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In the Matter of Statutory Factfinding between:

CITY OF NOVI,

Employer
-and-

Factfinder

Ben Kerner

TEAMSTERS, LOCAL 214,

Union.

MERC Case No. D05 J-1080

Hearing: September 20, 2006
City of Novi

Briefed by: October 31, 2007

FACTFINDER'S REPORT AND RECOMMENDATION.

Appearances:

For the City: Dennis DuBay
Keller Thoma, P.C.

For the Union: Frank Weber
Teamsters, Local 214

Also present for all or part of the proceedings: Ken Elphinstone, Tia Gronlund-Fox, Robin Kummer, Kathy Smith-Roy, John Underhill, Jenny Walewski.

Dated: Nov. 2, 2006

BACKGROUND.

The City is a municipality northwest of Detroit, adjoining the growing I-696 corridor. The City has a general fund budget of \$32 million, and a total full-time employee complement of 280 employees. The Union represents a unit of 85 employees, about 40% in clerical classifications, the rest in blue-collar classifications and in technical classifications, such as housing inspector. The parties have had a stable bargaining relationship. The parties had a collective bargaining agreement effective from 1999 through June 30, 2005. In bargaining for a successor agreement, the parties have tentatively settled all aspects of their proposed 2005-2009 collective bargaining agreement, except for a term defining full pension eligibility. In regard to settled aspects of the proposed 2005-09 agreement, the Union represents, and the Employer does not disagree, that the City has confirmed its commitment not to change family continuation coverage for H.M.O. plans currently in effect.

The pension eligibility condition of work currently in effect calls for employees to reach 60 years of age and have 10 years of service with the City (60/10) to be eligible for full pension benefits (including health care premiums, of which 80% are paid by the Employer).

The Union-proposed condition of work would be to amend full pension eligibility to include any employee who is 55 years of age and has 25 years of service (55/25).

The Union, having formed the belief that the issue in dispute would be more readily resolved if the facts of the dispute became known to the public,

petitioned the Employment Relations Commission on April 5, 2006 for fact finding. On June 8, 2006, I was appointed by the Employment Relations Commission as the Factfinder in this matter. My authority derives from the Labor Mediation Act, MCL 425.25 et. seq., which recites that the Commission, in order to resolve labor disputes, may on its own or through an agent, hold hearings to make the facts of a labor dispute publicly known and to recommend terms of settlement.

I held a pre-hearing conference on July 11, 2006, at which several matters related to the conduct of the hearing were agreed. In addition, the parties identified their "traditional" comparable communities as appropriate for citation in this proceeding. Those communities include: Bloomfield Township, City of Farmington Hills; City of Ferndale, City of Madison Heights, City of Royal Oak, City of Southfield, City of Troy, Waterford Township; and Township of West Bloomfield. The date mutually agreed by the parties for a hearing was September 20, 2006.

The parties met for a Factfinding hearing on September 20, 2006. I heard evidence from both the Union and the Employer, which will be summarized below. Both parties had an opportunity to cross-examine witnesses for the other side. And, both parties had an opportunity to explain their positions in written briefs, which were filed by October 31, 2006.

EVIDENCE AND POSITIONS OF THE PARTIES.

The Union presented evidence showing that among the other employees groups of the City of Novi, the vast majority of them have 50/25 eligibility for a full pension benefits. Thus, the Union shows that the unionized firefighters, the unionized police officers, the unionized police command officers, and the unionized police dispatchers all have the condition of employment whereby current employees become eligible for full pension on a 50/25 basis. In addition, the non-unionized grouping of administrative and supervisory employees, about 55 employees in number, were afforded the 55/25 condition of employment by action of City Council effective on January 1, 2005. Only 7 police clericals and the library group, approximately 22 employees in number, in addition to the Teamsters' bargaining unit do not have the 55/25 condition of employment. The Union questions the inclusion of the library employees in this comparison, saying they are not employees of the City of Novi. However, they are included in the Municipal Employees Retirement System of Michigan 2005 summary of City employees, E'er Exh. 16, p. 6.

The Union further showed that among the 9 traditionally used comparable communities, the median or prevailing condition of employment is for 55/25 eligibility for pension, or better. Thus, for example, in the "better" category, Bloomfield Township (which does not have a union-represented bargaining unit for the general municipal employees) the condition of employment is 52 years of age plus 10 years of service (52/10). Also in the "better" category would be West Bloomfield, which has a 55/15 eligibility for pension.

