



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### Results of Interest Arbitration with the Toronto Professional Fire Fighters Association, Local 3888, I.A.F.F.

**Date:** September 15, 2017  
**To:** Employee & Labour Relations Committee  
**From:** City Manager, Director, Employee and Labour Relations and City Solicitor  
**Wards:** All

#### REASON FOR CONFIDENTIAL INFORMATION

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This report is about labour relations or employee negotiations and relates to the receiving of advice that is subject to solicitor-client privilege.

#### SUMMARY

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The purpose of this report is to provide Council with the results of the City's interest arbitration with the Toronto Professional Fire Fighters, Local 3888 in light of the Final Award of Arbitrator James Hayes, dated August 17, 2017.

#### RECOMMENDATIONS

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The City Manager, the Director, Employee and Labour Relations and the City Solicitor recommend that:

1. City Council authorize staff to make the necessary adjustments to the 2017 Non-Program Expenditure Budget and Operating Budget of the Toronto Fire Services to reflect provisions of the Interest Arbitration Award.
2. City Council direct that Confidential Attachment 1 to the report from the City Manager the Director, Employee and Labour Relations and the City Solicitor remain confidential in its entirety as it contains advice which is subject to solicitor-client privilege.

## FINANCIAL IMPACT

The financial impacts of this Final Interest Arbitration Award are set out below.

The Deputy City Manager & Chief Financial Officer has reviewed this report and concurs with the information identified in the financial implications and impact statement section.

### PART A - Award Results: Toronto Fire Fighters Association, Local 3888

#### Salaries (in \$millions):

Year	Effective Date	Wage Increase	Cost (Gross and Net)
2015	January 1	2.00% Base Pay	\$10.3
	December 1	0.75% Base Pay	
2016	January 1	1.24% Base Pay	\$9.3
	July 1	1.20% Base Pay	
2017	January 1	1.50% Base Pay	\$10.2
	July 1	1.10% Base Pay	
2018	January 1	0.56% Base Pay	\$2.2
<b>Total Base Cost (2015 – 2018)</b>			<b>\$32.0</b>

*Note: 8.35% base pay increase over four years*

#### Benefits and Other Item: (in \$millions)

Item	Explanation	Effective Date	Cost (Gross & Net)
Salary Differentials	Increase the salary of Captains, Marine Captains and Marine Engineers, from 116% of the salary of a first class fire fighter to 118% of a first class fire fighter's salary.	July 1, 2018 January 1, 2019	\$0.6 \$0.6
Paramedical Benefits (Increase in maximums)	Increase the amount that all Local 3888 employees are entitled to receive in paramedical benefits from \$500, annually, for each of a number of listed paramedical disciplines to \$600 for each of those listed paramedical disciplines and increase the global annual benefit amount from \$2,000 to \$2,500	September 15, 2017	\$0.140

Item	Explanation	Effective Date	Cost (Gross & Net)
	It adds "athletic therapy" as a benefit within Paramedical benefits.		
Massage Therapy	Requirement that Local 3888 employees obtain a prescription for massage therapy in order for such therapy to be eligible for reimbursement.	September 15, 2017	-\$0.067
Psychological Benefit	Increase the value of psychological benefit coverage to be provided to fire fighters from \$1,000 to \$3,500, annually and expand the coverage to include the services of a psychotherapist.	September 15, 2017	\$0.334
Dental Benefit (Major Restorative Services)	Increase the major restorative dental benefit cap from \$2,000 to \$2,500 annually.	September 15, 2017	\$0.038
<b>Total Benefit &amp; Other Item</b>			<b>\$1.645</b>

In addition, the award provided Fire fighters with an additional Float Day effective January 1, 2018. Although this item will not increase the budget expenditures for TFS, it will have a significant impact on available on-duty resources which affects service levels. The annual cost of providing an additional Float Day is \$1.8 million.

### **Wages & Benefits**

Over the four-year term, the changes awarded will result in overall incremental base wage costs totalling \$32.0 million gross and net. In addition, \$1.6 million gross and net is required as a result of the change in benefits and increase for the salary differentials.

The 2017 Council Approved Operating Budget includes wages and benefits provisions for Local 3888 employees. Staff will make the necessary adjustments to the 2017 Non-Program Expenditure Budget and Operating Budget of Toronto Fire Services to reflect the provisions of the Interest Arbitration Award.

The overall wage costs represent a gross 8.64% compounded increase to base salaries over four (4) years.

Staff have budgeted and accrued sufficient funds to cover the retroactive payments for 2015, 2016 and 2017.

Staff are currently reviewing the results to determine the impact and requirements for the 2018 budget submission.

## **DECISION HISTORY**

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The Employee & Labour Relations Committee approved a mandate for collective bargaining on October 9, 2015.

## **COMMENTS**

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The Collective Agreement between the City and TPFPA, Local 3888 expired on December 31, 2014. The City provided notice to commence bargaining on October 24, 2014.

