

STATE OF NEW YORK
Public Employment Relations Board
Case No. M2014-125
March 15, 2017

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In the Matter of

TOWN OF MT. PLEASANT, Westchester County

and

International Brotherhood of Teamsters Local 456
(Mt. Pleasant Town Highway Department)

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FINDINGS OF FACT
and
RECOMMENDATIONS
FOR RESOLUTION

Peter A. Korn
Fact Finder

APPEARANCES

For the Town

Ernest R. Stolzer, Esq.
Bond, Schoeneck & King, PLLC
Carl Fulgenzi, Supervisor

For IBT

Brian Lucyk, Esq., Labor Counsel
Al Libertore, Business Agent
John Henry, Consultant

INTRODUCTION

This is the Fact Finder's report in the matter of the impasse between the Town of Mount Pleasant, Westchester County ("Town") and the International Brotherhood of Teamsters, Local 456, Mt. Pleasant Highway Dept. ("Union or Teamsters") which are seeking to negotiate renewal terms and conditions of employment in a collective bargaining agreement ("CBA") that expired on December 31, 2010 and continued in effect. The report provides findings of fact and recommendations for resolution of the Parties' impasse.

IBT Local 456 in Mount Pleasant consists of one unit with 22 employees in Highway Department titles: Senior Auto Mechanic, Auto Mechanic, MEO I, MEO II and Road Maintainer. All other employees are excluded. The Mount Pleasant Police Welfare and Benevolent Association ("PBA") represents most police officers and CSEA has two units: White Collar and Blue Collar.

The parties entered into negotiations for a successor agreement on September 12, 2012. The parties agreed to conduct negotiations on a "package" basis, there being no agreement on any single issue until the parties agreed to a complete package. The parties met for negotiations on December 14, 2012, August 7, 2013 and August 18, 2014. At the close of the August 18, 2014 session, there was no "package" agreement and the parties agreed to proceed to mediation. A Declaration of Impasse was filed on August 21, 2014. On April 1, 2016, the parties informed PERB that mediation was not successful and wished to proceed to fact-finding.

On April 27, 2016, the New York State Public Employment Relations Board ("PERB") appointed the undersigned as Fact Finder. A two-hour fact finding hearing was held on September 14 at which the parties presented exhibits, background, data and position summaries, but did not fully explain their positions or question each other. The parties said they would provide written closing submissions postmarked October 21. Later, the parties jointly sought to postpone submissions pending development of the 2017 Town budget. When no agreement was reached, the parties submitted post-hearing briefs on or

about January 20, 2017. All material submitted has been carefully examined and these findings and recommendations follow.

BACKGROUND

Some opening comments about the negotiating relationship and history of the parties are essential to understand their positions. These recent negotiations and lack of resolution stem from a basic disagreement: the Union seeks a wage adjustment, but has not wanted to contribute to health insurance costs; the Town says there will be no wage increase without Union members contributing to health insurance. In the past six years, the bargaining unit members have not received a wage increase. Similarly, they have not contributed toward their health insurance costs. The inability of the Union to negotiate a change in these two areas has caused it to file for impasse resolution.

There are four collective bargaining units within the town: Police, CSEA (white collar), CSEA (blue collar) and Highways (Local 456). The Police now have a requirement that all active officers contribute 25% of health insurance premiums for their first four years of service and 15% for the remainder of service. CSEA unit members, both white collar and blue collar, who were hired on or after August 1, 1991 pay 25% of the cost of their health insurance. This employee contribution (Family Plan) rose from \$4541.75 in 2011 to \$5,778.63 in 2016.

Highway employees in the Teamsters bargaining unit have not been required under their previous contract to contribute toward health insurance premiums. The Union argument against contributing toward health insurance premiums is that while the CSEA units agreed that its members hired on or after August 1, 1991 would contribute 25% of premiums, the Teamsters made a concession on a Workers Compensation injury benefit instead of contributing toward premiums. That exchange was made 25 years ago and the Teamsters have held to their position.

The Town argues that the parties specifically agreed at the time the Teamsters would not be exempt from contributing toward health insurance forever and cites a provision in the 1992 collective bargaining agreement saying, “The Town reserves the right to make proposals concerning health insurance in the future.” The Town submits there is no legitimate justification for the Teamsters to claim an exemption from contributing toward premiums at this time because of an agreement made in one contract 25 years ago.

