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Freeport Union Free School District and Freeport Non-Teaching Unit (Custodial Unit), CSEA Local 1000, AFSCME, AFL-CIO

Eugene S. Ginsburg

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Freeport Union Free School District and Freeport Non-Teaching Unit (Custodial Unit), CSEA Local 1000, AFSCME, AFL-CIO

Abstract

In the matter of the fact-finding between the Freeport Union Free School District, employer, and the Freeport Non-Teaching Unit (Custodial Unit), CSEA Local 1000, AFSCME, AFL-CIO, union. PERB case no. M2010-313. Before: Eugene S. Ginsberg, fact finder.

Keywords

New York State, PERB, fact finding

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

-----X
In the Matter of the Appeal of Fact Finding between

FREEPORT UNION FREE SCHOOL DISTRICT
("District")

- and -

THE CIVIL SERVICE EMPLOYEES ASSOCIATION,
LOCAL 1000, AFSCME, AFL-C10, and its
FREEPORT NON-TEACHING UNIT (CUSTODIAL
UNIT ("Union"))
-----X

PERB CASE NO.:
M 2010-313

**RECOMMENDATIONS
AND FACT FINDING
REPORT OF
EUGENE S. GINSBERG**

APPEARANCES

For the District

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BACKGROUND

The District is a suburban Long Island one in Nassau County. It educates approximately 6,670 K-12 students, employees approximately 1,000 staff, and comprises eight (8) schools [1 early childhood center, 5 elementary, 1 middle and 1 high].

The Union represents 82 employees [3 Assistant Head Custodians, 2 Audio Visual Helpers, 1 Audio Visual Technician, 38 Twelve Month Cleaners, 6 Ten Month Cleaners, 9

Custodians, 5 Head Custodian I, 3 Head Custodian II, 9 Maintainers, 1 Grounds Supervisor, 4 Groundskeepers and 1 Messenger].

A four year collective bargaining agreement expired June 30, 2010. Between April 12, 2010 and February 8, 2011, the date Impasse was declared, the parties met on approximately six occasions. A mediation session was held by a PERB mediator on May 25, 2011.

I was appointed as Fact Finder on July 18, 2011, pursuant to Sections 209 and 205.5(k) of the New York State Civil Service Law, Article 14 (Public Employees Fair Employment Act, “Taylor Law”) to, in sum and substance inquire into the causes and circumstances of the dispute and after evidence submitted, make findings of the fact and recommendations to the parties for the resolution of the dispute.

The parties timely submitted their respective post meeting submissions on January 6, 2012.

ISSUES

1. **SALARY**

A. **Union Proposal**

- A) Effective July 1, 2010 each salary schedule shall be increased by seven (7%) percent and employees shall be compensated in accordance therewith.
- B) Effective July 1, 2011 each salary schedule shall be increased by seven (7%) percent and employees shall be compensated in accordance therewith.
- C) Effective July 1, 2012 each salary schedule shall be increased by seven (7%) percent and employees shall be compensated in accordance therewith.

D) Effective July 1, 2013 each salary schedule shall be increased by seven (7%) percent and employees shall be compensated in accordance therewith.

B. District Proposal

- 2010-2011 - 2.0% retroactive to July 1, 2010, with full increment
- 2011-2012 - 1.0% effective January 1, 2012, with full increment
- 2012-2013 - 1.5% effective July 1, 2012, with increment deferred to January 1, 2013
- 2013-2014 - 1.5% effective July 1, 2013, with increment deferred to January 1, 2014

C. District Position

The above salary proposal, which increases salary by 6% over four years, is the same salary proposal that was offered to, and recently accepted and ratified by the Freeport Educational Office Staff Association (the “clerical unit”) in the fall of 2011. It also closely tracks the salary increases agreed to the District and the Freeport Teachers Association in 2010 . . .

Under the parties’ prior labor agreement (2006-2010) that expired on June 30, 2010, unit members received a substantial percentage increase of 3.00% in each year of the 4 year contract. However, in view of the severe fiscal constraints now faced by the District, . . . the District is simply no longer in a position to pay significant salary increases to unit members in the amounts agreed to in years past.

