

NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of Fact Finding Between

TOWN of BEEKMAN
-and-
TEAMSTERS LOCAL 456

Re: Fact Finding
Case No. M2009-044

OPINION AND RECOMMENDATIONS

Tia Schneider Denenberg, *Fact Finder*

APPEARANCES

FOR THE TOWN:

Michael A. Richardson, *Labor Relations Consultant*

FOR THE UNION:

Emily A. Roscia, *Attorney, Barnes, Iaccarino & Shepherd LLP*

BACKGROUND

This matter concerns certain provisions in the parties' proposed collective bargaining agreement for the term June 1, 2008, to June 30, 2011. The bargaining unit consists of eight highway employees. The most common title is Motor Equipment Operator (MEO), which was used as a benchmark in this proceeding for purposes of analysis. The parties began bargaining on July 21, 2008, and continued on August 19, September 8, September 22, October 29, and November 24, 2008. Although the parties had reached a tentative agreement in November, the package was never put to a formal vote. Both sides concluded, for varying reasons, that it would not be satisfactory.

On May 13, 2009, the union declared that an impasse existed. The union reported that the parties "reached a tentative agreement on all issues, except annual wage increase and member contribution to health insurance." A tentative agreement [Joint Exhibit 2], including those issues, was reached with the help of a PERB mediator, but the union members did not ratify the agreement. On July 7, 2009, the town wrote to PERB:

The bargaining unit failed to ratify the mediated settlement between the Town of Beekman and Teamsters Local 456 for a successor collective bargaining agreement. Therefore, the Town of Beekman respectfully requests that a fact-finder be appointed.

Tia Schneider Denenberg was appointed fact finder on August 5, and a hearing was held on September 29 at the Town Hall. Also in attendance were

For the Union: Rudolph Godoy, Shop Steward
John Henry, Labor Relations Consultant
Kevin Curry, Business Agent

For the Town: John Adams, Town Supervisor
Barbara Zulauf, Town Board
William Brady, Town Comptroller

Rather than call witnesses, each side presented evidence and argument in an informal session. Everyone attending had the opportunity to comment and ask questions in an effort to achieve mutual understanding of the parties' positions and concerns as well as the basis for the economic comparisons. The exhibits are as follows:

Exhibit	Description	Note
Joint 1	Collective bargaining agreement (July 1, 2004-June 30, 2008)	Currently in effect
Joint 2	Tentative CBA (July 1, 2008-June 30, 2011)	Dated June 12, 2009
Town 1	Comparables of Dutchess County Towns	Updated by agreement to take into account union data
Union 1	Comparables of selected Dutchess and Putnam County Towns	

The tentative agreement is the result of give and take over the course of more than a year. During that period, the national and local economy deteriorated steadily. The parties undertook a comprehensive and mutually beneficial review and re-write of the contract. Each section bears an agreement date, even where language was carried forward unchanged. The document indicates language dropped from the prior contract (shown by strikeouts) and new language (underlined).

The following sections were modified by agreement. The effective dates are listed to show the progress in bargaining and the fact that when road blocks were encountered, both before and during the mediation, the agreement was adjusted to make it more acceptable (entries in italics indicate modifications in mediation).

Section	Title	Modification Date
1.2.1	Recognition Clause	8-19-08
4.1.1	Union Dues	8-19-08
4.1.2	Agency Fee	8-19-08
4.2.1	Investigation and Presentation of Grievances	9-22-08
4.3.1	Leave for Negotiations - Compensation During Scheduled Hours	8-19-08
5.1.1	<i>Pay Schedule</i>	6-12-09
5.2.1	Call-In Pay - Compensation	8-19-08
5.2.2	Call-In on Special Holidays	9-22-08
6.1.1	Workday/Workweek - Winter Months	10-29-08
7.1.1	Premium Pay for Overtime - Winter Hours	8-19-09
7.1.2	Premium Time - Summer Hours	8-19-08

Section	Title	Modification Date
7.2.1	Additional Hours of Work - Availability During Inclement Weather	9-22-08
7.2.2	Overtime for Work-in-Progress	8-19-08
7.2.3	Call-in-Hours	8-19-08
8.1.1	Designated Holidays	4-2-09
8.1.2	Observance of Martin Luther King Day Observance of Veteran's Day	8-19-08 11-24-08
8.1.3	Holiday Occurs on Day Off	9-22-08
8.2.1	Holiday Pay (Not Assigned to Work)	8-19-08
8.2.2	Holiday Pay (assigned to Work)	8-19-08
8.2.3	Holiday Pay During Paid Leaves	8-19-08
9.1.1	Vacation Allowance	9-22-08
9.1.2	Accumulation	9-22-08
9.1.3	Annual Buy-Back	9-22-08
9.1.4	Scheduling	9-8-08
9.1.5	Termination of Employment	9-22-08
10.1.1	Sick Leave - Allowance	10-29-08
10.1.2	Accrual during Leaves of Absence	10-28-08
10.1.3	Accumulation	9-08-08
10.1.4	Use of Sick Leave	10-29-08
10.1.5	Family Sick Leave	8-9-08
10.1.8	Retirement Credit	8-09-08
10.1.9	Termination of Employment	10-29-08
10.2.1	Personal Leave - Allowance	8-09-08
10.2.2	New Employees	8-09-08
10.2.3	Accumulation	8-09-08
10.2.4	Scheduling	8-09-08
10.2.5	Termination of Employment	8-09-08
10.4.1	Military Leave - National Guard or Reserve	8-19-08

