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**FACT FINDING REPORT  
STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

STATE EMPLOYMENT  
RELATIONS BOARD

FEB 17 A 10:45

**February 10, 2006**

<b>In the Matter of:</b>	)	
	)	
<b>Jackson Township Professional Firefighters</b>	)	<b>SERB Case No:</b>
<b>IAFF Local 2280, AFL-CIO</b>	)	<b>05-MED-09-0991</b>
<b>And</b>	)	
<b>Jackson Township Board of Trustees</b>	)	

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**FACT FINDER'S REPORT**

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**HEARING**

**January 25 and 26, 2006  
Jackson Township Safety Center  
7383 Fulton Drive N.W.  
Massillon, Ohio 44646**

**APPEARANCES**

**FOR THE UNION:**

**Ray Green.....Union Negotiating Member**  
**Frank Krauss.....Union Negotiating Member**  
**Robert J. Leahy II.....Union Negotiating Member**  
**Ryan J. Lemmerbrock.....Attorney for the Union**  
**Gary H. Martin.....Union Negotiating Member**  
**Michael T. Peel.....Union Negotiating Member**

**FOR THE TOWNSHIP:**

**Ted R. Heck.....Fire Chief**  
**Leslie Iams Kuntz.....Attorney for the Township**  
**Steven M. Meeks.....Trustee**

## EXHIBITS PRESENTED AT THE HEARING

### UNION EXHIBITS

1. CBA: Jackson Twp. and IAFF Local 2280 (1/1/03-12/31/05)
2. Jackson Twp. Budget (2006)
3. IAFF Financial Report for Jackson Twp. (1/11/06)
4. Jackson Twp. Taxes Spent (2005)
5. Jackson Twp. Ohio State Audit (2003-2004)
6. Wage Comparables (2005) – Northeast OH
7. Wage Comparables (2006)(NE OH)-Under Jackson Police Wages
8. Wage Comparables (2006) (NE OH) – Under Union Proposal
9. Projected Wage Comparables (2007) (NE OH) Under Union Prop.
10. SERB Benchmark Report – NE OH (1/20/06)
11. SERB Wage Increase Report – NE OH (1/20/06)
12. Map – I-77 Regional Trade Area (“RTA”)
13. Wage Comparables (2006)(RTA) – Under Jackson Police Wages
14. Projected Wage Comparables (2007)(RTA) –Under Union Prop.
15. SERB Benchmark Report – I-77 RTA (1/23/06)
16. Hours per Week Comparables (2005)
17. 2004/2005 OT, OIC, Sick/Injury Leave Hours
18. *Personal Leave* Article, CBA: Jackson Twp. & FOP (Patrol)  
(1/1/06-12/31/08)
19. *Personal Leave* Article, CBA: Jackson Twp. & FOP (Clerks)  
(7/1/03-6/30/06)
20. *Personal Leave* Article, CBA: Jackson TWP. & Utility, Local 568  
(7/1/03-6/30/06)
21. Captain Overtime
22. Health Care Benefit Changes Summary
23. Side Letter between Jackson Twp. and FOP (Patrol)
24. IAFF Local 1144, AFL-CIO and City of Bay Village Fact-Finding  
Report (2004)

### TOWNSHIP EXHIBITS

#### Unnumbered Submissions

- CBA: Jackson Twp. and IAFF Local 2280 (1/1/03-12/31/05)
- Jackson Twp. Financial Report
- SERB Wage Settlement Breakdown (1995-2004)
- SERB 2004 Cost of Health Ins. in Ohio’s Public Sector Report.

**SERB Wage Increase Report (1/12/06)**  
**SERB Benchmark Report (1/12/06)**

**Numbered Exhibits**

1. U.S. Census Estimate – (7/1/04)
2. Fact-finding Recommendations between The Northern Ohio Patrolmen's Benevolent Association & Jackson Twp. (10/13/87)
3. Memorandum of Understanding on 26 pays (3/04)
4. Year End Report for 2002 (3/10/03)
5. Year End Report for 2004
6. Year End Report for 2005 (1/14/06)
7. PPO Benefit Comparison for Jackson Twp. 2006
8. Jackson Health Plan Claims Utilization Analysis through 11/30/05
9. Jackson Twp. – 3 Year Comparison of Health Care Costs
10. Chart of Calendar Days Off – 2004
11. Chart of Calendar Days Off – 2005

**BACKGROUND**

Jackson Township is a statutory township in Stark County, Ohio, encompassing approximately 36 square miles of commercial property, shopping developments, and residential subdivisions, and home to a population of approximately 40,061 residents.

The Jackson Township Fire Department has seventy-one (71) full time employees. The Jackson Township Professional Firefighters, Local 2280, is the exclusive representative for all full-time Firefighters, Firefighter/Paramedics, and Captains of the Jackson Township Fire Department. This Fact-finding report addresses the unresolved bargaining issues of sixty-one (61) of these employees assigned to the Fire Department's five (5) firehouses located throughout Jackson Township.

Township and Firefighter Union representatives began to negotiate on October 21, 2005, and met approximately six (6) additional times during October, November, and December of 2005. During these meetings, no changes were proposed to twenty-three (23) Articles/Sections of the existing contract, while tentative agreements were reached on twelve

(12) Articles/Sections of the CBA to which changes were proposed. Six issues remained unresolved when the parties met on Wednesday, January 25, 2006, for the purpose of mediation.

The Articles/Sections remaining unresolved at the end of the Wednesday, January 25, 2006, mediation meeting were:

- Article 18 § 2 : Compensation
- Article 18 § 6 : Hours of Work
- Article 18 § 10: Health Insurance
- Article 18 § 13: Sick Leave
- Article 18 § 17: Personal Day
- Captains – Overtime Procedures

At the end of the January 25, 2006, meeting, the parties requested that a fact-finding meeting be held the next day, that is, on Thursday, January 26, 2006, to resolve the issues remaining in dispute. At the end of that meeting, the parties agreed that Post-Hearing Briefs summarizing positions on disputed issues would be filed with the Fact-finder on Friday, February 3, 2006.

