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In the Matter of a Dispute)
 Between)
 Big Bay de Noc School District)
 And)
 Big Bay de Noc Education Association)

R E C E I V E D
 SEP 24 1969
 STATE OF MICHIGAN:
 EMPLOYMENT RELATIONS COMMISSION
 LABOR RELATIONS DIVISION

James T. Dunne

The undersigned was appointed fact finder in the above titled dispute by Robert G. Howlett, Chairman, Michigan Employment Relations Commission, on or about August 21, 1969. The hearing was held in the school building in Nahma, Michigan on September 1, 1969. Both parties were present and presented their respective positions. The following constitutes what the fact finder believes to be a reasonable statement of the basic facts in this dispute which are followed by his recommendations concerning the same.

Fact Finders Report and Recommendations

Negotiations began in April 1969. There was no meeting of the minds between the parties concerning four items in dispute prior to July 21, 1969. On that date representatives of the school board, the superintendent, and the bargaining team of the Association met with Mr. Walter Quillico, Mediator for the State. The following, presented as an exhibit by the Association and dated July 21, 1969, is an exact statement of the agreement reached between the school district's negotiating team and the Association's negotiating team. All names of both teams and that of Mr. Quillico appear on the document:

"Garden School

July 21, 1969

\$229,900	Base not to exceed \$6,500
5,500	Insurance not to exceed \$5,500
2,000	Substitute pay
<u>3,400</u>	Extra curricular not to exceed \$2,400
<u>\$239,600</u>	Total Package

Non degree between 15,000 minimum, 16,700 maximum

On file at the library

Big Bay de Noc

It was understood at that time that the teachers were to ratify the lump sum amounts and the limitations contained in the above quoted document at a membership meeting on Monday, July 28. On that date, the membership did ratify the above quoted proposal. It was also understood that the teachers were to prepare a schedule whose cost for each of the above quoted items would not exceed the amounts specified in the signed document. The teachers did this.

It appears, however, that after the School Board's negotiating team made the above commitment, they decided for reasons not entirely clear to the fact finder that they would not honor it. A special meeting of the Board was called on or about August 25, which was not publicized, following which the Association was notified by letter dated August 25, 1969, signed by the President of the School Board, Mr. Carl VanRemortel that the Board was withdrawing the above quoted offer. No reason was given in the letter for such withdrawal, nor did the School Board make a request of the Association that future meetings be held to discuss either the reasons for withdrawal of the offer or to negotiate with the Board concerning an alternative offer. Accordingly, and following receipt of the letter, the Association requested fact finding. A charge of unfair labor practices was also filed at or about the same time as request for fact finding, but that fact is merely stated as a fact and has nothing to do with this report or recommendations. A request for fact finding was made on August 14, 1969. The fact finder was presented by the Association with a fully developed schedule which admittedly falls within the dollar limitations contained in the above quoted proposal made before and signed by Mr. Gilligan.

The CPA audited statement of revenues and expenditures of the district for the year ended June 30, 1969 shows the following:

Revenues

Local Sources	\$ 91,962.12
State Sources	169,786.34
Federal Sources	3,560.74
Incoming Transfers	4,532.98
Total Revenues	<u>\$274,041.18</u>

It is conceded that the above total does not include the amount of a State Aid check, which was lost in transit but is replaceable of \$30,000. If this is added the total revenue is

	\$274,041.18
Expenditures (total)	<u>320,521.62</u>
Excess of Disbursements	(4,681.72)
Cash balance June 3, 1969	13,893.38

The operating millage for 1969-70 as compared to 1968-69 would, based on increased State Equalized Valuation, produce an increase in local revenues as follows:

$$\begin{aligned} 1969-70 - 13.7 \text{ mills} \times \$320,793 \text{ EKV} &= \$114,433.30 \\ 1968-69 - 13.7 \text{ mills} \times \$280,995 \text{ EKV} &= \underline{\quad 85,632.38} \\ \text{Increase} &= \$ 28,795.22 \end{aligned}$$

It is estimated for 1969-70 there will be a net decrease in State Aid based on 5% pupils of \$2,230. This would result in a net increase of the total of local source monies and State Aid of \$26,566.

Thus the total revenue of 1969-70 over 1968-69 is estimated as follows:

1969-70	Total Revenue	\$331,610
1968-69	Total Revenue	<u>\$274,041.18</u>
	Increase in Revenue	\$ 26,566

Note: This does not include income from delinquent tax (\$11,364) plus interest (\$1,44)

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The cost of the teachers economic package for 1968-69 compared to the 1969-70 package based on the Board's retracted offer is as follows:

1969-70	\$332,774 (Taking account of 1 vacancy to be filled)
1968-69	<u>121,102</u>
	\$ 40,671

To meet this added cost there will be a total of \$33,917 computed by the Association as derivable from the following:

Increase in Revenue	\$26,556
Decrease in Expenditures	-34,263
General Fund Liability	<u>48,203</u>
Total	\$33,917

On the above basis the Association computes the percentage cost of the teachers total package (based on the retracted Board offer) as 66% of total revenue.

In arriving at its salary schedule based on the Board's retracted offer the Association included in the salary schedule cost computation that portion of the Superintendent's and High School Principal's salary attributable to teaching as well as 3 non-degree teachers (2 @ \$6,304; 1 @ \$6,575). On this basis the total salary cost would be \$223,154, or if the one vacancy is filled, \$229,700, the exact amount of the Board's retracted offer on salaries. The insurance, substitute teachers, and other operating items exactly equalled the Board's retracted offer.

Recommendations

The Association firmly but a right to believe that the Board members on the negotiating team were acting as agents of the Board in making the offer

quoted earlier in this report, committed to writing and signed by all present including the State Mediator. If it had reason to believe that a clear error had been made, it was the Board's duty immediately to notify the teachers of this fact and to call for a prompt meeting to discuss the matter and to attempt to negotiate a correction. That was not done in this case. Instead the Board President, one of the signatures of the written offer, simply wrote the Association stating that the offer was withdrawn. Without getting into the legal questions involved, is it the position of this fact finder that once the teachers ratified the offer and came within its stated limitations in setting up a salary and other economic schedules the Board should have accepted the ratification completing a settlement of the differences between the Association and the Board.

The Board spokesman at the fact finding hearing seemed to be under the impression that the Board's negotiating team was free to withdraw the offer at any time prior to full Board ratification. While it is true that full Board ratification of an agreement based on such offer was required, it is an error to believe that the teachers' negotiating team did not have a right to rely on an offer as bona fide withdrawn by the Board's negotiating team. If this were so no offer made by less than the full Board would be an offer at all. This would make a shambles of the bargaining process since it would relieve the Board of the power to delegate agency powers to specified members or representatives in collective bargaining. The fact finder is certain that neither the law nor any school board would countenance such limitation.

Moreover, the fact finder is not convinced that an error in the offer was in fact made when a review of the above financial situation is considered. No claim was made that the offer exceeded the district's ability to pay or that the negotiating team went beyond its delegated powers or the Board's legal limits. Rather the fact finder is convinced that the Board was capricious in not taking its representatives' offer seriously.

Since the Association made good on its part of the bargain by obtaining membership ratification of the offer and then establishing a salary and other economic schedules which admittedly fell within the Board negotiating team's specified limits, the Board should step up to its responsibility and approve settlement of the matter effective the beginning of the first pay period of the school year 1969-70. This is the fact finder's recommendation.

September 11, 1969
DATE

James T. Dunne
James T. Dunne, Fact Finder