

DUPLICATE

**MARC A. WINTERS**

STATE EMPLOYMENT  
RELATIONS BOARD

ARBITRATION / MEDIATION / FACT-FINDING  
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2012 OCT 29 P 4: 01

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October 26, 2012

State Employment Relations Board  
65 East State Street, 12<sup>th</sup> Floor  
Columbus, Ohio 43215-4213

Re: 12-MED-04-0514, Communication Workers of America and Olmsted Township Trustees  
Fact-Finding Report Issued October 24, 2012

Dear Members of the Board:

On October 24, 2012, I issued the above-referenced Fact-Finding Report. It has come to my attention and after speaking to Donald Collins, General Counsel/ Assistant Executive Director, that I made an error in writing and issuing the above-Report.

My intentions were honest and I was trying to accommodate the interest of both parties, however, after further review, I did in fact make an error.

I hereby request that the Board please accept the attached written Report with modifications correcting my error.

More specifically, I have changed Issue #10, Duration, the effective date and the term of the Agreement, to reflect the requirements of the Ohio Revised Code, 4117.9. Accordingly, I have also change Issue #9, Wages, to coincide with the changes of the effective date and term of the Agreement.

I apologize for the oversight and request that the Board permit the modifications. Based on the bargaining that had taken place between the parties and their respective positions, I felt I was correct and was able to make an exception from the rule. As stated above, I was wrong and stand corrected.

I Thank you for your consideration.

Sincerely,

*Marc A Winters*

Marc A. Winters  
Fact-Finder

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cc: Don Collins, SERB General Counsel  
Mary Laurent, Bureau of Mediation  
Mike Esposito, Esq., Employer Representative  
Chuck DeGross, Esq., Union Representative

**FACT-FINDING REPORT  
STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD  
October 24, 2012  
Modified: October 26, 2012**

STATE EMPLOYMENT  
RELATIONS BOARD

2012 OCT 29 P 4:01

In the Matter of )  
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)  
Olmsted Township Trustees )  
)  
)  
And )  
)  
)  
Communication Workers of America, )  
)

12-MED-04-0514

**APPEARANCES**

**For the Township Trustees  
Michael Esposito, Esquire  
Clemans Nelson & Associates**

**For the Communication Workers of America  
Chuck DeGross, Esquire  
General Counsel**

**Fact-Finder, Marc A. Winters**

## **BACKGROUND**

The Fact-Finding involves the Olmsted Township Trustees, (hereafter referred to as the "Employer") and the Communication Workers of America, Local 4340, (hereafter referred to as the "Union"). The Union's bargaining unit is comprised of approximately five (5) full-time employees and approximately two (2) part-time employees working as Service Technicians I & II, Secretaries and Office Coordinators all in accordance with SERB rules. The Township is only one (1) of two (2) Townships which fall within Cuyahoga County. There are four additional Bargaining Units within this Township; Police Unit, Fire Fighters Unit, Part-time Police Unit and a Dispatchers Unit.

In a letter, dated September 11, 2012, the State Employment Relations Board duly appointed Marc A. Winters as Fact-Finder for this matter under the Ohio Administrative Code Rule 4117.

The parties to this fact-finding have had an ongoing bargaining relationship. The most recent collective bargaining agreement between the parties, a three (3) year agreement, expired on December 31, 2009. The parties have met on numerous occasions, approximately eight (8) sessions, to negotiate a successor agreement and have signed approximately thirty-one (31) tentative agreements. Although successful in resolving most issues, the parties, unable to reach an Agreement, declared impasse and proceeded to Fact-Finding.

The parties have a signed extension agreement whereby they have agreed to extend the time period for the issuance of the findings of fact and recommendations of this Fact-Finder.

The Fact-Finding Hearing was conducted on Thursday October 18, 2012, in the offices of the Township's Police Department, Olmsted Township Ohio. The Fact-Finding Hearing began around 10:00 A. M., and was adjourned at approximately 10:40 A. M.

Mediation during the course of Fact-Finding was attempted. Although the mediation, at face value, did not resolve the issues, at that point, it gave this Fact-Finder a better understanding of each parties respective position so to help narrow the differences between the parties so that this Fact-Finder could now write this Report

This Fact-Finder would like to convey his appreciation not only for the courtesy and cooperation given to the Fact-Finder by both parties, but to each other as well.

The Hearing was conducted in accordance with the Ohio Public Employee Bargaining Statue set forth in rule 4117. Rule 4117-9-05 sets forth the criteria this Fact-Finder is to consider in making recommendations. The criteria are:

1. Past collectively bargained agreements, if any.

2. Comparisons of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, given consideration to factors peculiar to the area and classification involved.
3. The interest and welfare of the public, and the ability of the public employer to finance and administer the issue proposed and the effect of the adjustments on the normal standards of public service.
4. The lawful authority of the public employer.
5. Any stipulations of the parties.
6. Such other factors, not confined to those listed above which are normally or traditionally taken into consideration in the determining of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or private employment.

In addition to, the testimony given and the evidence presented, taking into consideration the Ohio Rule 4117 criteria, internal and external parity, this Fact-Finder studies and relies on various Collective Bargaining Agreements, Fact-Finding Reports and Conciliation Awards, as posted online by SERB, in writing this and any Fact-Finding Report.

Any and all items or proposals not previously agreed upon or specifically addressed within this Report are considered to be withdrawn. Any and all items or proposals agreed to and any tentative agreements made prior to the date of this Report, that are not specifically addressed in this Report, are recommended to be incorporated into the new Agreement. The Parties have approximately thirty-one (31) signed tentative agreements.