D. Union Position

One need only refer to reports . . . to realize how desperately CSEA bargaining unit members need a wage increase. . . consider the increase in the cost of living incurred since July 1, 2009. According to the Consumer Price Index as issued by the U.S. Department of Labor, the increase in the cost of living for the New York Metropolitan Area (Urban Wage Earners and Clerical Workers) measured from 7/1/09 to 7/1/11 was 5.6%. This same index shows an increase of 3.78% when measured from 7/1/10 to 7/1/11 . . . However CSEA submits that these figures are an underestimation and do not reflect the actual increase in the cost of living as incurred by CSEA members.

* * *

The cost of regular gasoline on Long Island went from an average cost of just under \$2.77 per gallon in July of 2009 to over \$3.80 per gallon in July 2011. This represents an increase of \$1.03 per gallon.

* * *

the average cost of home heating oil in Nassau and Suffolk Counties went from \$2.56 per gallon in April of 2009 to \$3.16 per gallon in April of 2010. This is a sixty (\$.60) cents per gallon increase or an increase of upwards of twenty-three (23%) in home heating oil. . . the cost of natural gas increased over 18% from June of 2009 to June 2010.

* * *

In other words based on the increased cost of fuel alone Freeport UFSD Buildings and Grounds employees have suffered a minimum of a 2.9% percent decrease in expendable income.

* * *

Freeport UFSD does not maintain competitive salaries when compared to other similarly situated school district employers. In other words the salaries that Freeport UFSD pays it Buildings and Grounds employees fail to reflect “market rate” when compared to the salary paid to other Nassau County Buildings and Grounds employees in identical titles with identical qualification standards and job responsibilities.

* * *

The preceding statistics make a clear and convincing case as to why CSEA’s wage demand of seven (7%) percent plus Step per year should be granted without modification.

2. LONGEVITY

A. Union Proposal

After 10 years of service	\$1000 per year
After 15 years of service	an additional \$1000 per year
After 20 years of service	an additional \$1000 per year

B. District Response

Rejected “because it simply cannot afford to implement it in this economic climate.”

C. Expired Contract Provision

After 15 years of service	\$750 per year
After 20 years of service	an additional \$750 per year

D. Union Position

Longevity demand is based upon the following four (4) premises:

1. The current longevity amounts have not been increased since 7/1/06 and have therefore been eroded in value since that time due to inflation and the escalation of the cost of living.
2. Similarly situated custodial unit employees employed in the surrounding seven (7) Districts receive greater longevity amounts than provided to Freeport Custodial Unit. . . The average total longevity paid by the surrounding seven (7) Districts is \$3229. Five (5) of the seven (7) surrounding Districts pay longevity commencing after ten (10) years of service. Freeport pays a total of \$1500 longevity and the first longevity payment occurs after fifteen (15) years of service.
3. Longevity is a vehicle through which a reward for long term service can be achieved without encountering the expense of a general salary scheduled increase. Since the majority of the custodial unit employees are under paid when compared to their counterparts in surrounding Districts, a longevity increase would help to remedy this situation at minimal cost.
4. The Freeport UFSD has maintained its clerical employees, who are represented by a union other than CSEA, at a relatively higher rate of comparable compensation than that which they provide to the CSEA Custodial Bargaining Unit personnel. Yet, the Freeport District provides its clerical employees with greater longevity payments than provided to custodial unit personnel. Freeport provides its clerical unit personnel with at total a \$4700 longevity and commences payment of clerical longevity after ten (10) years of service.

E. District Position

In support of its longevity proposal, the Union argues that as part of the District's settlement with the clerical unit, in addition to a general wage increase, the District agreed to pay one-time cash awards in the amount of \$350.00 in the 2010-11, 2012-13, and 2013-2014 contract years to members of the clerical unit whose salary exceeds to maximum of their salary range. In view of the one-time cash awards paid to members of the clerical unit, the CSEA custodial unit argues that its members should be entitled to the additional longevity proposed.