**PLEASE NOTE: EACH SIDE'S PROPOSAL IS A DIRECT QUOTE FROM SPECIFIC LANGUAGE PROPOSED IN THE POST HEARING BRIEFS.**

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**ISSUE 1: ARTICLE 18 § 2 – COMPENSATION**

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**The Union's Proposal:**

The Union proposes across-the-board increases in compensation as follows:

January 1, 2006	3.25% (retroactive)
January 1, 2007	4%
January 1, 2008	4% [Union Post Brief, 2]

**The Union's Rationale:**

Comparables presented by the Union show that the hourly wage of the bargaining unit members is in the bottom-tier of similarly-situated communities in Northeast Ohio, and is at the bottom of nearly all communities within a twelve (12) mile radius [Union Exhs. 6-15]. While the Union acknowledges that its proposal is dependent upon the passage of the 2006 Fire Levy, it believes its proposal reasonable and necessary.

**The Township's Proposal:**

Despite the possibility of losing the proposed levy, the Township proposes a wage increase of 3.25% per year in each year of this three year Agreement. Any raises given must take into account the fact that in 2006 the Township will be asking the public to approve a tax levy. [Twp. Post-Brief, 5]

The Township is also proposing that the Memorandum of Understanding adopted by the parties in March, 2004 [Twp. Exh. 9], eliminating the present reference in the contract to twenty-six (26) pays, be made a permanent part of the proposed agreement. [Twp. Post Brief, 5]

Therefore the Township's compensation proposal is:

- A. Effective January 1, 2006, each employee shall receive an annual base salary as follows: 3.25%.

Effective January 1, 2007, each employee shall receive an annual base salary as follows: 3.25%.

Effective January 1, 2008, each employee shall receive an annual base salary as follows: 3.25%.

- B. Pay periods shall be every two (2) weeks.

- C. In each year of the Contract the Township shall continue to pay the employee's present required ten (10) percent contribution to the Police and Firemen's Disability and Pension Fund with the express understanding between the parties to this Agreement that any increase in the required employee's contribution percentage to the Police and Firemen's Disability

and Pension fund shall be paid by the employee and further that the employees shall not make any claims for lost compensation should the present required 10% employee contribution rate be reduced. [Twp. Post Brief, 5]

### **The Township's Rationale:**

The Township's proposal is consistent with averages appearing in SERB's Annual Wage Settlement Report showing that overall wage increases in 2004 dropped to 2.79% and the Akron Canton area average dropped to 2.81%. [Twp. Exh. 3<sup>rd</sup> unnumbered] The average wage increase among Townships is 3.25% with the Fire Departments' receiving 3.29%. [Twp. Exh. 5<sup>th</sup> unnumbered]

The Township's proposal is consistent with the wage increase given to the Jackson Township Police Department in December, 2005. The Township Police received a wage increase of 3.25% per year, and the police and fire departments have a history of wage parity stemming from a 1987 Fact-Finding report ordering the Township to adopt wage parity between the police and fire departments. [Twp. Exh. 2]

### **The Fact-Finder's Opinion:**

Township Exhibit 2, the 1987 Fact-Finding report cited as "ordering" the Township to adopt wage parity "between the police and fire departments," does not "order" parity. On page 14, paragraph 5 of Fact-Finder Ross' report, he writes:

*This fact-finder concludes that it is appropriate to compare safety forces' compensation (e.g., police and fire), compensation of other police units in the immediate local, and police units in the region. With regard to safety forces' comparative compensation, relative parity between units would (hopefully) result in smoother bargaining in future negotiations.*

The Fact-Finder in the case at hand does not find an "order" for parity in this nine-teen (19) year old report. Times and circumstances change, and a suggestion for "relative" parity that will "hopefully result in smoother bargaining in future negotiations" cannot and should not be interpreted as an "order" for total parity in all circumstances at all times.

With this in mind, and in light of the comparable studies submitted by each side, the Fact-Finder proposes the following compromise on this issue of Compensation:

*Pending levy passage, the Fact-Finder proposes across-the-board increases in compensation as follows:*

<i>January 1, 2006</i>	<i>3.25% (retroactive)</i>
<i>January 1, 2007</i>	<i>3.50%</i>
<i>January 1, 2008</i>	<i>3.50%</i>

The Fact-Finder further proposes that sections B and C of the Township's Proposal [Twp. Post Brief, 5] be made part of the new CBA effective January 1, 2006 through December 31, 2008:

*B. Pay periods shall be every two (2) weeks.*

*C. In each year of the Contract the Township shall continue to pay the employee's present required ten (10) percent contribution to the Police and Firemen's Disability and Pension Fund with the express understanding between the parties to this Agreement that any increase in the required employee's contribution percentage to the Police and Firemen's Disability and Pension fund shall be paid by the employee and further that the employees shall not make any claims for lost compensation should the present required 10% employee contribution rate be reduced. [Twp. Post Brief, 5]*

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## **ISSUE 2: ARTICLE XVIII § 6 – HOURS OF EMPLOYMENT**

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### **The Union Proposal:**

The Union proposes that the work week for bargaining unit members be reduced from 52 hours to 50.4 hours, beginning January 1, 2007. [Un. Post Brief, 3]

**The Union Rationale:**

Comparables presented show that the Union's hourly wage, as well as the hourly work week, rank at the bottom of Northeast Ohio communities within the immediate Township region. [Un. Exhs. 6, 7, 8, 9, 10, 11, 16] In light of the fact that a shortened work week is an economic issue dependent on the passage of the upcoming levy, the Union proposes that the actual reduction to 50.4 hours begin in 2007, and continue through subsequent contract years.

**The Township Proposal:**

Retain the current contract language in Article XVIII § 6, i.e., retain the present 52 hour work week.

**The Township Rationale:**

The Township argues that the two (2) local cities referenced in the Union proposal, Canton and Massillon, having work weeks of 50.4 and 48 hours respectively, are not the norm. SERB's Benchmark Report [Twp. Exh. 6<sup>th</sup> unnumbered] shows that a majority of townships similar in size to Jackson have 52 or 53 hour work weeks. [Twp. Exh. 6<sup>th</sup> unnumbered] Austintown, Green, Union, Delhi, Springfield, and West Chester Townships all have 52 or 53 hour work weeks. In addition, neighboring communities such as North Canton, New Philadelphia, Cuyahoga Falls, Dover, Green, and Perry all have work weeks of 52 or more hours.

