MICHIGAN DEPARTMENT CONSUMER AND INDUSTRY SERVICES
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of the Fact Finding Between:

BEAVERTON EDUCATIONAL SUPPORT
PERSONNEL ASSOCIATION/MEA/NEA
Labor Organization,

-and-

BEAVERTON RURAL SCHOOLS
Employer.
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MERC Case No.: L09 B-3012
Findings of Fact Finder

APPEARANCES

For the Association
Renaye Baker
MEA UniServ Director

For The Employer
Thomas Basil
Representative

A Petition for Fact Finding was filed by the Employer on December 14, 2009. A hearing was held before Fact Finder Martin I. Kotch at the offices of the Employer on September 13, 2010.

BACKGROUND

The parties have been engaged in negotiations over a successor agreement to the 2007-2009 Master Agreement since June 10, 2009. The Master Agreement expired on June 30, 2009. The Employer privatized the custodial and food service members of the Association on July 1, 2010. Since that time the 38 remaining Association members have been working without a successor contract. The Employer filed for Fact Finding on December 14, 2009. A hearing was held on September 13, 2010.

Negotiations and mediation sessions enabled the parties to narrow the issues for Fact Finding to one: wages. The Association's proposal is that wages remain static, i. e., a 0% wage increase. The Employer's proposal is that wages be reduced by 7%.

Of the comparable communities agreed upon by the parties, Beaverton ranks 7 out of 8 in terms of the student population. (It is in a virtual tie with Meridian at #6). As with other school Districts, Beaverton has experienced a drop in student population.

Association's Position

The Association contends that it has a history of working cooperatively with the District during times of declining enrollment or limited funding. The Association has allowed the District to reduce Association positions, which had the effect of increasing workload duties for members still employed.

The Association argues that while the District has been faced with declining enrollment, its finances have been stable, and actually improved in 2009-2010, and are expected to substantially improve for the coming 2000-2011 school year.

The Association further argues that its members' wages have been on the low end of the selected comparable Districts. If they were to take a reduction in wages for the 2010-2011 school year, it says, the members will be the lowest paid workers in comparison to the same or similar positions in the comparable school Districts.

Internally, comparing the professional salaries to nonprofessional salaries it, the Association asserts it is obvious that while the professional salaries have taken a larger portion of the budget over the years, the nonprofessional salaries, which would be identified as Association positions, have actually received a smaller portion of the budget from 2004 through 2009.

The Association contends that since June 10, 2009, when bargaining began between the parties, the Association has brought a concessionary contract to the table that would provide savings to the District for 2009-2010 and 2010-2011 school years.

The Association argues since the student count has declined at a rate proportional to the reduction in state money, the District should not experience financial deficit. Association Exhibit 18 (p. 4). In fact, since the state has actually increased the amount of per-pupil allowance in the past six years (same Exhibit) moving from $6,626 to as much as $7,316 in 2009–2010, a 10.41% increase, the effects of any reduction in per-pupil generated revenue are even further minimized.

Association Exhibit 11 shows the elimination of Association positions since 2004-2005. Clearly, maintains the Association, the general fund balance decrease cannot be laid at the door of wages paid to Association members, since these have declined in that period. Association Exhibit 13 demonstrates a decline in the amount of the total wage compensation from 2005 through 2010 for all Association employees. In addition, Association Exhibit 23 shows a reduction in the amount of budget being used for nonprofessional salaries, chiefly

Association members. In sum, even though there have been modest wage increases over the past six years, see Association Exhibit 13, which have kept the member wages somewhat less than competitive with comparable Districts, the Association maintains it has not in any way contributed to a reduction in the general fund balance or any decline in the financial stability of the District.

The Association contends that its Exhibit 19 (p.1) shows that currently Association wages are on the low end; wages come in lowest in three of the six classifications compared with the seven area comparable Districts.

The Association argues that its Exhibit 19 (p. 4) shows that the effects of the District's proposed 7% reduction in wages would result in Association employees becoming the lowest wage earners for the same and similar work among the comparable Districts.

