8-9-2011

# Patchogue-Medford Library and Library Unit, CSEA Local 1000, AFL-CIO, Local 852

Owen B. Walsh, Esq.

# Patchogue-Medford Library and Library Unit, CSEA Local 1000, AFL-CIO, Local 852

**Abstract**
In the matter of the fact-finding between the Patchogue-Medford Library, employer, and the Library Unit, CSEA Local 1000, AFL-CIO, Local 852, union. PERB case no. M2010-104. Before: Owen B. Walsh, fact finder.

**Keywords**
New York State, PERB, fact finding

**NEW YORK STATE**
**PUBLIC EMPLOYMENT RELATIONS BOARD**
**- - - - - - - - - - - - - - - - - - - X**
**In re:**

**PATCHOGUE-MEDFORD LIBRARY,**
**hereinafter "BOARD"** **Case No. M2010-104**

**- and –** **FACT-FINDING**

**CSEA LOCAL 1000, AFSCME, AFL-CIO,**
**Local 852 (Library CSEA Unit),**
**hereinafter, "UNION."**
**- - - - - - - - - - - - - - - - - - - X**

**APPEARANCES:**

For the Board: Gregory J. Guercio, Esq.
Guercio & Guercio, LLP
Attorneys for Board
77 Conklin Street
Farmingdale, NY 11735

For the Union: Miguelangel F. Cruz, LRS
CSEA Region l
3 Garnet Place
Commack, NY 11725

**Hearing before:** Owen B. Walsh, Esq.
Fact Finder
34 Audrey Avenue
Oyster Bay, NY 11771

**Hearing on and at:** July 26, 2011,
Patchogue-Medford Library
54-60 East Main Street
Patchogue, NY 11772

**Also in attendance:**

For the Board: Christopher F. Mestecroy, Esq.; Patricia Seubert, Pres. of Board; Dina McNeece Chrils, Dir.; Lauren Nichols, Asst. Dir.

For the Union: Roberta Cass, Mindy Musetti, Sally Rein, Gerri Rupp and Edna J. Jonck: Staff

## BACKGROUND AND PARTY POSITIONS

The Undersigned was appointed as Fact Finder on March 30, 2011, by PERB Director of Conciliation, Richard A. Curreri, following a July 14, 2010 Declaration of Impasse by the Board. The Undersigned thereafter contacted the parties to schedule a fact-finding hearing, pursuant to Section 209 of the NYS Civil Service Law, in order to prepare, and to then transmit, his findings of fact and recommendations to the parties for the resolution of the dispute.

After several attempts to reach the parties, contact was made and a Fact-Finding was scheduled for July 26, 2011 at the Library, with the parties directed to focus on high priority items. In accordance with the directions of the undersigned, the parties noted that the principal bargaining issues were Salary and Health Insurance Contribution.[1]

The Union, after noting reductions in its salary proposals over the negotiations, asserted that a zero increase in the first year, a 2.5% increase in the second year and 2.75% increase in the third year of a three year contract was fair for both parties as well as a 3% Health Insurance contribution for five years for new employees.[2] The Union observed that Patchogue-Medford is located in Suffolk County, one of “the richest counties in the country.”[3]

On the other hand, the Board observed that “the Union’s insistence on a salary increase is beyond the bounds of what the Library can afford” as the Board “seeks to manage the Library’s ever-increasing costs with its inability to pay such increases.”[4] And it noted that it “sits at the top of the Salary Rankings for Suffolk County Libraries with Collective Bargaining Agreements, while sitting in the bottom quarter in terms of property and income wealth, …[so that]the Union’s proposal is a request for salary and benefits which exceed the community’s ability to pay and cannot be justified under the present economic conditions.”[5]

## FISCAL CONSIDERATIONS

The Board observed that in order to determine a library’s ability to pay employee salaries, an analysis of several factors

---

[1] Union Brief, p. 2; Board Brief, p.5.
[2] Union Brief, p. 3.
[3] Id. at p. 4.
[4] Board Brief, p. 5.
[5] Id. at p .5.