This argument advanced by the Union in support of its longevity proposal is completely flawed and should not be given any weight. The Union and the clerical unit are paid pursuant to two entirely different payment systems, with the CSEA custodial unit clearly having a more advantageous system of payment in place. Unlike the clerical unit, all members of the CSEA custodial unit are paid pursuant to a salary schedule consisting of a minimum of 18 steps, with generous incremental payments between certain steps on the salary schedules. For example, increment for Maintainers ranges as high as 4.1% and increment for Groundkeepers ranges as high as 4.8%. Head Custodians similarly receive high increments at certain steps, and increment for Technicians ranges as high as 5.2% at certain steps on the schedule. Similar increments are paid to other titles in the unit. . .

On the other hand, members of the clerical unit are paid in accordance with contractually established ranges, with smaller incremental increases ranging from \$355 to \$850 depending on the employee's position in the unit. . .

Further, the District rejects the Union's longevity proposal because it simply cannot afford to implement it in this economic climate.

3. HEALTH INSURANCE

A. Union Proposal

(E)mployees of the Custodial Bargaining Unit be offered identical health insurance benefits, (one hundred [100%] percent paid) as are currently enjoyed by District management.

B. Expired Contract Provision

. . . employees will contribute fifteen (15%) percent of the annual premium for family coverage and seventeen (17%) percent of the annual premium for individual coverage.

C. District Proposal

20% for family and individual coverage.

D. District Position

The current cost of providing health insurance to the District is \$18,753 for family coverage, and \$8,553 for individual coverage. In the 2011 calendar year, net premium increases to employers for the Empire Plan amounted to approximately 13.5%. With respect to 2012, NYSHIP had initially projected a 13.7% increase in net premiums; however, NYSHIP was able to apply an available surplus to reduce the net premium increase for employers to 2.7%. Nonetheless, health insurance costs and premiums have increased on average 9% to 10% annually, and are expected to continue to rise next year by over 6%.

Contributions from Other Bargaining Units

Members of the Freeport Teachers Association currently contribute 19% towards the cost of both family and individual coverage. Effective June 30, 2013 and thereafter, all unit members will be required to contribute 20% towards the cost of family and individual coverage pursuant to their labor contract.

Administrators in the Freeport School Administrators Association are currently obligated to contribute 18% toward the cost of both family and individual coverage for the period July 1, 2010 through June 30, 2012. Effective June 1, 2012, (sic) employee contributions will increase to 19%, and effective June 30, 2014 and thereafter, all members of the Administrators Association will be contributing 20%.

Similarly, during the District's most recent contract negotiations with the clerical unit, the Freeport Education Office Staff Association agreed to increase employee contribution to 20% for all new hires.

Almost all bargaining units in the District have agreed to increase employee contributions for the cost of health insurance to 20% before the expiration of their respective labor agreements now in effect. The District's proposal to increase employee contribution to 20% has been consistent across the Board, has been accepted by almost all other units, and is a necessity.

* * *

All of the proposals advanced by the Union in negotiations respecting health insurance for active employees and retirees run completely counter to the District's health insurance proposals in that they would result in an increase in the level of benefits currently made available under the parties' contract and a substantial increase in health insurance costs for the District. In view of the rising costs of health insurance benefits to the District, the District must reject the Union's proposed modifications to Section 6.8 of the contract.

Union Position

Currently the Freeport Union Free District provides its Superintendent and Assistant Superintendent with one hundred (100%) percent paid health insurance coverage.

* * *

During negotiations the District informed CSEA that the annual cost of family health insurance coverage increased thirteen (13%) percent from \$15,971 per employee to \$18,047. This represents a \$2,076 total increase in annual premium for member family coverage. CSEA members endured fifteen (15%) percent (\$311) of this increase. This represents 7/10% of the average bargaining unit member's salary of \$44,439. In times like these of escalating expenses (costs) the loss of 7/10% of salary in an income bracket averaging \$44,439 per year is devastating.

* * *

. . . the surrounding Districts offer the corresponding payments towards health insurance coverage:

Average District contribution toward individual coverage = 87.5%
Average District contribution toward family coverage = 85.25%

Out of thirty-four (34) Districts reporting County-wide the average amount that District's contribute toward the cost of health insurance coverage is:

85.6% Individual Coverage
85% Family Coverage

4. CAR ALLOWANCE

A. Union Proposal
Increase by \$250 per year.

- B. Expired Contract Provision
Maintenance personnel will receive a car allowance of \$1,750.00 per year.
Workers may carry hand tools, small equipment/supplies in their own vehicles.
- C. District Position
District . . . cannot afford in view of the financial circumstances now in existence.
- D. Union Position
The . . . (\$1750) has been in effect since 7/1/06. It is obvious that the cost of operating an automobile has increases (sic) over the past four (4) years. The cost of gasoline alone has increased by \$1.03 per gallon . . . from July of 2009 to July 2011. Obviously the cost of vehicle labor rates for mechanical repairs, and the costs of parts have also increased. It is highly unlikely that these costs will stop increasing in future years.

