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III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-04-0069 International Brotherhood of Teamsters
Local #20, and Perrysburg Township
Maintenance Department

The Employee Organization filed an amended Request for Recognition seeking to represent certain employees of the Employer. The substantial evidence is sufficient, and no objections have been filed. The Employer has complied with the posting requirements set forth in Ohio Revised Code § 4117.05(A)(2). Vice Chairman Gillmor moved that the Board certify the Employee Organization as the exclusive representative of all employees in the bargaining unit. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

2. Case 05-REP-04-0052 Professionals Guild of Ohio, and Ohio
Department of Rehabilitation and
Correction – MTC North Coast Correctional
Treatment

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employee Organization has now filed a Motion to Withdraw the request. Board Member Verich moved that the Board grant the motion and dismiss without prejudice the Request for Recognition. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

3. Case 04-REP-12-0217 Teamsters Local 436, AFL-CIO, and
Chester Township, Geauga County
July 28, 2005

4. Case 05-REP-04-0068 International Union of Operating
Engineers, Local 18, 18G, AFL-CIO, and
Hancock County Commissioners (Hancock
County Landfill)
August 2, 2005

5. Case 05-REP-03-0037 Ohio Council 8, American Federation of
State, County and Municipal Employees,
AFL-CIO, and Muskingum County Water
Department
August 16, 2005

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6. Case 05-REP-01-0016 Fraternal Order of Police, Ohio Labor Council, Inc., and City of Springfield
August 17, 2005

Vice Chairman Gillmor moved that the Board approve the Consent Election Agreements and direct elections to be conducted on the dates indicated. Board Member Verich seconded the motion. Chairman Drake commended Dory McClendon on her mediation efforts in these cases and called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

7. Case 05-REP-04-0059 International Union of Operating Engineers, Local 18-S, and City of Dublin

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing objections and a Petition for Representation Election. A conference call was conducted for the purpose of executing a consent election agreement. The parties could not reach an agreement concerning an appropriate bargaining unit.

Vice Chairman Gillmor recused herself from this matter. Board Member Verich moved that the Board direct the case to hearing to determine an appropriate bargaining unit and for all other relevant issues, and direct the parties to mediation. Chairman Drake seconded the motion and called for the vote.

Vote: DRAKE: Aye GILLMOR: Recuse VERICH: Aye
Affirmed X Denied _____

8. Case 04-REP-08-0148 Liberty Township Professional Fire Fighters, IAFF Local 4394, and Liberty Township, Butler County

On April 26, 2005, the Board conducted a secret ballot election. The Employee Organization received six (6) votes, No Representative received four (4) votes, and there were seven (7) determinative challenged ballots. The Employer and Employee Organization filed post-election position statements regarding the challenged ballots. The Employer also filed objections to the election.

Initially, the parties reached an agreement concerning an appropriate bargaining unit, but did not execute a Consent Election Agreement because the Employer wanted to postpone the election until after the hiring of seven (7) new employees in January of this year.

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10. Case 05-REP-02-0024 Teamsters Local 436, AFL-CIO, and City of Solon
- There were 58 ballots cast
 - There were 0 challenged ballots
 - Teamsters Local 436, AFL-CIO received 29 votes
 - No Representative received 29 votes and has prevailed in this election.
11. Case 04-REP-12-0228 Lake County Sheriff Employee Association of Cooks and Clerks, and Communications Workers of America, Local 4340, and Lake County Sheriff's Department
- There were 20 ballots cast
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Lake County Sheriff Employees Association of Cooks and Clerks received 9 votes
 - Communications Workers of America, Local 4340 received 11 votes and has prevailed in this election.
12. Case 05-REP-01-0015 Freight Workers, Dockworkers and Helpers Local Union #24, and Franklin Township Road Department, Portage County
- There were 4 ballots cast
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Freight Workers, Dockworkers and Helpers Local Union #24 received 4 votes and has prevailed in this election.