Except as recommended and/or modified below or mentioned above, the provisions of the predecessor agreement are to be incorporated into the new Agreement without modification.

Where this Fact-Finder recommends changes, it may be sufficient to indicate the change only without quoting the exact language of the parties proposals.

The following ten (10) issues are the issues that were considered during the Fact-Finding Hearing on October 18, 2012.

ISSUE NO. 1,	ARTICLE 20, BEREAVEMENT
ISSUE NO. 2,	ARTICLE 21, VACATIONS
ISSUE NO. 3,	ARTICLE 22, HOLIDAYS
ISSUE NO. 4,	ARTICLE 23, LONGEVITY
ISSUE NO. 5,	ARTICLE 30, HOURS OF WORK AND OVERTIME

ISSUE NO. 6,           ARTICLE 31, OVERTIME AND UNSCHEDULED WORK  
ISSUE NO. 7,           ARTICLE 33, HEALTH BENEFITS  
ISSUE NO. 8,           ARTICLE 35, UNIFORMS  
ISSUE NO. 9,           ARTICLE 37, WAGES  
ISSUE NO. 10,         ARTICLE 41, DURATION

### **RECOMMENDATIONS**

The current Collective Bargaining Agreement, here, had expired December 31, 2009. During this Fact-Finding Hearing arguments were given and discussions took place on the long and drawn out process that had occurred with this set of bargaining. Claims had been made that state an opinion that one party was bargaining in good faith and one was not. One party made formal proposals once bargaining began and one party had not. One party wants a Report for 2010 through 2012, while the other party wants to scrap the current three (3) year period because of how negotiation took place and have a new Agreement for 2013 through 2015.

With all the above said, interesting, however, is that the parties were able to agree on thirty-one tentative agreements and reduce the list of outstanding issues to only ten (10).

The following recommendations are a good faith attempt to have both sides accept this Report and end the bargaining for now with hopes they will try to rebuild a better bargaining relationship for future bargaining.

ISSUE NO. 1,           ARTICLE 20, BEREAVEMENT

#### **EMPLOYER POSITION:**

The Employer has proposed to maintain the current level of benefit for this provision and add some titling to sections to reflect content.

#### **UNION POSITION:**

The Union has proposed to move brother-in-law and sister-in-law up from 2 days paid leave to 3 days paid leave.

#### **DISCUSSION AND RECOMMENDATION:**

The Employer believes that the Union's proposals should not be given merit because of what they believe as a lack of actual bargaining during the negotiations. While in some cases and some proposals this may be true and their logic may apply, this proposal is not one of those times. Employers must be cognizant to how internal parity is important for morale and productivity. Since other bargaining units within this Township have brother-in-law and sister-in-law at the

three (3) day paid leave, the Union's proposal is recommended along with the changes suggested by the Employer.

## **BEREAVEMENT LEAVE**

**Section 1. Amount.** ~~20:01~~ Commencing upon execution of this Agreement, all full-time members of the bargaining unit are entitled to receive up to three (3) days paid leave upon the death of a person in the member's immediate family. Paid leave under this section is available only for making funeral arrangements when necessary and for attendance at the funeral service which includes visitation and burial services provided that such funeral services fall on a regularly scheduled work day. Paid leave is unavailable for attendance at funeral services on regularly scheduled days off, vacation or holidays. All paid funeral leave must be consecutive working days. The Township will accommodate the religious beliefs and practices of the individual member for purposes of this section and make necessary adjustments.

**Section 2. Immediate Family Defined.** ~~20:02~~ Immediate family is defined as:

1. Spouse;
2. Children (natural or in loco parentis);
3. Parent (natural or adoptive);
4. Brother or Sister;
5. Grandparents;
6. Daughter- or Son-In-Law; or
7. Mother- or Father-in-Law
8. Sister - or Brother-In-Law

**Section 3. Funeral Leave for Other Relationships.** ~~20:03~~ Upon the death of a grandchild, two (2) days paid funeral leave shall be granted to attend services, in accordance with the procedure described in Section ~~20:01~~.

**Section 4. Non-Local Funeral Services.** ~~20:04~~ In addition to the foregoing, any member who is required to travel over 500 miles round trip to attend a funeral service as outlined in this section is entitled to receive one (1) day's paid leave for travel purposes so long as the days are consecutive to the funeral service and the member is required to miss a regularly scheduled work day.

**Section 5. Additional Leave.** ~~20:05~~ if additional time is necessary the employee may use accumulated sick leave if approved by the supervisor.

ISSUE NO. 2,        ARTICLE 21,        VACATIONS

**EMPLOYER POSITION:**

The Employer has proposed to maintain the current vacation schedule, but add new language to clarify the parties' longstanding practice or recognizing vacation service credit based upon years of continuous full-time employment with the Township. The language also includes a mechanism to address the proration of part-time service credit for an employee that becomes full-time after previously having part-times service with the Township.

**UNION POSITION:**

The Union has proposed increasing the amount of vacation time allotted to their members.

**DISCUSSION AND RECOMMENDATION:**

Absent any real argument from the Union, the Employer's proposal is found to be both reasonable and prudent. In addition both parties have recommended a proposed side letter to address the prior part-time service of a bargaining unit member.

Therefore, the Employer's proposal and the companion side letter is recommended.

The Union's proposal for increased vacation time, however, is not recommended as this unit is not substandard in the area of vacation time taking into consideration both the external and internal comparables provided for at the Hearing.