Since the seven (7) Maintenance personnel and three (3) AV Tech's are required to utilize their vehicles in the performance of their duties, it is unjust that they bear the full burden of increased operating costs. CSEA's proposal would cost the District an additional \$2500 per year and would provide some relief to employees who utilize their personal vehicle for District business. \$2500 represents less than 7/100th of 1% of the 2009 yearly payroll of \$3,643,985.

5. OPTICAL (VISION)

- A. Union Proposal
Monthly District contribution increased by \$1 per year.
- B. Expired Contract Provision
The District shall contribute monthly \$6.42 on behalf of all unit members to the CSEA EBF Vision Plan. Under no circumstances shall the District's contribution exceed \$6.50 monthly.
- C. Union Position
The cost of optical insurance is as follows:

 . . .Effective 7/1/10-monthly individual rate = \$11.92 / monthly family rate = \$32.33.
 . . .Effective 7/1/11-monthly individual rate = \$12.16 / monthly family rate = \$32.98.

Currently the employee pays forty-seven (47%) of the cost of individual optical coverage and eighty (80%) of the cost of family coverage. If the District's rate of contribution was increased by one dollar per month per employee per year the

amount of increased District contribution toward optical insurance would be less than \$1000 per year (\$984). Compared to the total unit payroll of \$3,643,985 this increase represents under 3/100th of 1%.

D. District Position

District . . . cannot afford in view of the financial circumstances now in existence.

6. UNIFORMS

A. District Position on Union Proposal

The Union has proposed that in addition to the current uniform policy, employees shall have the option of selecting needed uniform items of equal value to those currently offered by the District. The Union additionally proposes that the District be required to replace uniforms that are damaged in service.

The District will agree to the creation of a joint committee to consider the issues raised in the Union's proposal relative to uniforms.

7. NOTIFICATION OF VACATION

A. District Proposal and Position

The District proposed to modify Section 6.2 of the contract to provide that (1) all summer vacations must be requested prior to May 30th of the school year; (2) that all such requests must be in writing, signed by the unit member's direct supervisor and submitted at least one week prior to the requested time off; and (3) that all vacation time requests will be approved so as not to jeopardize the operation of the school buildings.

Currently the contract is lacking any type of meaningful notice provision, and the absence of such a provision has created a practice that is simply unworkable for the District. The District has experienced difficulties in the past accommodating employee requests, while at the same time ensuring that buildings are properly staffed. The above proposed modification to the parties' contract is essential to ensure the proper operation of the District's eight school buildings.

8. PAYMENT FOR WAIVER OF HEALTH INSURANCE COVERAGE PROPOSAL BY DISTRICT AND ITS POSITION

The District has proposed to incorporate into the parties' contract a flat dollar payment in the amount of \$1,000 for all new employees who waive health insurance coverage; and a reduction to 40% for the waiver of coverage for existing employees.

Waiver Payments to Other Bargaining Units

In the District's most recent contract negotiations with the clerical unit, the Freeport School Administrators Association, and the Freeport Teachers Association, the units agreed to a reduction in the percentage of the District's annual contribution payable to existing employees for the waiver of coverage, and for new employees, the payment of a flat dollar amount (in lieu of a percentage of the District's yearly contribution) for the waiver of coverage. The District is demanding a similar concession from the Union with respect to the waiver of coverage.

Union Rebuttal of District Proposals

The highest paid District employees, those who can best afford to contribute toward health insurance costs, receive 100% fully paid health insurance benefits (Superintendent of School and Assistant Superintendent). They do not contribute toward the cost of their health insurance and they obviously have not incurred an increase in their rate of contribution.

