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**MICHIGAN DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION
FACT FINDING**

**IN THE MATTER OF THE
FACT FINDING BETWEEN:**

ALPENA TOWNSHIP

MERC Case No: Loo J3021

and

UNITED STEELWORKERS OF AMERICA

FACT FINDING REPORT AND RECOMMENDATION

Date of Hearing: July 24, 2002

Fact Finder: Hiram S. Grossman (P14425)

Appearances

For the Union:

Robert D. Daleski, Sub District Director
Kris Lewis, Associate
David R. Ludlow, Laborer
Les Klingszewski - Building Inspector

For the Township:

James D. Florip, Attorney
Marie Twite, Supervisor

FACTS

A. BACKGROUND FACTS

Alpena Township's population was 9,785 as of the 2000 census; the 1990 census placed the Township's population at 9602. The 2002 State Equalized Value for Alpena Township is \$317,175,900; the Township's State Equalized Value has been steadily increasing for the past few years as the Township's State Equalized Value was \$241,702,400 in 1991. The Township provides its residents with the following types of services, assessing, tax collection, zoning, building inspection, fire protection and general administration to carry out these responsibilities. The Township employs 19 full time employees and 2 part time employees. Included in the Township's employment compliment are three (3) elected officials: a Township Supervisor, Township Clerk, and Township Treasurer; one Director of Department of Public Workers, 6 full time firefighters represented by the International Association of Fire Fighters. The remaining 9 full time and 2 part time employees are represented by the United Steelworkers of America in the following classifications: assessor, building inspector, field appraiser, DPW laborers, clerks and two part time janitors.

The parties have had a collective bargaining relationship since the early 1980's; the first collective bargaining agreement was effective 1/1/83. In fact, this is the seventh contract the parties have negotiated. This negotiation is he first one that has required fact finding. The parties had seven negotiation sessions, two of which mediator William Boroshko assisted. The two mediation sessions that mediator William Boroshko assisted in resulted in tentative agreements which were rejected by the membership. At the fact finding pre-hearing conference, I remanded the matter back to mediation.

Mediator Boroshko conducted a third mediation session; it did not result in a contract. Thus, the matter is properly before the Fact Finder. The hearing was conducted on July 24, 2002. The parties' post fact finding briefs or positional statements were to be postmarked August 26, 2002. Both parties submitted briefs and/or positional statements.

The sole and remaining issue is wages for a three year contract for the calendar years 2001, 2002, and 2003.

B. OPERATIVE FACTS

1. Procedural Matters

At the pre-hearing conference of April 10, 2002, the Fact Finder advised the parties to discuss and determine whether they could agree upon 4 or 5 comparables and to exchange exhibits with the other that each intended to use at the fact finding hearing. The parties were not able to agree on 4 or 5 comparables and each party has used their own comparables in their presentation and in their final positional statement. The union provided three comparables, 2 external comparables, County of Alpena contract, City of Alpena. The City of Alpena's contract is used for the following classifications: Assessor, Building Inspector, DPW and Clerical. The County of Alpena's contract is used for the following classifications: Clerical employees, Assessor, and Maintenance employees. The internal comparable for the Township of Alpena is the Township's elected officials.

The Township provided 5 comparables, 4 external and one internal comparable. The 4 external comparables are: The City of Alpena's contract is used for the classification of Department of Public Works; Alpena County it is the Road Commission Contract; the Alpena Public Schools contract is used for the following classifications:

Teachers, bus drivers, cooks, custodians, and instructional assistants. The fourth external comparable is a private employer L.P. Alpena is used for the following classifications: production, maintenance and office clerical. The internal comparable is Alpena Township's contract covering its firefighters.

II. DISCUSSION AND DECISION

It is the Fact Finder's decision the external comparables of the City of Alpena, the County of Alpena and the Alpena Public School contracts will be considered as comparables. Each party has been free to focus on those classifications it wishes in making its presentation and in submitting its post-hearing positional statement or brief. In making my report and recommendation, I will consider the totality of classifications covered by collective bargaining agreements in the City of Alpena, the County of Alpena, and the Alpena Public Schools. Similarly, if the Township wishes its presentation to include the private sector employer LP Alpena, it may do so to illustrate what private sector employment is doing.

