



SINCE 1844

ROCKAWAY TOWNSHIP

65 MOUNT HOPE ROAD, ROCKAWAY, NEW JERSEY 07866

DEPARTMENT OF ADMINISTRATION

Joe Jackson, Mayor

Patricia Seger, Business Administrator

March 10, 2023

In March of 2022 members of the State Comptroller's Office Audit Division notified Rockaway Township that it had decided to undertake an audit of the Township spending practices. When asked what prompted the decision to audit Rockaway Township the auditors provided no explanation, advising that they do not divulge their sources or the basis for their recommendations. We are unsure as to what harm there would be in divulging this information. There is clearly a lack of transparency within the State Comptroller's Office. Rockaway expects full transparency from our State government. In addition, when our attorney asked for the qualifications and/or resumes of the members of your audit team who wrote the report, you were again non-transparent and did not provide the Township with that information.

It became very clear early on that the State Comptroller's auditors were not here to help Rockaway Township taxpayers, but rather only to criticize and sensationalize their audit. In terms of the audit process, much of the information that would have been necessary to provide a fair, meaningful and objective audit were never requested by the auditors. As a result, the report is clearly an unfair (and unsuccessful) attempt to embarrass and discredit our administrative team. The audit report is fraught with unsubstantiated findings fueled by unknown motivation and in no way has the intent to improve Rockaway Township.

Prior to the submission of specific responses derived from information provided by the Township's experienced and expert personnel it is necessary to highlight substantial omissions made by the audit team.

- The audit's erroneous findings, which indicated that the Township wasted funds by offering two prescription plans, omitted two key facts. First, until 2021 the State required Rockaway Township to pay prescription premiums for services that were not needed. Second, and more disturbing, is the fact that because of the State's many years of requiring mandatory prescription premium charges, Rockaway Township has been overcharged approximately \$8,500,000. If the audit team were truly concerned for the taxpayers of Rockaway Township, they

would be recommending that the Governor's office refund Rockaway Township that amount.

- The audit team criticized the Township for not seeking out more than one insurance broker even when there is no evidence secured by the audit team to show that the lack of quotes resulted in an improper expenditure. In other words, your finding is baseless.
- There is no indication who wrote the audit report. Nor is there an accompanying statement of writers' qualifications, certifications, and/or motivation in doing so. However, as noted earlier, the audit team has not been transparent with any information.
- The report baselessly indicates that the Township wasted \$4.5 million. Our administrative team, finance team and auditors have all determined that this number is grossly overstated. The Township's position is that the Township wasted \$0, while the State wasted millions by charging the Township for duplicate prescription coverage. It's important to note that all of the Township employees and consultants have countless certifications and multiple years of experience to back their opinions. Since the audit team has failed to provide back up support for what it claims was wasted, it can only be concluded that the audit's team's opinion is not factually based.

Much of the information that would have been necessary for the audit team to review before it could provide a fair, meaningful, and objective report regarding the financial practices of Rockaway Township was not requested or reviewed by the auditors. Thus, the report that can only be described as an unprofessional and maliciously unfair attempt to embarrass the hard-working employees of the Rockaway Township Administration. It is a report that is fraught with unsubstantiated sensationalism, fueled by unknown motivation, and designed to malign rather than to assist Rockaway Township.

Most notably ignored in the report's conclusions is the fact that until 2021, it was mandatory that members of the New Jersey State Health Benefit Plan (SHBP), like Rockaway Township, also pay prescription premiums to the State, even if those members were encumbered by the existence of Collective Bargaining Agreements that required enrollment in prescription plans other than the State's. Finally, in 2021, the State relented by establishing a carve out program, which allowed municipalities like Rockaway Township, to only pay

premiums for the Health Plan it needed. It may sound like the commercial “you only pay for what you need” and even bring a chuckle. However, it is not funny, when it is considered that as a result of many years of mandatory premium charges without the need for State prescription service, the State Benefits Division overcharged Rockaway Township approximately \$8,500,000. Thus, the State Comptroller’s audit team’s non-transparent arrogance is only rivaled by the State’s own hypocrisy. Because if the Comptroller’s office were truly concerned for Rockaway Taxpayer dollars as it pretends to be, it would pay the Township back the \$8.5M in premiums it pocketed for charging for prescription coverage not needed by the Township, who already secured privately, resulting in duplicate coverage.