As to the issue of comparability, the Town argues that during the past six years while the parties continued to negotiate, a clear internal pattern was established on both wages and health insurance contributions, especially as related to the two CSEA units. The Union urges that a comparability review include settlements in other Westchester municipalities, including the three villages within or partially within the Town. To the extent a clear settlement pattern was formed in the Town on any of the items in fact-finding, deference should be given to that pattern. However, if the internal pattern is not clear or if use of such a pattern throws a settlement proposal askew from those for similar Highway employees in other municipalities, consideration should be given to data from those other municipalities.

The inability to find some point of agreement has impacted the bargaining process and the relationship between the parties. Only late in this fact-finding were the positions of the parties made clear. That, at least, is a start. However, during the six years the parties were unable to reach agreement, the Town and the other three bargaining units – CSEA White Collar, CSEA Blue Collar and Police – developed a settlement pattern for both wage increases and employee contributions toward health insurance premiums. At this point in time, these established patterns cannot be ignored. Perhaps the solution will be for both parties to put aside their multi-year negotiating history and seek to identify what is fair during a difficult period ahead. The parties have asked the Fact Finder for recommendations for the past six years and through 2020.

ISSUES AND FINDINGS OF FACT

The pre-hearing briefs confirmed the identification of the following four issues as those in dispute that the parties wished to present to the Fact Finder for resolution:

- Health Insurance – Employee Cost Sharing (%)
- Basic Wage Schedule Adjustment
- Longevity
- Uniform/Tool Allowance

These items will be reviewed and discussed with the health insurance issue covered first. The Fact Finder hopes that the parties consider each recommendation on its merits, as well as the totality of the package. Much of the previous conversation appears to have been guided by unit unhappiness over a demand that they contribute toward health insurance costs, when they felt that they had made a concession on a workers compensation injury benefit in lieu of a contribution to health insurance costs and a countering Town position that there would be no wage increase without a health insurance contribution. This is a chance to look forward and consider the merits and equities of a proposed resolution.

Health Insurance – Employee Cost Sharing (%)

This subject is at the crux of the disagreement between the parties. Members of the two CSEA bargaining units hired after August 1, 1991 contribute 25% of health insurance premiums; PBA unit members contribute 25% during the first four years of service and 15% thereafter. These contributions have been in effect for many years. Teamster members have never made any contribution toward health insurance premiums and have not done so during the past six years since the CBA expired and negotiations began on a new CBA. During the past six years, both the CSEA and PBA units have received negotiated pay adjustments, but Teamster members, lacking a CBA, have not. The Town

has not raised the issue of financial capacity or affordability and it will not be covered in the discussion and analysis.

Town proposes that all unit members contribute 25% of their health insurance premium rate, \$25,927 family rate in 2017. It avers that CSEA members in both units have contributed since 1991 and at the 25% rate for the past six years. Along with the PBA (at a 25%/15% rate), a pattern has been set for the Town. During the past six years, Teamsters have not made any contribution and it is now only equitable for Teamsters to contribute to their health insurance premium costs.

The Union notes that at the same time the CSEA units agreed to their health care contribution, 1991, it surrendered a valuable concession concerning supplemental Workers Compensation benefits in place of a health insurance contribution. It also asks that consideration be given to the negative impact any health insurance contribution have on salary, citing in a series of tables the percentage of a Road Maintainer's 2011 salary that would be deducted for health insurance. At a 25% contribution rate, this percentage runs as high as 10.71% for 2017, thus reducing the benefit of any wage adjustment. In light of all these factors, the Union proposes health insurance contributions equal to 2% of an employee's base salary commencing on January 1, 2017. For a Road Maintainer with, say, an adjusted 2017 wage rate in the upper \$60,000s, this contribution would be about \$1200-1400 or 5% of the family health insurance premium.

Internal comparability and the establishment of a premium contribution pattern are important factors. However, they need to be checked against external comparables, as well, to determine if the Town demand is reasonable. In addition, since there has been no wage adjustment for six years, there is a need to look at wages for similar positions in other municipalities to be certain that the wage proposal put forth by the Town leaves unit members in a reasonably comparable position compared to their position in 2011.