It is the Fact Finder's decision the internal comparable of Alpena Township's salaries of elected officials and the firefighters contract settlement are to be considered in the Fact Finder's Report and Recommendation. The union will be free to use the salary increase of the three elected officials in its post-hearing brief. Similarly, the Township is free to use the contract it recently negotiated covering its firefighter employees.

Subsequent to the pre-hearing conference, the Township and the Union advised each other what exhibits they intended to use and rely on at the Fact Finding hearing. The union has raised objections to certain of the exhibits the Township intended to introduce at the Fact Finding hearing. Specifically, the union raised objection to the

Township's use of the Township's Statement of Financial Position and the Township's use of the U.S. City Average CPI and the use of the CPI for the Ann Arbor - Flint area. It is important for all parties to understand that objections are raised to the admissibility of an exhibit not to the weight the exhibit is to be accorded. An exhibit may be admitted because there is no basis for excluding the exhibit, but it may have very little weight or importance once admitted. Even if an exhibit is admitted, the party objecting to its admission is free to argue that the exhibit is of little or no weight at all.

Having reviewed the Township's exhibits and considered the Union's objection, the Fact Finder concludes there is no legal basis for excluding the Township's exhibits; thus the exhibits are admitted. However, the Fact Finder will consider the Union's objection as it relates to the weight to be given these exhibits.

A. SUBSTANTIVE FACTS

As previously stated, the sole issue is the wage increases to be given the bargaining unit for each of the following calendar years - 2001, 2002 and 2003. The bargaining unit is comprised of the following classifications: Assessor, Building Inspector/Zoning Inspector, Clerk/Liquor Inspector also known as Field Appraiser/Liquor Inspector, Clerks in DPW department, Labor and Laborers, Assistant the union identified them as maintenance workers.

1. The Union's position on wages for all three years:

<u>Classification</u>	<u>Effective Jan 1 2001</u>	<u>Effective Jan 1 2002</u>	<u>Effective Jan 1 2003</u>
Building Inspector	3,000.00 Adjustment to Base	4%	4%
Assessor	3,000.00 Adjustment to Base	4%	4%

<u>Classification</u>	<u>Effective Jan 1 2001</u>	<u>Effective Jan 1 2002</u>	<u>Effective Jan 1 2003</u>
Field Appraiser/ Liquor Inspector Aka Clerk/Liquor Inspector	2,000.00 Adjustment to Base	4%	4%
DPW Maintenance Workers aka Laborer And Laborer Ass't	\$1.00 per hour Wage Increase	4%	4%
Clerks	4%	4%	4%

There was no union wage proposal increase for the two part-time janitors who each work a limited work schedule of approximately 6 hours per week.

2. The Township's position on wages for all three years.

<u>Classification</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Building Inspector	750.00 Wage Adjustment Plus 3%	3%	3%
Assessor	750.00 Wage Adjustment Plus 3%	3%	3%
Field Appraiser/ Liquor Inspector Nka Clerk/Liquor Inspector	\$0.25 per hour Wage adjustment Plus 3%	3%	3%
DPW Maintenance Workers aka Laborer And Laborer Ass't	\$0.42 per hour plus 3%	3%	3%
Clerks, except Appraiser Clerk	\$0.25 per hour Wage adjustment Plus 3%	3%	3%
Appraiser Clerk	450 wage Adjustment plus 3%	3%	3%
Janitors	3%	3%	3%

At the Fact Finding hearing, the union and the Township were asked whether they wished to have the Fact Finder consider the wage increases for each year separately or whether their three year wage proposal should be considered as a single indivisible wage proposal. Since each party indicated in their post-hearing brief/positional statement their desire that the three year wage proposal be considered a single indivisible wage proposal, the Fact Finder will take their desires into consideration in making his report and recommendation, but I do not consider myself bound by the stated desires of the Township or the Union. However, if the parties had not indicated such a constraint, the Fact Finder would have been willing to consider each year's wage increase separately.

