

Mayor Chooses Strike Over Job Protections

By RICHARD STEIER | Posted: Friday, January 18, 2013 4:15 pm

After a week of spinning the argument that it is beyond the city's power to extend the job-security clause at the heart of the school-bus strike because a court had ruled it illegal, Mayor Bloomberg acknowledged a few hours after the walkout began Jan. 16 that this wasn't actually the case; that he chose not to make the adjustments because that wouldn't serve the city's financial interests.

He made that remark in response to a question about the 2011 decision in which the state Court of Appeals upheld two lower-court rulings that the employee protection provision that has governed school-bus contracts since 1979 was unfair to prospective bidders for the service. The major problem with that clause, the state's top court found, was that those already holding the contracts were unlikely to share detailed payroll information with new bidders that would allow them to calculate employee costs sufficiently to make informed bids. This, the opinion written by Chief Judge Jonathan Lippman stated, might lead some new participants to "inflate their bids," while other companies might not even get involved because of the uncertainty regarding costs.

It's About Cost Control

Couldn't the city alleviate the problem, Mr. Bloomberg was asked, by requiring all companies now holding school-bus contracts to provide detailed payroll information for the affected members of Amalgamated Transit Union Local 1181 to bidders or be ruled ineligible to retain the contracts? He replied, "It's just not in the city's interest to do so."

After having previously fought for the preservation of the EPP in the court case, which involved pre-kindergarten bus contracts that had never previously been bid, on the grounds that it helped maintain a stable, experienced workforce, he was essentially saying that those benefits were outweighed by the city's desire to save money by reducing employee costs for whatever companies got the contracts at issue, which concern transportation for Special Education students.

"Our job is to get the lowest price we can for the service we need to provide," the Mayor told reporters in the City Hall Blue Room. "It is not to pay people as much as we can. "If we have any loyalties to pay people more, it is to the 280,000 people who work for the city."

With those words, he at last offered some clarity about the dispute. It is not about the city's noble attempt to provide transportation to schoolchildren as opposed to the union's "outrage against schoolchildren" by withholding employees' services, as he had stated at the start of his remarks. Rather, it was a more-basic if nonetheless compelling labor/management battle pivoting on job security vs. cost control.

Stripped to its essentials, a union exists to protect the jobs of its members and improve their wages, benefits and working conditions. For the past 34 years, since the extended and at times ugly strike that concluded with the establishment of the EPP, most of the changes in the companies providing the school-bus service have involved the addition of lines and the expansion of services. Local 1181

members in recent years, like many other employees, have seen their health-benefit coverage scaled back, but there has not been the kind of clear-and-present threat to their jobs that is posed by the city's decision to begin bidding the contracts without continuing some form of the EPP.

Strike of Necessity

And so the decision by Local 1181 Michael Cordiello to call a strike involving all 8,800 of his union's members employed by companies under contracts with the Department of Education did not seem like a radical response to his rank and file. That included his toughest rival in the past for the local's presidency, John Bisbano of the Members for Change faction of Local 1181.

"We have our differences, but right now we're shoulder to shoulder," Mr. Bisbano said late in the afternoon of the first day of the walkout, after spending the morning picketing outside the garage of his employer, Hoyt Transportation, on Randall Ave. in The Bronx.

Referring to city officials' complaints that the cost of providing school-bus services has mushroomed from \$100 million back in 1979 to \$1.1 billion today, Mr. Bisbano countered, "There are 25 percent more kids riding the buses than 34 years ago." And, he added, "Look at the cost of the Triborough Bridge [toll] now compared to then." (For the record, it was 75 cents in 1979 and today is \$6.50, a jump of 867 percent that is not far removed from the rise in school-bus costs.)

Mr. Bloomberg declined to estimate how long the strike might go, but he noted that Local 1181 members, who are paid on Fridays for the previous workweek, would begin feeling the pinch Jan. 25, when they would be receiving a reduced check for no more than two days' work last week, and a sharper one the following week, when there would be no check at all if the strike continued.

Mr. Bisbano said, however, that the International ATU had a strike fund that would pay members \$150 a week and that the local was likely to match that, relieving the financial pressure enough to keep the rank and file focused on the bigger picture.

