STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Fact-Finding Between

MANHASSET PUBLIC LIBRARY ("Board")

and

UNITED PUBLIC SERVICE EMPLOYEES UNION (UPSEU)-MANHASSET PUBLIC LIBRARY STAFF ASSOCIATION ("Union")

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FACT-FINDER'S REPORT AND RECOMMENDATIONS

PERB Case No. M2010-347

BEFORE: Robert A. Grey, Esq., Fact-Finder

APPEARANCES:

FOR THE BOARD:

Jaspan Schlesinger LLP
By: Lawrence J. Tenenbaum, Esq.

FOR THE UNION:

United Public Service Employees Union (UPSEU)
By: Amanda Barker, Esq., Labor Relations Representative

INTRODUCTION

This is the Fact-Finder's Report and Recommendations in the matter of the impasse between the Manhasset Public Library ("Board") and United Public Service Employees Union (UPSEU)-Manhasset Public Library Staff Association ("Union") in the negotiation of their successor Collective Bargaining Agreement ("CBA").

BACKGROUND

The most recent CBA in effect between the parties is dated March 12, 2007, covering the period from July 1, 2007 to June 30, 2010. Several bargaining sessions before and after the CBA expiration date directly between the Board and the Manhasset

Public Library Staff Association were unsuccessful in reaching a successor agreement.

After the filing of a Joint Declaration of Impasse with PERB, this dispute went to mediation. The impasse was not resolved in mediation, and this matter progressed to fact-finding. Pursuant to Sections 209 and 205.5(k) of the New York Civil Service Law, then-PERB Director of Conciliation Richard A. Curreri[1] appointed me Fact-Finder.

On or about April 11, 2012 the Manhasset Public Library Staff Association affiliated with the United Public Service Employees Union (UPSEU; hereinafter "Union"). As a consequence of the Manhasset Public Library Staff Association's affiliation with UPSEU, a dispute arose between the Board and the Union as to whether or not part-time employees are part of the newly affiliated bargaining unit. The Board's position was that part-timers are not part of the post-affiliation bargaining unit and therefore not part of the impasse and not part of this fact-finding proceeding. The Union's position was that part-timers are part of the post-affiliation bargaining unit and therefore part of the impasse and this fact-finding. The Union filed a charge with PERB regarding this dispute over inclusion/exclusion of part-timers. Approximately 57% of the employees are part-timers.

On December 13, 2013 I was informed the parties reached a settlement of this PERB charge,[2] resulting in the inclusion of the part-timers in the post-affiliation

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[1] Director Curreri subsequently retired. Kevin B. Flanigan is now PERB's Director of Conciliation.

[2] The parties agree that the other charges which remain pending at PERB are not directly relevant to this fact-finding proceeding.

bargaining unit and impasse. Thus, the bargaining unit involved in this impasse and fact-finding consists of approximately 19 full-time and 25 part-time employees.

Covered job titles include, but are not limited to: Librarian, Cultural Program Specialist, Computer Service and Support Tech, Maintainer, Clerk, Cleaner and Page.

Fact-finding hearings were held on July 31, 2012 and February 13, 2013. Both parties were afforded full, fair and ample opportunity to present and challenge documentary evidence, examine and cross-examine witnesses, and state and argue their positions. The parties submitted post-hearing briefs, responses thereto, and additional exhibits. The record was closed after receipt of these additional documents.

I have considered the entire record, including all evidence, party positions and party arguments, whether specifically addressed or cited herein or not. It should be noted that counsel for the Board and counsel for the Union engaged in extensive discussions during, between and after the fact-finding hearings, in good faith attempts to resolve this impasse. Their courtesy and professionalism were remarkable, particularly in light of the negative bargaining atmosphere that had developed prior to the Manhasset Public Library Staff Association's affiliation with UPSEU.

