

This is the Manager newsletter from November 2000.
The "header" was lost.



Members of the HHC organizing committee are co-chair John Boden, Barbara Duckett and Alphonso Brown

Organizing committee holds HHC chapter elections

Ballots for chapter elections in the Health and Hospitals Corporation were scheduled to go in the mail during the week of November 6, past press deadlines.

The election is designed to fill the long vacant chapter positions of director, assistant director and secretary as well as seven positions of "network representative." The two year term of office begins in January.

The network representative is a position unique to the HHC chapter, as the corporation delivers services through six geographical groupings of medical facilities and has a central administrative headquarters. Each geographical grouping and the central office will have its own representative to assist chapter and MEA officers to identify and resolve facility based issues.

The nominating meeting was called on October 23 by an organizing committee comprised of HHC chapter members and MEA officers, which was formed to coordinate a campaign to revitalize the HHC chapter. Ballots were due back in the MEA office by November 29.

According to John Boden, MEA associate director and co-chair of the organizing committee, the members at the nominating meeting decided to hold a mail ballot because of the chapter's size, geographical diversity and the 24 hour, seven day a week scope of its operation. "It just was not logistically feasible to hold a meeting at which we could reasonably expect participation from all interested members," Mr. Boden explained.

"Holding chapter elections is the organizing committee's most important activity," Mr. Boden continued, "but it is not the only one." The committee has mailed a recruitment letter to all managers, called group 11 employees in the HHC, and sent a letter soliciting suggestions and encouraging active participation from 106 members who are key corporation decision makers. It plans to do on-site recruiting in at least two locations before the end of the year.

The committee, which held its first meeting June 28, is
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Managers win

The MEA has been successful in gaining for managers certain benefits before at the same time that these benefits went into effect for city employees represented by unions.

The effective date of significant pension gains for managers was the earliest possible allowed by law; managers are included in the "transit chek" program and about the same percentage of managerial titles are eligible for the current pension incentive as are titles represented by the unions.

Executive director Ed Perlmutter explained, "For the past fifteen years, benefits improvements for managers have been implemented only after gains were made by the unions. This has now changed."

Last winter unions representing transit workers and other state employees negotiated contracts that won an additional month of pension service credit for every year of service up to 24 years for members of pension tiers I and II, and elimination of the mandatory employee pension contribution of three percent of salary after ten years for members of pension tiers III and IV.

These improvements required approval by the state legislature and the city council. The specific language of the legislation extended the benefits to all city and state employees effective October 1, but implementation was delayed until after it had been negotiated in each unit contract. Mr. Perlmutter urged city council speaker Peter Vallone's staff to make these improvements available to managers immediately rather than have managers wait for the various unit collective bargaining agreements to be ratified.

The MEA was rewarded when Richard Weinberg, counsel to the speaker, and other city officials accepted the MEA's point: individuals not subject to collective bargaining would be

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Membership Meeting & Holiday Party

Monday, December 4

Park Avenue Armory, 4th floor
(643 Park Avenue and 67th Street)

Meeting 6:00 p.m. • Party 6:45

Presentation of Awards:
Manager of the Year and
Distinguished Service to City Government

**Open Bar • Buffet Dinner
Members Only • Limited Seating**

RSVP to (212) 964-0035

Eleven students awarded MEA scholarships

The MEA held a reception for the winners of the second annual scholarship competition and their parents on September 15. Members, spouses and student winners enjoyed refreshments while they met each other and MEA president William Dworkin.

Mr. Dworkin extended his congratulations and said, "I am proud that this program has continued to attract a group of highly qualified students. MEA members can be proud of the accomplishments of their children and that our organization is helping to send some very talented young people through college. I also want to thank the members of the committee who worked so hard to review all the applications and to make the difficult choices of selecting the winners."

The eleven MEA scholarship winners are volunteers: as members of local "Key Clubs," as tutors for other students, as coaches and as instructors teaching religion.

They are athletes, performers and political activists: running track, playing soccer and lacrosse, playing in the pit orchestra or acting



Committee chair Jim Durrah surrounded by members, from l, Georgia Williams, Pauline Bostic, Ed Yood, Simon Driver, Lal Motwani and Frederick Ewald

in productions, a young Republican, an intern for a member of congress and an intern for a member of the New York State Assembly.

They are talented: an aspiring entrepreneur won national honors for her presentation of an international business marketing venture.

And they are smart: one scored 800 on the math SAT and another is national merit scholarship winner. One has a 3.925 grade point average so far in college and two others have averages of 3.67 and 3.664. Three were presidents of their high school honor societies and one is a member of the college national honor society.

New chapter officers chosen



Newly elected chapter officials are Warren Lewis, assistant director of the Retirees Chapter, and Gerald McCormick, of the Human Resources Administration Chapter.