The audacity of the audit team is further exemplified in its arrogant and erroneous conclusion that Rockaway has not done anything to change its collective bargaining posture. Yet, the State Legislature has done nothing to pass a law that would **require** NJ Health and Prescription Benefits to be accepted by local bargaining units in Collective Bargaining Agreements if those benefit plans are offered by municipalities. This is just another example of how the State is quick to criticize but slow to act in any meaningful fashion when it comes to supporting local governments. Perhaps insurance company contributions to state lawmakers are preventing this type of legislation from being enacted.

It must be noted that the state has been quick to act in one area. That is, it has, in a flash, raised the NJ Health Benefit Plan premiums for municipalities 24% in one year, while the governor made a deal with state employees to raise their health premiums a mere 2%. So, we ask again, is the state really interested in saving Rockaway Township Taxpayers costs for Township Employee benefit premiums? The answer is obvious a resounding “NO”, especially when it is considered that now Rockaway taxpayers will also be subsidizing the benefits enjoyed by state employees.

The Comptroller’s audit defined waste based on *Government Accounting Standards (GAS)*. This standard specifically states that waste is **subjective and not quantifiable**. Since it is subjective, the use of the term waste in the report is based on the Comptroller’s opinion, which as previously stated, is not supported. In addition, the auditors have recklessly quantified that which is by definition, **not quantifiable**.

Rockaway Township was not wasteful by any definition including the definition from GAS. Despite continuing, diligent efforts, Rockaway Township was unable to reverse the results of CBA negotiations that took place approximately 20 years ago, which provided prescription benefits to retirees, while, at the same time, the State would not allow Rockaway Township to carve out the retiree prescription benefits from the State Health Benefit plan. What

was wasteful is the fact that the SHBP was charging premiums for prescription services that the Township already had.

The State auditors cannot be heard to claim waste, unless it could prove, which the State cannot, that the Township did not attempt to renegotiate retirement prescription benefits. In fact, the Township not only attempted to renegotiate retiree prescription benefits, it also asked the state, for many years, to carve out the wasteful prescription premiums that were being charged by the State without any benefit to Rockaway Township.

The reality is that no reasonable person would conclude that Rockaway's actions respecting the retiree prescription plan, no arm of the state government, such as the subject audit team, should have any license to criticize the Township, when the state has overcharged Rockaway Township approximately \$8.5M in prescription premiums.

The audit team's report criticizes the Township for not seeking out more than one insurance broker in the purchase of its prescription benefits, when the auditors know full well from the record that the broker never identified itself as a broker or an agent to the Township and the Township never paid a commission directly to the Broker, who has been providing excellent insurance services to Rockaway for over 20 years. In addition, there is absolutely no information that has been secured by the audit team that the lack of commission quotes resulted in an improper expenditure. It is also relevant that upon the purchase of each prescription plan, the Township secured premium quotes from at least two carriers/health plan providers and always chose the plan with the lowest premium, which was approved by Resolution of the Township Council, each and every time a prescription plan was renewed and/or purchased.

In fact, if the auditors had read the law properly, they should know that the lowest quote for insurance services is not required to be accepted by the local bargaining unit. Rather, all other business factors, including past history and experience, etc. may be considered before a decision to purchase and from whom is made by the Township. However, in this regard, in the future, the Township will seek quotes from two brokers, since it is now understood that the insurance provider that has been used in the past fits into that business category.

It must be observed and reported, that there is no indication of who wrote the Comptroller's report. The fact that it may have been approved by a person in authority is no indication that any person in authority reviewed all of the materials and formulated an independent opinion as to any of the conclusions contained in the report and then wrote it. Perhaps those in authority who approved the report should have taken a closer look before having done so.

