

HAND DELIVERED

STATE OF OHIO
BEFORE THE OHIO STATE EMPLOYMENT RELATIONS BOARD
STATE EMPLOYMENT
RELATIONS BOARD

IN THE MATTER OF FACT-FINDING	:	SERB Case Number:	08-MED-09-1019	SEP 13 A 9:30
	:			
BETWEEN THE	:			
	:			
COLUMBUS ZOOLOGICAL ASSOCIATION,	:			
	:			
EMPLOYER	:	Date of Fact-Finding Hearing:	August 27, 2009	
	:			
AND THE	:			
	:			
AMERICAN FEDERATION OF STATE,	:			
COUNTY AND MUNICIPAL EMPLOYEES	:			
OHIO COUNCIL 8, AFL-CIO AND	:	Howard D. Silver		
AFSCME LOCAL 2950,	:	Fact Finder		
UNION	:			

REPORT AND RECOMMENDED LANGUAGE OF THE FACT FINDER

APPEARANCES

For: Columbus Zoological Association, Employer

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For: American Federation of State, County and Municipal
Employees Ohio Council 8, AFL-CIO and AFSCME
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¹ Effective October 1, 2009, Ms. Krivda joined the firm of
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This matter came on for a fact-finding hearing at 10:00 a.m. on August 27, 2009 within the Krivda Law Offices, 471 East Broad Street, Suite 2001, Columbus, Ohio 43215. Both parties were afforded a full and fair opportunity to present evidence and arguments in support of their positions. Both parties submitted pre-hearing statements to the fact finder and to the other party as required by law. The hearing concluded on August 27, 2009 at 1:30 p.m.

This fact-finding process proceeds under the authority of Ohio Revised Code section 4117.14 and in accordance with rules adopted by the Ohio State Employment Relations Board, including Ohio Administrative Code section 4117-9-05.

FINDINGS OF FACT

1. The parties to this fact-finding procedure, the Columbus Zoological Association, hereinafter the Employer, and the American Federation of State, County and Municipal Employees Ohio Council 8, AFL-CIO and AFSCME Local 2950, hereinafter the Union, are engaged in a bargaining process intended to culminate in a successor collective bargaining agreement ratified by both parties.
2. The Employer and the Union have a long bargaining history and their most recent collective bargaining agreement was in effect from January 1, 2006 through December 31, 2008.
3. The bargaining unit has a census of ninety members, distributed among thirty-six classification titles.
4. The classification titles covered by the parties' most recent collective bargaining agreement are Commissary

Worker 1, 2, and 3; Custodian 1, 2, and 3; Fleet Mechanic; Grounds Maintenance Foreman; Grounds Maintenance Worker 1, 2, 3, and 4; Head Custodian; Head Zookeeper; Heating/Air Mechanic; Landscape Maintenance Foreman; Maintenance 1, 2, 3, and 4; Maintenance Carpenter; Maintenance Electrician; Maintenance Foreman; Maintenance Plumber; Refuse Collector/Packer Operator; Warehouse Worker 1, 2, and 3; Zookeeper 1, 2, 3, and 4; and Biome Horticulturist 1, 2, 3, and 4.

5. The hourly wage rates among the classifications in the bargaining unit for calendar year 2008 ranged from a low of \$13.90 per hour for Commissary Worker 1 and Warehouse Worker 1, to a high of \$21.88 per hour for Fleet Mechanic, Heating/Air Mechanic, Maintenance Carpenter, Maintenance Electrician, and Maintenance Plumber.
6. Prior to 1970, the Columbus Zoo was owned and operated by the city of Columbus, and AFSCME Local 2950 served as the exclusive representative of some of the zoo employees.
7. After 1970, the Columbus Zoo became a private entity, no longer owned and operated by the city of Columbus, but the city of Columbus continued to fund the zoo through the city's General Fund until 1986.
8. The Columbus Zoological Association is a private, not-for-profit entity that owns and operates the Columbus Zoo and Aquarium through revenues generated by the operation of the zoo and aquarium and affiliated entities (a water park and a golf course), and through revenue generated by a tax levy approved by Franklin County, Ohio voters that will pay to the Columbus Zoological Association in support of the Columbus Zoo and Aquarium a total of 180 million dollars over the ten years from 2006 through 2015, at a (property) tax rate of .75 mills.