must be considered including: Combined Wealth Ratio ("CWR"), per capita tax support, uncertainty in the present economic climate, and, the Library's ability to pay.[6] It argued that only on a careful analysis of these factors may an "understanding of the Library's relative wealth, financial security, and economic position" be ascertained and "the fairness and reasonableness of a salary proposal be viewed within the accurate context of fiscal responsibility and the Board's fiduciary responsibility to the residents of the community."[7]

Expanding on this, the Board stated that CWR was a New York State Education Department measurement of a geographic area's ability to raise local revenue and its ability to pay salaries by calculating the area's Combined Wealth Ratio (CWR). The CWR is, the Board noted, "the equally weighted combination of per-pupil property wealth relative to the State average and per-pupil income wealth relative to the State average, and is a useful tool to compare geographic areas."[8] The Board observed that although the CWR is a measurement prepared to determine a school district's ability to pay, nevertheless, "as libraries generally correlate to the same areas as school districts, CWR is an appropriate measurement of a library's ability to pay … [and] Patchogue-Medford school district, which is in the same geographic [area] as the library, falls in the bottom quarter of Suffolk County, ranking 53rd out of 64 areas.[9]

Furthermore, in considering the tax burden placed on Library residents, the Board urged, one must look at an area's per capita tax support because it demonstrates the extent to which taxpayers are already burdened by library taxes, and in referring to 2008 statistics published by the Suffolk County Library Association [Board Exhibit 6], it stated that "the Patchogue-Medford Library ranks [35 out of 56] in the top sixty percent of reporting Suffolk County Libraries in terms of per capita tax support for Library residents … [moreover, the] statistic demonstrates the relatively high burden the Patchogue-Medford Library already places upon its taxpayers when compared to other Suffolk County Libraries … ."[10] From these data, the Board argued that its Library residents are taxed at per capita rates well above their ability to pay and well above comparable Suffolk County libraries.

[6] Board Brief, p. 6.
[7] Id. at pp. 6-7.
[8] Id. at p. 7.
[9] See Chart, Board Brief, pp. 7-9.
[10] Board Brief, pp. 9-11.

Next, moving to the present economic climate, the Board asserted it was “uncertain” and cited the 2007 Housing Market Collapse, the 2008 recession and the rise in public sector costs as revenue from income taxes, sales taxes and user fees continued to fall due to lower economic activity.[11]

In addition, the Board observed, New York State has enacted property tax cap legislation on local tax levies of 2% or the inflation rate, whichever is lower, effective for Fiscal Year 2012, with an override mechanism which would require a levy to be passed by 60% of the voters voting in that election. The Board stated that the Property Tax Cap is a major issue, since “annual step increases paid to employees averag[e] approximately $70,000 or 1.55% of payroll annually, without curtailing salary increases, these automatic increases alone could cause salaries to rise near the amount a property tax cap would allow … [and as the vast majority of its library funding comes from property taxes,] step increases alone represent such a significant portion of payroll, measures must be put into place to curtail salary increases.”[12]

The Board then noted actions on the part of the President of the United States and the Governor of New York which freeze the wages of Federal and State employees during this economic crisis[13] and it stated that local property tax levies in New York grew at more than twice the rate of inflation between 1998 to 2008, so that as “a result of the last two years of fiscal crisis and decreased funding, libraries have already tapped reserves. Just as taxpayers cannot continue to support the costs associated with labor costs for the federal, state and county governments, library residents cannot continue to support the increasing costs associated with employees’ salaries.”[14]

Respecting its argument re the Library’s inability to pay, the Board cited and provided data respecting the decline in home values and Per Capita Income and with increased residential foreclosures as well as increased employee health insurance cost, it stated these data “clearly demonstrated that taxpayers’ ability to pay as measured by income and property value is decreasing while the Library’s costs are increasing.”[15]

Turning next to the Tax Cap imposed for the 2012-2013

---

[11] Boards Brief, pp. 12-14.
[12] Id. p. 15.
[13] Id. pp. 15-16
[14] Id. pp. 17-18.
[15] Id. pp. 18-22.