ISSUES

The Joint Declaration of Impasse identifies the following issues:

1. Term

2. Compensation, including steps

3. Sunday Pay and Holiday Pay

4. Employee health insurance contributions (active and in retirement)

5. Holidays

PARTY POSITIONS[3]

Board's Position

The Board notes these negotiations have taken place during a prolonged and severe economic downturn which began in 2008. The Board notes many have dubbed it the "Great Recession" because of the havoc it has wreaked on the Library, Manhasset, Long Island, New York State and the United States, severely affecting home values, incomes, employment and other financial and economic aspects.

The Board points to the deep fiscal restraints imposed on the Library's annual tax levy by New York State's 2% tax cap, enacted in 2011. The Board argues that the status quo cannot be maintained when one considers that pension costs have increased more than 56% during the last three years, health insurance costs have increased more than 25% during the last three years -- by 8% in 2013 alone, and that approximately half of the bargaining unit receives annual step increases of 3.6%.

The Board notes the Library's 2012-2013 total operating budget is $3,700,817, its total payroll is $1,826,041 and its tax levy is $4,752,786 (including debt service of $1,051,969). The Board states that health insurance contributions to the Empire Plan for 2013 increased 8% to $480,414, representing 10.1% of the tax levy, and have increased approximately 25.5% during the last three years alone. The Board states this 8% would increase the tax levy by almost 1%, and that employer contributions to the

[3] The positions of the parties here, and in each specific issue section, are summarized and/or taken nearly verbatim from the fact-finding record.

Employees' Retirement System increased to 20.9% of the payroll, totaling $264,046, representing 5.5% of the tax levy. The Board submits that in total, steps, health insurance and pension costs total more than 15% of the tax levy, and scheduled increases would exceed the 2% cap even before a salary increase. The Board is adamant that the salary step system must be eliminated in this successor CBA.

The Board disputes the Union's contention that the Library maintains a reserve fund of $1.2 million which is available for use in this contract. The Board notes it maintains a building of significant size and complexity, and asserts it is necessary to maintain a reserve fund for unanticipated expenses such as emergency repairs, weather emergencies and other financial exigencies which do not include funding bargaining unit salaries. Moreover, the Board claims the $1.2 million figure cited by the Union is from financial documents which do not take into account substantial expenses which were subsequently incurred. The Board disputes the $364,791 annual salary savings which the Union estimates based upon breakage. The Board contends that the Union overestimates the potential breakage savings in that some of the vacant positions have already been filled rather than remaining vacant, that the former Director's separation expense was more than $100,000, and that the Union's claimed savings would take place over two (2) years, not one (1). The Board notes that the new Director contributes 12.5% to her health insurance premiums.

The Board also notes Nassau County's repeal of the county's hold-harmless which indemnified school districts from real property tax certiorari refunds. The Board asserts the repeal potentially exposes the Manhasset Union Free School District to a liability of approximately $119,625 for the 2013-2014 school year alone. The Board submits that the Library's fortunes are directly related to the school district's fortunes, and that they share exactly the same tax and voter base.

The Board stresses it must be sensitive to the willingness, or lack thereof, of the community to abide a tax levy increase piercing the state's 2% cap, which requires a 60% super majority vote in favor of piercing. The Board observes that in the May 21, 2013 school budget votes, the Manhasset Union Free School District was one (1) of seven (7) school districts on Long Island which sought voter approval to pierce the 2% tax cap. The Board underscores that the voters of six (6) of those seven (7) districts, including Manhasset, did not approve piercing the 2% tax cap. In the Board's view this demonstrates the Manhasset community's sentiment against piercing the tax cap as it would also pertain to the Library budget.

The Board argues that the relative wealth of some in the community should not penalize Manhasset taxpayers with a "Manhasset Mark-up" that requires them to pay more for library services which are comparable to most or all other public library services in the county. The Board argues strenuously that we are facing a "fiscal cliff" that requires fundamental structural change, rather than trying to "get over the hump" and just maintain the status quo until the economy improves.

The Board stresses it is not seeking to be punitive or unfair. Rather, the Board states it is determined to be reasonable to both its employees and the taxpayers.