William Dworkin presents checks to Kelly Lonergan (l) and Nisha Mirchandani

The scholarship winners, (their selected colleges), MEA member parents and their agency affiliations are as follows: Jennifer L. Basile (Hofstra U), James, Emergency Medical Services; Nina Ferrer (Pratt Institute), Stephen, Administration for Childrens' Services; Thomas Hook Jr. (Boston Col.), Thomas Sr., Environmental Protection; Jeazette Lalchandani (Manhattan Col.), Anand, Transportation; Kelly E. Lonergan (St. John's), James, Board of Education; Nisha H. Mirchandani (Baruch Col), Hargovind, Sanitation; Jolene A. Rall (Cornell U.), John, Health; Erica S. Sztabnik (George Washington U), Donald LaGuardia Community Col.; Stephen P. Turley (Johns Hopkins U.), John, Human Resources Administration; Rebecca D. Weinstein (Wesleyan U.) and Ronni T. Weinstein (Williams Col.), Robin and Ted, Housing Preservation and Development.

The criteria used for making the awards were SAT scores, grade point average, length of the parent's membership in the MEA and an essay by the student. A committee chaired by John Boden developed the criteria and decided which applicants would get the scholarships. The committee did not know the identities of the candidates they were evaluating as all person specific information was blacked out.

The MEA awards ten \$500 scholarships annually, but this year two winners split one scholarship for a total of eleven. The scholarships are funded from part of the \$2 per paycheck dues increase that was effective in June of 1998. ■

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Appeals court reverses unfavorable *Yourman* ruling

The United States Court of Appeals for the Second Circuit has overturned the decision in favor of the city that was issued last October in *Yourman v. Giuliani* by District Judge Loretta A. Preska and sent the case back to her for further consideration.

MEA president William Dworkin said, "The Appeals Court decision is a great victory for the managers who are plaintiffs in this case and for the MEA. We are optimistic that we ultimately will be successful."

According to Joan Stern Kiok and Robert N. Felix, the attorneys for the plaintiffs, a key factor in the favorable decision was a friend of the court brief filed by the United States Department of Labor. This brief supported the plaintiffs' claims on four of the five points at issue. The brief was requested by the Court of Appeals since the regulation the court was interpreting, the "salary basis test," was promulgated by the DOL. The court apparently wanted to know DOL's view on the points at issue.

It is most likely that Judge Preska now will conduct a new non-jury trial. Whatever Judge Preska's decision, the losing party undoubtedly would appeal to the Court of Appeals, but it is not likely that the US Supreme Court would consider the case again. The full legal process could take an additional two years.

The alternative to this would be a negotiated settlement between the city and the plaintiffs. Any such settlement will have to be approved by Judge Preska. A hearing would be held before she does during which any plaintiff in *Yourman* or its related cases, *Feaser* and *Carter*, could appear and voice objection.

The lawsuit started on April 1, 1991, when the plaintiffs claimed that they were entitled to overtime pay for time worked over 40 hours under the Fair Labor Standards Act (FLSA). In July 1993, Judge Preska ruled in the plaintiffs' favor and two years later the Court of Appeals unanimously agreed. But the city appealed to the Supreme Court.

Around the same time, a case involving police sergeants in St. Louis was making its way to the Supreme Court. In February 1997, the court ruled against the police sergeants on the ground that there

was no actual practice of disciplinary suspensions or pay deductions by the St. Louis Police Department. The court found that it was necessary to have such a practice for employees to be eligible for paid overtime.

Simultaneously, the Supreme Court sent *Yourman* back to the District Court for a ruling in light of its decision in the police case. In October 1999, Judge Preska issued her second decision, this time finding in favor of the city and against the

plaintiffs. To do so, she performed mathematical computations to determine that the percentage of managers in a given agency or throughout the city who received disciplinary deductions was too small to constitute a citywide practice.

The Appeals Court found that the methodology used by Judge Preska to make this determination was faulty and that mechanical mathematical computations could not be used to conclude whether such a practice existed. ■

Treasurer: expenses accounted for

Q. What is the state of the MEA treasury?

A. Very good. The organization has a paper trail for each expenditure and the members' dues are being accounted for.

However the unanticipated expense of the *Yourman* case, about \$13,000, is causing a deficit for this year of between \$8,000 and \$10,000. Everything else is about as projected. We have made some expenditure reductions.

There is a possibility of a membership loss due to retirements expected this fall. This will reduce income for next year.

Q. What is your history with the MEA prior to becoming treasurer?

A. I became active five years ago when Joe Ramaglia, now our secretary, asked me to become acting chapter director upon the retirement of Bill Lee, the then chapter director. I was later elected and reelected chapter director. While DEP chapter director, I served on the audit committee where I found the MEA's financial statement to be virtually 100 percent accurate.

I was a member of the assessment, benefits and compensation committee that established the personnel policies for the MEA office staff and set staff salaries. The membership committee, of which I was a part, proposed a number of constitutional amendments and established the scholarship program, the pension counseling benefit and the financial planning seminars.

Q. What has been your experience as treasurer so far?

A. It's more work that I expected—about 10 to 12 hours more a month than I was



Roy Durig

already putting in as DEP chapter director.

As treasurer it is my responsibility to develop the budget and then the modifications as the year goes along. Lou did a great job for the organization: he set up the budget and the reporting format that I'm basically following. I appreciate the work he did.