The Township is still waiting for the Comptroller's office to provide us with support for their calculations of the \$4.5 million that the auditors claim constituted waste. We asked for the auditors' back up support for the amount that was calculated erroneously as waste. However, we never received any back up support or any explanation that was requested. Instead, we only received a smarmy smile and a response from a state employee stating ".....that's what we think it is". The Township should have had the opportunity to review the entire basis for the state's calculation, which would have included but not have been limited to all factors that would be necessary to formulate a valid report. The auditor's failure/refusal to provide all necessary backup information to support its conclusions renders the auditors' opinions valueless.

Relevant and Accurate CBA History and Analysis:

Generally, disturbingly, the State Controller's report at best is simply inaccurate and, at worst, potentially misleading plagued by misinformation, misrepresentations, and portrayals that appear written to support the Comptroller's own agenda as opposed to the best interest and integrity of Rockaway Township. It appears the Comptroller's Report has an objective to embarrass Rockaway Township and misrepresent, or downplay the positives of, what Rockaway Township is doing so as to provide the Comptroller with salacious headlines and exaggerations.

One example of concerns with regard to the integrity of this Report is found on page 4 of the Report where they provide a chart along with a statement suggesting that Rockaway Township failed to include language in its collective bargaining agreements that restricts the payout of sick leave to its public employees. The chart states that its six (6) CBAs do not limit accrued sick leave pay "to \$15,000 or less only at retirement." It also has the following paragraph:

As identified in the table above, the six CBAs do not limit the payment of sick leave for employees hired after May 21, 2010 to \$15,000 and only upon retirement. The CBAs allow employees to receive payments for unused sick leave on an annual basis. The CBAs prohibit payments for unused sick leave at retirement for non-police employees hired after January 1, 1999 and police employees hired after January 1, 2015. CBAs for police employees permit employees hired after May 21, 2010 but before January 1, 2015 to receive payments at retirement that are prohibited by law.

The foregoing paragraph contradicts itself. While the CBAs do not contain language specifically referencing May 21, 2010 and limiting the accrual of sick leave to \$15,000, it goes beyond that! In fact, Rockaway Township prohibits the payout for sick leave for its employees hired after January 1, 1999, going well

beyond the law being cited by the Report which limits the accrual for employees hired after May 21, 2010. In other words, when the 2010 law was adopted by the State of New Jersey, Rockaway Township had been restricting the accrual of sick leave for 11 years! The CBAs for the Blue-Collar Unit, Blue Collar Supervisors, White Collar and Superintendents, all have the following language:

... no payments for unused sick time will be paid to employees upon resignation or retirement from employment. [Emphasis added.]

This language prohibits all employees who are hired after January 1, 1999 from receiving compensation for unused sick leave. The Report is accurate in noting that in the police contracts we were only able to get this provision into the contract for employees hired after January 1, 2015. Not coincidentally, this progress was only made with police negotiations as PERC decisions finally supported the 2010 law and its applicability. See, *In the Matter of Howell Township Board of Education*, 41 N.J. P.E.R. 421 (2015) and *Township o/Little Falls*, 42 N.J. P.E.R. 87 (2015). Note that both decisions were rendered in 2015. Other than the passing reference to this significant clause in all Rockaway Township Collective Bargaining Agreements, the above referenced paragraph from page 4 of the Draft Report, conveniently ignores this significant step taken by Rockaway Township 11 years before the State acted. Apparently, the Comptroller felt no need to give acknowledgment to the Township for that cost saving measure. In conclusion, the chart, as well as the statements on page 4 of the Report are manipulative and misleading.

A further manipulative portrayal is found on page 5 of the Report where it suggests that the Rockaway Township Personnel Policy Manual does not comply with State law and fails "to document the statutory requirements that limit unused sick leave payments to \$15,000 for senior employees and employees hired after May 21, 2010." **The Manual specifically states the payment for accumulated sick leave must be "in accordance with State law."** In other words, the Manual specifically states that the practice must follow the State law, whatever it is. The Report suggests that because the Manual itself doesn't spell out the State law, it is inadequate and, apparently, the employees are incapable of applying the State law.