<u>Union's Position</u>

The Union notes that the bargaining unit is well within the range of other similarly situated libraries in Nassau County in terms of wages and benefits. The Union submits that its proposals are modest, and that the financial information in the record demonstrates the Board has the ability to fund them.

The Union submits that its proposals are well within the state's 2% tax cap. The Union notes that comparing library districts and school districts vis-a-vis the tax cap is not persuasive because libraries traditionally propose budgets with lower tax levy increases than do school districts. The Union notes the Board has historically proposed budgets less than a 2% tax levy increase, with tax levy increases in the range of 1.9% in 2009, to 2% for the 2012 budget, with the highest tax levy increase in recent years being 3.4% in 2011. The Union argues the Board was able to fund step increments and wages each year with only modest tax increases. The Union posits that the average increase in taxes from 2010 to 2011 was $43 on a house in the median house price of $1.2 million in the 11030 Manhasset zip code.

The Union contends the Board maintains a more than adequate reserve fund in the $1 million range, and disputes the Board's contention that the reserve is substantially less. The Union argues that the reserve fund would be useless without the professional and dedicated staff attending to the Library and serving the public. Additionally, the Union notes, personnel changes have created several unfilled vacancies which save the Library approximately $364,791 annually, and that this breakage will result in future savings when those positions are filled with lower-paid new hires, or if they are left vacant. The Union argues that these savings in breakage are real, whether they occur over one (1) year as the Union maintains, or two (2) years which the Board (incorrectly in the Union's view) maintains.

The Union argues that the Library is understaffed, even as the Library is open more hours and utilized more heavily than in the past. It submits that its members have passionately maintained a positive face and high level of service to the public, despite these difficult and protracted negotiations.

The Union states it is well aware of industry trends in negotiations and is committed to its positions presented in this fact-finding as being well within the realm of that reality. The Union states it is cognizant of rising costs which the Board faces, but submits that public pension obligations are expected to level-off and decrease in the very near future, while the improving stock market will increase pension fund values, thereby relieving the strain on public budgets. The Union reiterates its willingness to be part of the solution, as evidenced in part by its amicability to the elimination of steps for new hires. The Union submits that it seeks a fair and equitable contract for both sides, nothing more and nothing less.

DISCUSSION AND RECOMMENDATIONS

1. Term

The most recent CBA between the parties was of three (3) years' duration, becoming effective July 1, 2007 and expiring on June 30, 2010.

Board's Position on Term

The Board notes that prior to fact-finding the parties had been discussing a three (3) year term for the successor CBA. Given the passage of time and the desire to avoid another lengthy and expensive negotiation, the Board is agreeable to a four (4) year term. With the elimination of steps for existing employees and new hires as proposed by the Board, a five (5) year term would also be acceptable to the Board.

<u>Union's Position on Term</u>

The Union proposes a four (4) year term, but would be open to a five (5) year term provided there is a 2% wage increase. In return, the Union would agree to an additional 5% increase in individual health care contributions beginning on July 1, 2014, which would increase the total health care contribution for individuals to 10%. As will be discussed below in the Compensation section, the Union opposes the elimination of steps for existing employees, but is agreeable to the elimination of steps for new hires.

<u>Fact-Finder's Recommendation on Term</u>

A three (3) year successor CBA would put the parties immediately into an expired contract negotiation. A four (4) year CBA would expire less than six (6) months from now. The parties need more time than that to overcome and hopefully heal the lack of trust and the fractured relations which presently exist between them. A contract of at least five (5) years' duration would best foster labor-management harmony and stability, and give the parties an opportunity to reassess the economic and financial climates they anticipate negotiating in and operating under before undertaking the bargaining of the next CBA.

Therefore, I recommend a five (5) year CBA, covering July 1, 2010 to June 30, 2015.