"People wanna keep their jobs, so they're willing to sacrifice a bit," he said. "In the beginning, everybody's kind of happy—they still have a paycheck. It'll be the second or third week [of a walkout] when you start to feel the pressure."

'A War of Attrition'

Jeff Pollack, the chief labor negotiator for the bus companies contracted with DOE, noted, "A strike is a war of attrition." Each side will feel squeezed as it continues—financially among the workers, and for the city, in terms of parent complaints and problems getting kids to class.

"There is a middle ground if people want there to be a middle ground," Mr. Pollack said. Regarding Mr. Bloomberg's belated admission that the EPP was not a subject beyond the city's power to address but that he saw no financial advantage in trying to preserve it in some form, he said, "At least we're getting some honesty from the administration."

That is not, however, pushing the parties any closer to a resolution. Mr. Bloomberg had declared, "We

don't set salaries and benefits for these workers; their employers do. They have to resolve their issues with the bus companies that employ them, not us.”

But Mr. Pollack said that talks had been stalled because of Mr. Cordiello's position that “until they work out the EPP situation at the table, they can't even respond to our proposals. They're hopeful the city will give in on the EPPs.”

Petition NLRB on 'Faith'

The bus-company owners, seeking something more concrete than hope, have filed a petition with the National Labor Relations Board stating that, during just two negotiating sessions in the eight weeks prior to the strike, “the Union has failed and refused to engage in good-faith bargaining.” The complaint went on to say that Local 1181 “repeatedly, expressly stated” that until the EPP issue was resolved with DOE, “the union would not make meaningful proposals or give meaningful responses to the employers' proposals.”

If the NLRB finds that the union has failed to negotiate in good faith, Mr. Pollack said, it would allow the bus companies to ask a judge to issue a temporary restraining order requiring employees to return to work and the parties to resume bargaining. That wouldn't necessarily produce a resolution, but he said it “would certainly accelerate the process.”

More than a few union officials, as well as rank-and-file workers, see ideological forces at work in the city's 180-degree turn away from defending the EPPs over five years of litigation to the point where Mr. Bloomberg last week characterized them as “job guarantees that the union just can't have.”

'Assault on Labor'

ATU International President Larry Hanley called it “the Bloomberg version” of “a war on working people all over the country.” Mr. Bisbano said, “It's a shame, because there's an assault on organized labor in this country.”

It's at least possible that the Mayor, who is wildly out of step on gun control with the radical right-wing forces that have been driving the battle to scale back the power of unions and the benefits offered to workers, is proceeding less from a political vantage point than a corporate one: that the employer has the right to obtain the cheapest labor costs possible to deliver a service efficiently.

“It's just irrational,” he told reporters, “for us to keep spending this amount of money unless there is no other alternative.”

It would be equally irrational, though, for Local 1181 and its members to say goodbye to vital rights governing both job security and compensation without using the most-potent piece of leverage they can muster.

Unifying City Unions

And Mr. Bloomberg's statement that if he was going to give special financial consideration to any

employee group, it would be the workers directly employed by the city figures to ring hollow with municipal union leaders, who in the overwhelming number of cases are working under contracts that expired at least 30 months ago. That is especially so in light of the Mayor's declaration that he has no intention of providing any retroactivity in pay raises he might grant in contract accords reached over his final year in office.

It was significant that Transport Workers Union Local 100 President John Samuelson, whose members receive higher salaries and far better pensions than their counterparts at Local 1181, was at Mr. Cordiello's side at both the Jan. 14 press conference announcing the walkout and the rally held two mornings later after the strike began. So is the support so far from the state and city AFL-CIO leaders. There is the sense that they believe the battle pivots on something that was articulated, conditioned on anonymity, by a more-neutral person involved in the three-way tango: "What are you really doing here, if not union-busting? There are going to be a lot of non-union companies coming in, and the union is going to have to start from scratch" in negotiating with them if the EPP is not preserved in some form.

Mr. Bloomberg may figure that on his way out of office he's got little to lose in a full-pitched battle with labor in which the city's two loudest newspapers have already taken up the cudgel at his side. The question is whether the city labor movement is ready to make him regret that calculation.