Budget, the Board observed, should the Board accept the Union's salary proposal, the Library would experience a deficit in its minimum operating reserve fund balance[16] and with the 2% cap on revenues, combined with salary increases and other costs, this would result in the Library being unable to generate greater revenue from tax increases and it would face the prospects of staff cuts to bring its finances into line.[17]

The Union, on the other hand, stated after "scrutinized analysis" of the fiscal data, that the Library's net assets have increased for the years ending June 30, 2007 through June 30, 2010.[18] The Union asserted that the "Library's unreserved undesignated fund balance…represented 26.4% of their operating expenses actually spent during fiscal year 2009-10, which is **above** the recommendation made by the Government Finance Officers Association that governmental entities maintain an unrestricted fund balance of…16.7% of regular general fund operating expenditures(see Exhibit #10, table 5). From this, the Union argued, it has projected Library revenues will exceed expenditures in the 2010-2011 fiscal year and leave a fund balance which it declared "represents the net assets in the fund that are available for spending. [In that connection, the Union stated, the]… Library entered their 2010-2011 fiscal year with the net assets of $5,584,678. Of this amount $4,041,549 was unrestricted and available to be used at the discretion of the Library…for any legal purpose approved by the Library Board, including the payment of wage and benefit increases for [Union]… members."[19]

SALARY PROPOSALS

The Board states that even at a first year zero increase, most employees would receive a raise as a result of the annual "step" increases on the salary schedule so that the Library's budget is not achieved through it, as the increment "is a hidden and compounding raise" and the Board noted, for example, on the "Library salary schedule for 2009-10 fiscal year, the increment between Step l and Step 2 of a Librarian I is $1,169 or a 2.5% increase, the Step 1 salary being $46,771 and the Step 2 salary being $47,940 (2009-2010 Salary Schedule, See Exhibit "1"). …The increment between Step 18 and Step 19 for a Librarian III is $2,386 or a 2.5% increase, Step 18 salary being $95,430 and a

---

[16] See tables, Board Brief, pp-. 23-24.
[17] Id. p. 23.
[18] Union Brief, p. 8; Union Exhibit 10, Table 1.
[19] Union Brief, pp. 9-10.

Step 19 salary being $97,816."[20]

The Board then illustrated the Library's Proposal for several different titles respecting Salary and Health insurance where in the first year of a proposed three year agreement a zero percent plus increment would be received, with those on the top step receiving 2.5%, and in the second and third years an option with either: (A) a salary increase of 1% each year plus increment, provided **new employees** contribute 10% to the cost of individual health insurance coverage, **or** (B) an increase of 1.5% each year plus increment, provided **all employees** contribute 10% of individual health insurance coverage. The Board stated that under Option A, factoring an increment and a 1% increase in Year 2 and 3 over the Library's proposed contract, percentage increases in employee salaries over the three years reflect raises of approximately 10%, while under Option B it would be approximately 11-12%.[21] And, the Board declared:

> "It is the hidden cost of increments in the form of yearly steps and longevity that drive up salary costs and, inevitably, tax rates to unacceptable levels. The percentage increases the Union has placed on the table before the Fact-Finder do not address the built-in raises CSEA members will already receive in in the coming years."[22]

In support, the Board referred to the Union Proposals over the same proposed three year period and noted, for example, that at Zero percent in Year 1 plus increment, 2.5% in Year 2 plus increment, and 2.75% in Year 3 plus increment, a Union member serving as a Librarian I would realize increases of 13.41% over the three years of the Contract and a Librarian III (who receives 15 year Longevity pay of $750) would realize a total increase of 14.37% over the same three years. [23] Moreover, the Board declared, the Union salary proposal of 2.75% in Year 3 of the proposed contract is "a patently unreasonable proposal in this economic and funding climate...[it]would result in raises ranging between 13%-14%...[and with]the looming property tax cap, the Union's 2.75% proposal in year 3 would [it reiterated,] lead to a scenario where the Library could not possibly sustain its budget without substantial cuts in program and/or staff."[24]

---

[20] Board Brief, pp. 25-26
[21] Id. pp. 27-32
[22] Id. p. 32.
[23] Id. pp. 33-35.
[24] Id. p. 36.