The Township further notes that it is not financially able to hire the additional staff that would be required in order to allow current staff to cut their hours. The Township also argues that a shorter work week would result in the Fire Department being forced into more overtime compensation, an existing problem illustrated by Township Exhibits 10 and 11. The Township contends that granting the Union's request for a shorter work week would result in 212 additional 24 hour shifts to cover, and would require three additional staff, i.e., one man per shift to maintain the status quo of service. [Twp. Post Brief, 6] In its numerical analysis of the impact of the Union's proposal, the Township notes that union members would be granted 83.20 additional hours off per year or the equivalent of an additional 3.5 (twenty-four (24) hour days off per year.

Numerical Analysis:

$52 \text{ hrs.} - 50.4 \text{ hrs.} = 1.6 \text{ hrs./wk.} \times 52 \text{ wks./yr.} = 83.2 \text{ hrs./yr.} \div 24 \text{ hrs.} = 3.47 \text{ das.}$

Finally, the Township argues that there has been no demonstrable increase in the workload, and that the Township hired nine (9) additional firefighters to staff the new Station #5 opened in 2003. In 2002, 3,840 calls were handled by 4 stations (an average of 960 per station); in 2003, 4214 calls were handled by 4 stations (an average of 1053 per station); and in 2005, 4345 calls were handled by 5 stations (an average of 869 per station). [Twp. Exhs. 4, 5, 6]. In light of these reports, the Township concludes that union member responsibility has decreased not increased, and a reduction in work hours is not justified.

**The Fact-Finder's Opinion:**

The Fact-Finder recommends that:

*The present 52 hour work week continue in the next Collective Bargaining Agreement, and that a Committee be convened to study this issue and prepare a fiscally responsible proposal for the next contract.*

*The goals, objectives and specific procedures for the functioning of this ad hoc committee should be developed in writing in a MEMORANDUM OF UNDERSTANDING to be included in the January 1, 2006, through, December 31, 2008, Collective Bargaining Agreement.*

**The Fact-Finder's Rationale:**

The Township has made a strong fiscal argument for keeping the present 52 hour work week. In view of the Fact-Finder's recommendation for a wage increase in excess of that proposed by the Township, and the Township's own analysis citing the inherent cost of additionally reducing hours of employment from 52 to 50.4, the Fact-Finder recommends that a 52 hour work week be retained throughout the length of this contract, that is, from January 1, 2006, through December 31, 2008. To recommend otherwise at this point in time when levy passage is still uncertain would be to create an added financial burden for the Township.

Nevertheless, in the course of these hearings, it has become clear that Union membership considers work week hours an important collective bargaining issue. Thus, it is recommended that the parties form a Committee, with at least two (2) Union representatives and at least two (2) Township representatives to determine how a work week hours reduction, and opportunities to insure funding for operations can be achieved in a future CBA, while maintaining the Fire Department's ability to effectively provide for and promote the general health, safety, and welfare of Township residents and businesses. Thus, the goals, objectives and specific procedures for the functioning of this ad hoc committee should be developed in writing in a MEMORANDUM OF UNDERSTANDING to be included in the January 1, 2006, through, December 31, 2008, Collective Bargaining Agreement.

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### **ISSUE 3: ARTICLE XVIII, § 13 – SICK LEAVE**

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#### **Union Proposal:**

The Union proposes a 25% increase in the amount of accrued unused sick leave that an employee may cash out at the time of retirement from active service, and the removal of the 1,000 cap. Essentially, the Union asks that Paragraph L of Section 13 be modified as follows:

- L. An employee, at the time of service or disability retirement from active service with Jackson Township, shall be paid in cash for one-half (50%) of the value of accrued unused sick leave credit at the employee's base pay rate. [Union Post Brief, 3]*

#### **Union Rationale:**

The increase in the employees' sick leave cash out is needed to provide an incentive for employees not to use sick leave. Increasing the sick leave cash out as proposed, will lead to a decrease in the use of sick leave, and overtime.

#### **The Township's Proposal:**

- L. An employee, at the time of service or disability retirement from active service with Jackson Township, shall be paid in cash for the value of*

*accrued unused sick leave credit at the employee's base pay rate as follows:*

<u>Percentage</u>	<u>Accumulation</u>
25%	0-1000 hours
30%	1,001-1,500 hours
35%	1,501-2,000 hours
40%	2,001-2,500 hours
45%	2,501-3,000 hours
50%	3,001 & above hours

### **The Township's Rationale:**

This proposal rewards retiring bargaining unit members who have not used up their sick leave, and provides an incentive for retiring members to refrain from taking extended sick leave when close to retirement in order to use what they may simply lose at retirement under the present cap of 1000 hours. When members take sick leave in this fashion the Township must replace the bargaining unit member at an overtime rate while waiting to determine if it can permanently fill the position as a retirement. This is an expensive practice. The Township's proposal will give members with large sick leave balances an incentive to remain at work until retirement, and it will encourage members to use less of their sick leave.

It should also be noted that this offer is in direct parity with the change in sick leave buyout given to the Police Department in December of 2005.

### **The Fact-Finder's Opinion:**

The Fact-Finder recommends that the Board's proposal be adopted in the next CBA. Specifically, Article XVIII § 13 (L) should be changed to read:

- L. An employee, at the time of service or disability retirement from active service with Jackson Township, shall be paid in cash for the value of accrued unused sick leave credit at the employee's base pay rate as follows:*

<i>Percentage</i>	<i>Accumulation</i>
<i>25%</i>	<i>0-1000 hours</i>
<i>30%</i>	<i>1,001-1,500 hours</i>
<i>35%</i>	<i>1,501-2000 hours</i>
<i>40%</i>	<i>2,001-2,500 hours</i>
<i>45%</i>	<i>2,501-3,000 hours</i>
<i>50%</i>	<i>3,001 &amp; above hours</i>

### **The Fact-Finder's Rationale:**

The Township's proposal is a more equitable way of rewarding Union members for not using sick leave unnecessarily. The Township's proposal takes into account that there may be times when use of sick leave is unavoidable, but at the same time, it provides an incentive for not using sick leave, particularly as one approaches actual retirement.

