process.

In accordance with San Jose City Charter Section 1111, the City and Union proceeded to interest arbitration. The Arbitration Board consisted of one representative designated by the City, one representative designated by the Union and a neutral arbitrator selected by the City and Union.

The arbitration involved a total of thirty (30) issues and the arbitration hearings were held during November 2006 to January 2007. Subsequently, on February 13, 2007, the City and Union each submitted Last Offers on each issue and arbitration briefs were submitted on March 19, 2007. Pursuant to Charter Section 1111, the Arbitration Board decides each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms with those factors traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of public and private employment. These include, but are not limited to, changes in the average consumer price index for goods and services, the wages, hours, and other terms and

conditions of employment of other employees performing similar services and the financial condition of the City and its ability to meet the cost of the award.

After the arbitration hearings, the neutral arbitrator scheduled several mediations between February 2007 and July 2007, prior to making a decision on each issue in an attempt to reach a settlement, however, no agreement was reached.

The Arbitration Board made a decision on each issue on August 3, 2007 and the Arbitration Opinion and Award became public on August 11, 2007. Copies of the award, the briefs and the City's dissenting opinion are available upon request.

ANALYSIS

The following is a summary of the Interest Arbitration Opinion and Award:

Wages

Maintain current salaries in effect through July 2, 2005

1.50% general wage increase effective July 3, 2005

5.70% general wage increase effective July 2, 2006

5.70% general wage increase effective July 1, 2007

3.75% general wage increase effective June 29, 2008*

* Reduced by the cost of premium pay for Special Operations

Special Operations

Prior to July 2008, the City shall provide the Union an amended policy for the Hazardous Incident Team (HIT) Unit. The revised HIT policy will be effective July 1, 2008. Relief personnel pay shall be amended to \$25.00 for such assignment during which 4 or more consecutive hours are worked.

On or about January 1, 2008, the City will provide the Union a draft Urban Search and Rescue (USAR) policy. The Union will review, comment, and may request to bargain over any matters within the scope of representation on the USAR policy on or before March 1, 2008. After July 1, 2008 and after agreement on the policy, all employees assigned to a USAR company will receive pay of approximately 5.0%. Relief personnel who are assigned to a USAR company shall be paid \$25.00 for such assignment during which 4 or more consecutive hours are worked.

Support Paramedics

The City may assign up to 147 support paramedics. Support Paramedics will be required to complete at least 3 patient contact reports per calendar quarter to receive support paramedic pay. Effective May 1, 2007 employees who are newly designated as support paramedics shall receive additional pay in an amount of 5.0%. Employees previously designated as Support Paramedics shall have their paramedic premium pay frozen and "Y-rated" and

shall continue to receive that amount until such time as that amount is either less than or equal to 5% of top step firefighter base pay in which event that Support Paramedic shall continue thereafter to receive as paramedic premium pay an amount equal to 5% of top step firefighter pay for each pay period in which the employee is entitled to receive a salary.

Health Insurance Premiums Effective January 1, 2007, employees' maximum contribution for the lowest-priced medical insurance plan will increase from \$25 to \$100 per month.

Effective January 1, 2008, employees' maximum contribution for the lowest-priced medical insurance plan will increase from \$100 to \$150 per month.

Dental Insurance Premiums Effective January 1, 2007, introduce a cost sharing for dental benefits that includes 100% City paid for lowest priced plan and 95% City paid/5% employee paid for other plans.

Health Insurance Co-Pays Effective January 1, 2008, co-pays for all available HMO plans shall be as follows:

- a. Office Visit Co-pay: \$10
- b. Prescription Co-pay: \$5 for generic and \$10 for brand name
- c. Emergency Room Co-pay: \$50

Retirement – Benefit Formula For employees who retire on or after July 1, 2008, the benefit formula will be changed to 3% of final compensation for each year of City service once an employee completes twenty (20) years of service with the City to a maximum of 90%.