In the substantially equivalent grouping of comparable communities, Farmington Hills has an eligibility of 55/ 25 or age plus years of service totaling 80. Madison Heights has two bargaining units, one of which has 55/25 eligibility; the other of which has 55/15 eligibility. Southfield has 57/25 eligibility or age plus years of service equals 82. Troy has 50/27 eligibility. Waterford has 55/25 eligibility. Royal Oak (AFSCME) has 55/25 eligibility.

On the side of slightly more restrictive eligibility, we find that Ferndale has 55/33 eligibility. And, Royal Oak (SEIU) has 50/30 eligibility or 60/5 eligibility.

The Union concludes from these comparable communities that 55/25 is the norm, or the prevailing situation. Only two communities have more restrictive eligibility criteria, those being Ferndale and Royal Oak (SEIU). All other comparable communities are essentially the same as 55/25 or a slight variation on that eligibility formula, or a less restrictive formula.

The Employer's presentation focused on the cost of the improvement in pension eligibility. It pointed out that in addition to the cost in pension benefits there is a corollary increase in the cost of retiree health care benefits. Currently, those are funded at the rate of 80% of the premium paid by the City; 20% paid by the retiree. To expand the eligibility for retirement would be to expand the City's obligation to pay premiums for retiree health care benefits

Ms. Kathy Smith-Roy, current Finance Director, reviewed the figures applicable to the costs of the Union-proposed eligibility benefit. She referred to the actuarial study prepared by Gabriel, Roeder, Smith & Company, the City's

actuaries, and dated September 4, 2006 (Exh. 13) specifically outlining the costs of the Union proposed benefit, in current dollars, based on December 31, 2005 actuarial valuations. The figures suggest that the cost of the Union's proposal is .44% for normal cost plus .87% for the unfunded accrued liability, for a total long-term Employer cost of 1.31%. This translates to a required Employer contribution in the first year of the plan of \$53,077. In addition, the following years' required contributions would undoubtedly go up, as the amount of wages goes up. The Employer's exhibit 13, p.3 shows the impact on unfunded liability. The lump sum cost of the Teamster-recommended change is \$625,422.

The figures suggest that the incremental cost of health care, if the Union's proposal were implemented, would be \$310,761. (Exh. 14, p.2) for a computed Employer rate of long term contributions of 0.79% of payroll. This amount, applied to current payroll costs, results in a first year contribution of \$25,303. The Employer's actual contributions, once again, would be required to be increased as wage rates increase.

The annual cost of such items, assuming amortization over 30 years would be \$25,303 for health care, and \$53,077 for retirement contributions for a grand total of \$78,380 in annualized contributions.

The total increase in unfunded liability would be \$936,183, the sum of \$310,761 (for retiree health care costs) plus \$625,422 (increased pension costs).

In regard to Retiree Health Fund costs, the Employer showed that there was a June 30, 2002 valuation performed by Gabriel, Roeder, Smith and Company. It showed that the recommended Employer contribution to fund the

unfunded liability for the Teamster's unit was 8.83% of payroll. That was to meet an unfunded liability of \$3,141,000. (E'er. Exh. 9, p. B-10). The City has not been able to make those suggested contributions, instead making an average 4.24% in payroll contributions to the Retiree Health Fund. (E'er. Exh. 9, p. B-1).

Ms. Smith-Roy on cross-examination agreed that the City had implemented a change for eligibility of the administrative grouping of employees, without having a specific study showing the cost thereof. And, she agreed with the questioner that the other comparable communities, generally (including Royal Oak, Troy, Southfield, and Farmington Hills) are making contributions to retiree health insurance premiums, in some cases higher than the amount paid by the City of Novi, in some cases lower.

The Employer argues that the costs reviewed above are excessive. The retirement system is only funded at the level of 82%; and the retiree health insurance is steeply underfunded at only 19.34% of the recommended funding level. The Employer's view is that the new costs of the Teamsters-recommended proposal will only aggravate the current underfunding situation in the Retiree Health Fund. Adds the City, the comparable communities do not show as sweeping a picture as the Union would make out. For example, the years of service requirement is currently 20 in Novi, less than any other comparable, save Bloomfield Township.