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### **ISSUE 4: ARTICLE XVIII § 17 – PERSONAL DAYS**

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#### **The Union's Proposal:**

The Union proposes the following change to Paragraph A of Section 17 of Article XVIII:

- A. In addition to the Personal Day, each employee assigned to 24 hour shifts shall receive 24 hours of personal time per year that can be taken in four (4) hour increments with compensation. Each employee assigned to 40 hour work weeks shall receive 16 hours of personal time per year that can be taken in four (4) hour increments with compensation. Personal time shall not be deducted from the employee's Sick Leave balance.*

#### **The Union's Rationale:**

The Union argues that since Union Exhibits 6-15 illustrate that the hourly wage of the bargaining unit is clearly deficient in comparison to hourly wage

of comparable bargaining units in the Jackson Township region and Northeast Ohio, a reduction in workload is needed.

Union Exhibits 18-20 indicate that all other bargaining units within the Township are given two (2) personal days. Therefore, consistent with internal comparables, the bargaining unit members should be accorded additional personal time.

*The Union requests that this additional personal time for shift personnel (24 hours) and 40-hour personnel (16 hours) be available in increments of four (4) hours. Incremental usage gives employees flexibility in the use of personal time, and will decrease the overtime obligations imposed on the Township when personal time is used.*

### **The Township's Proposal:**

The Township's Proposal for Personal Days is as follows:

#### Personal Days

- A. *Employees assigned to 24 hour shifts shall receive one (1) tour of personal time per year off work with compensation. Employees assigned to 40 hour work weeks shall receive 2 shifts of personal time off per year with compensation. Said personal days are to be designated by the employee with the approval of the Fire Chief or his designated representative on a first come, first serve basis. Such personal time off shall not be indiscriminately withheld. Personal time cannot be used on New Year's Eve, New Year's Day, Thanksgiving Day, Christmas Eve or Christmas Day and will not be counted against the authorized leave permitted off at any time.*

The Township argues that the Union's request for internal parity with respect to the number of personal days its membership is accorded should fail.

### **The Township's Rationale:**

The Township is proposing a restriction on the use of personal time on both New Year's Eve and Christmas Eve because with a twenty-four (24) hour

schedule, an employee taking a personal day on either Christmas Eve or New Years Eve rolls into the actual holiday, and the Township must pay a replacement double time and one-half (2 ½) pay. This proposal is made to correct an existing and expensive oversight.

The Township argues that the Union's request for internal parity with respect to the number of personal days its membership is accorded should fail for the following reasons:

1. Members working a 52 hour work week already receive one (1) day or twenty-four (24) hours of personal leave.
2. Forty (40) hour personnel who receive two (2) personal days already receive sixteen (16) hours of leave.

Essentially, 52 hour employees already receive more personal hours off than other Township employees. These 52 hour employees work twenty-four (24) hours on and forty-eight (48) hours off to accommodate personal errands and appointments. Members of this bargaining unit working 40 hours already have two (2) eight (8) hour personal days available.

The Township argues that there already is parity between these employees and the other forty (40) hour personnel within the Township, and thus the increase requested has no justification. The Township further argues that the forty (40) hour personnel do not have the same responsibilities and burdens as personnel working a 52 hour week. They do not have to work 24 hour shifts, and have a basically "normal" work schedule, with weekends and holidays scheduled off. Therefore, the Union's rationale for requesting additional personal days does not apply to the unit's forty (40) hour personnel.

### **The Fact-Finder's Opinion:**

Bargaining Unit Members working a 52 hour work week will receive one (1) additional day or twenty-four (24) hours of personal leave to bring them into parity with other bargaining units within the Township. However, forty (40) hour personnel **will not** receive the 16 hours of personal time per year to be taken in four (4) hour increments with compensation requested by the Union.

Specifically, Paragraph A § 17 should read:

- A. *In addition to the Personal Day, each employee assigned to 24 hour shifts shall receive 24 hours of personal time per year that can be taken in four (4) hour increments with compensation. Said personal time is to be designated by the employee with the approval of the Fire Chief or his designated representative on a first come, first serve basis. Such personal time off shall not be indiscriminately withheld. Personal time cannot be used on New Year's Eve, New Year's Day, Thanksgiving Day, Christmas Eve or Christmas Day and will not be counted against the authorized leave permitted off at any time.*
- B. *An employee hired prior to July 1 will receive their allowed personal time off for that calendar year.*

### **The Fact-Finder's Rationale:**

The Union successfully argues that an additional twenty-four (24) hours of personal leave will give its members working twenty-four (24) shifts personal day parity with the police, clerical and highway workers' unions. The Union also notes that allowing personal time to be used in increments is beneficial to both parties in that increments provide employees flexibility in using the additional personal time, and the increments will lessen the overtime costs imposed on the Township when personal time is used.

The Township, on the other hand, successfully argues that forty (40) hour work week members are different, and should not be included in the Union's proposal. The Township argues that these forty (40) hour work week members of the bargaining unit do not have to work twenty-four (24) hour shifts. Forty (40) hour work week employees have a more "normal" work schedule, with weekends and holidays scheduled off. In addition, the Township notes that these forty (40) hour work week members of the bargaining unit already have two (2) eight (8) hour personal days. There already is parity between these employees and other forty (40) hour work week personnel within the township. Therefore, there is no justification for increasing their personal leave time by an additional 32 hours, thereby according them four (4) days of personal leave.

The addition of New Year's Eve and Christmas Eve to the language in Part A, limiting the use of Personal Leave, is justified by the Township's concern that when an employee takes personal leave on either Christmas Eve or New

Years Eve, the time taken rolls into the actual holiday and the Township must pay a replacement double time and one half (2 ½) pay. The additions were justifiably requested to correct an expensive oversight in the existing contract language that wastes Township fiscal resources.

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## **ISSUE 5: ATTACHMENT 9 – CAPTAIN’S OVERTIME**

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### **The Union’s Proposal:**

The Union proposes that Attachment 9 [Jackson Township Voluntary Overtime Procedure] be modified to include Captains (i.e. modify all references to “firefighter” to firefighter/Captain”).

### **The Union’s Rationale:**

Presently, Captains, recognized members of the bargaining unit, are not included in the overtime provisions of the CBA. Under the current contract, the overtime of firefighter/paramedics is a mandatory subject of bargaining, but Captains have no such protection. The Union notes that the Township has offered no justification for the exclusion of Captains from these provisions of the CBA.