Position of the Union:

Although no two townships are alike, it maintains the fairest comparison should take into account both population and state equalized value. The union maintains the comparables it has selected does take these two factors into account. The union states even with the wage adjustments it has requested for 2001 plus the 4% increases in 2002 and 2003, its members will be below their peers after receiving the 2003 wage increase. Exhibit F. The union maintains to accurately compare the Township's wage proposal with the enumerated comparable communities, the following must be known - the current wages, the types of benefits provided and their costs, and with internal comparable of the Township's firefighters, the amount of overtime availability, benefits obtained in their current contract, and benefits obtained by the firefighters in prior contracts that its bargaining unit does not have.

The union maintains an examination of their external comparables reveals the employees wages are higher, the type and level of benefits provided are greater.

Similarly, an examination of the union's internal comparable the Township's elected officials and the DPW Director for the year 2001 revealed each of their wages were increased by 10%. The DPW Director's salary was increased from \$30,364.00 to \$33,428; a total of \$3,026.00. The Supervisors salary was increased from \$32,893.00 to \$36,182.00; a total increase of \$3,289.00. The clerk's salary was increased from \$31,234.00 to \$34,357.00; a total increase of \$3,123.00. The Treasurer's salary was increased from \$31,234.00 to \$34,357.00; a total increase of \$3,123.00. Union's exhibit E. Additionally, the union maintains even taking the Township's internal comparable, its contract with the firefighters, reveals the following: the 6 firefighters each work a substantial amount of overtime, much more than any bargaining unit members worked. The union maintains a substantial greater amount of overtime is worked by the firefighters, and factoring in the wage increases the firefighters received, has a compounding effect creating an even larger wage disparity between the two units. In the recently concluded negotiations, the firefighters received a \$200.00 per year dental/optical reimbursement which they did not previously have. The union members received a \$20.00 per year increase in their dental/optical reimbursement plan of \$180.00 which they previously had. Also, the firefighters receive longevity pay and the bargaining unit employees do not. Finally the union has indicated it wanted its 3 year proposal to be considered as one indivisible wage package and that each year of wages should not be considered separately.

Township's Position:

The union's final position on wages is the same as its initial position with the exception of wages for the clerk classification. On the other hand, the Township's position has evolved from its initial position of 2% across the board to its present wage

position. The Township maintains its wage proposal is in line with local entities in both the public and private sector. In fact, an examination reveals the Township's wage proposal is at least as good, if not better than, the comparables the Township has offered which included the City of Alpena, the County of Alpena, Alpena Public Schools, and the Township's Firefighters. The Township maintains by showing the wage increases of the comparables upon which it is relying in percentage increase amounts neutralizes the revenue differences between the various entities. The Township points out it levies less than 2 mills in property taxes, City of Alpena levies 16.3 general operation mills, the Alpena Public Schools levies 18 mills on non-residential property. The Township contends the most telling comparable is its collective bargaining agreement with the firefighters union, which was settled earlier this year after more than a year of negotiations. The firefighters received 11% in wage increases over three years. However, since the first two years, wage increases were 2% each six months, the cost to the Township of the first two years is 6%, thus the total cost over three years of 9%. Accordingly, the Township's wage proposal over 3 years of 11.83% is quite favorable. The Township maintains the revenues that the two mills property tax generates, plus the state sales tax revenue sharing does not provide a large financial cushion. The Township points out the cost of providing fire protection for the Township's residents significantly exceeds the amount which the 2 mills in property taxes brings. The Township contends the 10% increases given to the Supervisor, Treasurer, Clerk and DPW Director received can be justified on many bases. They do not receive overtime pay and their duties oftentimes requires them to work in excess of 40 hours per week. Also, none of the elected officials nor the DPW Director have the job security provided the bargaining unit employees. The Township maintains overall the wage proposal it

has offered the bargaining unit employees exceeds those received by Alpena County's and the City of Alpena's employees. The Township has indicated that the Fact Finder should consider the three year wage proposal as indivisible rather than considering each year's wage proposal separately which would permit the Fact Finder to make separate wage recommendations for each of the three years.