The Teamster exhibit on premium contributions by employees lists a number of towns and villages in Westchester County. There is a wide range of percentage contributions depending on hiring dates and other considerations. Focus is given to municipalities in the general geographical area of the Town. The Union information is re-formatted below in descending order of percentage contribution with the required significant time periods:

GENERAL EMPLOYEE CONTRIBUTIONS IN NORTHERN WESTCHESTER MUNICIPALITIES

<u>MUNICIPALITY</u>	<u>%CONTRIBUTION</u>	<u>CONDITIONS</u>
<u>MT. PLEASANT (3)</u>	<u>25%</u>	<u>Hired after 1991</u>
Yorktown	25%	Since 1979
North Castle	15-25% %	New hires 25%
New Castle	20-25%	25% hired after 1/13
Cortlandt	25%	Hired after 1/13
Bedford	15%	Salary + O/T exceeds \$60K
Tarrytown (V)	15%	Hired after 6/12
Ossining (T)	15%	Hired after 12/11
Croton	15%	Hires after 5/13
Sleepy Hollow	10%	21% for 1 st 5 years
Briarcliff Manor (1)	10%	
Pleasantville	>	4% of pay (2)
Ossining (V)	9-15%	15% for hires after 4/14
Mt. Kisco	8%	After 1/12

- (1) Either 10% of premium or 2-1/2% of gross pay; after 15 years no contribution.
- (2) Estimated to be comparable to 10% of premium.
- (3) PBA members contribute 25% for 1st four years and 15% thereafter.

An analysis of these comparables for towns and villages indicates:

- The average new employee contribution is 17+%;
- For most, the contribution is made on a continuing basis;
- A wide range in contribution rates, but consistently moving higher over time;
- Mount Pleasant is one of 5 municipalities with highest continuing employee contribution: 25% for an unlimited period of years;

Given the comparables within the Northern Westchester area, it appears that Mount Pleasant is at the upper end of the contribution range, but not beyond. This considers the fact that the two Town CSEA units make a 25% contributions and have done so for 25 years and other municipalities are moving in that direction.

The Fact Finder believes that the external and internal comparables justify a contribution by unit members toward health insurance premiums. The concession on Workers Compensation injury benefit made 25 years ago is no longer of significance, especially considering that unit members have not made a health insurance premium contribution in that time. In the past six years alone, the lack of a contribution by unit members was worth \$30,637, although this was balanced somewhat by no pay adjustment during the same period of time.

Yet, as the Union notes, consideration must be given to the impact of any health insurance contribution on unit member income. By January 2017, the lowest paid title in the bargaining unit, Road Maintainer, will pay almost 11% of the 2011 salary toward health insurance. Even with a pay adjustment into 2017, a 25% health insurance contribution will take a significant bite out of a worker's pay. However, members of the CSEA bargaining units are making contributions at the 25% rate and the PBA members are contributing 25% for their first four years of service. However, a significant pay cut is not the goal of a reasonable settlement.

The Fact Finder's recommendation is based on internal comparables, and outside comparables where several area municipalities are at 25% and others appear to be climbing to that rate. The necessity for internal equity is strong. For these reasons, the Fact Finder recommends that the health insurance contribution rate be set the same as CSEA units have been making since 1991, including the August 1991 cut-off date.

Fact Finder Recommendation – Health Insurance

No health insurance contribution for 2011 through 2016 contract years.

Health Insurance contributions for bargaining unit members hired after August 1, 1991 shall be effective as follows:

January 1, 2017 **25%**

The health insurance contribution would apply to both active employees and in retirement in the same manner as it applies to CSEA unit members.

Base Salary Schedule Adjustment

Both parties seek a CBA that covers the period since the expiration of the last CBA and through December 31, 2020. Teamsters Local 456 submits that employees should receive the following annual wage increases:

2011	2%
2012	2%
2013	2%
2014	2%
2015	2%
2016	2%
2017	2.75%
2018	2.75%
2019	2.75%

The Town submits that there be no wage increases nor retroactive pay for the years 2011 through 2015, since unit members did not make a health insurance contribution during these years, while CSEA members did so. It proposes the following wage increases:

7/1/2016	2%
2017	2%
2018	2%
2019	2%
2020	2%

The Union expresses great concern over the impact of any health insurance contribution on the actual wages of members, since the 2017 family premium is almost \$26,000/year. A 25% contribution, sought by the Town, would cost members almost \$6,500. It also notes the relative position of Road Maintainer in Mount Pleasant, a base job title in the highway service function, when compared to the same title in a variety of Westchester municipalities. The average salary for this title in seventeen (17) surveyed municipalities in 2010 was \$60,350 and \$68,481 (14 municipalities) in 2016 – an increase of \$8,131 or 13.5% (Union Brief Exh. A). In a similar survey for the title of Senior Maintenance Mechanic, the average salary rose from \$74,191 to \$85,623 – an increase of \$11,432 or 15.4% (Union Brief Exh. E).