The Association contends that even in Gladwin, where support personnel took a 10% wage reduction to save members from privatization, the only wage classification where the Gladwin wages were below Beaverton was the maintenance classification. Exhibit 19. Even this reduction is conditional, and will be removed pending receipt of additional funding from the state in 2010-2011. The Association's expert witness, economist Ruth Beier, testified that, in all likelihood, the funding would be available. In that eventuality, all Gladwin personnel would be more highly paid than Beaverton's.

The Association maintains that six of the seven comparable Districts have a step wage system: Standish-Sterling, Meridian, Clare, Gladwin, Pinconning and Coleman all employ such a system. Thus, while personnel in some other Districts may start out at a lower wage, the actual earnings are far greater in the end.

The Association argues in Exhibits 22 (p. 2) and 23 (p. 2) that professional salaries increased over a four year period, while nonprofessional wages decreased over that same time span. It is clear, says the Association, that the District is using nonprofessional wages as a funding source for professional salaries.

The Association argues that its Exhibits 22 (p. 2) and Exhibit 23 (p. 2) comparing Beaverton to the other seven Districts show that from 2004 to 2009, the compensation paid its professional staff increased as a percentage of expenditures, while the compensation paid nonprofessional staff decreased as a percentage of expenditures. In that same period, the District has been able to pay higher than average salaries for professional salaries at 2.49% above the average salaries in the comparable Districts, while at the same time paying lower than average nonprofessional salaries at 1.09% below the average salaries in those Districts.

The Association maintains that its Exhibit 26 shows that new sources of revenue combined with new savings will bring new revenues for 2010-2011 of over $1,000.000. Association Exhibits 11, 27 and 16 show, says the Association, that the new budget says the District will be receiving only $6,883 per pupil foundation allowance when in reality the Federal Education Jobs Funding makes it $7,373.

The Association notes that according to Ms. Beier's testimony on Association Exhibit 26 (p.6), the District has increased its General Fund Balance to $611,260, and should be able to continue to grow the general fund balance to 14.3%, as opposed to 5.3%, or $1,643,263 even with providing the association with a 0% wage freeze for the 2009-2010 and 2010-2011 school year.

The Association contends that, as Ms. Beier pointed out many times in her testimony, the Association's proposal will not cost the District any additional money at 0% wage freeze. In fact with the proposed changes and benefit level of the health insurance for the three remaining Association employees who will get health benefits, but in the Messa Choices II health plan, the District will realize $9,679 savings with the Association final proposal. Exhibit 12.

The Association summarizes its position as follows:

The Beaverton Educational Support Personnel Association is asking for a 0% wage reduction. There will be no additional cost to the District to provide for this proposal, and the Association proposal is fair in comparison to the District's current financial condition.

The District's current financial condition is stable despite declining enrollment in the past. Last year, the District improved their overall General Fund Balance from a 1.2% of the overall budget to in 2009-2010 ending with a 5.3% General Fund Balance. As was shown by testimony and Exhibits provided by the Association, as the District continues into the 2010-2011 school year, there is no reason to believe that the General Fund Balance would not have the ability to climb to well over 10%, which the Employer claims to be its goal, and that would be with a 0% wage freeze. Testimony and Exhibits presented by the Association indicate that the District is not in poor financial condition and the budget accepted and presented to the public by the Employer in June of2010 for the 2010-2011 school year does not indicate spending patterns of a District in dire financial trouble that could not support such a freeze.

Beaverton Rural Schools are not in the financial condition that would warrant any of their employee groups to have to reduce their wages by 7% to save the District from financial ruin.

It has the ability to pay for an Association proposal that will cost it no additional money at 0%, and one that will actually provide it with savings for expenditure of health insurance for its members.

Employer's Position

The Employer asserts that, as shown in its Exhibit 5, beginning with the 2005-2006 school year through the 2008-2009 school year, the District's expenses exceeded its income. The annual numbers are: $113,000; $549,000; $547,000; $299,147. The total was over $1,500,000.