**VACATIONS**

***Section 1. Accrual. ~~21.01~~ It is the intent of the parties to preempt R.C. 9.44. Vacation shall be based on years of completed full-time service as defined below and prorated part-time service with the Employer. All regular full-time employees shall be granted the following vacation leave with full pay each year based upon their length of service as follows:***

<b><u>Service</u></b>	<b><u>Annual Vacation Eligibility</u></b>
1 year but less than 5 years	80 working hours
5 years but less than 15 years	120 working hours
15 years but less than 25	160 working hours
25 years or more	200 working hours

***Service as used herein shall mean full-time service (time in active pay status) with the Township. Additionally, a part-time employee who moves to a full-time position shall be credited for part-time service with the Township on the basis of one-quarter (1/4) year of service for each completed five hundred twenty (520) hours of such part-time service.***

**Section 2. Eligibility/Usage.** ~~21-02~~ An employee becomes eligible for vacation leave on his *full-time* employment anniversary date, and vacation leave shall be taken by the employee within twelve (12) months after it is earned. Any vacation time not used by the end of the anniversary year is forfeited, except that the Board of Trustees may permit an employee to carry over his Vacation leave to the following year if an emergency exists. In no case shall vacation leave be carried over more than two (2) years.

**Section 3. Voluntary Separation.** ~~21-03~~ Any employee who voluntarily terminates employment prior to taking vacation shall be paid for the unused portion of any fully earned but unused vacation leave earned during the year of separation.

**Section 4. Proration.** ~~21-04~~ An employee's paid vacation shall be adjusted (or prorated) to reflect time spent on unpaid leave(s) of absence totaling thirty (30) days or more (e.g., for each thirty (30) days present on unpaid leave of absence an employee shall lose one-twelfth (1/12) of his regular paid vacation leave). This prorating of vacation leave shall not affect an employee's seniority date.

**Section 5. Holidays during Scheduled Vacation.** ~~21-05~~ If a recognized holiday falls within an employee's vacation leave, the employee shall receive an additional paid vacation day in lieu of the holiday.

**Section 6. Scheduling/Approval.** ~~21-06~~ Employees may take vacation any time during the calendar year with the Township's permission. During the fourth quarter of each calendar year employees will be given the opportunity to indicate on a form provided by the Township their vacation preference for the upcoming year. By January 1 of each year, a written vacation schedule will be prepared by the Township (and individual written confirmation given to each employee) with priority given according to their Township seniority. Once the vacation schedule is determined it shall not be changed without consent of the involved employee. Any employee who fails to make his vacation application during the appropriate period will be given his vacation leave without regard to seniority based upon when the application is made.

**Section 7. Previously Accrued Time.** ~~21-07~~ All vacation time that has already been accrued and is currently on the books shall remain in effect and untouched by this Agreement.

**NEW SIDE, LETTER  
PRIOR SERVICE CREDIT**

***The parties agree that notwithstanding the proration for part-time service established effective August 1, 2012, employee Tammy Tabor shall be considered to have eight (8) years of vacation service credit as of her full-time anniversary date in the year 2012. Effective upon execution, she shall be credited for three (3) weeks of vacation leave as provided for in the parties' vacation schedule. Future vacation service credit shall be provided in accordance with Article 21, Section 1.***

ISSUE NO. 3. ARTICLE 22, HOLIDAYS

EMPLOYER POSITION:

The Employer is proposing that each bargaining unit member receive eight (8) hours of holiday pay for each holiday, including those on which work is required. In addition, when work is required each member will be compensated at the overtime rate for work performed. The Employer states that the above is the current practice between the parties.

The Employer has also proposed to clean up the eligibility language to include time spent on a personal day so that members would not lose holiday pay if on personal time.

Finally, the Employer is proposing language to address the date on which holidays are observed and the proration of personal day benefits based on when an employee is hired or retires.

UNION POSITION:

The Union has proposed to add "Birthday holiday."

DISCUSSION AND RECOMMENDATION:

Once again the Employer's proposal is found to be reasonable and it appears as the parties were in agreement to such changes during the negotiations. Therefore, the Employer's proposal is recommended.

The Union proposal to add a holiday is, however, not recommended as this unit is not substandard in the area of paid holidays taking into consideration both the external and internal comparables provided at the Hearing.

**HOLIDAYS/PERSONAL DAYS**

**Section 1. Recognized Holidays.** ~~22:01~~ All regular full-time employees shall be entitled to eight (8) hours pay a day off with pay (i.e., holiday pay) for observation *each* of the following holidays:

- |                        |                        |
|------------------------|------------------------|
| New Year's Day         | Labor Day              |
| Martin Luther King Day | Columbus Day           |
| President's Day        | Veterans' Day          |
| Memorial Day           | Thanksgiving Day       |
| Independence Day       | Day after Thanksgiving |
|                        | Christmas Day          |

**Section 2. Date of Observance.** ~~22:02~~ Holidays shall be observed on the actual days which they fall *unless that date falls on a weekend or an other day is agreed upon for observance. When a holiday falls on a weekend date, the holiday will be observed on the previous Friday or following Monday.*

**Section 3. Holiday Pay Eligibility.** ~~22-03~~ To be entitled to holiday pay, an employee must be in paid status (i.e., actually receives pay during the week in which the holiday falls). To be entitled to holiday pay, employees must actually work the scheduled work day before, and the scheduled work day after the holiday, unless absent due to *personal day*, vacation, funeral leave, jury duty, bona fide illness (as determined by the Township), or serious injury. **(From 22.06)**

~~22.04 A full-time employee who does not work on a recognized holiday shall receive eight (8) hours straight-time pay at his regular hourly rate. (Provided for in Section 1)~~

**Section 4. Rate of Pay for Holiday Work.** ~~22-05~~ All employees who work on a recognized holiday shall receive one and one-half (1 1/2) times their regular rate of pay for all hours worked on the holiday. Any employee who works on a holiday is also entitled to take a day off with pay within thirty (30) days after the holiday with permission of the immediate supervisor based on operational needs, or be paid eight (8) hours. If the extra day off is not taken within thirty (30) days, the employee will be paid eight (8) hours.