2. Compensation, Including Steps

Board's Position on Compensation, Including Steps

The parties dispute the meaning and impact of the "80^{th} percentile" provision contained in CBA Article III, Section 1. The Board argues that salaries at the Library have frequently been at or beyond the 90^{th} percentile compared to all other Nassau County public libraries. The Board holds the view that it expected to pay better than many public libraries in the county, but not better than almost all – a differential that the Board says will continue to increase in coming years with step increases and percentage wage increases. The Board stresses that at 3.6%, the Library's steps are anachronistic, are worth approximately 2% of the total payroll and threaten the financial future of the Library. The Board posits that in recent years steps plus wage increases have totaled in excess of 6% and 7% for many employees, and that a full-time employee who started in 1999 saw his or her salary increase by approximately 97% by 2009. The Board stresses such raises are onerous, expensive, outdated and no longer viable, and that a structural fix is necessary to avoid draining the Library's resources in perpetuity.

In all discussions and fact-finding proceedings, the Board has insisted on the elimination of steps. The Board stresses that the correct and appropriate response to the "fiscal cliff" is a combination of fair and reasonable salary increases for all employees and the elimination of steps. The Board considers steps to be an artificial salary inflator, to the detriment of the Library and the taxpayers.

The Board has proposed salary increases of 1.0%, 1.5% and 2.0% for the 2010-

2011, 2011-2012 and 2012-2013 contract years, along with elimination of all steps, including longevity steps, in this successor CBA. The Board stresses that in an effort to maintain fair salaries, it is willing to enhance its wage increase proposal an additional 0.5% in each contract year, contingent upon elimination of all steps in this successor CBA. The Board points out that in many Nassau County and other Long Island public libraries, salary increases are at 0.0%, and rarely exceed 2.0%, with no steps or inclusive of steps. The Board views its offer as squarely within this range.

<u>Union's Position on Compensation, Including Steps</u>

In its fact-finding submission the Union proposed wage increases of 2.5%, 2.5%, 2.0%, 2.0% and 2.0% for the 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015 contract years, with elimination of steps only for those hired post-ratification.

The Union argues that the "80th percentile" provision contained in CBA Article III, Section 1, simply allows that staff at the Library will be in the top 20% of wage earners in comparable libraries. In other words, the Union contends the "80th percentile" provision is a floor, not a ceiling. The Union avers that as long as its members are paid in relation to the top 20% of other libraries in Nassau County, the goal of the CBA language is met. The Union argues that by the time most of its bargaining unit members reach the top step, they are below the 75th percentile. For example, the Union notes the majority of the part-time bargaining unit members are in the circulation and monitor departments. The Union points out that for these employees, entry level is already below the 75th percentile, and they remain below the 80th percentile even after reaching longevity at 20 years of service.

The Union stresses that its members are overworked, not overpaid. The Union submits that its proposed wage increases are well within the 2% tax cap, and that its willingness to eliminate steps for future hires will further alleviate the financial burden on the Library. The Union argues the Board has the ability to pay the Union's proposed increases without piercing the tax cap, and the Union emphasizes it (the Union) does not advocate piercing the tax cap. The Union points to the Combined Wealth Ratio report for Nassau County School Districts, which ranks Manhasset 3rd out of 56 school districts with a Combined Wealth Ratio of 3.974. The Union suggests that although the Combined Wealth Ratio report is a tool for school districts, it is nonetheless relevant for libraries in the same geographic areas.

The Union acknowledges the Board's claim that there are surrounding libraries that have eliminated steps, but points out none have done so for current employees. The Union states the trend everywhere in the face of the tax cap restraints is to eliminate steps for those not yet hired, not for current employees. The Union reiterates it is willing to eliminate steps for future hires but not for current employees.

While the Board argues steps have been eliminated at at least three (3) comparable libraries, and elimination of steps is being negotiated at many of the other libraries that have them, the Union responds that negotiations are one thing, final agreements another. The Union notes there is no predicting which libraries will or will not reach agreements to eliminate steps, and under what terms and conditions, if at all.

Furthermore, the Union argues, the libraries that did eliminate steps had nearly all of their employees already at the top of the salary schedule, unlike this bargaining unit’s members. And in those cases, the Union argues, despite impacting only a few employees on the schedule, the elimination of the schedule was paid for with higher than normal annual percentage wage increases, in the 2% to 3% range for the years applicable to this successor CBA.