The collective agreement covers all Toronto Fire Services employees with the exception of the Fire Chief, Deputy Fire Chiefs, a small number of senior officers and administrative staff.

Negotiations between the City and the TPFPA commenced in November 2014. After a total of 22 days of negotiations by November 2015, those negotiations reached an impasse.

During the negotiations, the parties were able to reach resolution on 45 different operational and non-monetary items, including changes in collective agreement language, amending or deleting Letters of Intent and Letters of Agreement. These agreed items were awarded by the Board of Arbitration in an interim decision dated May 25, 2016. This interim award is Attachment 1 to this Report.

The parties were unable to reach an agreement on a number of additional issues, including wages and benefits, and the length of the Agreement. Those matters were referred to interest arbitration with Arbitrator Hayes presiding.

The arbitration commenced on May 20, 2016, on which date the parties consented to resolve certain additional matters through an Interim Consent Award, and continued with additional hearing dates on May 26, 29 and 30, 2016. In addition, following the conclusion of the hearing dates, the City made written submissions to the Board on January 17, 2017, April 19, 2017 and May 8, 2017.

### **Summary of the Award**

#### Salary Settlement and Term Length

The settlement provides for a new 4 year (January 1, 2015 to December 31, 2018) collective agreement with salary increases as follows:

January 1, 2015     2.00% Base Increase  
December 1, 2015   0.75% Base Increase

January 1, 2016     1.24% Base Increase  
July 1, 2016         1.20% Base Increase

January 1, 2017     1.50% Base Increase  
 July 1, 2017        1.10% Base Increase

January 1, 2018     0.56% Base Increase

In Toronto, there has been a long demonstrated history of wage parity between first class fire fighters with Toronto Fire Services and first class constables with the Toronto Police Service.

In the decision released on August 17, 2017, Arbitrator Hayes broke from the long established principle of wage parity between first class fire fighters with Toronto Fire Services and first class Toronto police constables. In contrast to the wages that were freely negotiated as between the Toronto Police Services Board and the Toronto Police Association, Arbitrator Hayes awarded more significant wage increases for 2016 and 2017, premised on the principle that Toronto fire fighters should be the highest paid in the Province of Ontario, as follows:

Toronto Fire Interest Arbitration Award				Negotiated Toronto Police Wage Increases			
Effective Date	Salary	Percentage Increase		Effective Date	Salary	Percentage Increase	
January 1, 2014	\$90,623			January 1, 2014	\$90,621		
January 1, 2015	\$92,435	2.00%		January 1, 2015	\$92,433	2.00%	
December 1, 2015	\$93,128	0.75%	2.75%	December 1, 2015	\$93,127	0.75%	2.75%
January 1, 2016	\$94,280	1.24%		January 1, 2016	\$94,524	1.50%	
July 1, 2016	\$95,410	1.20%	2.44%	July 1, 2016	\$94,949	0.45%	1.95%
January 1, 2017	\$96,840	1.50%		January 1, 2017	\$96,373	1.50%	
July 1, 2017	\$97,910	1.10%	2.60%	July 1, 2017	\$96,759	0.40%	1.90%
January 1, 2018	\$98,454	0.56%	0.56%	January 1, 2018	\$98,452	1.75%	1.75%
			8.35%				8.35%

While the Arbitrator brings fire fighter wages back to their appropriate parity with the wages of police constables in the final year of the collective agreement, during the years 2016 and 2017 he applies wage increases that will result in Toronto fire fighters earning \$109 per year more than Toronto police constables in 2016 and \$809 more per year than Toronto police constables in 2017. The Arbitrator's Final Award is Attachment 2 to this Report.

Although these figures may not appear significant, the arbitrator's rationale for this award is more problematic in that he concludes that it is necessary to break from the long established principle of wage parity on the basis that Toronto fire fighters should obtain a "leading rank in provincial fire salaries." Put simply, the Arbitrator held that it was appropriate to pay Toronto fire fighters more than Toronto police constables in order to ensure that Toronto fire fighters were not paid less than fire fighters in other municipalities.

This approach will limit the City's ability, in future, to achieve containment of inflationary wage increases in the absence of other municipalities working to achieve similar containment. Further, this approach suggests that the City of Toronto will be affected by local wage settlements in small and unrelated municipalities across Ontario.

Additional Items Awarded

This decision also awarded a number of additional items that result in a significant increase in the overall total compensation costs of the award with no effective cost offsets being provided.

The compensation package negotiated between the Toronto Police Service Board and the Toronto Police Association for the same period exchanged moderate wage increases for concessions in relation to other compensatory elements. None of those concessions were awarded by Arbitrator Hayes. In fact, Arbitrator Hayes failed to include any meaningful City proposals in this Arbitration award, resulting in an award that is almost entirely one-sided and unbalanced.