Finally, the Employer argues that the pension term of work of other City of Novi employee groups does not necessarily support the Union's request. That is because, in essence, the Employer argues that other employee groups are not

comparable. By history and tradition, the uniformed services, including the police officers, the police command, the fire fighters, and the police dispatchers have lower age and service requirements, because their work is stressful, and can be physically exhausting. The Administrative group, composed of supervisors, managers and department directors, have a 55/25 benefit since it was implemented on January 1, 2005. The tradition with many of the administrative positions, argues the Employer, is that the persons in those jobs will not work for the Employer for a long time, or long enough to become eligible for the retirement benefit. Turnover in the unit is higher than in the Teamsters unit. Additionally, argues the City, "administrative personnel were granted the benefit before the City Council became alarmed at the large unfunded liability for retiree health care—possibly provoked by the recent review generated by the new requirements of the GASB [Governmental Accounting Standards Board]." [Brief, p. 13]. In sum, says the Employer, the only comparable employee groups are the civilian police clerks and the library employees. Both those groups have the retirement eligibility requirement currently in force for the Teamsters unit: 60 years of age and 10 years of service.

FINDINGS AND CONCLUSIONS.

Support for the Union-proposed term of employment can be seen in the comparable communities. Although there are variations on a theme among the comparables, there is a group of comparables (Farmington Hills, Madison Heights, Southfield, Troy, Waterford) in which the prevalent condition of

employment is substantially equivalent to the requested 55/25 term of employment. In addition, in two other comparables, Bloomfield Township and West Bloomfield, there is a "better" eligibility for pension than the one requested here. In short, the comparable communities indicate that the requested term of employment is not out of the ordinary, or a minority condition of employment. It is a majority condition of employment.

However, I am persuaded that the cost of the 55/25 eligibility for pensions is excessive, when viewed against the City of Novi's other commitments and when viewed against the backdrop of current funding for the Retiree Health Fund. The City in fact made a presentation that it lacks the ability to pay the requested condition of employment. The annual increase in the level of contribution, if the Teamster-recommended retirement eligibility were to be adopted would require 0.79% for health care plus 1.31% for the pension benefit. Thus, the first-year contribution requirement to implement the Teamster-recommended condition of work would be \$25,303 (Retiree Health Fund) plus \$53,077 (pension), for a total first year contribution of \$78,380. In addition, the Employer must be able to cope with the current steeply underfunded situation of the Retiree Health Fund. The testimony of Kathy Smith-Roy established that the Teamsters' group's rate of contribution to the Retiree Health Fund should be 8.83%, whereas the actual current Employer rate is 4.24%. (See E'er. Exh. 9, p. B-1). It remains to be seen how the Employer will close this gap in expected retiree health contributions. But the existence of these figures supports the Employer's argument

that "the City can't afford the *current* health insurance costs let alone the new increased costs proposed by the Union." (Brief, p. 7).

I also find that the Employer's evaluation of the conditions of work for other (internal) employee groups has merit. It is true that the uniformed services have different traditions of retirement benefits, as they do of wages, hours, terms and other conditions of work. It is not sufficient to point to the existence of a different retirement benefit for police, or police command, or fire fighters and say, We want the same benefit. The differences in the work performed by the uniformed services, together with the tradition of access to Act 312 benefit-setting argues against the parity of the uniformed services with the Teamsters bargaining unit.

Similarly, the administrative group, while not subject to the rigors of physical labor or the hazard of death or serious physical injury while on duty, also perform different types of jobs than are performed by members of the Teamsters unit. Regarding the administrators' retirement benefit, it could probably be said that the Employer did not realize the impact of the proposal or "became alarmed at the large unfunded liability for retiree health care," too late to stop the proposal's going forward. That failure is not reason to compound the failure in addressing the retirement needs of current Teamsters employees. I find that the overwhelming need of the Employer to fund a retirement system that is fiscally prudent in relation to future years is the paramount factor. The Union, while it can find some ground for its demand in the working conditions of other employ-

ees of other comparable employers, does not show that its members are seriously disadvantaged by the adoption of the status quo.

RECOMMENDATION.

For all the above-given reasons, I recommend that the parties settle on the basis of incorporating current eligibility for full pension retirement of 60/10 into their 2005-09 contract.

A handwritten signature in black ink that reads "Benjamin A. Kerner". The signature is written in a cursive style and is positioned above a solid horizontal line.

Benjamin A. Kerner
Factfinder

November 2, 2006
Detroit, Michigan
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