Fact-Finder’s Recommendations on Compensation, Including Steps

The economic underpinnings in support of the Board’s position to immediately eliminate all steps have changed significantly. While it is true that the Library is not as well positioned financially as the Union argues, we have not gone over the “fiscal cliff”. Additionally, the economy is recovering from the “Great Recession”. While not out of the woods yet, the economy and economic outlook have markedly improved since this impasse arose.

Approximately half of the bargaining unit is no longer step eligible. If steps are retained as-is for current employees and eliminated for new hires, the Board has a finite and predictable cadre of bargaining unit employees who will receive steps. In a measurable and not excessive number of years this finite cadre of employees will no longer be step eligible. In other words, steps will be *de facto* eliminated at that point in the not too distant future. The Board can calculate and budget for its maximum step exposure until then. The record demonstrates the Board can absorb this finite amount of step liability, which is only to existing employees who have not reached the top of the salary scale. Any current employees who leave, if replaced, will be by new hires with zero step liability for the Board. Furthermore, because approximately half the bargaining unit is not step eligible, the overall net cost of step increment to the Board is approximately 1.8% rather than 3.6%.

Therefore, I recommend the elimination of steps for post-ratification new hires, but not for current employees.

That being said however, a degree of immediate step relief for the Board is warranted. In this day and age, a guaranteed 3.6% annual step increase is a substantial and expensive benefit, even if only half the bargaining unit is step eligible. The record bears-out the financial demands on the Board. Notably, the reserve fund balance has significantly declined from the amount cited by the Union.

Therefore, to help cushion the short-term financial impact on the Library, I recommend the creation of a one-time half (½) step increment in the 2014-2015 contract year. This half step will be the dollar amount halfway between an employee's current step prior to their step date in that contract year, and their next scheduled step on the scale. For example, an employee with a step date of February 9 who is on Step 5 on February 8, 2014 will advance to new Step 5-A on February 9, 2014, and to Step 6 on February 9, 2015.

Similarly, in light of the financial record and the economic history of the first three (3) years of this impasse, during which 3.6% increments continued to be paid, I recommend the following percentage wage increases: 0.0%, 0.0%, 1.75%, 1.85% and 1.85% for the 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015 contract years.

It may appear at first glance that these recommendations are less than what the Board proposed. However, the Board's proposed annual percentage wage increases were offered in February 2011 and premised upon the elimination of all steps. My recommendations take into account that the Board has already paid step increments in 2010-2011, 2011-2012 and 2012-2013. Therefore, over the same period of time, these recommendations actually require the Board to pay more, not less, than the Board proposed.

This combination of step and percentage wage increase recommendations is in line with the current trend in public sector agreements. It gives the Board some breathing room while not short-changing current employees.

3. Sunday Pay and Holiday Pay

Board's Position on Sunday Pay and Holiday Pay

The Board proposes that full-time employees receive time-and-one-half for work on Sundays and holidays, and that part-time employees receive straight time. The CBA currently provides for compensation at double time (with a cap) for full-time employees, and what the Board describes as an arbitrarily enhanced hourly rate for part-time employees. In the Board's view, time-and-one-half is a traditional and appropriate level of compensation for work on Sundays for those employees who otherwise work a full week. The Board asserts that for part-time employees there is no real justification for higher compensation. For example, the Board avers that an employee who works 10 or 15 hours per week should have no expectation of extra compensation for working on a Sunday because that is simply part of their short work week.

Union's Position on Sunday Pay and Holiday Pay

The Union proposes that all post-ratification new hires, both full-time and part-time, receive time-and-a-half for Sunday and holiday work, with no change for current employees. The Union proffers that the 2011 Nassau County Library Association Survey reveals that virtually all libraries pay at least time-and-a-half for Sunday work for full-time and part-time employees. Therefore, the Union argues that its members should not be paid anything less than the industry standard. The Union points out that with cuts in staff over the years, its remaining members are being asked to do more with less. Therefore, the Union argues, they should be paid accordingly. The Union points to the savings the Library will realize from paying new hire full-time employees time-and-a-half instead of double time.