### **The Township’s Proposal:**

It is the position of the Township that the Policy for Captain’s Overtime submitted to the bargaining unit in Chief Ted Heck’s memorandum should be incorporated into the Collective Bargaining Agreement. The Township’s proposal for Captain’s Overtime is as follows:

### **OVERTIME PROCEDURE – CAPTAINS**

*When it becomes necessary to fill a Captain’s position, and no OIC’s are available from the shift from which the vacancy is occurring, an off duty Captain shall be assigned to the position by use of the voluntary overtime procedure established for Captains. If the use of the voluntary procedure*

*fails to secure a Captain then the forced procedure for Captains shall be implemented.*

*This procedure may result in having more personnel on duty than our established minimums. Keep this in mind if a report off occurs for a firefighter's position. You may not need to bring in another person.*

### Officer Staffing

*The Township, at its discretion and through their Fire Chief, shall determine the need for use of off duty officers to fill for officers on leave from their duty assignment.*

*The following guidelines will be followed by the Fire Chief in filling assignments.*

- *The Fire Chief may elect to fill the Battalion Chief's position with a Chief Grade Officer instead of a Captain;*
- *If a Captain has been scheduled for Overtime and a Battalion Chief then elects to take leave from the department, the Scheduled Overtime Captain shall retain the overtime assignment unless the Scheduled Overtime Captain chooses to give up the overtime assignment and a Chief Grade Officer agrees to accept the overtime assignment. However, if an additional officer vacancy occurs then a Chief Grade Officer may fill the vacancy.*
- *The Fire Chief will follow a Voluntary/Forced overtime list when filling a Captain's duty assignment. This procedure is established using Captain's seniority based on their promotional date and time of appointment to the rank of Full Time Captain. Captains shall be individually listed in an overtime booklet which shall indicate their seniority rank, date overtime was needed, and whether the overtime was accepted or rejected.*
- *Known authorized leaves shall be filled from the Voluntary Overtime list beginning a minimum of three (3) weeks from the need.*
- *The Fire Chief or designee shall contact the first eligible Captain in the Voluntary Overtime Booklet to determine the Captain's desire to accept overtime. If the individual agrees to work the overtime*

*assignment, they shall be scheduled for the duty assignment and the assignment duly marked in the overtime booklet. IF THE CAPTAIN REJECTS THE OPPORTUNITY, THEIR OVERTIME RECORD SHALL BE UPGRADED SHOWING THEIR REJECTION.*

- *The Captain shall have eight (8) hours to respond to the request if more than one (1) week would remain before the needed overtime. Failure to respond within the given time period after being contacted is considered as a negative response to work the overtime. The record of the Captain will be recorded as a rejection. The Fire Chief or designee shall contact the next Captain on the list. Attempts shall be made to contact the individual for eight (8) hours. Failure to make contact will result in the individual's name being bypassed for that particular overtime consideration.*
- *Any Captain who is on duty or authorized leave from the department shall not be eligible for overtime from the start of their approved duty leave until their return to duty date unless forced overtime is to be instituted. If such voluntary acceptance would permit forced overtime from being initiated, said Captain may accept the overtime position if they have utilized five (5) tours of vacation or received direct authorization from the Fire Chief.*
- *When one (1) week or less remains before needed, the Fire Chief or designee shall proceed immediately through the voluntary overtime list. Captains who are not reached shall remain in their current position. Captains who are reached shall advise the Fire Chief, at that time, of their acceptance or rejection of the offer.*
- *Any Captain voluntarily accepting an overtime assignment is obligated to complete that assignment if less than one (1) week remains before the scheduled overtime.*
- *If the Captain voluntarily accepting an overtime assignment reports off sick, said Captain shall lose their position on the Voluntary Overtime List.*
- *No Captain shall work seventy-two (72) consecutive duty scheduled hours unless assigned by the Fire Chief.*
- *If no Captain from the Voluntary Overtime List is available to fill the scheduled duty assignment, the Fire Chief or designee shall move to the procedure established for Captain Forced Overtime.*
- *Captains shall be permitted to trade two (2) Kelly Days out of schedule cycle with the permission of the Chief of the department. Such Trades shall be between Captains and shall not create overtime.*

### **The Township's Rationale:**

The memorandum proposed for inclusion in the CBA makes it clear that the decision to agree to institute Captain's Overtime is to be done at Management's discretion, and, once such overtime is approved, provides a defined procedure for assigning overtime.

### **The Arbitrator's Opinion:**

Attachment 9 should be modified to include Captains in Overtime Procedures, making the assignment of Overtime for Captains a mandatory subject of bargaining as it is for firefighter/paramedics.

Chief Ted Heck's Memorandum preserves management's right to decide when Captain's Overtime is needed, and provides an equitable procedure for assigning Captain's Overtime. Therefore, the language in this Memorandum [Twp. Post Brief, 17-18] should be included in the collective bargaining agreement. Specifically:

### **OVERTIME PROCEDURE – CAPTAINS**

*When it becomes necessary to fill a Captain's position, and no OIC's are available from the shift from which the vacancy is occurring, an off duty Captain shall be assigned to the position by use of the voluntary overtime procedure established for Captains. If the use of the voluntary procedure fails to secure a Captain then the forced procedure for Captains shall be implemented.*

*This procedure may result in having more personnel on duty than our established minimums. Keep this in mind if a report off occurs for a firefighter's position. You may not need to bring in another person.*

#### Officer Staffing

*The Township, at its discretion and through their Fire Chief, shall determine the need for use of off duty officers to fill for officers on leave from their duty assignment.*

*The following guidelines will be followed by the Fire Chief in filling assignments.*