FACT FINDER RATIONALE AND RECOMMENDATION

The purpose of fact finding is to facilitate a settlement within the parameters of collective bargaining. To do so, it is appropriate to borrow relevant concepts from interest arbitration, and to emphasize those aspects of collective bargaining which will most likely lead the parties to a resolution of their contract.

A key concept is comparability, both external and internal. Relevant comparable employers provide a reference point for the appropriate labor market and the wage and benefit level within that market. Internal comparables provide a guideline for equity within the Township, and further provide a view of what the Township and other groups regard as appropriate compensation levels.

The cost of living is also relevant. Absent an ability to pay argument, it would be expected that the final compensation would not cause an erosion of buying power for the bargaining unit.

Finally, traditional factors that are considered in collective bargaining would also be important. This is not the case where the Fact Finder must select either of the proposals of the parties. However, since both parties strongly urged the Fact Finder in making his report and recommendation on wages for the three year contract that each party's proposal should be considered indivisible rather than treating wage proposal for each of the three years separately. Since the Fact Finder requested each of the parties to

express their position on this matter and, in fact, each party has agreed and expressed the same position that their three year wage proposal should be indivisible rather than having each year separately determined, the Fact Finder will endeavor to take their request into consideration in fashioning his report and recommendation. However, the Fact Finder is not bound by the expressed desires of the parties. The Fact Finder states permitting each year of the wage proposal to be address separately would have provided the Fact Finder with greater flexibility in fashioning his Report and Recommendation.

After reviewing the parties' post-hearing briefs and/or positional statements and the exhibits, both external and internal comparables, and the cost of living absent an inability to pay argument, the Fact Finder has determined though the union's position is appealing, to look at the population size and SEV of townships for comparability purposes, it does not take into consideration geographic surrounding area wages and benefits, considerations, the amount of millage levied, and other historic and regional differences. For these reasons, the Fact Finder is not persuaded the union comparable townships based on population and SEV comparables should be given serious consideration. The Fact Finder has concluded the relevant comparables are Alpena Township, City of Alpena, Alpena County and the Alpena School District. Of these, the most relevant comparable is Alpena Township. The union and the Township have submitted evidence and exhibits in support of each of their wage position. The union has focused on the 10% increases given in 2001 to the supervisor, treasurer and clerk, all of whom are elected offices and the DPW Director who serves at the pleasure of the board. While the Township has focused on its contract covering the firefighters, whose negotiations concluded earlier this year, the firefighters receive 11% wage increases over 3 years. What is interesting with the firefighters contract is the Township and

Firefighter's Union were willing to have wage increases for 2 years be given in six month increments of 2%. The Fact Finder concludes the Township's comparable of the firefighters 11% negotiated wage increase is the more germane comparable rather than the union's comparable of the 10% wage increase the three elected officials and the DPW Director received in 2001.

It is this Fact Finder's opinion comparing this bargaining unit to the elected officials and the DPW Director is like comparing apples to oranges. First, the elected officials and the DPW Director do not receive overtime and their many official duties and responsibilities require them to attend meetings and conferences at times other than normal work hours. Their duties and responsibilities are substantially different from those of the bargaining unit employees. The elected officials and the DPW Director are the managerial and executives of the Township. It is reasonable to expect there would exist a salary cushion between themselves and the bargaining unit employees. The wage differential created by the Township according these employees a 10% increase in 2001 does not create a wage and salary inequity between the elected officials and the DPW Director requiring their wage and salary differential be addressed. The Fact Finder reviewed the County of Alpena's contract with respect to wages of clerical employees, appraiser and maintenance employees comparing both Alpena County employees hourly wage rate and the percentage wage increase for the years 2001 and 2002, the Fact Finder concludes the Township's wage offer does not place the Township's bargaining unit employee at a substantial wage disadvantage. The Fact Finder notes the Township's percentage wage increase offer for the years 2002 and 2003 is greater than Alpena County provided for its clerical maintenance and appraiser employees. The Fact Finder is aware that Alpena County's contract with the