Retirement – Survivorship Benefit For employees who retire on or after July 1, 2008, the spousal survivorship benefit shall be equal to fifty percent (50%) of the member benefit up to a maximum of forty-five (45%) of the member's final average salary.

Establish a Labor Management Committee on a Deferred Retirement Option Plan (DROP) During the term of the contract, the City and the Union will, not later than January 31, 2008, convene a labor management committee to explore available options and implications of adopting a Deferred Retirement Option Plan.

Vacation Accrual Effective the first pay period of calendar year 2009, employees will only be allowed to take vacation that has been accrued, and employees will be able to accrue up to a maximum of two times their annual vacation accrual rate.

Anti-Terrorism Training Pay Effective July 1, 2006, all employees represented by IAFF shall receive a wage increase of 2.0% for anti-terrorism training. This premium pay will be pensionable.

EVALUATION AND FOLLOW-UP

Several items contained in the award require further discussions with the Union and follow up.

Retirement – Survivorship Benefit

Currently, an eligible surviving spouse is eligible to receive a monthly allowance that is calculated as follows:

- To surviving spouse of member with 27.5 years of service or less: 37.5% of member's final compensation
- To surviving spouse of member with 27.5 to 30 years of service: 37.5% to 42.5% of member's final compensation depending on the years of service

The majority of the Arbitration Board awarded the Union its last offer which provides that the amount shall be equal to fifty percent of the member's benefit, which could be a lower benefit than currently provided to some eligible spouses.

Retirement – Updated Actuarial Studies and Ordinance

A request will be made to the Police and Fire Department Retirement Board to have its actuary, The Segal Company, complete an actuarial analysis to update the cost of the increase in the retirement benefit formula and the retirement survivorship benefit. Upon completion of this analysis, the City Attorney's Office will draft an ordinance amending the San Jose Municipal Code, which will be presented at a future Council Meeting after providing the draft to the Union and providing the proposed ordinance to the Police and Fire Department Retirement Board for comment.

Anti-Terrorism Training Pay

The Award provides a premium pay equivalent to a 2% wage increase for anti-terrorism training. Having well-trained Fire personnel is essential. In order to determine the eligibility requirements to qualify for this premium pay, the Fire Department will develop an anti-terrorism training program, and the Administration will review and discuss the training with the Union. The program will include the content, length and frequency of the training, and a process for verification that employees have received the training.

Special Operations Policies & Labor Management Committee

The Administration will review the Special Operations Policies with the Union and will commence the Labor Management Committee on a Deferred Retirement Option Plan no later than January 31, 2008.

PUBLIC OUTREACH/INTEREST

- X **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)

- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item will be placed on the September 18, 2007 Council Agenda and the memorandum will be available to the public on the City's website. Copies of the Award, the briefs and the City's dissenting opinion are available to the public upon request.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

COST IMPLICATIONS

There is no ongoing increased annual direct cost of this award in fiscal year 2004-2005. The ongoing increased annual direct cost of the interest arbitration award is approximately \$1.6 million in fiscal year 2005-2006, approximately \$8.4 million in fiscal year 2006-2007, approximately \$6.6 million in fiscal year 2007-2008 and approximately \$9.6 million in fiscal year 2008-2009.

In a letter dated January 12, 2007, the Police and Fire Department Retirement Board's actuary, The Segal Company, estimated the cost of the retirement benefit formula increase to be approximately 5.58% of payroll. This estimated retirement cost has been included in the cost; however, the cost is subject to change, as recommended by the Board's actuary.

The cost of the retirement survivorship benefit has not been included in the cost because the Board's actuary had not previously determined the estimated cost of providing the benefit as included in the arbitration award.

The cost of the anti-terrorism training pay has been included in the cost; however, to determine the eligibility for the premium pay, the Administration will need to develop the anti-terrorism training program.



Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

**OPINION AND AWARD
IN INTEREST ARBITRATION PROCEEDINGS PURSUANT TO
SAN JOSE CITY CHARTER SECTION 1111**

In the Matter of:)
)
CITY OF SAN JOSE)
Employer)
and)
)
INTERNATIONAL ASSOCIATION OF)
FIREFIGHTERS, LOCAL 230, AFL-CIO)
Union)
_____)

OPINION OF THE CHAIR

C.S.M.C.S. Case No. ARB-04-3025

ARBITRATION BOARD MEMBERS:
Jerilou H. Cossack, Chair
Nora Frimann, City-Appointed Member
Randy Sekany, Union-Appointed Member

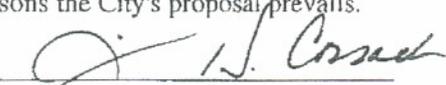
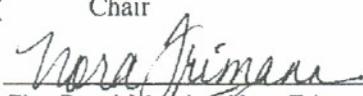
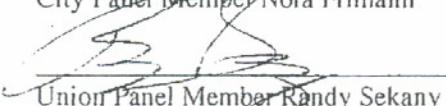
APPEARANCES:

On behalf of the City: Charles D. Sakai, Esquire
Renne Sloan Holtzman Sakai
350 Sansome Street, Suite 300
San Francisco, CA 94104-1304

On behalf of the Union: Christopher E. Platten, Esquire
Wylie McBride Platten & Renner
2125 Canoas Garden Ave., Suite 120
San Jose, CA 95125

San Jose firefighters work a 56 hour week, as do most firefighters throughout the state. As the Union points out, firefighters in the City and County of San Francisco, however, work a 48 hour week and those in the City of Oakland work a 52 hour week. The result is that San Jose firefighters necessarily earn less than those of Oakland and San Francisco on a per hour basis. That alone cannot justify imposing a system of wage determination on San Jose which so dramatically departs from the norm. The Union's proposal also would compel a defined universe consisting solely of the "Big Bay Four," a universe never agreed to by the City and never considered as the exclusive comparable by any Arbitration Board confronted with the question.

For these reasons the City's proposal prevails.

		_____
	Jerilou H. Cossack	Date
	Chair	
<input checked="" type="checkbox"/>	Concur	_____
<input type="checkbox"/>	Dissent	_____
		_____
	City Panel Member Nora Frimann	Date
<input type="checkbox"/>	Concur	_____
<input checked="" type="checkbox"/>	Dissent	_____
		_____
	Union Panel Member Randy Sekany	Date

ISSUE 3: TERRORISM/ANTITERRORISM PAY (Article 5.1.1).

City Proposal:

Status quo.

Union Proposal:

Effective July 1, 2006, all persons represented by the IAFF shall receive a wage increase of 2.0% for antiterrorism training. This shall be pensionable.

Positions of the Parties

The City. San Jose firefighters are not involved in anti-terrorism activities and do not receive any anti-terrorism training. The Union's proposal is retroactive to July 1, 2006, despite

the fact the San Jose firefighters do not currently receive any anti-terrorism training. None of the documents introduced by the Union create new duties or responsibilities for San Jose firefighters and none create any kind of anti-terrorism training referenced in the proposal.

The anti-terrorism training pay received by San Jose Police has specific procedures and mandatory annual training. It was in response to higher than anticipated wage increases granted to the firefighters after the POA had settled its contract.

Given that the City's wage proposal already exceeds CPI in the last two years of the agreement, the Union's proposal would simply push wage increases that much further above CPI. The proposal would push the wage increase of firefighters to a compound 7.8% increase in 2006.

Of the 16 agencies surveyed by the parties, only San Francisco receives terrorism training pay, which is for terrorism response and not for anti-terrorism training. San Francisco has long agreed to "parity" between its police officers and firefighters. San Francisco firefighters have this benefit only because San Jose police officers received it several years ago.

There is no justification for a 2% increase retroactive to July 1, 2006 for anti-terrorism training San Jose firefighters have not had and will not take. The proposal has an ongoing cost of approximately \$2.2 million and is the equivalent of 14 bargaining unit positions. It is simply not justified.