~~22.06 To be entitled to holiday pay, employees must actually work the scheduled work day before, and the scheduled work day after the holiday, unless absent due to vacation, funeral leave, jury duty, bona fide illness (as determined by the Township), or serious injury. (Moved to section 2)~~

**Section 5. Personal Days/Proration.** ~~22-07~~ In addition to the foregoing holidays, each full-time employee is entitled to two (2) personal days per year that can be taken at any time with the prior approval of the Department Head or his designee. Requests to take personal days must be received *at least* seven (7) days in advance of the requested date. *An employee hired after June in any given year will be entitled to one (1) personal day for the first year of employment. An employee retiring prior to June in any given year will have his separation pay offset by eight (8) hours in the event that he has already utilized his annual, two (2) day allocation.*

ISSUE NO. 4,           ARTICLE 23, LONGEVITY

**EMPLOYER POSITION:**

The Employer has proposed to maintain the current level of benefits and to add some titling to sections to reflect content.

**UNION POSITION:**

The Union has proposed to increase the amount of Longevity payments by \$150 to each year of the schedule.

**DISCUSSION AND RECOMMENDATION:**

Once again the Employer's titling changes are recommended and the Union's proposed increases to the longevity pay is not. This Unit's longevity pay is very comparable to all external comparables provided.

## LONGEVITY

**Section 1.** ~~23.01~~ Commencing January 1, 2008, and for each year thereafter, the Township will pay longevity to each full-time member based on the following schedule:

After 5 years -	\$450.00
After 10 years -	\$600.00
After 15 years -	\$750.00
After 20 years -	\$950.00

**Section 2.** The longevity benefit shall be paid once per year on a date specified by the Township.

## ISSUE NO. 5, ARTICLE 30, HOURS OF WORK AND OVERTIME

### EMPLOYER POSITION:

During the course of bargaining the parties had agreed to incorporate related language from Article 31 into this provision. This move did not substantively alter the level of benefit, but it did group related language together and clarify some of the terminology to reflect the parties' obligations with respect to overtime. The parties also verbally agreed to a section addressing compensatory time administration which would increase the compensatory time bank for unit members to eighty (80) hours. This would replace the current language on compensatory time in Article 40.

### UNION POSITION:

Maintain current language.

### DISCUSSION AND RECOMMENDATION:

Hearing no real objection to the Employer's proposal and realizing that the Bargaining Unit was in favor of increasing their comp time, the Employer's proposal is hereby recommended.

## HOURS OF WORK AND OVERTIME

**Section 1. Work Week.** ~~30.01~~ The normal work period for regular full-time employees shall be forty (40) hours of work per week, scheduled during a seven (7) day, one hundred sixty-eight (168) hour work week. ~~31.01~~ Employees shall receive time and one half (1-1/2) their regular rate of pay for all hours worked in excess of forty (40) hours of work in a one (1) week the work period week defined as 12:01 a.m. on Sunday to 12:00 midnight on Saturday. (1<sup>st</sup> Sentence of 31.01)

**Section 2. Overtime.** ~~30:02~~—For the purpose of computing overtime pay, vacation and holidays shall be counted as hours and days worked. *All other overtime shall be paid in accordance with the Fair Labor Standards Act (FLSA).*

**Section 3. Scheduling.** ~~30:03~~ Employees' work hours shall be scheduled as needed to meet the operational needs of the Township. ~~The Township agrees not to make any changes in the employees' regularly scheduled work hours for the sole purpose of saving *avoiding* overtime costs.~~  
~~(2<sup>nd</sup> Sentence of 31.01)~~

**Section 4. Compensatory Time.** *In lieu of receiving overtime pay, an employee may elect to receive compensatory time. Employees may accumulate no more than eighty (80) hours of compensatory time at any given time. Requests for the use of compensatory time shall be made with at least thirty (30) days notice. Where the use of compensatory time off has been denied the employee shall be offered an alternative day within the next thirty (30) days for use of the requested compensatory time off. The Employer may also elect to offer cash payment for the number of hours denied at the employee's regular rate of pay, and those hours will be deducted from the member's balance. If neither of those options is acceptable, the employee may withdraw the A/T request. The parties agree that thirty (30) days constitutes a "reasonable time period" for the granting of a request for compensatory time under the Act. Except as otherwise specifically restricted by this Agreement, the Employer retains all its rights to manage the administration of compensatory time under federal law, which includes but is not limited to the ability to cash-out compensatory time banks or schedule such time off at its sole and exclusive discretion.*

ISSUE NO. 6,           ARTICLE 31, OVERTIME AND UNSCHEDULED WORK

EMPLOYER POSITION:

The Employer has proposed the restructuring and movement of former 31.1 of this language.