9. The tax levy produces an annual revenue of eighteen million dollars to the benefit of the Columbus Zoological Association for the operation of the Columbus Zoo and Aquarium, an increase over the prior levy through raising the tax on one thousand dollars of property valuation from sixteen dollars to twenty-four dollars, adding about ten million dollars per year for capital improvements and acquisitions made on behalf of the Columbus Zoo and Aquarium.
10. The bargaining unit was deemed certified by the State Employment Relations Board in 1984.
11. The parties commenced bargaining a successor collective bargaining agreement on November 17, 2008; seven bargaining sessions occurred.
12. The parties continued bargaining with the assistance of a State Employment Relations Board mediator who met with the parties on two occasions.
13. Following the conclusion of the mediation, the parties continued to bargain and a tentative agreement was reached as to the language of the parties' successor Agreement, but the tentative agreement was rejected by the members of the bargaining unit on August 24, 2009.
14. By the time of the fact-finding hearing that occurred on August 27, 2009, the parties had reached tentative agreement on the language to be included in the parties' successor Agreement except for two Articles - Article XI, Wages and Benefits, and Article XIV, Insurance.
15. In addition to the language recommended by the fact finder among the two unresolved Articles, the fact finder recommends that all of the Articles tentatively agreed by the parties be included in the parties' successor collective bargaining agreement.

UNRESOLVED ARTICLES

The Articles that have been bargained by the parties but remain unresolved are Article XI, Wages and Benefits, and Article XIV, Insurance.

Article XIV - Insurance

Article XIV, Insurance, within section 14.1 provides that the Employer shall enter into contractual agreements with an insurance carrier or carriers for the purpose of providing to bargaining unit members hospitalization, surgical and major medical benefits, dental benefits, optical benefits, hearing aid benefits, and life insurance benefits, except as modified in the following paragraphs of this Article. Article XIV, section 14.1, in the language of the parties' predecessor Agreement, requires the Employer to pay all premiums for both employee and family coverage except that each employee shall contribute an amount equal to twelve percent for single coverage or ten percent for family coverage. This language took effect May 1, 2006 and provides that the Zoo may fulfill its obligations by contracting all benefits with a single carrier or by obtaining separate insurance for some or all of the individual benefits, to be determined at the discretion of the Employer.

Article XIV, section 14.6 requires that all proposed insurance contracts for the provision of benefits under Article XIV be presented to the Union in advance of execution. The language of section 14.6 provides that if the Union, within twenty-one days of

presentation, provides the Employer with a written objection stating specifically how the proposed contract significantly deviates from the benefits then existent or as modified by this Article, or presents a written objection to including additional benefits under this Article into one insurance contract with a single premium, the Employer and the Union are to immediately negotiate the benefits in question during the duration of this collective bargaining agreement.

The Employer did provide the proposed insurance coverage to the Union in advance of execution as required by Article XIV. The Union filed no written objection and the Employer entered into a contract with an insurance carrier that was different from the carrier of the prior coverage. The change to a different insurance carrier to provide the benefits required under Article XIV occurred after a lengthy and detailed study of what the prior coverage provided and what other carriers offered. Benefits and costs from various carriers were compared and the Employer was able to secure insurance coverage for all zoo employees, including bargaining unit members, that included the benefits called for by Article XIV, within a package that was comparable to the benefits previously received, with an increase in monthly premium costs amounting to one percent. The one percent increase resulting from the change in coverage among comparable benefits compares very favorably to the much higher health care coverage costs encountered in recent years, and the lower increase in cost was made possible by "bundling"

benefits through the new carrier, a practice not available from the former carrier.

The Employer presented evidence indicating that the change in insurance coverage effected by the Employer under Article XIV is extended to all zoo employees and applied identically to all who participate in the coverage. This new coverage plan intends to apportion the costs of coverage based on the level of usage of the coverage. The Employer noted in its presentation at the hearing that those who use the coverage more often, requiring greater expenditures, will bear an increased burden in meeting those costs. Those bargaining unit members and other zoo employees who access health care coverage efficiently, helping to keep costs down, will bear a lesser burden.