Fact-Finder's Recommendations on Sunday Pay and Holiday Pay

I recommend that effective July 1, 2014 all current full-time and part-time employees and post-ratification new hire full-time employees be paid at time-and-a-half for Sunday and holiday work. I recommend that post-ratification new hire part-time employees be paid at straight time for Sunday work and be paid at time-and-a-half for holiday work. This will result in reasonably substantial savings for the Board, while paying all current employees and all future full-time employees the prevailing public sector rate of time-and-a-half for Sundays and holidays. In light of the step system not having been eliminated for current employees, this is fair. Post-ratification new hire part-time employees will have the benefit of time-and-a-half for holiday work, but not for Sunday work.

4. Employee health insurance contributions (active and in retirement)

Board's Position on Employee health insurance contributions (active)

In its fact-finding submission the Board proposes increasing individual employee health insurance premium contributions from 0% to 15% over the term of the agreement, and the current 25% family health insurance premium contribution to 30%.

Specifically, the Board proposes to contribute for full-time employees as follows: 2010-2011 90% individual, 75% family for all employees; 2011-2012 87.5% individual, 72.5% family for all employees; 2012-2013 85% individual, 70% family for all employees. For eligible part-time employees the Board proposes it will contribute 70% individual and 50% family during active employment.

As with salary steps, the Board argues, health insurance without an employee contribution or an unreasonably low contribution is a thing of the past. This can no longer be justified, the Board argues, because health insurance premiums go up every year, sometimes in very unpredictable and disruptive increments, as high as 23% in recent years. The Board stresses it is unfair and not viable for the Library, and in turn the taxpayers, to absorb that in full. Moreover, the Board points out that under the 2% tax cap an increase in premiums could account for all or most of the entire allowable tax levy increase, before salary increases, pension costs, expenses related to the physical plant and other costs are considered. In order to prevent such circumstances, the Board insists employees must contribute their fair share.

The Board posits that the vast majority of libraries in Nassau County require an employee contribution of 10% or more, with some as high as 25%, with a trend of more employees in more libraries agreeing to higher contributions over time. The Board strongly urges it is time for the Union's members to do the same, and that the Board's proposal is fair and well within what employees at other libraries in Nassau County have agreed to pay.

The Board rejects the Union's proposal of 0%, 0%, 2%, 5% and 10% and grandfathering those with 10 or more years of service as wholly inadequate. The Board views such proposed contributions as unreasonably low, and the grandfathering as excluding too many employees from contributing. The Board contends the Union's proposal would yield no real financial benefit to the Library.

<u>Union's Position on Employee health insurance contributions (active)</u>

The Union proposes the following individual health insurance premium contributions for employees with less than 10 years of service: July 1, 2010 0%, July 1, 2011 0%, July 1, 2012 2%, July 1, 2013 5% and July 1, 2014 10%, with the family premium at 25%, and with vesting at 10 years. The Union proposes that employees with more than 10 years of service remain at 0% individual contribution and 25% family contribution for the duration of the successor CBA. For post-ratification new hires, the Union's most recent proposal is a 15% individual premium contribution and a 30% family premium contribution, with vesting at 15 years.

The Union posits that its position is a more than fair compromise that protects current employees and rewards them for their years of dedicated service, and allows the Library to begin the trend toward contribution levels at comparable libraries. The Union submits that its proposal guarantees what the Board is looking to achieve in terms of employee contributions, although gradually rather than immediately. The Union states recent public sector CBA settlements indicate a trend of gradual or minimal concessions in health care contributions for current employees, with more drastic changes imposed on future hires. And, the Union points out its willingness to agree to an additional 5% increase in the individual contribution (bringing it to 10%) beginning July 1, 2014 in a five (5) year CBA if there is an additional 2% wage increase.