Steelworkers covering the clerical maintenance and appraiser employees does provide for longevity payment. Similarly, Alpena Township's contract with the firefighters union covering the Township's firefighting employees does provide longevity pay. The union's post-hearing positional brief did not indicate the amount of longevity pay that the Township's firefighters receive. Thus, the Fact Finder does not know whether longevity is in the form of a percentage of the employee's base salary, or a lump sum dollar amount. Similarly, the Fact Finder does not know how many years of service a firefighter has to work to be eligible for longevity, nor does the Fact Finder know if the amount of longevity is increased with increased years of service and, if so, what are the years of service break points triggering increases in longevity pay. The Fact Finder notes the Alpena County contract provides a 2 tier longevity scale. Employees hired prior to 7/1/89 receive a percentage of that base pay after 5 years of service from 2 1/2% up to 6% yearly. Employees hired after 6/3/89 receive a flat dollar amount after 5 years from \$100.00 up to \$250.00 dollars yearly.

After reviewing the post-hearing positional statements and exhibits of the parties, the Fact Finder makes the following recommendation with respect to the sole issue of wages for the years 2001, 2002 and 2003 commencing effective January 1 of 2001, 2002 and 2003.

The Fact Finder recommends the Township's wage proposal for the year 2001 in its entirety and the following modification to the Township's wage proposal for the years 2002 and 2003. In the years 2002 and 2003, effective January 1, 2002, a 2% increase, July 1, 2002 a 2% increase, January 1, 2003 a 2% increase and July 1, 2003 a 2% increase. The Fact Finder points out by providing the 2% increase in January and July of each year, the cost to the Township is the same as providing a 3% increase as of

January 1st of each calendar year. However, the Fact Finder is aware that its recommendation for 2002 and 2003 will cost the Township 1% more at the end of the contract than the Township's wage proposal since the 3% cost of the 2002 wage increase is a full 4% in 2003 and when that is added to the 3% cost of 2003 recommended wage proposal, for a total increase of 10% for 2002 and 2003. Whereas the cost to the Township of its 2002 and 2003 wage proposals would be 3% in 2002; the 2002 wage increase would be 3% in 2003; the 2003 wage increase would be 3%, for a total cost of 9% for the 2002 and 2003 wage increases. Since the Township has shown a willingness to provide wage increases in 6 month intervals as evidenced by its contract with the firefighters union, the Fact Finder concludes this is an appropriate manner of addressing the wage concerns of the bargaining unit employees without burdening the Township financially. Also, the Fact Finder has taken into consideration the Township's ability to pay; the Township has not advanced an inability to pay argument. Finally, the Fact Finder has taken into consideration the cost of living increases for the years 2000, 2001, and 2002 year to date in arriving at this recommendation.

FACT FINDER'S RECOMMENDATION

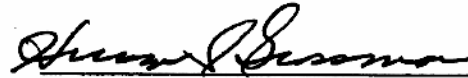
The Fact Finder recommends:

1. The Township's wage proposal in its entirety for the calendar years 2001 effective January 1, 2001 including 3% for the two part-time janitors.
2. The Township's wage proposals for the calendar year 2002 and 2003 including the part-time janitors, modified as follows:

<u>Jan. 1, 2002</u>	<u>July 1, 2002</u>	<u>Jan. 1, 2003</u>	<u>July 1, 2003</u>
2% increase	2% increase	2% increase	2% increase

The cost to the Township in the calendar year 2002 of the Fact Finder's recommended wage increase is the same amount to the Township as its 3% increase effective January 1, 2002. Similarly, the cost to the Township in the calendar year 2003 of the Fact Finder's recommended wage increase is the same to the Township as its 3% increase effective January 1, 2003.

Dated: 9-18-02



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