The Employer's proposes to revise the current call-out minimum language (which called for various levels of payment) to a standard three (3) hour minimum. The Employer's proposal includes titling to reflect content and a language modification to reflect the operations of the Employer.

UNION POSITION:

The Union proposes to maintain current language.

DISCUSSION AND RECOMMENDATION:

Once again hearing no real objection from the Union as the evidence suggest that the Employer's proposal is acceptable to the Union, the Employer's proposal is reasonable and is hereby recommended.

## OVERTIME AND UNSCHEDULED WORK

(Note: Former 31.1 Language Moved to Article 30, Sections 1 & 3)

**Section 1. Minimum Call-out.** ~~31.02~~ Beginning immediately after execution of this Agreement, any employee who is called to report to work at a time other than when regularly scheduled to report or at a time contiguous to the regularly scheduled time, shall be paid a minimum of three (3) hours, or for all additional time worked, whichever is greater. A full-time employee who is required to return to work between the hours of 11:00 p.m. to 7:00 a.m., the following morning shall be paid a minimum of four (4) hours, or for all additional time worked, whichever is greater. For overtime calculation purposes (time and one half), if an employee actually works two (2) or less hours on a call in, they will be compensated for the minimum call in time at straight time (3 or 4 hours, whichever is applicable). When an employee actually works more than two (2) hours on a call in, the employee will be compensated for the actual hours worked at the overtime rate (time and one half). *An employee who is called in to work at a time which does not abut his regularly scheduled work hours shall receive a minimum of three (3) hours pay or three (3) hours work at the applicable rate of pay. Time abutting or contiguous to regularly scheduled work hours shall be compensated based upon actual hours worked.*

**Section 2. Holdover Overtime.** ~~31.03~~ Upon execution of this Agreement, all Overtime will first be given to full-time employees if the work to be performed involves the continuation of a specific job and is at a time which is contiguous to their regular full-time shift. Full-time employees are expected to comply with requests to work an overtime assignment unless on a paid day off. Excessive refusals will result in discipline. Employees cannot be required to work more than sixteen (16) consecutive hours.

**Section 3.** ~~31.04~~ For any overtime or unscheduled work that necessitates two (2) or more workers to perform a task, one (1) of the employees will *normally* be a full-time Service Tech to ensure continuity and accountability.

**Section 4. Part-time Availability/Notice.** ~~31.05~~ Part-time employees are required to inform the Service Director in writing the days and times they are available for work, and include, at a minimum, availability for two weekends (Saturday and Sunday) and sixteen (16) additional hours per month. This will be done on a quarterly basis. Part-time employees who fail to report to work more than once per quarter, when contacted consistent with their designated availability, shall be subject to discipline up to and including termination.

**Section 5. Overtime Distribution.** ~~31.06~~ Overtime shall be distributed as equally as possible during the year so that all full-time employees have had similar opportunities to work. An overtime list shall be established as agreed by the Union and Service Director that should include time worked and time refused as a total.

ISSUE NO. 7,        ARTICLE 33, HEALTH BENEFITS

**EMPLOYER POSITION:**

The Employer has proposed a complete revision in the manner that the parties have been dealing with insurance in order to ensure the Township's long term solvency. Historically personnel in the Township have enjoyed one of the richest insurance plans in the area, the premium based costs of which amount to almost \$700 for a single plan and more than \$2000 for a family plan. The Township cannot afford to continue shouldering this burden without significant participation and input from its employees.

Under the Employer's proposal the Township is proposing that the premium cost of the insurance plan be divided between the Township and the employee on a 90/10 basis for the year 2013. As part of the Employer's proposal the parties would create an insurance committee and empower the committee to review costs, evaluate plans, make plan adjustments, and ultimately recommend the insurance plan offered by the Township through a majority vote. The committee would be provided with a base funding cost structure of a locally offered plan that actually has greater benefits than the current offering but is subsidized by a regional plan. Employees would then have the ability to elect their plan with cost apportionment of a 50/50 split for a plan costing more than the Township has allocated for the base funding. This would not begin until the 2013/2014 plan year.

The Employer's proposal also contains language provisions addressing spousal eligibility for coverage, an opt-out payment and the requirement that the Township continue to cover dental and vision at 100%

**UNION POSITION:**

The Union propose maintaining the current plan.

**DISCUSSION AND RECOMMENDATION:**

The cost of the current plan is outrageous and certainly out of line with what other communities pay for their premiums. This Employer can not afford to continue down this path and subsidize this level of benefits especially given the challenges of stagnant revenues and the elimination of various funding streams.

Although the Employer's proposal represents a new and substantial increase in premium contributions, (an issue that will be discussed also under the wage section of this Report also), those contributions are more in line with other external comparables both in the public and private sectors state wide. However, the dental, vision and opt out provisions still remain attractive parts to the overall health benefits offered to their employees. The proposed insurance committee and the proposed cost containment provisions actually gives the employees a chance to reduce the premiums in the future.

Additionally, the non-bargaining unit employees of this Township have already switched to this proposed plan.

It is for the above-reasons that the Employer's proposal is recommended.

### HEALTH BENEFITS

***Section 1. 33.01***—The Township agrees to provide full-time bargaining unit employees the same medical insurance health plan as provided to other Township employees under a group insurance plan. ~~shall obtain and maintain in full force and effect, and pay one hundred (100%) percent of the cost thereof, a policy of hospitalization and medical insurance for each full-time employee and/or the full-time employee's family. Such group insurance may be provided through a self-insured plan or an outside provider. Cost containment measures may be adopted by the Employer in consideration of projected costs, market availability of coverages, and utilization.~~ This policy shall include a dental, vision and prescription program. The Township agrees to maintain insurance benefits at a level substantially similar to those currently offered as of the time of ratification.