Fact-Finder's Recommendations on Employee health insurance contributions (active)

It is undisputed that health care premiums are large and increasingly expensive. The unmistakable trend in public sector employment is for employees to contribute to a portion of their health insurance premium. The record shows that this bargaining unit is well below the industry norm in this regard.

Therefore, I recommend the following individual health insurance premium contributions for all eligible current employees: July 1, 2010 0.0%, July 1, 2011 0.0%, July 1, 2012 7.5%, July 1, 2013 10.0% and July 1, 2014 12.5%, with the family premium to remain at 25% and vesting to remain at 10 years for the duration of the CBA. For post-ratification new hires I recommend 15% individual and 30% family, with vesting after 15 years. Part-time employees hired on or after July 1, 2004 remain ineligible for health coverage pursuant to Article VIII, Section 2.

I recommend a save harmless provision which ensures that for the duration of the successor CBA, no current employee shall earn less than in a previous year of the successor CBA solely because of the recommendations herein regarding compensation, steps and healthcare contributions.

Board's Position on Employee health insurance contributions (retirement)

With regard to health insurance contributions in retirement, the Board proposes that in order to be in line with many other libraries, employees who retire from the Library and ERS will receive the same employer contribution in retirement as they did at the time of their separation from the Library, if they have 15 years of service with the Library. For those with less than 15 years of service who are otherwise eligible, the Board proposes reduced employer contributions, to wit: the statutory minimums of 50% individual and 35% family.

Union's Position on Employee health insurance contributions (retirement)

The Union proposes that current employees with 10 years of service should pay the same premium in retirement as when they were active, and that employees currently vested at 100% individual employer contribution be grandfathered at 100% individual employer contribution in retirement. The Union proposes that post-ratification new hires vest in retirement health insurance after 15 years, with retirement premium contributions at the same levels as when active.

Fact-Finder's Recommendations on Employee health insurance contributions (retirement)

The 2007-2010 CBA provides that employees hired on or before June 30, 1989 retire with the same contribution rate that was in effect when they were active. It provides that Employees hired on or after July 1, 1989, and who have 10 years of service, also retire with the same contribution rate that was in effect when they were active.

In many cases, retirement health benefits are a critical factor in accepting employment. The recommendations below preserve the reasonable expectations of bargaining unit members, while the Board will realize savings that will increase over time. These recommendations create an incentive for higher paid current employees to retire sooner rather than later. Retirement of current employees who are not replaced, or who are replaced by new hires, creates considerable savings for the Board, both in terms of health insurance contributions and lower pay rate with zero step liability.

I recommend that all current employees with 10 or more years of service who are otherwise eligible for retirement health care benefits who retire on or before the expiration date of this successor CBA, do so with the retirement health insurance premium contribution rate in effect for them pursuant to the 2007-2010 CBA.

I recommend that all current employees with 10 or more years of service who are otherwise eligible for retirement health care benefits who retire after the expiration date of this successor CBA, do so at the contribution rate in effect for them pursuant to this successor CBA on their last day of service before retirement.

5. Holidays

Board's Position on Holidays

The Board proposes eliminating Election Day as a paid holiday for full-time employees, leaving 12 paid holidays instead of the current 13. The Board argues that increased demands on students, and the community's interest in programs, require that the library be open more, not less. The Board points out that the list of paid holidays in the CBA includes both Washington's and Lincoln's birthdays, even though they were long ago merged by the government into a single Presidents' Day. Accordingly, the Board argues, it is appropriate to reduce the number of paid holidays by one (1), and that Election Day is the one that would make the most sense programmatically and based on community use.

Union's Position on Holidays

The Union proposes that in lieu of Election Day, employees shall receive one floating holiday per year. The Union posits that this would allow the library to provide services to the public on Election Day yet allow employees to still benefit from another day off during the year, and that staffing would not suffer because employees would likely take different days off for their floating holiday.

Fact-Finder's Recommendations on Holidays

I find no compelling basis in the record upon which to recommend a change. Therefore, I make no recommendation for a change to paid holidays.