- *The Fire Chief may elect to fill the Battalion Chief's position with a Chief Grade Officer instead of a Captain;*
- *If a Captain has been scheduled for Overtime and a Battalion Chief then elects to take leave from the department, the Scheduled Overtime Captain shall retain the overtime assignment unless the Scheduled Overtime Captain chooses to give up the overtime assignment and a Chief Grade Officer agrees to accept the overtime assignment. However, if an additional officer vacancy occurs then a Chief Grade Officer may fill the vacancy.*
- *The Fire Chief will follow a Voluntary/Forced overtime list when filling a Captain's duty assignment. This procedure is established using Captain's seniority based on their promotional date and time of appointment to the rank of Full Time Captain. Captains shall be individually listed in an overtime booklet which shall indicate their seniority rank, date overtime was needed, and whether the overtime was accepted or rejected.*
- *Known authorized leaves shall be filled from the Voluntary Overtime list beginning a minimum of three (3) weeks from the need.*
- *The Fire Chief or designee shall contact the first eligible Captain in the Voluntary Overtime Booklet to determine the Captain's desire to accept overtime. If the individual agrees to work the overtime assignment, they shall be scheduled for the duty assignment and the assignment duly marked in the overtime booklet. IF THE CAPTAIN REJECTS THE OPPORTUNITY, THEIR OVERTIME RECORD SHALL BE UPGRADED SHOWING THEIR REJECTION.*
- *The Captain shall have eight (8) hours to respond to the request if more than one (1) week would remain before the needed overtime. Failure to respond within the given time period after being contacted is considered as a negative response to work the overtime. The record of the Captain will be recorded as a rejection. The Fire Chief or designee shall contact the next Captain on the list. Attempts shall be made to contact the individual for eight (8) hours. Failure to make contact will result in the individual's name being bypassed for that particular overtime consideration.*
- *Any Captain who is on duty or authorized leave from the department shall not be eligible for overtime from the start of their approved duty*

*leave until their return to duty date unless forced overtime is to be instituted. If such voluntary acceptance would permit forced overtime from being initiated, said Captain may accept the overtime position if they have utilized five (5) tours of vacation or received direct authorization from the Fire Chief.*

- *When one (1) week or less remains before needed, the Fire Chief or designee shall proceed immediately through the voluntary overtime list. Captains who are not reached shall remain in their current position. Captains who are reached shall advise the Fire Chief, at that time, of their acceptance or rejection of the offer.*
- *Any Captain voluntarily accepting an overtime assignment is obligated to complete that assignment if less than one (1) week remains before the scheduled overtime.*
- *If the Captain voluntarily accepting an overtime assignment reports off sick, said Captain shall lose their position on the Voluntary Overtime List.*
- *No Captain shall work seventy-two (72) consecutive duty scheduled hours unless assigned by the Fire Chief.*
- *If no Captain from the Voluntary Overtime List is available to fill the scheduled duty assignment, the Fire Chief or designee shall move to the procedure established for Captain Forced Overtime.*
- *Captains shall be permitted to trade two (2) Kelly Days out of schedule cycle with the permission of the Chief of the department. Such Trades shall be between Captains and shall not create overtime.*

### **Fact-Finder's Rationale:**

Captains, as members of the bargaining unit should be included in the language found in Attachment 10 addressing OVERTIME PROCEDURES [JACKSON TOWNSHIP FIRE DEPARTMENT VOLUNTARY OVERTIME PROCEDURE]. As members of the bargaining unit directly affected by overtime, there is no reason to exclude Captains. That being said, inclusion procedures should be clearly defined by language that describes how Captain's Overtime will be approved and assigned. Chief Heck's Memorandum does this.

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**ISSUE 6: APPENDIX B – HEALTH INSURANCE**

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**The Union's Proposal:**

The Union proposes that Appendix B be modified as follows:

## Section 1.

Change the eleven (11) Committee members to thirteen (13) Committee members, the five (5) representatives to (6) representatives, and the last sentence of this section to the following:

*The remaining member shall be a neutral and mutually selected by the Union and Township representatives.*

## Section 2:

Change to read as follows:

*The Health Care Cost Containment Committee shall meet at least four (4) times during the first year of this agreement. The Committee shall select a Chairperson from the members. The Committee shall, at its first meeting, establish rules and regulations for its governance. However, these rules and regulations shall provide that each of the thirteen (13) members shall have one vote, and that a majority vote will be controlling. These rules also must provide the following: (a) a reasonable time frame for implementation of the findings of the committee; (b) a quorum of two-thirds (2/3) from both the Township and union representatives exists; (c) an agenda package is provided to the Committee members at least five (5) days prior to every meeting; (d) that any presentation of information be videotaped; (e) that any vote on benefit level changes be done at the meeting following a meeting where the change is proposed; (f) the substitution of an alternate representative for any such member who may be unable to attend, or the written submission of a proxy vote; and (g) each representative has the opportunity to use any advisor or consultant it deems necessary.*

## Section 3:

Delete the existing language and replace with the following:

*The Health Care Cost Containment Committee will serve to promote and investigate methods to contain the overall cost of health care. Unilateral changes in the health care benefits currently provided to employees will not be permitted. Any proposed midterm changes in health care benefits will be done in accordance with Article XVIII, Section 10 of the contract.*

*[Article XVIII, Section 10:*

*The level of benefits for hospitalization, major medical, dental, vision and prescription drug insurance coverage shall be as set forth in Appendix B and such level of benefits shall be maintained during the term of the Contract.*

*The Board of Trustees shall be entitled to make changes in the present health benefits plan during the term of the contract provided the majority of all bargaining unit employees consent.]*

## Section 4:

Delete existing language and replace with the following:

*Employees will be responsible for a monthly contribution of \$30.00 starting January 1, 2006; \$35.00 starting January 1, 2007; \$40.00 starting January 1, 2008.*

**The Union's Rationale:**

Over the span of the previous CBA, the Health Care Cost Containment Committee has not operated as originally intended. Acting without rules and regulations and with lackluster attendance, changes in health care coverage have been voted on without adequate time to consult with the Union's membership and/or advisors. As a result, there have been midterm changes in the Union's health care coverage that the Union believed to be unfair, inequitable, and unforeseen. The Union believes that the proposed changes will result in the Health Care Cost Containment Committee's operating as it was originally intended to do. The proposed changes will give the Union

adequate time to consult and prepare of any proposal the Committee is considering for adoption.

### **The Township's Proposal:**

The Health Care Committee was established to have representatives of Union and Management work together to make decisions regarding the cost containment of insurance while retaining choice on benefit levels. Under the current Agreement the insurance committee consists of an equal number of union and management representatives. There is also an outside insurance consultant selected by members of the Committee whose role is to bring information to the Committee and to act as a tie-breaking vote.