The change to a different insurance carrier, which occurred prior to the fact-finding hearing herein, increased costs for the use of non-network medical services. The Employer points out that this is an incentive to stay within the network when receiving medical services, a way to control costs. The Union has no objection to the incentives intended to promote accessing medical services in the network and joins in the call for accessing medical services in a wise and sustainable way.

The Union points out that its members want nothing more than to maintain the level of coverage provided under their predecessor collective bargaining agreement. The Union points out that three years ago the current percentage levels in the contract were negotiated and the Union continues to believe that these negotiated

levels are adequate and should be retained for the life of the successor collective bargaining agreement.

The Union points out that the costs to bargaining unit members for medical coverage have increased drastically over the past three years, so sharply that employees find themselves losing rather than gaining through annual pay raises. The Union notes that a wage increase is eaten up by the increases in copayments and deductibles, and the same holds true for prescription formularies and the copayments required for prescription drugs.

The Union notes that it objected to the increases in deductibles found in the new health insurance coverage as significantly deviating from what had been the case.

The parties' positions as to employee costs for health care coverage are as follows:

Deductible		Union	Prior terms	Employer
Network	Single	-0-	-0-	\$ 100
	Family	-0-	-0-	\$ 200
Out of Network	Single	\$ 500	\$ 200	\$ 200
	Family	\$ 1000	\$ 400	\$ 400
Co-Insurance		Union	Prior terms	Employer
Network		80%/20%	80%/20%	80%/20%
Non-Network		60%/40%	80%/20%	60%/40%

Out-of-Pocket		Union	Prior terms	Employer
Network	Single	\$ 1000	\$ 1000	\$ 1000
	Family	\$ 2000	\$ 2000	\$ 2000
Non-Network	Single	\$ 3000	\$ 1000	\$ 2000
	Family	\$ 6000	\$ 2000	\$ 4000
Office Visits		Union	Prior terms	Employer
Network		\$ 15	\$ 10	\$ 20
Preventive Care		Union	Prior terms	Employer
Network		-0-	-0-	-0-
Prescription		Union	Prior terms	Employer
Retail		\$ 10/25/25	\$ 10/20/20	\$ 7/25/35
Mail/90 Day Supply		\$ 20/50/50	\$ 20/40/40	\$ 14/50/70
Premium Share		Union	Prior terms	Employer
	Family	10%	10%	10%
	Single	12%	12%	12%

The differences between the parties as to employee costs under the new (present) health insurance coverage are, in most cases, not substantial. In many cases the positions of the parties on these costs are identical, such as the 10% family coverage contribution and the 12% single coverage contribution that continue the levels

of contribution found in the prior collective bargaining agreement and the prior health care coverage.

In increasing costs among bargaining unit members who access medical services outside the network, the Union's proposal calls for higher costs than that found under the prior health insurance coverage, the predecessor collective bargaining agreement, and the Employer's proposal.

A substantial difference between the parties is the amount of the deductible to be paid while accessing medical services in network, with a single coverage employee required to pay a \$100.00 deductible and a family required to pay a \$200.00 deductible. The deductibles under the prior health care coverage and the deductibles proposed by the Union are zero.

The Union provided credible testimony at the fact-finding hearing that the change in health care coverage has changed how different prescribed medications are reimbursed. In some cases a prescription drug had cost substantially less under the prior health insurance coverage than is the case under the present coverage. The fact finder finds this circumstance regrettable but inescapable in making changes to a health insurance coverage plan. While some bargaining unit members may be disadvantaged by increased costs for medication, it is just as likely that others will enjoy an advantage in lower costs for drugs than had been the case under the prior coverage.

The retail and mail prescription drug plans proposed by the Union and the plans now put in effect by the Employer through the

new health care coverage are not significantly different. In the case of retail generic medication the cost proposed by the Employer is slightly less (seven dollars versus ten dollars) than that proposed by the Union and found in the prior coverage. While the Employer's proposal at the other end of the spectrum for both retail and mail prescriptions is higher than that proposed by the Union and found in the prior coverage, these increases are not greatly higher and appear reasonable in the context of rising health care costs generally.