This process of giving up or taking away in order to obtain a deserved wage increase ignores the concept of comparability and employee need, while altering the historic nature of the employee/employer relationship. In fact, it is likened to paying for one's own raise. In so called "belt tightening" times like these, when the cost of necessities increases, the reduction of hard fought for money related benefits is certainly not conducive toward the enhancement of employee welfare. Moreover, in light of the fact that the current contractual language regarding health insurance costs provides that as the cost of health insurance increases employees will automatically share in the increase of costs . . . the District's position seeks to reduce the percentage of its share of contribution toward the cost of health insurance while increasing the employee percentage rate of contribution. The acceptance of this District position would result in increased employee dollar contributions even if the cost of health insurance remained constant.

Similarly the acceptance of the majority of District proposals (delete double time for holiday work, reduce the number of holidays, reduce the number of vacation days, reduce the percentage of payment for unused sick leave applicable to certain years of service) would result in a reduction of the employees long standing compensation package without demonstrated need. In other words the Freeport Union Free School District has in a scatter gun approach asked for "give backs" without proving that they are needed. Consider the following:

NET ASSETS

Net assets, the difference between the School District's assets and liabilities, is one way to measure the School District's financial health or position. Over time, increases or decreases in the School District's net assets are an indicator of whether its financial position is improving or deteriorating, respectively.

* * *

(F)or fiscal years ended June 30, 2009 and to June 30, 2010 . . . the districts net assets increased 1.6% or \$607,311 . . .

GENERAL FUND

A school district's general fund is their primary operating fund. The general fund is used to account for all transactions that are not required to be accounted for in another fund.

2009-Review of Actual & Budgeted Revenues & Expenditures . . .

Freeport UFSD received . . . more in revenue than they budgeted . . . The district spent . . . less than they budgeted . . . Freeport UFSD ended the year with a . . . surplus prior to making a . . . net transfer out of the General fund. The cumulative effect of these transactions increased their fund balance . . . or a 13.2% increase over the 2009 General Fund balance.

2010-Review of Actual & Budgeted Revenues & Expenditures. . .

Freeport UFSD received . . . more in revenue than they budgeted . . . The district spent . . . less than they budgeted . . . Freeport UFSD ended the year with a . . . surplus prior to making a . . . net transfer out of the General fund. The cumulative effect of these transactions increased their fund balance . . . This represents a 15.25% increase over the 2009 General Fund balance.

Fund Balance. . .

A fund balance is the balance remaining in a fund after liabilities have been subtracted from assets and is divided into reserved, unreserved-designated, and unreserved-undesignated. Restrictions and reserves represent funds that have been legally segregated for a specific use or are otherwise unavailable for appropriations . . . The unreserved-designated portion of fund balance represents tentative management plans that are subject to change. Unreserved-undesignated fund balance represents the portion of fund balance available for spending.

* * *

the fund balance for Freeport UFSD's general fund for fiscal years ended June 30, 2008, to June 30, 2010 . . . increased 30.5% . . . during this time period the district's unreserved-undesignated fund balance increased 137% . . .

NYS Real Property Tax Law §1318 restricts the unreserved-undesignated fund balance of the General Fund to an amount not greater than 4% of the School District's budget for the following school year. . . As of June 30, 2010 Freeport USFD's unreserved-undesignated fund balance . . . represented 8.7% . . . of Freeport's 2010-11 budget. This marks the second consecutive year the unreserved undesignated Fund Balance was in excess of the NYS Real Property Tax Law §1318 limit.

2011-12 FISCAL YEAR

The 2011-12 budget includes . . . a 2.18% . . . increase over the 2011 budget. The budget calls for the elimination of seven positions and the addition of a special education teacher. The eliminations consist of one data processing staff, one clerical support staff, three K-6 grade teachers, and two 7-12 grade teachers.

FINANCIAL HIGHLIGHTS

- The district's net assets increased 1.6% . . . from June 30, 2009 to June 30, 2010.
- From 2009 to 2010, the district's General Fund revenue have increased by 1.92% while their expenditures have increased by 0.1%.
- The district's fund balance increased 30.5% . . . from June 30, 2008 to June 30, 2010.
- The District was 4.7% over their limit regarding the unreserved-undesignated fund balance for 2010.