The Board then cited data from the Suffolk County Library Association 2010 Statistical Survey,[25]the Salary and Health Insurance Survey from Zone 2 Libraries,[26]and Suffolk County Library CBAs (prepared by the Board, so that the Library could be compared with other Suffolk County libraries during 2009-10).[27] These Exhibits, 13-16, and the charts derived from them,[28] using for example just the titles of Library I or Librarian III, referred to above(although the other titles are comparable), depict the Library as paying salaries at a rate well exceeding its ability to pay.[29]

On the issue of salary, the Union cited a NEWSDAY article on Long Island, as being "The Costliest Region" to raise a family, but noted that the report did not encompass such factors as the impact of the rising cost of gasoline on Long Island workers commuting by car to work, its effect on salaries, and a concurrent decrease on a worker's expendable income.[30] The Union asserted the "Library in some instances categorically do[es] not even maintain a competitive salary when compared to surrounding libraries and titles."[31]

HEALTH INSURANCE

The Library has proposed that **new employees,** under Salary Option A (see above), immediately contribute 10% toward their individual health insurance premiums or under Salary Option B, **all employees** immediately contribute toward the cost of their individual health insurance. The Union has offered a three percent contribution for **new employees** during their first five years with the Library.

The Board argued that the Union position results in an exorbitant expense to the Library and its taxpayers and is well beyond the ability to pay. Indeed, it noted that health insurance premiums have risen consistently over the past four years with rates for both individual and family coverage increasing during 2011-2012 by an average of over 13%.[32] Moreover, "...for the 2011-2012 fiscal year, the total health

[25] Board Exhibit 13.
[26] Board Exhibit 14.
[27] Board Exhibit 15.
[28] See Board Brief, pp. 37-45
[29] Board Brief, p. 45.
[30] Union Brief, pp. 4-5.
[31] Id, p. 5; Union Exhibit 8.
[32] Board Brief, p. 46.

costs for the Patchogue-Medford Library have increased by $75,571, a one year increase of 12.0%"[33]

The Board then stated:

> "Employee benefits, including health insurance, constitute a major component of employer compensation packages. After salaries, health coverage to employees is the largest Library personnel expense...[and it] has increased over the previous four years at expeditious rates and is likely to continue increasing at high rates in the future. Increased employee contributions are necessary so that Patchogue-Medford Library can maintain reasonable cost Levels. ...
>
> "[The]Library employee's current rate of contribution for Individual Health Insurance is 0%. In terms of Zone 2 Libraries, only two libraries, including the Patchogue-Medford Library, contribute 100% toward the cost of Individual Health Insurance. Furthermore, in Terms of Zone 2 Libraries reporting, the Average employer contribution for **new employees** for individual health insurance is 83.5%. The average total staff employer contribution for individual health insurance contribution is 90%.[34]
>
> "In terms of reporting Suffolk County Libraries with Collective Bargaining Agreements, the average employer contribution for **new employees** for individual health insurance is 88.4%. The average **total staff** employer contribution for individual health insurance is 90.2%.
>
> The Patchogue-Medford Library proposal of 10% Employee contribution is therefore, more than Reasonable under the circumstances."[35]

The Union, on the issue of health insurance, acknowledged that individual employees currently make no contribution to health insurance costs, while in five of seven of the districts

[33] Board Brief, p. 46.
[34] Id. pp. 46-48.
[35] Id. p. 49.

that surround Patchogue-Medford, individuals contribute from ten to twenty percent of the cost;[36] however, the chart submitted by the Board of Zone 2, Town of Brookhaven Libraries,[37] shows that all six libraries receive a contribution toward individual health insurance costs, from 50% to 100% of such premium costs.