The Union. The 2.0% anti-terrorism pay proposal is less costly than a 2.0% base wage increase because it does not drive roll-up pay enhancements like overtime. It provides additional pensionable compensation without increasing the overtime rate. It is not added to the base wage.

The proposal is justified because an additional 2.0% of compensation must be granted in order for San Jose firefighters to regain their market position vis-à-vis the two comparable universes.

As a "targeted city" San Jose firefighters receive additional training and bear additional work burdens due to identified terrorist security threats. For this increase in anti-terrorism readiness responsibilities, San Francisco firefighters receive an addition 1.0% of base pay. San Jose police officers receive additional anti-terrorism compensation equal to 5.0% of base pay.

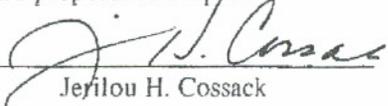
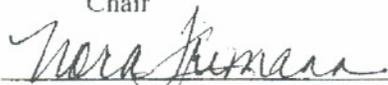
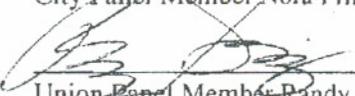
Discussion

The initial references to this proposal entitled it "Terrorism Response Training Pay." (See note on Union Exhibit 5.) The final proposal is entitled "Terrorism/Antiterrorism Pay." The initial title more accurately reflects the documentary evidence introduced in support of it, i.e., Union Exhibits 21, 22, 23, 24 and 25.

Fire Department personnel were mandated to take training in addition to that required of all public employees by the Office of Homeland Security. All Battalion Chiefs and selected Captains were required to take the 27 hour Incident Command ICS-300 and 24 hour ICS-400 classes (Special Bulletin #292, dated June 14, 2006). Both were funded by Homeland Security funds. All personnel were required to complete the National Incident Management System (NIMS) introductory IS-700 training course (Special Bulletin #90, dated October 4, 2005). The course itself was to be completed online in one to one and one-half hours; the test was to be completed in hard copy and mailed to the Training Division. All personnel were required to complete the NIMS ICS-200 training course (Special Bulletin #296, dated June 26, 2006). The course itself was to be completed online in one and one-half to two hours; the test was to be completed in hard copy and mailed to the Training Division. All Battalion Chiefs and above and Senior Dispatchers and above and all those on the Battalion Chief's promotional list were directed to complete NIMS IS-800 course (Special Bulletin #297, dated June 26, 2006). The course itself was to be completed online in two to two and one-half hours; the test was to be

completed in hard copy and mailed to the Training Division. All uniform personnel were required to take three and one-half hours of Seldom Used Skills training (Special Bulletin #45, dated August 25, 2006).

Awarding the Union's proposal would undo the inequity resulting from the adopted City proposal which reduced the 2007 wage increase by the amount of the cost of any increase in Special Operations pay. As previously stated, that reduction is not supported by any internal or external comparison. A premium for acquisition of added skills and training to combat the very real threat of terrorist attack, on the other hand, is supported by internal comparison with the premium paid San Jose police and by external comparison with the premium paid San Francisco firefighters. The Union's proposal is adopted.

		_____
	Jerilou H. Cossack	Date
	Chair	
<input type="checkbox"/> Concur		_____
<input checked="" type="checkbox"/> Dissent	City Panel Member Nora Frimann	Date
<input checked="" type="checkbox"/> Concur		_____
<input type="checkbox"/> Dissent	Union Panel Member Randy Sekany	Date

ISSUE 4: EMERGENCY MEDICAL TECHNICIAN (EMT) PAY (Article 5.3)

The parties are in agreement that the status quo should prevail.

	_____	_____
	Jerilou H. Cossack	Date
	Chair	
<input type="checkbox"/> Concur	_____	_____
<input type="checkbox"/> Dissent	City Panel Member Nora Frimann	Date
<input type="checkbox"/> Concur	_____	_____
<input type="checkbox"/> Dissent	Union Panel Member Randy Sekany	Date