. . . the Union . . . believes that each union proposal is fair, equitable, and reasonable and supported by the documentation necessary to obtain acceptance . . . Unlike the District's unsupported, scattergun approach which would require alterations of a mature collective bargaining agreement without demonstrated need or justification, the union has set forth supported goals that fit within the boundaries of reasonableness and reflect competitiveness when compared to that offered to other similarly situated public sector employees.

Once again CSEA seeks to obtain on behalf of its Freeport UFSD Custodial workers a reasonable package that reflects a competitive level of compensation when compared to that which is offered to other similarly situated public section employees. Such settlement should take into account the benefit package given to other School District employees, local job rates paid to similar civil service employees and the impact of the rising cost of living on CSEA bargaining unit members. In short CSEA feels as

though Freeport UFSD, a labor intensive employer, has been bargaining without concern for its most important commodity, its labor force.

District Position

. . . the District's current wage proposal could be characterized as generous in the context of the current climate of economic distress that the District faces. The District, now in the third year of a lean budget following our country's financial collapse, has neither experienced, nor is likely to share in the benefits of economic recovery for the foreseeable future. This is a result of several different factors now converging.

- I. New York State's Property Tax Cap: On June 30, 2011, Governor Andrew M. Cuomo signed into law New York's first property tax cap levy legislation in Nassau County (citation omitted). Under this new legislation, beginning in the 2012-2013 school year, property tax increases will be capped at 2% or the rate of inflation, whichever is less. Local communities can override the cap if 60% of voters in the District approve such an increase; however, if the District formulates a budget requiring an increase that exceeds the 2% cap and such budget is rejected twice, the District must impose the same tax levy as the prior year which in effect forces the District to operate under a zero percent tax levy cap.

According to a report issued by New York State School Boards Association (NYSSBA) last month, projected expenditures for health insurance and pension costs for all school districts subject to the tax levy cap alone will exceed the maximum allowable property tax levy increase by approximately \$103 million dollars in the 2012-2013 school year. . .

The . . . table published in the NYSSBA December 2011 report, which was generated based on a NYSSBA study of 121 sample school districts, demonstrates that the 2% property tax levy cap will result in less revenue in low wealth districts, in comparison to the property and income wealthy districts.

The combined wealth ratio (CWR) is a measure of a school district's fiscal capacity based on the income of school district residents and the value of property located in the school district. The average school district in New York has a CWR of 1.0; ratios of less than 1.0 are below the statewide average. Freeport Union Free School District's CWR for the 2010-2011 school year was 0.688, well below the statewide average and the third lowest of all Nassau County school districts (citation omitted). Based on the above cited study, the impact of the property tax on the Freeport Union School District will be more severe than on almost all other school districts located in Nassau County.

As the District prepares its budget for the 2012-2013 school year, its first ever under the new property tax levy cap, the District is focused on implementing

measures to significantly reduce costs in order to avoid the destruction of program.

- I. New York State Support for Education: The State financial crisis has resulted in three straight years of cuts in state aid, the District's largest source of revenue outside of the tax levy. As a low-wealth, high-needs school district, the Freeport Union Free School District is very dependent on state aid. For the 2009-10, 2010-2011 and 2011-2012 school years, the District lost approximately 3.4 million dollars in state aid per school year, the highest loss of state aid in Nassau County. While federal funding in part supplemented the state aid cuts of 2011-12, this federal funding source will no longer be available to the State after the 2011-2012 school year.

During the 2010-2011 school year, the District cut 20 staffing positions and was forced to implement other cuts which amounted to 2.8 million dollars in reductions. Going into the 2011-12 school year, the District reduced 26 positions, including 3 administrative positions, 14 teaching positions, 8 teaching assistants and 1 office staff.