The Employer argues that at the beginning of that time span, the District's fund equity was $1,543,534, or 12.7% of the total budget. After covering the excess of expenses over revenues for four years, the District is now left with a fund equity of $147,908 or 1.2% of fund equity. Employer Exhibit 7. This amount represents the lowest fund equity of any of the comparable schools. Employer Exhibit 10.

The Employer determined this amount was fiscally unsound, particularly in light of the fact that the Michigan School Business Officials recommends that school Districts maintain a fund equity position of between 15% and 20%. Employer Exhibit 1 (p. 2). The lack of fund equity caused the District to borrow $800,000 in the past year to meet payroll, and pay the interest on the amount borrowed.

The Employer maintains that it seeks a fund equity balance of 10%, or $1,134,846 for the 2010-2011 school year. This would place Beaverton sixth among the eight comparable Districts. This is also Beaverton's rank when the comparison is made by size of budget. Employer Exhibit 9.

In order to meet the financial constraints facing it, the Employer asserts it has taken several steps: it has privatized custodial and food services; it is asking members of this unit to take a 7% pay reduction, and will be asking the teaching staff to likewise take a 7% pay reduction. These three steps will save the District $496,225. Nonetheless, the Employer argues, an additional $638,621 in savings must be achieved. Employer Exhibit 7.

The Employer maintains that testimony at the hearing showed that the non-certified employees in two other Districts have already agreed to pay reductions: Meridian, 6%, and Gladwin,10%. The Gladwin school District has a fund equity position of over 15%. Employer Exhibit 10.

The Employer asserts that its Exhibits demonstrate that even with the reduction of 7% its employees, in almost every case, would still maintain their position relative to other non-certified employees in the comparable Districts.

The Employer argues that, although the Association's assertion that per pupil funding for the District has increased is correct, because of loss of students every year from 2005 to 2009, Beaverton's actual income has not increased every year. Employer Exhibits 4 and 7.

The Employer contends that its Exhibits 11 through 16 show that with a 7% reduction, the majority of Beaverton employees will maintain their relative standings with the comparable Districts. In addition, Beaverton employees can receive a up to 23 paid vacation days. This is more than any comparable Districts. Beaverton employees get three personal days; only Coleman has more.

The Employer disputes the Association's claim that the District is able to afford the wage freeze it seeks. Association Exhibit 20, last paragraph, acknowledges that per pupil revenue in 2009-2010 declined. It claims that a significant recovery is expected for 2010-2011. The Employer says there is no solid evidence that this money will be forthcoming from the state. The same is true with respect to the Association's assertion that money from the federal government will solve the problem. Moreover any such monies will be one time money, and should not be used for continuing expenses such as wages.

The Employer asserts that the Association included $171,000 in savings from privatization in its analysis of ability to pay. Exhibit 26 (p. 2). This money, it asserts, has already been taken out of the 2010-2011 budget. Finally, in Exhibit 26, (p. 10), the Association is not using facts for 2010-2011. They use a projected number of students.

CONCLUSION

The Employer wishes to reduce the wages of its non-certified personnel by 7%. Its goal is not to merely meet expenditures, i.e., balance expenses with revenues. Rather, it also seeks to increase the ratio of General Fund Balance to the overall budget; it seeks to go from 1.2% to 10%. That would appear to be a significant increase in an era of what the Employer characterizes as one of declining enrollment, and hence declining revenue.

The Employer lists steps it has taken to reach this result. It has privatized two functions previously carried out by Association members. It has reduced its health care costs for Association members. And it seeks a 7% wage reduction. The first two have had an impact on Association members - loss of jobs and reduced coverage. The Employer asserts it will seek the same 7% reduction from its certified employees. But that is not yet a fact on the ground or in the record. The Employer is critical of the Association's use of projected figures, yet relies on an unsupported assertion of future intent. On this record, it is the Association members who are taking the major "hit."