Under the current CBA, the Township is responsible for all premium payments up to \$877.43 per member per month. If the premium exceeds this amount, the CBA requires bargaining unit members to pay 30% of the increase up to \$75.00 per month, and requires the Township to pay 70% of the premium increase and any amount over \$75.00 per month.

It is the Committee's responsibility to make joint decisions as to whether benefit levels should be adjusted to keep premiums below this \$877.43 cap, or whether employee contributions should be increased to retain current benefit levels. Each member of the Committee has an equal vote.

The Committee met monthly and made four (4) substantive changes to the plan [Twp. Exh. PPO Benefit Comparison]. While some changes lessened benefit levels, until the beginning of 2006 employees were not required to make any employee contribution. The Committee functioned so effectively that under the original Agreement, employees pay only \$14.00 per pay for their insurance with no substantial reduction in benefit levels.

In order to fine tune the effectiveness of the Committee, the Township proposes:

- that the Committee have more than a limited term, i.e., that it become a standing committee;
- that the Committee be expanded to include a new bargaining unit recognized by the Township, i.e., the Police Lieutenants;
- that the Committee be expanded from 11 to 13 members;

- that time be allotted by the Committee for members to solicit membership opinion on proposed changes;
- that procedural and governance rules be adopted to frame the goals and functions of the Committee. [Twp. Post Brief, 8-9]

In addition to these changes to the Committee's structure and functioning, the Township also proposes the following three (3) substantive changes to its insurance plan:

- that the \$877.43 premium cap be increased 3% per year, making the cap \$903.00 per person in 2006;
- that the Union agree to increase cost sharing of premium increases from the 70%-30% split to a 50%-50% split;
- that Union members be responsible up to \$100.00 per month as opposed to the current \$75.00 per month responsibility. [Twp. Post Brief, 9]

The Township's specific proposal reads:

Health Insurance

*The level of benefits for hospitalization, major medical, dental, vision and prescription drug insurance coverage shall be as set forth in Appendix B.*

APPENDIX B – INSURANCE

Section 1

*The parties agree to establish a Health Care Cost Containment Committee. The committee shall consist of thirteen (13) members. Six (6) members shall be union representatives, one (1) from each of the Township's six (6) departments with bargaining units (i.e., police patrol, police sergeants, police lieutenants, fire, clerical, and highway). These members shall be selected at the sole discretion of the bargaining unit to represent their respective units. Six (6) other such members shall be township representatives, and these members shall be appointed by the Board of Trustees. The remaining member shall be mutually selected by the other members of the committee, and shall serve at their pleasure.*

## Section 2

*The Health Care Cost Containment Committee shall meet at least four (4) times a year. The Committee shall select a Chairperson from the members. The Committee shall, at its first meeting, establish rules and regulations for its governance. However, these rules and regulations shall provide that each of the thirteen (13) members shall have one vote, and that a majority vote will be controlling. These rules also must provide the following:*

- 1. that a reasonable time frame for implementation of the findings of the committee be established;*
- 2. that a quorum (2/3 of each side) must exist in order to vote;*
- 3. that an agenda package is to be provided to Committee members at least five (5) days prior to the meeting;*
- 4. that any presentation of information will be videotaped;*
- 5. that any vote on benefit level changes will be done at the meeting following the meeting at which the change is proposed;*
- 6. that provisions be made for the substitution of an alternate representative for any member unable to attend, or that provisions be made for the written submission of a proxy vote;*
- 7. that each representative have the opportunity to use any advisor or consultant deemed necessary.*

## Section 3

*The calendar year ending before the establishment of the Committee (2002) shall be considered the initial base year for the purpose of determining health care cost economic data. This base (\$877.43) shall increase 3% per year in each year of the new contract. The change to the base shall not take place until after ratification of this Agreement and shall not be retroactive. The Committee will investigate methods to contain the overall cost of health care, including dental, vision and prescription drug costs. These methods may include, but are not limited to, reduction of benefits, scope of coverage, changes in manner of administration (managed care). The final determination as to the method utilized to contain the overall cost of health care shall be vested to and the sole responsibility of the Committee.*

#### Section 4

*In the event that overall cost of health care increases and related expenses from the initial base year, or any subsequent base year, such increase, on a per employee, per month basis shall be shared between the Township and the bargaining unit member on a 50%-50% basis, respectively up to one hundred dollars (\$100.00) per month for the employee.*

#### **The Township's Rationale:**

The Committee has contained costs, and should be expanded and governance adjusted in order to have it function even better. The structural and procedural changes to the Committee proposed will address Union concerns and achieve that goal.

The substantive changes proposed are premised upon the Township's belief that in order to work, Labor and Management must have an equal stake in seeking alternatives and decision making as to employee contributions. [Post Brief, 9] As set forth in SERB's 13<sup>th</sup> Annual Report on the Cost of Health Insurance, almost 72% of public employers responding require their employees to pay a portion of the cost of the medical plan, with an average monthly contribution of \$41.30 for single coverage and \$89.08 for family coverage. Monthly averages for townships were \$46.11 for single coverage and \$89.08 for family coverage. [See Comparables – SERB 13<sup>th</sup> Annual Report] In light of these statistics, requiring members to pay \$17.25 per pay is not outside of the state averages set in 2004 [Twp. Post Brief, 9-10].

#### **The Fact-Finder's Opinion:**

Appendix B should be modified to address the concerns of both parties, and the specific language appearing in Appendix B should read as follows:

#### APPENDIX B – INSURANCE

##### Section 1

*The parties agree to establish a standing Health Care Cost Containment Committee. This standing committee shall consist of thirteen (13) members. Six (6) members shall be union representatives, one (1) from each of the Township's six (6) departments with bargaining units (i.e., police patrol,*

*police sergeants, police lieutenants, fire, clerical, and highway). These members shall be selected at the sole discretion of the bargaining unit to represent their respective units. Six (6) other such members shall be township representatives, and these members shall be appointed by the Board of Trustees. The remaining member shall be mutually selected by the other members of the committee, and shall serve at their pleasure.*

## Section 2

*The Health Care Cost Containment Committee shall meet at least four (4) times a year. The Committee shall select a Chairperson from the members. The Committee shall, at its first meeting, establish rules and regulations for its governance. These rules and regulations shall provide that each of the thirteen (13) members shall have one vote, and that a majority vote will be controlling. These rules must also provide the following:*