- II. Impact of the Recession on the Community: According to the most recent unemployment statistics released by the New York State Department of Labor for the Long Island Region, the unemployment rate in Freeport community as of November 2011 was 8.1%, approximately 1.7% higher than the unemployment rate for Nassau County (citation omitted). In an effort to ease the local tax burden, the District has been focused on minimizing the financial burden on its taxpayers while maintaining the quality of the District's educational program.
- III. Employee Benefits: Shortsighted planning by the N.Y.S. Employees' Retirement System prior to the national fiscal crisis first resulted in the effective end to contributions to the state retirement systems, and then market declines in high risk investments eliminated billions of dollars in reserves. The net result was over a 30% increase in District contribution to the Employees' Retirement System for the ensuing year. This increased rate of contribution was on top of already horrific increases driving the contribution rate from under 1% in 2005-2006 to over 13% for the next year. (The foregoing rates are applied to base wages. In other words, a unit member paid \$50,000 per annum requires the District to pay over \$6,500 per year in retiree contributions to the N.Y.S. Employees' Retirement System. A few years ago, that contribution was under \$1,000 per year.)

- IV. Nassau County Financial Issues: In view of Nassau County's serious budgetary issues, earlier this year, the County voted to pass along the cost of tax certiorari settlements to school districts and to begin to bill schools for sewer fees . . . (O)n January 4, 2012, the Supreme Court in Nassau County upheld the County legislation eliminating the County's responsibility to reimburse school districts for tax certiorari judgments. The impact of transferring this cost to school districts will be on average an additional cost of nearly 1 million dollars per Nassau County district (citation omitted).

Not surprisingly, the confluence of these issues will result in the most difficult financial climate for schools in decades. Unlike prior difficult periods, the financial stress will persist for years to come.

Despite this ominous financial outlook and the various opportunities for additional streams of income already in the Union's contract, including but not limited to the existing contractual longevity, attendance incentives and promotion awards, the Union continues to demand increased longevity payments, and increased eligibility for this benefit. The District's salary proposal set forth above, with the maintenance of existing longevity levels, is far more plausible, and is frankly generous, given the current financial climate.

The financial analysis provided herein supports the conclusion that the District is offering the Union salary increases that are fair and equitable. Given the District's current and future fiscal constraints, the District is not in a position to agree to the Union's longevity proposal. It would be fiscally irresponsible to do so at this point in time.

In large measure, the . . . proposals advanced by the Union in negotiations demand increases to fringe benefits, allowances and other compensatory items contained in the parties' labor agreement, which the District simply cannot afford in view of the financial circumstances now in existence.

DISCUSSION, FINDINGS AND RECOMMENDATIONS

A. Length of New Agreement

The Parties have proposed a four year Collective Bargaining Agreement ("New Agreement"), from July 1, 2010 through June 30, 2014. This will give them the opportunity of having a reasonable degree of labor peace with terms and conditions of

employment not too far into the future as to disadvantage either party if economic conditions substantially change.

B. Monetary Impact

There are financial effects of all parts of the New Agreement. Each component has costs and benefits. They are interrelated and should be considered together. All of the unresolved issues affect net pay of members.

Employees have a right to expect modest improvements and have recognized it is reasonable for them to contribute to their costs.

The need of the Union and its members, as well as the obligations of the District, in the context of the general state of the economy and the burdens of the taxpayers must be taken into account.

Living costs have been rising and disposable income has been falling.

An attempt must be made to balance the results.

To ameliorate this financial squeeze employees look to their employers for relief. The District recognized that a salary raise was a responsible action. Its implementation over the four year term is reasonable.

The parties positions on the issues have been put into this Report to assist a reader in understanding the components and pressures on employees and on taxpayers when the District attempts to reach an acceptable balance with its employees, and more specifically here, its Custodial Unit.

As referenced above (page 1) the submissions to me were due on January 6, 2012.

The District referenced the County's vote "to pass along the cost of tax certiorari

settlements to school districts . . .” (page 16, above, IV. Nassau County Financial Issues) and a January 4, 2012 Court decision (“Decision”). Reference to them (the Common Sense Act of 2010, and Judge Adam’s decision) were in a copy of a Newsday article of January 5, 2012 submitted to me.

The January 4, 2012 Decision [Baldwin, et al. v. County of Nassau] upheld the Act [Local Law No. 18-2010]. If the Decision is not modified there can be increased costs incurred by the District herein (and others) in becoming actively involved in the tax certiorari proceedings and refunding money. The increased costs will depend on the accuracy of the assessments, which are beyond the District’s control, and the steps the District takes to protect its interests and its taxpayer’s interests. Such costs will become apparent during the terms of the New Agreement, and perhaps as early as the 2012-13 year.