Vice Chairman Gillmor moved that the Board certify the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining units, except in Case 05-REP-02-0024, where "No Representative" prevailed in the election. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

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V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 05-ULP-02-0075 Shari J. Herbert and Rose A. Caris v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 2308 and Patricia Mahaffey

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to hold meetings to update the Charging Parties regarding the status of negotiations and by issuing a vulgar, harsh, false complaint against the Charging Parties. The investigation revealed the complaint referred to occurred more than 90 days prior to the filing of the charge. No information was provided to show how the employees were restrained, coerced, or interfered with in exercising their guaranteed rights regarding negotiation updates. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties and as untimely filed in regards to events prior to November 6, 2004. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

2. Case 05-ULP-02-0078 Larry T. Fisher v. Ohio Association of Public School Employees, AFSCME Local 4 and Its Local 410

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1), (3), and (6) by failing to represent the local members. The investigation reveals insufficient information to support the allegations.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

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3. Case 05-ULP-03-0155 City of Warren v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by refusing to bargain with the City. The investigation reveals the Charged Party did bargain in good faith. The parties agreed to conciliation for the remaining issues and a final decision was rendered.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

4. Case 05-ULP-03-0167 James W. Athey v. Communications Workers of America Local 4502/CMAGE

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party when the Employer implemented a different pay plan than the one ratified. The investigation reveals the Charging Party did not qualify for the pay plan. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

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5. Case 05-ULP-02-0083 River Valley Employees Association,
OEA/NEA v. River Valley Local School
District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against Norma Friar for engaging in protected activity and discriminating against her with regard to conditions of her employment for exercising guaranteed rights. The investigation reveals that allegedly unlawful personal correspondence from the District Treasurer to Ms. Friar did not contain any threat for participating in any future protected activity, and was not disseminated to other employees. No adverse action was taken against the employee to constitute an Ohio Revised Code § 4117.11(A)(3) violation.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

6. Case 05-ULP-02-0089 Laura Davis, Carrie Morgan, Karen Peck,
and Donna Runeric v. Ohio Civil Service
Employees Association, AFSCME
Local 11, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by not presenting a grievance to the Employer. The investigation reveals the Charged Party did not notify the Charging Parties the grievance had been denied at Step 1 so that the parties could pursue the grievance on their own. It appears that the Charged Party has failed to take a basic and required step in processing the grievance.

Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to take the basic and required steps in processing the Charging Parties' grievance, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

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7. Case 05-ULP-04-0185 Union Support Association, OEA/NEA v. Union Scioto Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by making remarks during a school board meeting in an attempt to discourage bargaining-unit members from pursuing grievances. The investigation reveals Mr. Cunningham's comments as a Board member could have a chilling effect on bargaining-unit members exercising their guaranteed rights. No information was provided to support an Ohio Revised Code § 4117.11(A)(3) violation.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (3), by making remarks during a school board meeting in an attempt to discourage bargaining-unit employees from pursuing grievances, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

8. Case 05-ULP-04-0177 Union Local Association of Classroom Teachers, OEA/NEA v. Union Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by engaging in direct dealing with bargaining-unit members. The investigation reveals the parties had already agreed on a Retirement Incentive Program. The Charged Party surveyed employees on when they planned to retire and referred their questions on benefits to the Charging Party. The Charged Party's actions do not rise to the level of a violation.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

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9. Case 05-ULP-03-0125 John Storey v. Portsmouth City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by failing to address the Charging Party's unfair pay differential. The investigation reveals no evidence exists to support the school interfered with, restrained or coerced the Charging Party regarding his grievance.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

10. Case 05-ULP-04-0194 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Dayton City School District Board of Education

Vice Chairman Gillmor moved that the Board table the matter. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