Insurance coverage works best when contributions and costs are spread throughout as large a pool of participants as can be accomplished. The greater the number of participants the wider the spread of costs throughout the participant pool, the more efficient the provision of health care coverage. The fact finder applauds both parties' efforts to secure and access health care in ways that hold down costs and offer incentives to participants in the coverage pool, all zoo employees, to use the coverage wisely and efficiently.

The Union's presentation as to the increased costs to bargaining unit members as a result of the new health care coverage was credible. All health care coverage participants employed by the zoo, including those bargaining unit members who avail themselves of coverage for themselves or their families, will be required to pay a \$100 or \$200 deductible based on whether the coverage is single or family. The remainder of the changes to costs to be borne by employees, especially those costs in network, are not out of

line with comparable costs under the prior coverage and the prior collective bargaining agreement.

The fact finder acknowledges the extra burden of the increased costs to employees under the current coverage but is persuaded that health care coverage remains a very valuable and expensive benefit for which the Employer bears a substantial financial burden. To provide hospitalization, surgical and major medical benefits, dental benefits, optical benefits, hearing aid benefits, and life insurance benefits, the increased costs required of the employees appear to the fact finder to be a reasonable contribution for such a valuable and expensive benefit.

The fact finder recommends the Employer's position on insurance as it relates to the health insurance coverage to be provided to bargaining unit members under Article XIV, section 14.1.

Prior to the fact-finding hearing, the parties had not reached agreement as to language to be included within Article XIV, section 14.3 of the parties' successor collective bargaining agreement, Benefit Holiday. A benefit holiday is a pay period during which no deduction is made for the employee's portion of the premium for health insurance coverage. At the fact-finding hearing the Employer revised its position and in so doing tentatively agreed to the Union's position as to section 14.3 that authorizes four benefit holidays in 2009; three benefit holidays in 2010; and two benefit holidays in 2011. The parties' predecessor Agreement

authorized two benefit holidays in 2006 and one benefit holiday in 2007.

The fact finder recommends the Union's position on Article XIV, section 14.3, Benefit Holiday, a position that is not opposed by the Employer.

The Union has proposed the deletion of the words "effective May 1, 2006..." within Article XIV, section 14.1. This language was specific to the parties' predecessor collective bargaining agreement and therefore the fact finder recommends the deletion of this phrase from the parties' successor Agreement.

The Union also proposes adding language to Article XIV, section 14.1 that reads "...during the life of this contract," to be inserted at the conclusion of the first sentence within section 14.1. This sentence refers to the provision of insurance by the Employer to bargaining unit members, and the twelve percent single coverage contribution and the ten percent family coverage contribution.

The fact finder does not recommend the inclusion of the phrase "during the life of this contract" in Article XIV, section 14.1 because the fact finder finds the language not needed and subject to ambiguity if the ending dates for the successor collective bargaining agreement and the health care coverage plan are not identical. Any deviation between the successor collective bargaining agreement and the present health care coverage policy as to their ending dates would raise an issue as to whether the insurance coverage remained in effect when the successor collective

bargaining agreement concluded. To avoid any ambiguity, and finding that the proposed language does not add to an understanding of the language of section 14.1, the fact finder recommends the deletion of "effective May 1, 2006" and otherwise recommends the retention of the language of Article XVI, section 14.1 as found in the predecessor collective bargaining agreement between the parties.

The Union has also proposed adding language to Article XIV, section 14.6, the section that refers to providing the Union with notice of proposed insurance contracts in advance of execution and the Union's right to file an objection to a proposed contract. The Union proposes deleting all but the first sentence in section 14.6 and adding the following:

...The negotiated benefit levels in place in this collective bargaining agreement will remain the exact same benefit levels during the duration of this collective bargaining agreement. The zoo may change carrier as stated in 14.1 above and the new carrier will be required to maintain the exact coverage benefit levels that were in place at the execution of the contract.

The language proposed to be added to section 14.6 of Article XIV makes a substantial change to the discretion to be wielded by the Employer in providing health care coverage under Article XIV to bargaining unit members. The fact finder finds it difficult to accept that any change to health care coverage, whether a new policy with the same carrier or a change to a different carrier, could produce health care coverage that provided "...the exact coverage benefit levels that were in place at the execution of the contract." If the Employer is agreeable to such a limitation the

parties are free to enter into such an agreement, but in the absence of the Employer's consent to such constraining language the fact finder declines to recommend it. If a change in coverage were to be proposed, the language allowing the filing of an objection appears to provide adequate protection to the Union.