Page 5 of the Report contains additional language that appears disturbingly manipulative and opportunistic in how it attempts to portray Rockaway Township. On one hand, the language in the fourth paragraph of page 5 acknowledges that there are no laws that prohibit a municipality from paying their public employees for accrued but unused vacation leave at the end of each year. Yet, it attempts to portray Rockaway Township in a negative light for doing so. The fact is that accrued vacation is "earned leave time" that an employee has earned

through contract and policy. As such, the Comptroller's Draft Report is wrong to suggest that Rockaway Township should simply take away this accrued but unused vacation time without any compensation. If that is the policy that the State Comptroller's Office is suggesting, it should step up and defend and indemnify all municipalities who impose such a consequence. "Use it or lose it" is not a sound recommendation for public employers. If the Legislature's goal is to standardize vacation leave benefits at different levels of government, then it should pass a law that does so. *In re: Township of Mount Holly*, PERC No. 2011-41, 36 N.J. P.E.R. 164, 2010 PERC, Lexis 295 (2010); also see *Newark*, PERC No. 2021-02, 2020 N.J. P.E.R., Lexis 114 at 10.

As referenced above, we can only conclude that the Comptroller's Report is worded the way it is in an effort to mislead, misguide and create a bad impression of municipalities and the work that they do.

Another area that is misleading, if not patently false, is the Report's analysis of holiday time that is provided to Township Police Officers. The Draft Report is correct in stating that the Township's CBAs provide the cost-effective language that holiday time "shall be taken as part of their vacation time during the current year of the contract." Despite the language in the contract, apparently, the practice at the Township has been to allow that time to accrue beyond the accrual year. That must be changed. The contract language must be enforced. The holiday time must be used by the officer during that year, or paid out at the end of the year.

Regardless, attributing the total value of this holiday time to a waste of funds is, again, when considering holiday time or vacation time, false. Whether the time is paid for during the accrual year or thereafter, the time must be paid for. It is a valid observation that it is not cost effective to allow the time to accrue, because the value of the time is going to increase as the employee's compensation increases. The timing of the use or payout should be in accordance with the contract language, and laws. Again, the suggestion that "use it or lose it" could be the policy here, is grossly misleading.

On page 6 of the Report, the Comptroller suggests that the Township's failure to enforce the limitations upon the accrual of vacation leave awarded in lieu of a holiday, was approximately "\$3.9M as of December 31, 2021." we have no idea how they arrived at this calculation. Officers' accrual of holiday time is in consideration of the fact that they work on holidays while all other public employees are off on those holidays. While, indeed, the Township should enforce its provision with regard to the use of that holiday leave, this Report oversimplifies this time and lumps it in with vacation leave. This holiday time is not subject to N.J.S.A. 11A:6-3(e). It is, however, subject to Rockaway Township's own Police CBA.

As reflected in the Executive Summary and the Audit Findings and

Recommendations, the Report addresses five (5) areas:

1. Employee Leave Policies and Payments, where it alleges that the Township has allowed "\$167,093 in violation of State law or Township policy";
2. Procurement of insurance contracts, where it alleges the Township failed to properly procure health insurance coverage and health insurance brokerage services;
3. Health Benefit Plan cost savings, whereby it alleges the Township did not change to the State Health Benefits Program (SHBP) Prescription Drug Plan. The Report alleges this cost taxpayers an estimated "\$4.5M from January 1, 2019 to December 31, 2021." It further alleges that the Township paid "twice for benefits for retirees";
4. Overtime compliance, where it alleges the Township failed to adhere to its policies and procedures or State law in its payment of overtime; and
5. Reserve balances, where it alleges the Township had \$10.1M in unspent and unencumbered funds related to projects more than five (5) years old and balances for local improvements \$2.1M. It further alleges "these funds are eligible for use to offset future taxation."

\$4.5M in **prescription coverage costs for retirees**, we have no idea how the Draft Report calculated such a number. Blaming this cash grab by the SHBP on the municipalities who are victims of this wayward policy is simply incredible.