Total School Aid now, (2011-12), \$19,506.74 (in millions) is less than 2007-08 (\$19,649.65). In 2012-13 it will rise 2.84% to \$20,061.71. [NYS Division of the Budget, Description of School Aid Programs, Annual Publication, Table 11-A].

On January 19, 2012 Newsday reported that on January 17, 2012 State Aid “figures” . . . “from the governor’s budget office and state Education Department”, reflected that Freeport “Proposed change for 2012-13” be \$851,701, representing “1.75%” as “change from 2011-12” total budget of \$149,477,547 and the “change” would represent 0.57% of the 2011-12 budget.

On January 20, 2012 a Newsday article had a headline “Area’s year-to-year prices up 2.7% in Dec.” The article stated:

Prices in the metropolitan area last month had their smallest year-over-year increase since the spring, with the cost of gasoline, groceries and health care rising the most.

The federal Bureau of Labor Statistics reported Thursday its consumer price index rose 2.7 percent in December compared with 2010 in the 31-county region that includes Long Island. The year-over-year gain was the smallest since April's 2.5 percent rise.

The index climbed 3.0 percent in November, year over year.

Month over month, prices fell 0.4 percent in December compared with November. That was the third consecutive monthly drop in 2011.

Moderating gasoline prices helped to offset higher prices for bread, eggs, lettuce, fresh fruits and other food, said Denis M. McSweeney, acting regional commissioner for the federal Department of Labor, which oversees the statistics bureau.

Grocery prices, year over year, were up 5.5 percent in December.

Pump prices fell 3.2 percent last month from November, continuing a string of monthly declines not seen since 2001-02. However, gasoline cost 9.9 percent more in December than a year earlier.

* * *

Excluding food and energy, the price index rose 2.4 percent in the past year. The biggest increase was for medical care, 4 percent.

Nationally, the annual inflation rate was 3 percent in December. Ryan Wang, an economist for HSBC Securities USA, predicted year-over-year increases in the national price index would "fall below 2 percent" by April.

C. Issues

I have given due consideration to the foregoing, and the Issues are herein determined with the following Findings and Recommendations:

1. Salary

<u>Year</u>	<u>Salary Percentage Increase, with Full Increment</u>
2010 – 2011	Two (2%) percent retroactive to July 1, 2010.
2011 – 2012	One (1%) percent retroactive to July 1, 2011.
2012 – 2013	One and one-half (1 ½%) percent effective July 1, 2012.
2013 – 2014	One and one-half (1 ½%) percent effective July 1, 2013.

2. Longevity Payments

No change.

3. Health Insurance Contribution by Employee

Contributions toward cost of family and individual coverage by the Employee shall increase as follows:

<u>Effective Date</u>	<u>Increased Percentage</u>
June 30, 2013	Nineteen (19%) Percent
June 30, 2014	Twenty (20%) Percent

4. Car Allowance

No change.

5. Optical (Vision)

No Change.

6. Uniforms

I recommend:

- A. The Union agree to the proposal of the District that there be a creation of a joint committee to consider the proposals of the Union, or
- B. The Union proposals be referred to the Labor Management Committee established under Section 6.15 of the C.B.A.

7. Notification of Vacation

I recommend:

- A. The Union agree to the District's proposal to modify Section 6.2 of the C.B.A, or
- B. The District's proposal be referred to the Labor Management Committee established under Section 6.15 of the C.B.A.

8. Payment for Waiver of Health Insurance Coverage Proposal by District

I recommend the Union agree to the District proposal.

CONCLUSION:

This report is limited to the issues referenced herein. The individual recommendations are not made in isolation but as a package. They include a balancing of the needs of the parties, as expressed by their respective proposals and responses, with consideration for taxpayers and the practical realities of current public sector labor relations.

The Recommendations provide the basis for a fair and reasonable settlement. The parties are urged to consider them with an open mind and with a view toward accommodations.

Dated: January 31, 2012

Eugene S. Ginsberg, Fact Finder

AFFIRMATION

STATE OF NEW YORK)
COUNTY OF NASSAU)

I do hereby affirm that I am the individual described in and who executed the foregoing instrument, which is my Report of Findings and Recommendations.

Dated: January 31, 2012

EUGENE S. GINSBERG