Q. What do you do on the job?

A. I'm in charge of all construction at the Hillview Reservoir in Yonkers and of the final closure of four hazardous waste landfills in New York City. We don't have any true hazardous materials landfills; what we are cleaning up is the result of illegal dumping.

I've worked for the city since 1963. I became a manager in 1982 and have been an MEA member since then.

Q. What are your off the job interests?

A. My avocation is accounting. Although I work as an engineer, I took 25 college credits in accounting. I'm a member of the National Society of Association of Tax Practitioners.

I am active in my church and play on a team in the Mahopac (Putnam County, N.Y.) men's softball league. I was treasurer of the league for a while. I like ocean cruises and enjoy taking care of my house. My wife, Dorothea, and I have two adult daughters, Lori and Deb, and a cat, Piglet. ■

New staff member, NYCHA chapter, Man of the Year

John Boden, retired at the end of April from the Department of Environmental Protection, has joined the MEA staff as associate executive director in early June. The board of directors authorized the hiring of a second professional staff member to increase the strength of the MEA by recruiting new members with initial emphasis on the Health and Hospitals Corporation and the New York City Housing Authority.



John Boden

He will continue to develop new benefits for members to expand on those he initiated as chair of the MEA's organizing committee. He also will try to resolve the on-the-job problems of members. He works two days a week. ■

Lal Motwani defeated Cesare Lucido for assistant director of the Housing Authority Chapter, the only contested position for chapter positions in that agency by secret ballot election on October 17. The two-year term is effective January 1.



Assistant chapter director Lal Motwani

Simon Driver was unopposed for chapter director and Salvatore Consalvo was the only candidate nominated for recording secretary at chapter the meeting of June 29th.

Mr. Driver said that, "I am pleased that

there was enough interest in our chapter for a contested election to occur."

With the conclusion of chapter election, discussions will continue regarding promotional opportunities, pay equity and civil service regulations. ■

The Raymond E. Diana memorial award for manager of the year will be presented to long time member Roger S. Montesano of the Fire Department at the general membership meeting and holiday party on December 24. William B. Carnevale, president of the Off-Track Betting Corporation will receive MEA's award for distinguished service to city government.



Roger S. Montesano

William Dworkin, president of the MEA said, "I look forward to presenting these significant awards to two fine career employees who richly deserve to be honored."

Mr. Montesano began city employment in 1973 as a managerial intern and advanced through the ranks to his present title of administrative systems analyst. Mr. Carnevale began his career as a caseworker in the late 60s at the Human Resources Administration. ■

Managers win...*(continued from page 1)*

entitled to the improvements on October 1. Managers are now retiring with an additional two years of pension credit while the city employee unions are still attempting to negotiate their contracts.

The MEA had asked that the transit chek be implemented as a specific benefit for managers at a managerial issues task force meeting in 1999, but the city took no action. When the most recent citywide supplemental labor contract included such an agreement, the MEA again raised the issue at the task force. The city would not even commit to including managers when the program was introduced for the unionized work force.

The MEA strenuously objected. These efforts also were rewarded when mayor Giuliani issued a directive effective July 7 requiring that managers be included as transit chek was phased in agency by agency. Following the mayor's executive order, the MEA contacted the Health and Hospitals Corporation and the Housing Authority to urge them to adopt this program for managers as soon as possible. These authorities are expected to implement transit chek in the coming year.

Mr. Perlmutter said, "While the transit chek directive is something that the city should have issued when it first introduced the program, this is the first time in many years that the city moved sooner rather than later to correct an inequity." Transit chek is a federal program to encourage the use of mass transit. In New York City it allows mass transit riders to purchase metrocards using pre-tax dollars by payroll deduction.

To the surprise of many, the city council authorized a pension incentive to encourage retirements. Such an incentive has not been offered since 1996. The language of the legislation allows the mayor the right to exclude any title he wishes, and the

city let it be known that eligibility would be highly targeted and the number of titles included would be severely limited.

The MEA was concerned that all managerial titles might be excluded and vigorously lobbied senior city executives to avoid this from happening. In the end managerial titles were included in many agencies, although the city was true to its word and very few titles were included.

For example, the Parks Department limited eligibility to laborers, a title that the department has been trying to eliminate for over 20 years. In many agencies administrative managers were permitted to take advantage of the program, although in Human Resources Administration, the agency with the largest component, they were not. An analysis of eligible titles indicated that approximately five percent of the managerial workforce was eligible to take advantage of the program and so was approximately five percent of the unionized workforce.

"While I am disappointed that more managerial titles were not included," president William Dworkin stated, "I am pleased that the administration kept open the lines of communication with the MEA and that some managerial titles were included." ■

HHC chapter...*(continued from page 1)*

made up of MEA members who volunteered or were recommended by officers or chapter directors. In addition to Mr. Boden, they are co-chair Jim Durrah, MEA executive vice president; Alphonso Brown, Queens; Barbara Duckett, Bellevue; Lucille Grant, Queens; Jean Perry, Queens; John Rall, Department of Health Chapter director; Mary Richardson, Queens; Hiram Rosa, Metropolitan; Laura Szapiro, Central Office; Georgia Williams, special advisor to the MEA president; and Jessie Woodbury, Kings County. ■