***Section 2. Contributions. 33.02*** Effective October 1, 2007, employees will be required to pay forty dollars (\$40.00) per month for single coverage, and seventy dollars (\$70.00) per month for full family coverage of the premium/contribution costs for single, dependent, or family health insurance coverage for each eligible full-time employee enrolled in any of the health plans offered by the Township. The election of single, dependent or family coverage *and the base plan or a higher level plan* rests with the eligible bargaining unit employee.

*Effective December 1, 2012, the Employer and its employees shall contribute ten percent (10%) of the monthly cost of health insurance under the plan that they have selected for coverage. Effective December 1, 2013, the Employer and its employees shall contribute the following monthly amounts for coverage under the Township's base insurance plan:*

	<u>Township</u>	<u>Employee</u>	<u>Total Base Contribution</u>
Single Contribution	\$462.49	\$51.39	\$ 513.88
Employee/Spouse	\$977.63	\$108.63	\$ 1,086.25
Employee/Child(ren)	\$883.96	\$98.22	\$ 982.18
Family Contribution	\$1,399.20	\$155.46	\$ 1,554.55

*Should the elected plan costs exceed the total base contribution amounts set forth above, the participating employee shall be required to contribute fifty percent (50%) of the amount in excess of the total in order to continue participation. In the event that the employee elects a plan that costs less than the total base contribution set forth above, fifty percent (50%) of the amount less than the Total Base Contribution may be directed and utilized to fund an HSA account or reduce the employee premium contribution.*

~~33.03 Any plan that is mutually agreed to may be implemented in place of Article 33.01.~~

**Section 3. Insurance Committee.** ~~33-04~~ The Union and the Township agree to create a *Health Plan Review Committee (HPRC)* consisting of one (1) representative of each *recognized* Union within the Township and ~~one (1)~~ *up to three (3)* representatives of the Board of Trustees. *The HPRC shall to review coverages , providers and costs of health care and make recommendations to the Board of Trustees in accordance with established time frames as follows:*

- 1. To maintain the existing base plan and benefit levels and to pass on any excess costs (costs in excess of the base contribution(s) in effect November 1, 2013, to the participating employee;*
- 2. To change the base plan and reduce the level of benefits so that the cost does not increase;*
- 3. To change the plan and reduce the benefit levels to minimize the cost increases (costs in excess of the base contribution(s) in effect November 1, 2013, to be passed onto the participating employee*

*The committee may also make recommendations for reductions/modification in benefit levels for plans other than the base plan. Timely recommendations of the committee for one of the choices set forth in items 1 through 3 above will be implemented. Should the committee fail to make a recommendation, the Board of Trustees will make a selection from items 1 through 3 above, and that selection shall be implemented.*

**Section 4. Spousal Coverage.** *Effective for the first month following the execution of this Agreement, spousal coverage will be available, only upon proof that the spouse does not have other medical insurance coverage available to him/her through the spouse's employer. If such coverage is available, the employee's spouse must enroll in at least single coverage from his/her employer or pay the difference between the coverage that the employee would be on were the spouse not enrolled on the Township plan (i.e., single or EE/child(ren)) and the cost of coverage with the spouse enrolled (i.e., EE/Spouse or Family). Falsification of spousal coverage information shall result in termination.*

**Section 5. Coverage Coordination.** *A bargaining unit member who is married to another Township employee is only entitled to coverage under a single family policy from the Employer.*

**Section 6. Insurance Opt-Out.** *Any member of the bargaining unit who elects to waive health and medical insurance coverage in its entirety (including dental and optical), meaning that he is not covered on the Township health insurance plan for a (12) twelve month period, shall receive a monthly bonus of \$100 per month for a waiver of single coverage and \$200 per*

*month for a waiver of family, employee/spouse, or employee/child(ren). Employees must make such waiver request in writing prior to November 1 of the calendar year, and must provide proof of insurance to the Employer before choosing to waive the Employer's current policy.*

**Section 7. Dental/Vision Coverage.** *The parties agree that the Township will continue to provide dental and vision coverage to unit members. The cost of such coverage shall be borne by the Township and will not be included in calculating the parties' respective contribution amounts for coverage under Sections 2 and 3 of this article.*

ISSUE NO. 8.           ARTICLE 35, UNIFORMS

**EMPLOYER POSITION:**

The Employer maintains keeping the current level of benefits.

**UNION POSITION:**

The Union proposes adding a \$200 yearly incidental uniform expense.

**DISCUSSION AND RECOMMENDATION:**

Since the Township now provides employee uniforms, winter gear and related items at no cost to the employee, the recommendation is for the status quo with the exception of the continued renumbering of sections that has occurred throughout this Report.

**UNIFORMS**

**Section 1.** ~~35-01~~ Each Service Tech will be required to wear a uniform which will be provided by the Township at no cost to the employee.

1. The Township will provide the full-time employees with laundered uniform pants and shirt on each regularly scheduled workday at no cost to the employee.

2. The Township will provide the full-time employees with one (1) jacket and one (1) winter coat. The winter coat will be replaced by the Township every two (2) years or when damaged due to no fault of the employee.

3. Each full-time employee will be reimbursed up to a maximum of one hundred fifty dollars (\$150.00) per year for the purchase of steel or composite-toe work boots.