11. Case 05-ULP-03-0126 Queen City Lodge No. 69, FOP v. City of Cincinnati

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1)(2)(3) and (5) by attempting to remove the Assistant Police Chiefs from a deemed certified bargaining unit. The investigation reveals the Charged Party attempted to change a deemed certified bargaining unit over the objections of the Charging Party. No information was provided to support an Ohio Revised Code § 4117.11(A)(3) violation.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (5), but not (3), by attempting to remove the Assistant Police Chiefs from a deemed certified bargaining unit. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

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12. Case 05-ULP-03-0147

Selena Lee v. Ohio Civil Service
Employees Association, AFSCME
Local 11, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to represent the Charging Party during her discharge and grievance proceedings, and denying her appeal for arbitration. The investigation reveals the Charged Party represented the Charging Party. The grievance was not taken to arbitration based on the merits except for the December 14, 2004 denial. The Charging Party was permitted to appeal her termination. The charge is untimely filed.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

13. Case 04-ULP-11-0637

Crystal Davis v. Copley-Fairlawn City
School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by terminating the Charging Party in retaliation for previously filing unfair labor practice charges. The investigation reveals the Charging Party was terminated for reasons other than exercising guaranteed rights.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

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14. Case 05-ULP-04-0176 Terry Shane Metzenbaum v. State of Ohio,
Department of Taxation

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(3) and (4) by not hiring the Charging Party because he refused to take a physical fitness test and had previously filed an unfair labor practice charge. The investigation reveals the Charging Party has not engaged in any recent protected activity with the Charged Party's knowledge. The Charging Party was not selected because he refused to take the required test.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

15. Case 05-ULP-05-0115 Jeannie Bryan v. Licking County
Metropolitan Housing Authority

Board Member Verich moved that the Board dismiss the charge with prejudice because the Charging Party has failed to pursue the matter. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

16. Case 04-ULP-02-0087 Fraternal Order of Police, Capital City
Lodge No. 9 and Donna Alexander v. City
of Columbus

On July 22, 2004 the Board dismissed the unfair labor practice charge for lack of probable cause. On September 10, 2004, the Charging Parties filed a timely motion for reconsideration. New information was provided showing that corrective counseling is part of the progressive disciplinary policy contained in the parties' collective bargaining agreement. Ms. Alexander's confidential comments to the union representative were overheard by her supervisor, and it appears the discipline was in retaliation for her exercise of guaranteed rights.

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21. Cases 05-ULP-06-0327 Youngstown State University Association of Classified Employees, OEA/NEA v. Youngstown State University
- 05-ULP-06-0345 Youngstown State University Chapter of the Ohio Education Association v. Youngstown State University

The Charging Parties have filed a motion requesting the Board seek Injunctive Relief. The Charged Party has filed a response to the motion. The Charging Parties have replied to the Charged Parties' response.

Vice Chairman Gillmor moved that the Board deny the Charging Parties' Motion for Injunctive Relief without prejudice as prematurely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

VI. OTHER MATTERS:

Petition for Administrative Hearing
Municipal Construction Equipment Operators' Labor Council, Petitioner
(Docketed with 2002-REP-06-0116)

On April 11, 2005, the Municipal Construction Equipment Operators' Labor Council ("Petitioner" or "Labor Council") filed a Petition for Administrative Hearing with SERB in which it requested that the Board appoint a hearing examiner to adjudicate certain issues that the Ohio Supreme Court had found to be within the agency's jurisdiction in *Consolo v. City of Cleveland*, (2004), 103 Ohio St. 3d 361. Local 18 and the City of Cleveland oppose SERB conducting a hearing and argue that the agency does not have jurisdiction to conduct a hearing. SERB was not a party to, nor did it intervene in, the *Consolo* case, and the case was not remanded to SERB. There is no active case pending before SERB that raises these issues, and the advice of the Office of the Attorney General has been sought on whether the agency has jurisdiction to conduct a hearing.