The Township cannot unilaterally change a prescription coverage program unless the replacement program is "equal to or better than" the program that is being replaced. The Township cannot unilaterally change its prescription coverage carrier to the SHBP prescription drug program without all collective bargaining units agreeing to that change. It is further unclear to me why the SHBP was charging Rockaway Township for prescription coverage for their retirees when that coverage was already provided through another program. It certainly created a windfall for the SHBP at the expense of Rockaway Township taxpayers. **SHBP never should have been charging the Township and, if it has, "from January 1, 2019 to December 31, 2021", fees that it has charged the Township should be immediately refunded back to the Township.**

Issue #1 of the State Comptrollers Draft Report addresses employee leave payments and policy. Again, we do not have the benefit of knowing how the Comptroller's Office concluded that there have been "employee leave payments

of \$167,093 in violation of State law or Township policy." Generally, however, the issue rests with laws that were enacted by the State Legislature in 2007 and 2010. The 2007 law, N.J.S.A. 11A:6-19.1, limits payments for unused sick leave to "**senior employees** to the greater of \$15,000 or the amount accumulated on the effective date of the law and only upon retirement." The crux issue here is that this 2007 law **only** applies to "senior employees", it does not apply to the vast majority of Rockaway Township public employees.

New Jersey's municipalities are guided by Local Finance Notices (LFN). Relevant here is LFN 2007-28 which provides guidance on how to properly implement the 2007 legislation. As reflected in that LFN, as well as the Legislative record, the 2007 law applied **only** to elected officials and high-level employees. High level employees were defined as those hired directly by the governing body. We are not aware of any payouts made to such "high level employees" who were hired after 2007.

In 2010, specifically May 21, 2010, the law was amended and broadened the number of employees restricted on accumulation of leave. **Unfortunately, no Local Finance Notice was prepared on this new law.** Why that was, we do not know. Regardless, due to the lack of guidance from State government, as previously noted, there was an extended period where the impact of the 2010 law was unclear and subject to numerous different interpretations. The disputes over the impact of the 2010 law resulted in a number of PERC Opinions, as well as State Superior Court decisions. Regardless, following the review of this law in numerous forums, it is clear that employees hired after May 21, 2010 are subject to N.J.S.A. 11A:6-19.2, which limits payments for unused sick leave for employees hired after May 21, 2010, to no more than \$15,000 and only upon retirement. Such employees, therefore, may not participate in buy-back of sick leave programs. As previously noted, however, Rockaway Township had, 11 years prior, negotiated into its non-police contracts language ending the practice of payment for accrued but unused sick leave in 1999. Indeed, annual sick leave buy-back provisions are no longer allowed under the law for employees hired after May 21, 2010, and in Rockaway Township for non-Police employees hired after January 1, 1999.

The 2007 and the 2010 laws also served to restrict the amount of carryover vacation time to one years' worth of that employee's allotment. There is an exception provided for under the law for state of emergencies. The carryover amount is one full year accumulation. Effectively this means that at the beginning of a given year, no employee should have more than two years of accumulated vacation leave on the books. If they do, the Township should immediately negotiate a schedule with that employee to use up their time, or buy-back the vacation time at the end of the new year. Once again, there is little or no guidance from the State as to how this issue should be handled. However, this "earned leave time" that an employee has "earned" through contract or policy must be considered. Absent

some authority from the State, PERC or the State Superior Court, we believe it would be a mistake to unilaterally impose a “use it or lose it” standard upon public employees, as it seems the Comptroller’s Draft Report suggests.

Authoritative Review and Guidance.

In addition to the role of Local Finance Notices (LFN) previously referenced, the Public Employment Relations Commission (PERC) provides decisions that guide New Jersey public employers, public employees and their representatives in employment matters. On this issue, PERC has reviewed sick and vacation leave policies in a number of circumstances. In general, **vacation and sick leave issues are mandatorily negotiable**. However, it is understood that as with any subject in public sector negotiations, an otherwise negotiable issue becomes non-negotiable if a statute or regulation speaks expressly, specifically, and comprehensively on an issue. The implementation of the 2007 and 2010 laws were not specific, it was not comprehensive, and it did lead to widespread inconsistencies, misunderstandings and litigation. The Comptroller’s own reporting confirms that widespread confusion.