Beyond the wage component of the Arbitrator's award, it amends the collective agreement between the City and the TPFPA, Local 3888 as follows:

1. Monetary Items:

Item	Current	Award
a. Salary Differentials	116% of First Class Firefighter	It increases the salary of Captains, Marine Captains and Marine Engineers, from 116% of the salary of a first class fire fighter to 118% of a first class fire fighter's salary.
b. Add one additional Float Day	12 days in lieu of Statutory Holidays	It provides fire fighters with an additional float day, annually.
c. Paramedicals	\$500 per paramedical to over maximum of \$2,000	It increases the amount that fire fighters are entitled to receive in paramedical benefits from \$500, annually, for each of a number of listed paramedical disciplines to \$600 for each of those listed paramedical disciplines and increases the global annual benefit amount from \$2,000 to \$2,500  And adds Athletic Therapy as a benefit that is to be provided under paramedicals.
d. Massage	No prescription required	It imposes a requirement that fire fighters obtain a prescription for massage therapy in order for such therapy to be eligible for reimbursement.

Item	Current	Award
e. Psychologist	\$1,000 per person per year	It increases the value of psychological benefit coverage to be provided to fire fighters from \$1,000 to \$3,500, annually  and expands the coverage to include the services of a psychotherapist
f. Dental – Major Restorative	80% to maximum of \$2,000	It increases the major restorative dental benefit cap from \$2,000 to \$2,500 annually

2. Probationary Fire Fighters - It amends the probationary language in the collective agreement that currently reads, "The City shall have the exclusive right to discharge any employee of Toronto Fire Services at any time within the probationary period."; by adding the following words "provided that the decision is not made in an arbitrary or discriminatory manner or is made in bad faith"

3. Benefits - It amends the collective agreement through the addition of the following provision:

The City shall provide the Association with a copy of the signed benefit plan(s), including any updates or changes thereto, once the City is in receipt of the same. Any update or change shall not reduce the scope, level, or nature of any benefit without the agreement of the parties.

4. Pension – While no pension amendments were awarded, Arbitrator Hayes held that pension proposals may be advanced through interest arbitration with the Arbitration board having jurisdiction in these matters.

Aside from the requirement for a prescription for massage therapy described above, all of the foregoing represents an enhancement to the fire fighters' terms and conditions of employment. In some cases, these enhancements should be considered breakthrough changes to the benefits afforded the employees (e.g., addition of athletic therapy and psychotherapists).

### Past Practices

Further, the Arbitrator directed the City to continue certain practices not required by and in some cases inconsistent with the provisions of the collective agreement, notwithstanding the City provided the Association with notice of its intention to terminate those practices. These practices included:

- Article 8.02 – Recovery of Overpayments
- Article 18 – Probation upon promotion
- Article 26 – Transfer to positions qualified to perform at age 65 (Operations)
- Article 16 – Safety shoes

- Article 29 – Union representation at non-disciplinary meetings
- Article 29 – Scheduling investigations meetings
- Attendance Management Policy – Pattern absences
- Article 10 – Pay Rate for employees working as a call taker
- Article 21 – Requirement to provide supporting information when requesting Bereavement leave
- Article 59 – Selection of work location to perform modified work
- Article 59 – Promotions while absent from work
- Earnings threshold for LTD cut-off/identification of suitable alternate work
- LTD overpayment recovery
- Return to work form – completion by qualified medical practitioner
- LTD information – consent to provide employer with the information to facilitate early and safe return to work as soon as possible

This decision impacts the City's ability to manage its Fire Services, without considering alternate proposals or amending the collective agreement.

### Summary

As outlined in the Financial Impacts, this Award will have a significant financial impact on the cost of operating the Toronto Fire Service and will further challenge the ability of Toronto Fire Services to maintain effective on-duty staffing levels on a day to day basis.

Staff are currently reviewing and determining the actual impacts of the award on the 2018 budget submission.

This decision also is a concern in potentially setting precedent in a number of key areas:

- Breaking from the long established principle of wage parity between first class fire fighters with Toronto Fire Services and first class Toronto Police constables;
- The number of additional items that were awarded which result in a significant increase in the overall total compensation costs, without any consideration to offsets nor cost containment;
- Direction that the City continue certain historical practices that are not required by the provisions of the collective agreement; and
- That future pension proposals may be advanced through interest arbitration.

City staff are currently engaged in discussions regarding the City's response to the decision.

Meanwhile, staff are proceeding with the implementation of the award based on the timeframes directed in the decision.



## CONTACT

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## SIGNATURE

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Mike Wiseman  
Director, Employee & Labour Relations

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Peter Wallace  
City Manager

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Wendy Walberg  
City Solicitor

## ATTACHMENTS

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- Confidential Attachment 1: Results of Interest Arbitration with the Toronto Professional Fire Fighters Association, Local 3888, I.A.F.F.
- Attachment 1: Interim Consent Interest Arbitration Award between the City of Toronto and the Toronto Professional Fire Fighters, Local 3888, I.A.F.F., dated May 25, 2016
- Attachment 2: Final Interest Arbitration Award between the City of Toronto and the Toronto Professional Fire Fighters, Local 3888, I.A.F.F., dated August 17, 2017