The Union, of course, is free to perform its own detailed study and make suggestions to the Employer on how health care coverage can be improved, both through improving benefits and containing costs. The Employer nonetheless maintains a broad discretion in determining the health care coverage to be provided under Article XIV, and this discretion is grounded in the substantial costs shouldered by the Employer in providing this coverage.

The Union has its reasons for suggesting the more restrictive language for section 14.6 and the fact finder does not question the good faith basis for such a proposal. The fact finder, however, is not persuaded that the language proposed by the Union for inclusion within section 14.6 serves a purpose sufficiently beneficial to both parties to support a recommendation that this language be included in the parties' successor Agreement.

Article XI, Wages and Benefits

There is between the parties unanimity on one issue that relates to wage increases during the three years of the parties' successor collective bargaining agreement, that being the ability of the Employer to pay more in wages than what is now proposed by

the Employer, a two percent per year wage increase during each of the three years of the parties' successor collective bargaining agreement, with the first wage increase, the wage increase (presumably) in 2009 to be effective upon the ratification by both parties of their successor collective bargaining agreement.

The Union has proposed a 3.5% per year wage increase retroactive to January 1, 2009.

There is no argument or evidence in the record that the Employer is unable to fund wage increases during the three years of the parties' successor collective bargaining agreement at the levels proposed by the Union. At the hearing it was stated on behalf of the Employer that inability to pay is not an argument raised by the Employer in support of its proposed wage increases, wage increases that are 57% of what is proposed by the Union.

The Employer's position on wage increases for the parties' successor collective bargaining agreement is grounded in a recent reorganization of the table of organization of the zoo, a strategic vision that sees the Columbus Zoo and Aquarium as self-sustaining, and a wage schedule among bargaining unit members that is fair and competitive in the marketplace. The Employer presented the testimony of zoo administrators, including Dale E. Schmidt, the interim Executive Director (since June 30, 2009) and Chief Operating Officer of the Columbus Zoo and Aquarium.

Mr. Schmidt explained that in 2009 it is the intention of the Columbus Zoological Association and the managers of the Columbus Zoo and Aquarium to operate the zoo and aquarium using good

business practices, matching expenditures to revenues, and retiring debt on a time line that parallels the zoo levy that is to conclude at the end of 2015. Mr. Schmidt explained that nationally, zoos receive fifty percent to sixty percent of their operating budgets through some form of public subsidy.

Mr. Schmidt noted that if the Columbus Zoo and Aquarium levy were to fail to be renewed, massive cuts in the operations of the zoo and aquarium would be required. Mr. Schmidt explained that twenty percent of the annual operating budget of the zoo and aquarium, an amount equaling eight to ten million dollars, comes from the annual proceeds of the tax levy.

Mr. Schmidt pointed out that the Columbus Zoo and Aquarium has expanded to include a golf course and a water park. The water park, formerly Wyandot Lake, now Zoombezi Bay, was owned as Wyandot Lake by the Six Flags Corporation which did not reinvest in Wyandot Lake and simply walked away from it. Mr. Schmidt explained that the Columbus Zoological Association saw Wyandot Lake as a potential revenue stream, and Mr. Schmidt noted that in its first year Zoombezi Bay has done very well.

Mr. Schmidt explained that the money from the levy that is not used for operating expenses or retiring debt is used to build exhibits, maintain the facility, and underwrite environmental educational programming. Mr. Schmidt noted that in recent times five positions on the Columbus Zoo and Aquarium payroll have been eliminated and seven positions on the Zoombezi Bay payroll have been eliminated.

The amount received annually by the Columbus Zoological Association through the tax levy that is to remain in effect through 2015 is \$18,000,000.00. In 2009, 20.9% of the zoo's annual operating budget of \$36,000,000, \$7,500,000, was provided through levy proceeds. The remaining \$28,500,000 of the operating budget was derived from other revenue sources, including ticket sales, season passes, parking, the sale of merchandise and food, and revenues generated by providing zoo employees to work at the water park.