PERC has now held that N.J.S.A. 18A:30-3.5 and 3.6 preempt negotiations of accumulated sick leave payments for employees covered by the statute and who commenced service with the employer on or after the date of the effective law. However, note that this decision was not issued until 2015. *In the Matter of Howell Township Board of Education*. 41 N.J.P.E.R. 421 (2015), concerned the accumulation of sick leave payment on retirement based on the 2007 law, and therefore only applied to high-ranking officers and employees. Again, this decision was issued in 2015. The issue of payment of accumulated sick days each year was also litigated that same year by PERC in *Township of Little Falls*. 42 N.J.P.E.R. 87 (2015). In the *Little Falls* case, the issue was whether a clause in a collective negotiations’ agreement providing for the option to sell back a maximum of five (5) sick days per year was negotiable. PERC determined that since N.J.S.A. 40A:9-10.4 only provided for the payment of accumulated sick leave “at the time of retirement” a buy-back option could not be made to employees hired on or after the effective date of the statute, i.e. May 21, 2010. For those employees, the matter was preempted by statute. **Again, note that this guidance was not given until 2015. The issue was not preempted for employees, by the way, hired before May 21, 2010, and therefore was arbitrable.**

With all due respect to the Office of the Comptroller, it is rather arrogant to suggest that in the absence of guidance regarding the 2010 laws from the Comptroller’s Office, or from PERC, from the Department of Labor, from any arm of the State of New Jersey, including its Courts, municipalities should have unilaterally interpreted the laws and taken unilateral action which was strenuously opposed by public employee unions.

Employee Leave Policies & Payments:

The Audit Report Erroneously concludes that Rockaway Township allowed employee leave payments of \$167,093 in violation of state law or Township Policy:

The existing CBA's do not reference the 2007 and 2010 laws, however NO employees hired after 5/21/2010 sold back any sick time and therefore the Township is not in violation of these laws with the exception of the Police Chief who was promoted to Chief on 6/9/2015. For non-police and non-contractual employees, anyone hired after 11/1/1999 is not entitled to receive ANY sick time upon separation. For non-police, and contractual employees, anyone hired after 1/1/1999 is not entitled to receive ANY sick time upon separation. For Police, anyone hired after 1/1/2015 is not entitled to receive ANY sick time upon separation. Page 63 of the revised policy manual dated 11/9/21 contains the following language "...Upon retirement of an employee who has 10 or more years of service with Rockaway Township, employee will receive sick time payout in accordance with NJ State Statute or in accordance with applicable contract". The Township will revise the current manual by referencing the specific statutes so as to satisfy the recommendations from OSC.

NJSA 11A:6-3 applies to all civil service employees. This law limits the number of vacation days that can be carried from one year to the next. The law fails to outline HOW this is to be rectified IF an employee exceeds the limit. It is unlawful to take away vacation time earned. The Township will consider implementing a policy whereby employees will be disciplined (i.e. suspended without pay) if vacation time is not used within a specified period of time.

Holiday-related leave provisions have been in the Police contracts since AT LEAST 1994. "Holidays are to be taken as part of vacation time during the current year of the contract". With a past practice over at least 28 years, it is near impossible to enforce this policy without the likelihood of lawsuits from the Township's 52 officers. Another concern in enforcing this policy is the likelihood of excessive overtime within the Police Department.

Regarding the annual sick leave payments (referred to the "Sell Back" program) for the non-contractual employees, the Township will revise the current manual by including the sell-back program with similar language as included in the Morris Council VI collective bargaining agreements. Worksheets prepared by the CFO calculating the "Sell-Back" payments will be signed by the Business Administrator as a second approval process. The Police Chief will be barred from selling back any sick time in the future as per the 2007 law.