As is not uncommon in contract dispute resolution, the quantitative data presented by each side shows more than a little variance. Since the parties have agreed upon comparables, it would seem that an approach utilizing data relating to the comparisons to be found between Beaverton and the seven other Districts would be the most fruitful to pursue. Unfortunately, there is a factor which renders this most useful of tools somewhat problematic. Six of the seven comparable communities employ a step system. It is therefore difficult to pin down exactly where in that system the comparable wage is to be found.

Thus, for example, Employer Exhibit 11 lists the pay comparison for mechanic IV with

0% raise as $16.00. A 7% reduction is listed as $14.88. Association Exhibit 19 also compares Beaverton to the comparable communities. It lists mechanics as $16.00 and $14.88 as well. However, the Association contends that $14.88 is the lowest of the comparables for which data are available. The Employer has Gladwin behind Beaverton, with a 7% reduction, at $11.54. The difference, as explained by the Association, lies in the step system. Thus, Gladwin is listed as $10.92 to $19.05 per hour. (A 10% reduction, which the Association says will disappear in the next year, puts Gladwin at $9.83 to $17.15 per hour.) With a 10% reduction, Gladwin is below Beaverton, but apparently only at the lowest step. The Beaverton mechanic is compensated at a flat rate of $16.00 for the life of the contract. Using the step process employed by Gladwin, a mechanic at the highest step will receive $19.05 per hour, and even with a 10% reduction, will receive $17.15.

Employer Exhibit 12 shows Beaverton maintenance employees at $13.42 currently, and $12.48 with a 7% reduction. Again, Beaverton appears to stand above Gladwin. Association Exhibit 19 has maintenance employees at $13.42, and $12.48 with the reduction. Once again, the Association ranks its maintenance wages, as with mechanics, at the lowest amongst the comparables. The reason for the distinction is the same as with the mechanics. Gladwin is listed in the step process as paying between $9.21 and $14.68 per hour. With the Gladwin 10% reduction, the range is $8.29 to $13.21. The highest step figure for Gladwin, $14.68, is higher than the flat rate of $13.42 in Beaverton. This pattern continues throughout the job classifications, and with virtually all the comparable Districts.

It is impossible to determine, on this record, when a lower paid employee in the step process employed by the comparable communities will catch up to and surpass the initially more highly paid employee in Beaverton. It is clear that an employee with sufficient seniority, in whatever community is chosen, will outearn the Beaverton employee in same job classification. According to the Association, the steps utilized are not far apart in time as a general rule. It would appear that on the whole the Beaverton employee is the lowest paid in each of the job classifications when wages are calculated with the 7% reduction as proposed by the Employer.

Of course, even using the Employer' s comparisons, i.e. a flat figure for the step process communities, the effect of the 7% reduction will be to drive Association wages dramatically further below the highest wage among the comparables.

According to the Employer, the 7% reduction proposed for the non-certified employees will save the District $61,331. It has saved $128,432 from privatization, and projects a savings of $306,462 from an as yet unsought 7% reduction from certified employees. The amount to be saved by the reduction for non-certified employees is small in comparison with the other measures. The benefit gained by the District appears relatively less significant than the impact of lost wages to the employees. In addition, the Association has amply demonstrated a steady decline in its members' share of the budget over the last several years, and, of course, loss of a substantial number of jobs held by Association members.

As to Beaverton's place among the comparable Districts, it would appear that its employees will indeed be at the bottom. That assertion lacks the precision that a more fully developed record would have provided, but, on the record as it stands, would seem to be reasonably inferred.

The Association's proposal of a wage freeze would not cost the Employer any money. Moreover, over the last several years, Association members have already provided "give-backs" in the form of job loss, privatization, and a declining share of the budget. Along with its drop in standing relative to comparable Districts, these factors suggest that the Association's proposal of a wage freeze is more reasonably in keeping with the economic condition of the District and its comparable communities.

RECOMMENDATION

The Fact Finder recommends the position of the Association.

December 19, 2010

Martin I. Kotch
Fact Finder