Section	Title	Modification Date
10.5.1	Jury Duty - Leave of Absence	8-19-08
10.5.2	Return to Duty	8-19-08
11.1.2	Disability Income Supplement - Use of Leave Credits	8-09-08
11.1.3	Continuation of Medical Insurance	10-29-08
11.2.1	Workers' Compensation Insurance - Coverage	8-9-08
11.2.2	Use of Leave Credits	10-29-08
11.2.3	Continuation of Medical Insurance	10-29-08
11.3.1	Transitional Duty Program - Preamble	9-08-08
11.3.2	Eligibility	9-08-08
11.3.3	Transitional Duty Assignment	9-08-08
11.3.4	Wages	9-08-08
11.3.5	Duration of Assignment	9-08-08
12.1.1	Medical Insurance - Coverage	9-08-08
12.1.2	Date Coverage Begins	9-08-08
12.1.3	Health Reimbursement Account	9-08-08
12.1.4	<i>Premium Payment</i>	6-12-09
12.2.1	Retiree Medical Insurance - Eligibility	9-22-08
12.2.2	Dependent Coverage	9-22-08
12.2.3	Insurance Plan	9-22-08
12.2.4	Premiums	9-22-08
12.3	Life Insurance - Group Term Life Insurance	9-22-08
12.4.1	Survivor Medical Insurance - Coverage	8-19-08
13.1.1	Uniform Allowance - Uniform Issue	8-19-08
13.1.2	Boot Allowance	8-19-08
13.1.3 ¹	Sneakers	8-19-08
15.2.2	Discipline and Discharge Procedures - Notice of Discipline	11-24-08

¹ This provision is numbered 13.2.3 in the tentative agreement when it appears it should be 13.1.2.

Section	Title	Modification Date
15.2.3	Civil Service Rights	11-24-08
16.2.1	Grievance Procedure - Level One	8-19-08
16.2.2	Level Two	8-19-08
16.2.3	Level Three	8-19-08
17.1.1	Commercial Drivers License	8-19-08

The town's economic presentation (for wages and medical) consisted largely of a summary sheet of data from Dutchess County towns. The parties believed that the difference in other benefits between Beekman and comparable towns was not significant enough to alter the analysis of total compensation.

Data collection was beset by a variety of difficulties. Some contracts were not settled for the years under consideration, and reasonable projections of out years had to be made. In other cases, the town's advocate relied on personal knowledge of figures for towns that he served as a representative or consultant. The union sometimes had more up to date figures than the town, and by agreement the town amended its matrix (appended to this report) accordingly. The parties generally agreed that the town figures gave a representative picture of the relative ranking of Beekman among the county towns.

In 2008, Beekman MEOs ranked third in wages, behind East Fishkill and LaGrange. There is a proposed increase in the employee's share of medical contributions. Expressed as a percentage, the town's proportion of premiums would decrease from 95 percent to 91 percent. For a family, the yearly contribution rises to \$1,300 and \$1,430 per year, effective July 1, 2009, and July 1, 2010, respectively. The contribution now for an employee with dependants is \$58 monthly, \$696 yearly. The town argued that fixing employees' contributions in dollar amounts protects them from a predicted steep rise in insurance costs. Towns such as Dover, Pawling, Red Hook and Washington paid 100 percent of medical, but the wages were much lower. The total compensation package would still heavily favor Beekman employees.

There was some dispute as to which towns were comparable. Beekman relied solely on Dutchess county towns, arguing that its revenue stream was influenced heavily by county contributions, such as sales and mortgage tax revenue. The town maintained that East Fishkill, LaGrange, Union Vale and Pawling are the primary neighboring towns. In the case of East Fishkill, the town with the highest total compensation, the amount of taxable commercial property is far larger than the tax base in Beekman. The union urged

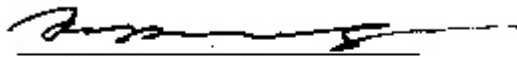
the inclusion of Putnam County towns—Kent, Patterson, Southeast, and Putnam Valley—on the ground that they amounted to more useful comparisons than towns in Northern Dutchess.

Consolidated Highway Improvement Program funds (CHIPs) are provided by the state. Last year it was halved, and the previous funding level was not restored until April, 2009. The money represents about six or seven percent of the highway budget. The remaining revenue is derived from property tax.