Health Benefit Plan Cost Savings:

The State report indicates that \$4.5 million was "wasted" due to double retiree RX coverage and active employees being enrolled in a private RX plan. The Township requested the OSC to provide documentation supporting their calculation of "waste". The OSC refused to provide documentation, therefore this amount is subjective and could not be substantiated. Rockaway Township is

currently in negotiations with all 6 CBA's. It has been the Township's goal to switch to SHBP prescription coverage, however this must be negotiated. If the Township is successful, retirees currently receiving "double" RX coverage will have their private RX plan currently paid for by the Township eliminated. The state of NJ instituted a prescription drug "Carve-Out" plan as referenced in the Certifying Officer letter dated 1/30/2020. It is estimated that switching RX plans may take up to 6 months to implement. The scope of this audit covers 1/1/19 through 12/31/21. The "double" RX coverage could not have been rectified until at least 7/1/2020, thereby overstating the "waste" by at least half of what is reported by OSC. Given the need to negotiate the change in the RX plan, the "waste" amount is not a fair assessment as the Township HAS been pursuing a resolution. The state does not permit municipalities to separate a group of RX recipients to receive coverage. In other words, either everyone (active and retired) must receive SHBP RX coverage or no one receives SHBP RX coverage. The Township's position is there was no "waste" on behalf of the Township, rather the "waste" occurred because the State enrolled Township retirees in an RX plan that wasn't needed. The State should have enacted the "Carve-Out" plan decades ago which would have allowed Rockaway Township to opt out of the State RX plan thereby eliminate double coverage and "waste" created by the State of NJ. Until contracts are settled and IF settlements include switching to SHBP RX, the Township is prohibited from eliminating the private RX plan.

Relevant and Accurate Statement Regarding Reserve Balances:

Every year, unexpended improvement authorization line items are reviewed for possible cancellation. In 2022, the Township adopted Ordinance #2022-20 providing for various improvements to be re-appropriated from existing authorizations. Funds will be used to satisfy 2023 capital requests without having any impact on future debt service and ultimately resulting no impact on the tax levy to our residents. Another re-appropriation ordinance was adopted in February for the Water Utility.

The Township has been aware of the Sewer Assessment Fund Balance but has refrained from using these funds to offset taxes because this would be considered a "one-time revenue" causing a sharp tax decrease in one year followed by a sharp tax increase in the following year. The Township also has been aware of the dramatic effect tax appeals have had on the municipal budget and has viewed these funds as a potential funding source should significant appeals be awarded. Based on the recommendation of OSC, the 2023 proposed budget includes just over \$700,000 in anticipated revenue from the Sewer Assessment Fund Balance in order to return these funds to the tax payers. However, because this is a finite amount, a lesser amount will be used in each of the subsequent years until the Reserve is gone. Keeping in mind the initial year will see a tax effort decrease, then each subsequent year will see a tax effort increase as the Sewer Assessment Fund Balance is depleted. Another issue to consider is that Bond Rating Agencies may not look favorably on utilizing Sewer

Assessment Fund Balance to offset taxes due to the “one-time” revenue aspect. The Township would prefer to keep these funds in reserve for possible future tax appeals but since this is the recommendation from OSC, the Township will move forward with this plan.

Conclusion:

It is apparent that the auditor’s report is part of an initiative to foster total municipal participation in all aspects of the NJ State Health Benefits Plan, including the prescription plan.

It should be noted that no statute or NJ law requires municipalities to use the State Health Insurance program. The benefits a municipality offers employees are up to the municipality and not up to the State. Thus, hypocritically, the state advises municipalities that they have freedom of choice, then assigns an audit team to “investigate” municipal health benefits in order to conclude that the municipalities choice not to participate in the New Jersey State Health Benefits and Prescription Plan constitutes waste. Gotcha? Catch 22? Sounds like it.

Rockaway Township has great employees and the employee retention rate has been very good due to the benefits that the employees receive. Not having a high turnover and maintaining excellent employees to provide exceptional service to the Rockaway Township Community is preferred. The Township’s right to home rule without state interference cannot and should not be limited by outside interference.

No direct expenditure, contract, or policy now criticized by the subject audit was undertaken without the approval of the Rockaway Township Councils that were sitting at the time that action was taken. Local elected officials’ good faith decisions to pass Resolutions approving Collective Bargaining Agreements and the purchase of Employees Benefits are not the proper subject of opinions from the State of New Jersey or its comptroller’s office.