4. Each full-time employee will be provided with five (5) tee shirts and two (2) sweatshirts, with Township logo, once a year and one set of construction-type overalls per contract term.

**Section 2.** ~~35-02~~ When the Township requires a uniform to be worn by part-time employees, it shall be provided by the Township.

Section 3. ~~35:03~~ All newly hired employees who do not complete their probationary period must return each item of clothing received pursuant to this section as well as any other issued Township property (pagers, radios, etc.) before the final paycheck shall be issued.

ISSUE NO. 9,           ARTICLE 37, WAGES

**EMPLOYER POSITION:**

The Employer has proposed that wages remain unchanged for the duration of the new Agreement which they believe should be 2013 til 2015. The Employer believes that the money they once were willing to offer this bargaining unit must now be used to pay for the payment of this fact-finding hearing and cost related.

Based on the bargaining history and conduct for this contact since it has expired at the end of 2009, the Employer is offering no increases for those years up to 2013 either.

The Employer is also proposing to add language permitting hiring at an advanced rate on the wage schedule for new hires and creating a part-time office coordinator pay classification.

The Employer also proposes cleaning up language referencing activities that it does not have as part of its operations any longer and non-substantive revisions in sections 3-7 that were discussed during bargaining and were not an issue.

**UNION POSITION:**

The Union proposes wage increases of 4.5% for 2010, 3.75% for 2011 and 3.5% for 2012.

**DISCUSSION AND RECOMMENDATION:**

Much of the discussion, by the parties, was concerned with what occurred with this set of bargaining. The Union believes their members are entitled to a fair wage increase beginning January 1, 2010 running through December 31, 2012, at which time they believe they should be begin bargaining once again. The Union points out that the other bargaining units for the Township have received modest increases during that period of time.

The Employer, on the other hand, believes that the Union reneged in their bargaining duties for their members and as such those members now do not deserve an increase for the 2010, 2011 and 2012, years. Additionally, the monies that the Township allotted for future increases are now being used to fund this fact-finding process and as a result no increase are warranted for what the Employer believes should be the 2013, 2014 and 2015 contact term.

Additionally, the Employer argues that these employees are well paid in terms of their external comparables in both the public and private sector and will remain comparable with no increases.

Obviously the Union believes that the Employer can afford the proposed increase and the Township citing fiscal responsibilities now can not pay any increases.

Aside from the bargaining process and who bargained in good faith and who did not, the end result is that the parties did work out 31 tentative agreements and did reduce their lists of proposals to 10 issues. It may have not gone as smoothly or as sophisticated as some negotiations do, the result is that bargaining occurred and tentative agreements were reached.

To penalize the members of this bargaining unit because the Employer did not like how the bargaining representatives may have conducted bargaining, is probably not the best route to take. The Employer still needs to think about moral and internal parity when bargaining with its employees.

As the Employer has stated in their position statement and in other proposals; "The bargaining unit employees' competence and worthiness are not an issue. The Township very much appreciates the bargaining unit's service to the Township and its Citizens."

A Fact-Finder's duty is to balance a fair wage increase, if one can be afforded, for the union members, taking in account other wage items, the amount of the premium contribution and health care costs, along with their needs to remain somewhat competitive within their external comparable market, and with the Township's need for fiscal responsibility, the need to operate more efficiently and the Employer's concerns for internal consistencies and parity.

Even though these employees are very comprable with like employees in other private and public sector jobs, to be stagnant for three (3) years will certainly have these employees lagging somewhat behind at the end of 2012.

Here the Township, like other areas across the state, suffers from a declining tax base, declining revenues and the elimination of other funding streams with the state. With that said, and after a thorough review of the Township's financials. this Township has been fiscally responsible whereby they need to control cost but are still able to give modest increases to their employees. The type of health plan being proposed by the Employer and now recommended by this Fact-Finder with significant increased premium cost to the bargaining unit can not be accomplished without some consideration in wages. In order for the Township to institute such a health care proposal, they must soften the blow the best that they can.

The Employer's wage proposal with the various changes and corrections will be recommended as follows, including a recommendation for modest wage increases. The recommendation that follows is designed to help the Township and the Union weather through this economic climate while still being as fair as possible to the needs of the employees as well.

When it comes to wage and health benefits, the Township and their employees must share the burden, or the solution so that services to the community and employee jobs are not compromised or lost.

The recommendation is as follows:

**WAGES**

***Section 1.*** ~~37.01~~ The hourly wages for all members of the bargaining unit are as follows:

Service Department/Building Department	Current
Service Tech I- New Hire	14.85
Service Tech I- After 1 year	16.23
Service Tech I- After 2 years	17.06
Service Dept. Tech. II	20.18
Part-Time Secretary Zoning	14.51
Full-Time Secretary Zoning	15.85
Assistant Zoning Inspector	14.51
<b><i>Part-time Office Coordinator</i></b>	<b><i>16.85*</i></b>
Part-Time Building Dept. <b><i>Full-time</i></b> Office Coordinator	17.85

Effective January 1, 2010, a .5% wage increase, retroactive.

Effective January 1, 2011, a 1% wage increase, retroactive.

Effective January 1, 2012, a 1.5% wage increase, retroactive.

\*For the purpose of the applicable wages only, any Tech I. between one (1) and two (2) years of employment at the time of ratification of the 2007-2010 agreement shall move to the "After 2 years" step upon ratification. Said employee's date of hire shall be his seniority date for all other applicable benefits.