- 1. that a reasonable time frame be established for implementation of the findings of the committee;*
- 2. that a quorum (2/3 of each side) must exist in order to vote;*
- 3. that an agenda package is to be provided to Committee members at least five (5) days prior to any meeting;*
- 4. that any presentation of information will be videotaped;*
- 5. that any vote on benefit level changes will be done at the meeting following the meeting at which the change is proposed;*
- 6. that provisions be made for the substitution of an alternate representative for any member unable to attend, or that provisions be made for the written submission of a proxy vote;*
- 7. that each representative have the opportunity to use any advisor or consultant deemed necessary.*
- 8. that the Committee will investigate methods to contain the overall cost of health care, including dental, vision and prescription drug costs. The methods investigated may include, but are not limited to, reduction of benefits, scope of coverage, changes in manner of administration (managed care).*
- 9. that the final determination as to the method utilized to contain the overall cost of health care shall be vested to and be the sole responsibility of the Committee.*
- 10. that any proposed mid-term changes in health care benefits will be done in accordance with Article XVIII, Section 10 of the contract.*

Section 3.

The Fact-Finder recommends a compromise adjustment that would increase the 2002 premium of \$877.43 by 6%, i.e., a 3% a non-compounded increase adjustment for 2003-2004, and 2004-2005, based on the 2002 premium of \$877.43.

<u>2003-2005</u>	<u>6% increase=\$52.65</u>	<u>Base=\$930.08</u>
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This adjusted base premium of \$930.08 would then become the base premium for each of the 3% annual compounded adjustments proposed by the Township in the 2006-2008 contract.

<u>2005-2006</u>	<u>3% increase=\$26.90</u>	<u>Base=\$957.98</u>
<u>2006-2007</u>	<u>3% increase=\$28.74</u>	<u>Base=\$986.72</u>
<u>2007-2008</u>	<u>3% increase=\$29.60</u>	<u>Base=\$1016.32</u>

The change to the base shall not take place until after ratification of this Agreement, but shall be retroactive as noted above.

Section 4.

*In the event that the overall cost of health care increases and related expenses from the initial base year, or any subsequent base year, such increase, on a per employee, per month basis shall be shared between the Township and the bargaining unit member on a 70%-30% basis, respectively up to \$100.00 per month per employee.*

**Fact-Finder's Rationale:**

Section 1, dealing with the structure of the Health Care Cost Containment Committee combines the proposals for change advanced by both parties.

Section 2, dealing with the goals and procedures of the Health Care Cost Containment Committee also simply combines the procedural changes discussed and proposed by both parties.

Section 3, deals with the establishment of the premium base upon which the Township's proposed 3% per year increase in this and subsequent contract years will be calculated. The Township's proposal asks that this increase not be retroactive, and argues that \$877.43 base used throughout the 2002-2005 contract was developed to include potential increases throughout the life of 2002-2005 contract. The Union, on the other hand, argues that to begin to calculate the 3% increase on a base premium figure developed in 2002 would not truly reflect base premium increases that have been incurred from January 1, 2002, through December 31, 2005. The Union asks that the 3% increase be retroactive and include 3% adjustments for contract years 2003-2004 and 2004-2005.

The Union's proposal with a 3% retroactive increase in *the base premium \$877.43, established in 2002, for each subsequent year would compound and result in the following premium base structure:*

2002-2003		Base = \$877.43
2003-2004	3% increase = \$26.32	Base = \$903.75
2004-2005	3% increase = \$27.11	Base = \$930.86
2005-2006	3% increase = \$27.93	Base = \$958.79
2006-2007	3% increase = \$28.76	Base = \$987.52
2007-2008	3% increase = \$29.62	Base = \$1017.16

The Township proposes that the base premium not be retroactive. *The base premium \$877.43, established in 2002, shall increase by 3% beginning the first year of the proposed contract, 2006, and by 3% in the second year of the contract, 2007-2008.*

2002-2005		Base = \$877.43
2006-2007	3% increase = \$26.32	Base = \$903.75
2007-2008	3% increase = \$27.11	Base = \$930.86

The Fact-Finder recommends a compromise adjustment that would increase the 2002 premium of \$877.43 by 6%, i.e., a 3% a non-compounded increase adjustment for 2003-2004, and 2004-2005, based on the 2002 premium of \$877.43.

<u>2003-2005</u>	<u>6% increase = \$52.65</u>	<u>Base = \$930.08</u>
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*This base premium of \$930.08 would then become the base for each of the 3% annual compounded adjustments proposed by the Township in the 2006-2008 contract.*

<i>2005-2006</i>	<i>3% increase=\$26.90</i>	<i>Base=\$957.98</i>
<i>2006-2007</i>	<i>3% increase=\$28.74</i>	<i>Base=\$986.72</i>
<i>2007-2008</i>	<i>3% increase=\$29.60</i>	<i>Base=\$1016.32</i>

The Fact-Finder agrees with the Union that the yearly 3% increase in the base premium rate upon which their contribution will be measured should not simply be developed on a base premium established in 2002. Therefore, the fact-finder recommends the compromise adjustment of 6% on the 2002 base premium be adopted in determining the base premium central to the insurance plan outlined in Appendix B.

The Fact-Finder recommends that the language noting a 70%-30% split between Unit member and Township, in the event of an overall cost of health care increase and related expenses from the initial base year of this contract, or any subsequent base year, be retained in the proposed contract. The 70%-30% split was part of the *Changes to Health Care During the Course of Contract 01/01/03 to 12/31/05 [Union Exh. 22, p.1]* made by the Health Care Cost Containment Committee during the term of the prior contract, recommended in 2005. Since both parties have acknowledged the need to retain the Committee, the Fact-Finder acknowledges the need to adopt the Committee's recommendations. However, it is also recommended that the cap to this shared responsibility for potential increases be raised to \$100.00 per month for employees in the new contract.

### **Fact-Finder's Conclusion**

This Fact-Finder has addressed the six issues remaining in dispute at the time of the Fact-Finding meeting, however, it should be noted that the Fact-Finder also recommends the adoption of all contract language addressing all issues settled by the parties before the Fact-Finding meeting.