Everyone in our employee community works together to provide Rockaway’s residents with excellent service and programs. It is very disheartening and disturbing that, under the guise of coming to Rockaway to help, assist, and guide the Township in the more efficient provision of services to its residence, the audit team was actually here to publish its unsupported and unreasonable criticisms in an attempt to embarrass the Township.

This is exemplified by the fact that there is no mention in the audit report of the fact that the Township Administration runs professionally and efficiently operation of the Administration; or of the factors that have gone into the decision making by the Administration and the Township Council; or the fact that the Rockaway Township employees, who are generally very happy with their employee benefits. provide prompt and friendly service to the residents.

Running a \$40,000,000 per year municipal corporation like Rockaway Township is a monumental task. Yet, Administration after administration and Council after Council have run the Township finances in the “black” for many years. The inaccurate, unsubstantiated, nitpicking state audit missed that fact too. ¹

Addendum April 12, 2023 -Response to email 4/4/23

Last week the State Comptroller’s Audit Team finally responded to the Township’s demand for back up information to support the audit team’s calculation of administrative waste.

The only document that the State provided as “support” for what we perceive are the audit’s erroneous conclusions and calculations was an internal memo drafted by a Rockaway Township secretary.

It is noteworthy that the document that was provided did not analyze whether there was any waste on the part of the administration, which there was not. Neither did it address the issues of the negative impact of the State’s duplicative prescription charges to Rockaway employees and retirees.

We assert that a comprehensive and objective audit team would not rely upon the internal memo of a secretary to act as support for the auditors’ position. Especially when the memo was never recognized nor accepted as constituting the official position of Rockaway Township during the audit.

Without disparaging the former employee whose good faith memo was opportunistically utilized by the audit team to support their position, it must be stated that that person had no formal finance or legal credentials. It is unfortunate that the audit team would require us to respond in this fashion, but we cannot allow its negative agenda to inexplicably attempt to place a black mark on the hard-working administration and governing body without supplying this appropriate criticism.

It also remains unclear how the audit team could have even begun to have attempted to value accrued vacation time and police holiday time. This is especially true when Civil Service and PERC’s views regarding “use it or lose it” is not legal, yet the state comptroller seems to be suggesting that this practice be followed. Moreover, since the auditors have not properly analyzed the increased value of the accrued time due to the increasing pay rates of the holder, their numbers are speculative at best and, in any case, cannot be

reasonably characterized as waste anyway. There is no value in an audit, when, like here, the subject matter of its calculations is computed by simply throwing out a big, unsupported, number as was the apparent pre-determined theme of this audit.

Thus, the submission of the “back up” does not, in any way, change the Township’s response to the audit report. Rather, having reviewed the alleged “back up” to the audit’s calculation of waste, we are now even more convinced that our oppositional response to the audit is appropriate.

As previously stated, the Rockaway Township Employees’ Collective Bargaining Agreements of 2018 were in existence at the time of the audit. The comptroller has no right to claim waste as a result of Rockaway’s adherence to applicable labors laws, especially when the waste claimed is the result of the State’s duplicative prescription billing.

The true loss suffered by Rockaway Township lies in the State’s duplicative prescription billing money grab that was forced upon Rockaway Township for more than 20 years. Sadder yet, is the State’s replacement of its duplicative prescription billing policies with a 24% increase in annual health benefit premiums to municipal employees, when only 2% increases for health benefits will be expended by state employees, like the Comptroller and the members of that offices audit team.

Is the State really concerned about saving taxpayer dollars, or is it concerned that taxpayers’ health insurance dollars end up in the State’s hands. Unfortunately, we think it is the latter.

¹This response was prepared by the Rockaway Township Administration based upon individual specific contributions and advice from Lisa Palmieri, Township Chief Financial Officer (CMFO) with over 27 years in municipal government experience, Thomas Ryan Esq., Township Labor Counsel, Patricia Seger, Township Administrator, RMC, QPA, with over 23 years of municipal government experience, Iaciovano & Perrone, Esqs., Township Attorneys, who, together, have more than 80 years of legal experience and research and data analysis was provided by Nisivoccia LLP, Township Auditors.