***Section 2. Advanced Placement on Scale.*** ~~37.02~~ At its discretion, the Olmsted Township Board of Trustees is authorized to waive first year wages and hire additional Service Department Technicians at the highest applicable rate: ***a rate higher than the entry rate. An employee hired at a rate above the entry rate will advance through the wage scale, as may be applicable, on his anniversary date of appointment to the applicable classification, notwithstanding the years of service associated with the normal wage schedule.***

**Section 3. Foreman Appointment.** 37-03 The ~~Service Director~~ *Employer/designee*, at his sole discretion, and on an as-needed basis, may appoint any full-time Service Department employee from those who volunteer to the position of Foreman *whom he determines to be qualified*. The Foreman will supervise the Service Techs in the performance of their duties under the direction of the ~~Service Director~~ *Employer/designee*. The Foreman will be paid an additional *two dollars* (\$2.00) per hour for each hour of service as Foreman. Payment will be made in the same pay period service is performed. The Foreman shall ~~not have the authority to bring disciplinary charges or perform evaluations of employees.~~ *be expected to monitor crew activities, respond to employee inquiries, and document/report any instances of inappropriate conduct to the Employer/designee for action. The Forman will not be required to perform evaluations of employees.*

**Section 4. Service Tech II Appointment.** 37-04 Beginning January 1, 2005, the ~~Service Director~~ *Employer/designee*, with the consent of the Trustees, may appoint one or more persons to be a full-time Service Tech II. In the event a Service Tech I is promoted to Service Tech II the promotion will be made on the basis of seniority if skill level and qualifications are substantially equal. A Service Tech II will serve at the pleasure of and under the direction of the ~~Service Director~~ *Employer/designee*. The qualifications and job duties of the Service Tech II will be determined by the ~~Service Director~~ *Employer/designee* and provided in writing to the Union.

**Section 5. Snow & Ice Control Coordinator Appointment.** 37-05 Beginning November 1, 2004, the ~~Service Director~~ *Employer/designee*, at his sole discretion, and on an as needed basis, may appoint any full-time Service Department employee who ~~consents~~ *volunteers* to the position of Snow and Ice Coordinator. If no full-time members volunteer, or none are available, a part-time member may be appointed. The Snow and Ice Coordinator will be responsible for directing other Service Techs in the removal of snow and ice from all Township roadways and cul-de-sacs and perform other related duties as determined by the ~~Service Director~~ *Employer/designee*. The Snow and Ice Coordinator will be paid an additional \$2.00 per hour for each hour of service as the Snow and Ice Coordinator.

**Section 6. CDL Maintenance/Non-CDL Rate.** 37-06 All new hires and all employees currently holding a commercial drivers license (CDL) shall maintain the CDL as a condition of employment. Any employee not holding a CDL at time of ratification of this Agreement shall be paid at the following hourly rate:

Effective 01-01-07	Effective 01-01-08	Effective 01-01-09
<del>\$15.82</del>	<del>\$16.30</del>	<del>\$16.78</del>

***Effective upon Execution***                      ***\$16.78***

**Section 7. Office Coordinator Appointment.** 37-07 Beginning September 16, 2004, the ~~Building Commissioner~~ *Employer/designee*, with the consent of the Board of Trustees, may appoint a qualified individual to the position of ~~part-time~~ Building Department Office Coordinator. The ~~part-time~~ Building Department Office Coordinator will serve at the direction of the ~~Building~~

~~Commissioner~~ *Employer/designee*. The qualifications and job duties of the Building Department Office Coordinator will be determined by the ~~Building Commissioner~~ *Employer/designee*.

~~37.08 Effective upon ratification, part-time employees shall be paid at the new-hire Technician rate.~~

## ISSUE NO. 10, ARTICLE 41, DURATION

### EMPLOYER POSITION:

The Employer has proposed a new three (3) year agreement to be adopted effective August 1, 2012, through July 31, 2015.

### UNION POSITION:

The Union propose a three (3) year agreement for January 1, 2010, through December 31, 2012.

### DISCUSSION AND RECOMMENDATION:

Both proposals have merit. The Union wants to continue from where their last contract left off while the Employer wants a new agreement to run now though July of 2015 since they have only been formally bargaining this year.

The Union wants to begin bargaining for a new contract at the end of this year while the Employer believes the past years should just go away because of the lack of bargaining from the Union during that time and they do not want to have to start bargaining all over again, immediately.

As indicated by the recommended wage proposal, the duration of this new agreement will start where the last Agreement ended and run until December 31, 2012.

In addition, the Employer's titling changes have been included.

### DURATION

**Section 1.** ~~41:01~~ This Agreement shall become effective ~~January 1, 2007, January 1, 2010,~~ upon approval of the Olmsted Township Board of Trustees and the Local Union and shall remain in full force and effect until midnight ~~December 31, 2009~~ ***December 31, 2012.***

**Section 2. Total Agreement/Reserved Management Rights.** ~~41:02~~ The provisions of this agreement constitute the entire agreement between the Employer and the Union, and all prior

agreements, either oral or written, are hereby canceled. The Employer and the Union, for the life of this agreement, recognize the right of the Employer to exercise its management rights and statutory rights relative to matters not contemplated or addressed specifically herein, provided the exercise of such rights do not conflict with an express provision of this agreement.

**Section 3. Modification.** The express provisions of this agreement may only be amended or modified during the life of the agreement by the mutual written consent of both parti

*Marc A Winters*

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Marc A. Winters, Fact-Finder