DISCUSSION

The union argues persuasively that the tentative agreement would more than double the health care contribution for six of the eight bargaining unit members who are on the family plan. Yet the Dutchess County comparables reveal that Beekman employees, who are capped at a dollar amount, would be more cushioned than highway workers in other towns, whose contribution rate was a fixed percentage. As premiums increased, those workers' contributions would rise, while Beekman employee contributions would tend to decrease in the future as a percentage of the actual premium. Because the dollar amount of the contribution would more than double for Beekman families in the tentative agreement, the fact finder recommends adoption of the agreement with a caveat. If the bargaining unit ratifies the contract by November 15, the new contribution would begin on November 1, 2009, rather than July 1, 2009, the effective date in the tentative agreement. In that way, employees would reap the benefit of wage retroactivity (increases on July 1, 2008 and 2009), as indicated in the document, without paying increased health insurance retroactively.

Prompt agreement on the new contract is in everyone's interest. The agreement incorporates many mutually beneficial changes. Given economic realities, the wage increases seem fair in comparison to other towns. Unfortunately, the length of the process has meant that decreases in the cost of living and other somber economic realities affected what might otherwise have been possible in this agreement.


Tia Schneider Denenberg
Fact Finder

Dated: October 9, 2009

APPENDIX

WAGES	MEO 2008	HMEO 2008	Mechanic 2008	Foreman 2008	MEO 2009	HMEO 2009	Mechanic 2009	Foreman 2009	MEO 2010	HMEO 2010	Mechanic 2010	Foreman 2010
East Fishkill	\$24.58	\$25.08	\$24.58	\$31.72	<-- (2006X6%)							
LaGrange	\$23.70	\$25.03	\$28.89	\$27.60	\$24.28	\$25.53	\$29.47	\$28.15	OPEN	OPEN	OPEN	OPEN
Beekman	\$23.59	\$24.75	\$24.63	\$25.13	\$24.47	\$25.68	\$25.55	\$26.07	\$25.39	\$26.64	\$26.51	\$27.05
Wappinger	\$21.90	\$24.34	\$24.73	\$24.97								
Hyde Park	\$22.83	\$24.15	\$24.15	\$26.23								
Fishkill	\$23.08	\$24.00	n/a	\$27.98								
Rhinebeck	\$21.60	\$21.60	\$24.29	\$24.37								
Poughkeepsie	\$18.84	\$21.10	\$26.64	\$25.28								
Pleasant Valley	\$20.70	\$20.70	\$18.25	\$23.18								
Milan	\$20.62	\$20.62	n/a	\$21.12	21.24	21.24	n/a	21.75				
Stanford	\$18.25	\$20.49	outsourced	\$21.07	\$18.98	\$21.31	outsourced	\$21.92	\$19.74	\$22.16	outsourced	\$22.80
Red Hook	\$20.25	\$20.25	\$20.61	\$21.98	\$18.29	\$21.10	\$21.43	\$22.36				
Pawling	\$19.86	\$20.25	\$25.57	\$26.09	<-- (2007X3%)							
Union Vale	\$20.00	\$20.00	n/a	n/a								
Washington	\$19.43	\$19.98	\$21.26	n/a								
Dover	\$18.93	\$19.68	\$21.55	\$21.55	\$19.59	\$20.37	\$22.30	\$22.30				
Clinton	\$19.59	\$19.59	n/a	\$20.27	\$20.38	\$20.38	n/a	\$21.08				
Amenia	\$18.60	\$18.60	n/a	\$19.10								
Pine Plains	\$17.90	\$17.90	n/a	n/a	\$18.90	\$18.90	n/a	n/a				
North East	\$16.30	\$16.30	n/a	\$16.80	\$16.80	\$16.80	n/a	\$17.30				

MEDICAL	Single 2008	2-Person 2008	Family 2008	Single 2009	2-Person 2009	Family 2009	Single 2010	2-Person 2010	Family 2010
Beekman \$	\$588	\$696	\$696	\$780	\$910	\$1,300	\$858	\$988	\$1,430
Beekman %	89%	94%	95%	86%	92%	91%	86%	92%	91%
Amenia				70%	70%	70%			
Clinton									
Dover	100%	100%	100%						
East Fishkill									
Fishkill				85%	85%	85%			
Hyde Park				80%	80%	80%	hired	after	2001
LaGrange	88%	88%	88%	88%	88%	88%	OPEN	OPEN	OPEN
Milan									
North East									
Pawling				100%	100%	100%			
Pine Plains									
Pleasant Valley									
Poughkeepsie									
Red Hook				100%	100%	100%			
Rhinebeck				90%	90%	90%	hired	after	2005
Stanford	80%	80%	80%	80%	80%	80%	80%	80%	80%
Union Vale									
Wappinger									
Washington				100%	100%	100%			