Vice Chairman Gillmor moved to table the Petition pending written advice from the Ohio Attorney General's office on the jurisdictional question.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

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VII. TABLED CASES

Case 04-ERC-10-0007

Cynthia Witte v. Cincinnati Organized and
Dedicated Employees

Board Member Verich moved to lift the tabled case. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

Investigations recommended that the filing be dismissed because CODE was in substantial compliance with the requirements of O.R.C. § 4117.19. Vice Chairman Gillmor moved the recommendation, and Board Member Verich seconded the motion. Chairman Drake asked if there was any discussion. Vice Chairman Gillmor expressed concern that the statute called for the employee organization to have both a constitution and bylaws. Chairman Drake noted that she shared that concern, though it appeared in this case that the organization could come into compliance simply by renaming its bylaws "Constitution and Bylaws." A question was raised about whether instructions contained in SERB's letter to employee organizations on registration were clear and Investigations was asked to review the letter. Vice Chairman Gillmor then withdrew her motion and Board Member Verich withdrew his second.

Vice Chairman Gillmor moved that the Board table the matter. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

VIII. ADMINISTRATIVE MATTERS

Report from ALRA - Chairman Drake reported on her attendance at the 54th Annual Association of Labor Relations Agencies (ALRA) conference in Seattle, Washington, where she was elected to the ALRA Executive Board. The conference ended on July 13, 2005. Over 125 delegates from across the USA, Canada, Ireland, Australia, Puerto Rico and Cambodia attended. On Advocates Day, approximately 50 advocates attended. The second report on the Neutrality Project was presented. The delegates adopted a policy statement that encourages its member agencies to adopt procedures requiring the submission of grievance arbitration awards issued by members of its panels and rosters to recognized reporting services as a matter of course. Special thanks were given to Tom Worley by outgoing President Reg Pearson for Tom's service to ALRA as Vice President of Administration for the past eight years. Next year's conference will be held in Baltimore, Maryland.

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FY 2005 “final” figures – Executive Director Snyder reported that Sandy Stiffler is working on final year-end numbers but estimates that the agency will return approximately \$119,000 to the General Revenue Fund. Vice Chairman Gillmor questioned whether these funds could instead be carried over into the agency’s FY 2006 budget. Executive Director Snyder responded that it was her understanding that they could not but that she would verify this with OBM.

FY 2006 Budget Overview – Executive Director Snyder reported that Sandy Stiffler is working on an overview for the Fiscal Year 2006 Budget, and will present it to the Board as soon as she has received fringe benefit information from OBM.

Bobby Dandridge – Executive Director Snyder stated that today is Bobby Dandridge’s last day. A temporary, Bobby has worked at SERB since January 2005 and was instrumental in completing many projects throughout the agency.

Annual Report – Executive Director Snyder reported that the 2005 Annual Report is being finalized and requested that Board members return their comments and suggestions on the “Report from the Board” that she had drafted and distributed.

Case Discussion Schedule - Board members will provide Executive Director Snyder with dates they are currently available for case discussions.

Vice Chairman Gillmor moved that the Board go into executive session to discuss the employment of public employees pursuant to Ohio Revised Code § 121.22(G)(1). Board Member Verich seconded the motion. Chairman Drake called for the roll-call vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied

Board Member Verich moved that the Board exit from executive session. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the roll-call vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied

Other Matters:

Vice Chairman Gillmor moved that the Bureau of Mediation Administrator be allowed to assign Tom Worley up to 40 hours per week as needed beginning with the pay period ending July 23, 2005 and continuing through the pay period ending September 2, 2005. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied

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Board Member Verich moved that Executive Director Snyder and Bureau of Mediation Administrator Zimmer receive 4% pay increases effective July 2, 2005. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied

Vice Chairman Gillmor moved that Executive Director Pat Snyder receive a temporary work level beginning July, 15, 2005 and continuing until the General Counsel position has been filled. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied

IX. ADJOURNMENT

Board Member Verich moved that the Board adjourn the meeting. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied

 /s/ Carol Nolan Drake
Carol Nolan Drake, Chairman