6. All other proposals

All other proposals, whether addressed herein or not, are not recommended.

CONCLUSION

On the whole, it can reasonably be said that the economic outlook does not appear as bleak as it did when the CBA expired. The economy appears to be in a slow recovery. Whether the economy is improving or will continue to improve, and at what rate and how smoothly, no one can predict with certainty. Improvement, or continued economic improvement is not assured. The effects of the 2% New York State tax cap cannot be ignored. Though the real estate market has recovered substantially from its 2008 collapse and continues to improve, there are still significant limits on the Board's finances. The uncertainty of annual state aid continues to plague budget planning. The cost of funding pension obligations (though forecast to ease after cresting in the next few years), and the rising cost of health insurance still loom large. On the other hand, these factors also affect the lives and budgets of the bargaining unit members, who not only work hard for the Library, but live on Long Island. Indeed, several bargaining unit members reside in Manhasset. The employees also have rising expenses and pay rising taxes.

It is my sincere hope this Report and Recommendations will assist the parties in resolving their impasse and in reaching mutually agreeable terms and conditions for their successor CBA. I have attempted to fairly and equitably balance the needs and desires of the parties as they have been expressed during these proceedings. In the absence of statutory fact-finding guidelines, I have also considered the statutory factors applicable to binding arbitration enumerated in Section 209(4)(c)(v) of the New York Civil Service Law.

Civil Service Law Section 209(3)(c)(iii) states that this report shall be made public within five (5) days.

SUMMARY OF FACT-FINDER'S RECOMMENDATIONS

1. Term

Five (5) year CBA, covering July 1, 2010 to June 30, 2015.

2. Compensation, including steps

Steps: No steps for post-ratification new hires. No change to existing steps for currently employed bargaining unit members, except that there shall be a one-time half (½) step increment in the 2014-2015 contract year. This half step will be the dollar amount halfway between an employee's current step prior to their step date in that contract year, and their next scheduled step on the scale.

Wage increases: 0.0%, 0.0%, 1.75%, 1.85% and 1.85% for the 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015 contract years.

3. Sunday Pay and Holiday Pay

Effective July 1, 2014 all current full-time and part-time employees and post-ratification new hire full-time employees to be paid at time-and-a-half for Sunday and holiday work. Post-ratification new hire part-time employees to be paid at straight time for Sunday work and to be paid at time-and-a-half for holiday work.

4. Employee health insurance contributions (active and in retirement)

Individual health insurance premium contributions for all eligible current employees: July 1, 2010 0.0%, July 1, 2011 0.0%, July 1, 2012 7.5%, July 1, 2013 10.0% and July 1, 2014 12.5%, with the family premium to remain at 25% and vesting to remain at 10 years. For post-ratification new hires: 15% individual and 30% family, with vesting after 15 years. Part-time employees hired on or after July 1, 2004 remain ineligible for health coverage pursuant to Article VIII, Section 2.

Save harmless provision which ensures that for the duration of this successor CBA, no current employee shall earn less than in a previous year of the successor CBA solely because of the recommendations herein regarding compensation, steps and healthcare contributions.

All current employees with 10 or more years of service who are otherwise eligible for retirement health care benefits who retire on or before the expiration date of this successor CBA, do so with the retirement health insurance premium contribution rate in effect for them pursuant to the 2007-2010 CBA.

All current employees with 10 or more years of service who are otherwise eligible for retirement health care benefits who retire after the expiration date of this successor CBA, do so at the contribution rate in effect for them pursuant to this successor CBA on their last day of active service before retirement.

5. Holidays

No change in paid holidays.

6. All other proposals

All other proposals, whether addressed herein or not, are not recommended.

Dated: January 27, 2014 Robert A. Grey, Fact-Finder

State of New York)
)ss.:
County of Suffolk)

I hereby affirm that I executed this instrument as my Report and Recommendations.

Dated: January 27, 2014 Robert A. Grey, Fact-Finder