In making a recommended wage adjustment, consideration must be given to the general wage adjustments negotiated internally by the other non-public safety units, as well as the 2016 wage level for comparable highway job titles in Northern Westchester municipalities that do not have a 25% health insurance contribution. During the period 2011 – 2016, both the CSEA (White Collar) and PBA received wage increases having a compounded value of 9.3% and both CSEA units received an additional \$675* lump sum payment (Town Closing p. 5). As noted above, other Northern Westchester comparables show wage adjustments ranging between 13.5% and 15.4%. In this case, the value of external comparables is as significant as that of internal comparables, since the external comparables reflect the specific work performed in the bargaining unit and the value placed on them by other municipalities.

Since there is no retroactive health insurance contribution recommended and required for 2011- 2015, no retroactive wage adjustment is recommended for 2011 – 2015. However, all other Mount Pleasant employees have 2016 wage rates that are greater than their 2010 wage rates and so the Teamsters unit workers must have their 2016 wage rates re-set, providing a new base upon which post-2016 increases can be calculated.

*\$731 when compounded by later wage adjustments

Fact Finder Recommendation – Wages

Effective July 1, 2016, Teamster wage rates shall be increased by 11.3% + \$731.

Additional wage increases, as follows

January, 2017	2.00%
January, 2018	2.00%
January, 2019	2.75%
January, 2020	2.75%

No retroactive pay for 2011 – 2015.

The general wage adjustment is substantially comparable to the increases received by other internal bargaining units and also allows Teamsters members to maintain their 2016 relationship to the average wage in other municipalities that they had in 2010 – \$60,477/60,350 and \$68,042/68,481 (Union Brief Exh. A). Future wage adjustments take into consideration assumed increases in health care premiums, recent (2014 – 2016) Mount Pleasant bargaining increases and potential inflation.

LONGEVITY

The Union submits that each longevity step at the four stages (5, 10, 15, 20 years) should be increased as follows:

Effective January 1, 2011	\$50
Effective January 1, 2012	50
Effective January 1, 2013	50
Effective January 1, 2014	50

The Town says that the increases are reasonable, if recommended with the proposals of the Town on salary and health insurance contributions. The fact-finding recommendations provide for a substantial (25%) health insurance contribution by members and the recommended wage adjustment is within the range of other municipal comparables and recent internal settlements.

Fact Finder Recommendation – Longevity

Longevity rates shall be increased by \$50 on each step of the schedule at the times proposed by the Union and noted directly above. Such increases shall be retroactive to the dates shown.

UNIFORM/TOOL ALLOWANCE

The Union notes that its members have not received an increase in the shoe allowance since 2010 and recommends an annual increase of \$50 effective January 1, 2011. The Town says that the increases are reasonable, if recommended with the proposals of the Town on salary and health insurance contributions. The fact-finding recommendations provide for a substantial (25%) health insurance contribution by members, the main demand of the Town, and the recommended wage adjustment is within the range of other municipal comparables and recent internal settlements.

Fact Finder Recommendation – Shoe Allowance

The shoe allowance shall be increased by \$50 effective January 1, 2011 and shall be paid retroactively.

CONCLUDING STATEMENT

The wage increase recommendations will maintain the relative position of the Teamsters unit with other Town bargaining units and Northern Westchester town and village units. Coupled with the Fact Finder recommendation for a 25% health insurance contribution, it will go far in establishing fairness and equity among all Town bargaining unit members.

These recommendations may not be the perfect resolution to this matter. They do represent a reasonable solution to resolving these negotiations in this very longstanding dispute. The parties are encouraged to adopt them as written. Were an effort made to

select a favorable item, rejecting the other, this dispute is likely to continue. Therefore, I urge their adoption as soon as practicable.

SUMMARY OF RECOMMENDATIONS

The following are the Fact Finder recommendations for resolution of the impasse between the Town of Mount Pleasant, Westchester County, and International Brotherhood of Teamsters, Local 456, Mount Pleasant Highway Department.

Term of Agreement: This agreement shall be in effect from January 1, 2011 to December 31, 2020.

Fact Finder Recommendation – Health Insurance

No health insurance contribution for 2011 through 2016 contract years.

Health Insurance contributions for bargaining unit members hired after August 1, 1991 shall be effective as follows:

January 1, 2017 **25%**

The health insurance contribution would apply to both active employees and in retirement in the same manner as it applies to CSEA unit members.

Fact Finder Recommendation – Wages

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