## FINDINGS AND RECOMMENDATIONS

There is no dispute that these are difficult economic times and the data and exhibits submitted by the parties clearly support that fact. The Union in recognition of it has moved from its initial demand of three percent in the first year of a three year agreement,[38] to zero percent increase in Year One. And it lowered its salary demands for Years 2 and 3, as well as proposing a health insurance contribution for **new employees** of three percent for five years. It is obvious that both parties see a real link between the monetary items of salary benefits and health insurance expenditures.

Presently, the Library employees' rate of contribution for individual health insurance coverage is zero percent.[39] The Board, in linking salary increases to health insurance costs, has made alternate proposals for Years 2 and 3: For a l% increase in Year 2 and Year 3, a 10% health insurance contribution for **new employees** or, for a 1.5% increase in those years, a 10% health insurance contribution for **all employees.**[40]

The first Board alternate would impact only on new employees and the Union counter-proposal would limit that health insurance contribution on new employees to three percent (vice 10% the Board seeks), and then only a contribution for the first five years of employment. However, it was not contradicted that insurance premiums have risen consistently over the past four years, with rates for individual coverage alone increasing during 2011-12 by an average of over 13%, as noted above.[41] The Union's limited proposed contribution to the health insurance costs is a mere fraction of the annual percentage increase in premium expense. Nevertheless, it is recognition that this expenditure needs to be addressed and that is a positive step by the Union toward a resolution of this impasse.

---

[36] Union Brief, p. 6, Union Exhibit # 9.
[37] Board Brief, p. 47.
[38] Union Exhibit 1
[39] Board Brief, p. 47.
[40] Board Brief,, pp. 26-32, Union Brief, p. 6.
[41] See fn. 32.

Moreover, the Board has pointed out that the legislative 2% tax Cap on revenues, combined with salary increases and other costs would result in a lower unreserved fund balance which the Board could not address as it is precluded from generating greater revenue from tax increases and it has raised the specter of staff cuts to bring finances into line.[42]

As health insurance costs are most significant, and are rising, it is indeed compelling that in only one other district, Central Islip (not a Zone 2 Town of Brookhaven library), besides Patchogue-Medford, of the seven districts noted by the Union, are employees not required to contribute toward Individual health insurance costs,[43] while in Zone 2 Town of Brookhaven libraries, only in Patchogue-Medford, of the seven library districts noted by the Board (see Chart), are employees not required to contribute to individual health insurance costs.[44] Otherwise stated, in eight of the overall twelve Library Districts described by the parties in their Briefs and Exhibits, are contributions of 10% to 25% made by employees as a health insurance contribution to their respective Districts and in two of the twelve Districts, from 90% to 100% of the cost is borne by full time employees.[45]

Clearly, employee health insurance contributions are paid in a majority of the reporting Districts and the proposal of a 10% employee contribution, under the current economic realities appears reasonable; and, as to the linked question regarding the amount of the salary percentage increase to be provided to employees in the District, this is a decision for the Union membership as to which alternative may be chosen among those offered by the Board.

## CONCLUSION

It is anticipated that the foregoing Findings and Recommendation will assist the parties toward negotiating a

[42] Board Brief, pp. 23-24.
[43] Union Brief, p. 6
[44] Board Brief, p. 47.
[45] Union Brief, p. 6; Board Brief, p. 47.

resolution of the current impasse and lead to a Collective Bargaining Agreement for the next contract period.

Respectfully submitted,

Dated:

Oyster Bay, New York    OWEN B. WALSH
9 August 2011

Copy to:

Gregory J. Guercio, Esq.
Guercio & Guercio, LLP
For Patchogue-Medford Library
77 Conklin Street
Farmingdale, NY 11735

Miguelangel F. Cruz, LRS
CSEA Region 1
3 Garnet Place
Commack, NY 11725

Richard A. Curreri,
Director of Conciliation
NYS Public Employment Relations Board
80 Wolf Road
Albany, NY 12205