The financial circumstances of the Columbus Zoo and Aquarium over the next six years compare favorably to most operating entities, public or private, for profit or not-for-profit, in Franklin County, Ohio; in central Ohio; in the state of Ohio. The Columbus Zoo and Aquarium's excellent reputation for offering an educational and recreational experience of the first order at an affordable price has produced increases in attendance and a great deal of public support. The affordability of this high quality family-friendly experience is enabled by the tax levy that permits the zoo to charge \$14.00 for entry rather than \$50.00. The lower ticket price is directly attributable to the tax levy voted by the Franklin County, Ohio voters, a levy in effect from 2006 through 2015.

After accounting for the operating expenses of the Columbus Zoo and Aquarium in 2009 with the infusion of levy funds in the amount of 7.5 million dollars, there remains 10.5 million dollars not devoted to the operation of the zoo and aquarium. Some of this

money is devoted to retiring debt among thirty-three million dollars in bonds for which the zoo is responsible. Some of the levy money is devoted to acquisitions intended to better the self-sustainability of the Columbus Zoo and Aquarium. At the hearing, however, it was made clear by Mr. Schimdt that the future plans of the Columbus Zoo and Aquarium as to self-sustainability do not assume an end to the levy following 2015. The self-sustainability of the Columbus Zoo and Aquarium assumes the continuing financial support of Franklin County voters.

This proceeding does not address or consider the wisdom of the Employer in determining how to spend money not required by the zoo and aquarium's operating budget. This fact-finding process does however address the ability of the Employer to fund a higher wage increase than that which is proposed by the Employer. On the evidence before the fact finder, the Employer's ability to fund a wage increase substantially higher than what is proposed by the Employer is manifest.

The sound financial position of the zoo rests in part on the goodwill and generosity of Franklin County voters for the Columbus Zoo and Aquarium based on what the zoo and aquarium offer the voters and their children. Another basis of the sound financial position of the Columbus Zoo and Aquarium is grounded in good management and business practices determined by the governing board, overseen by the zoo's management team, and carried out by bargaining unit members who provide direct animal care and the unskilled, semi-skilled, and skilled work essential to the

operation and maintenance of the facility. The popularity of the zoo is attributable to its product, and its product is attributable to the work of the association, its managers, and its employees. While Franklin County, Ohio, the state of Ohio, and the nation struggle to emerge from a deep economic recession, the Columbus Zoo and Aquarium, through public support, good management, and good work is enjoying increased attendance, substantial unencumbered annual carry-overs, and reliable, robust revenue streams.

The Employer points out that non-organized zoo employees received a two percent wage increase and all employees will receive performance reviews in January and February, 2010. The Employer points to a recent reorganization that eliminated five positions from the zoo payroll and eliminated seven positions from the Zoombezi Bay payroll. The Employer points to the elimination of a project manager in the Finance Department, the elimination of a recycling and energy conservation analyst in the Facilities Department, and the elimination of an administrative assistant and an education assistant in the Education Department. Also eliminated was a media production assistant in the Planning Department.

It is noted that the Zoombezi Bay water park is owned by a separate, private, for-profit entity that contracts with the Columbus Zoological Association to have zoo employees work at Zoombezi Bay for which the Columbus Zoological Association is compensated. It is presumed that while the zoo employees are working as assigned at Zoombezi Bay, their positions are unfilled

at the zoo, either leaving the zoo work of these employees while at Zoombezi Bay to those zoo employees remaining in their positions at the zoo or the work goes undone during the assignment to Zoombezi Bay and must be added to the workload upon return to the zoo. The fact finder does not question the wisdom of the assignments, but only notes that at no monetary cost to the Employer during these Zoombezi Bay assignments, additional revenue to the benefit of the Columbus Zoological Association is generated by these employees who realize no increase in compensation from their assignments to a separate, private, for profit entity.

The two percent wage increase provided to non-organized employees by the Columbus Zoological Association resulted from a unilateral decision of the Employer, not from bargaining between the Employer and the Union. The wage increase for non-organized employees was not a decision in which the Union participated. The fact finder finds no connection between the Employer's decision as to the wage increase for non-organized employees and the wage increase issue between the Employer and the Union.

As to the reorganization of the zoo and the elimination of positions from the zoo payroll and from the payroll of Zoombezi Bay, these are managerial decisions about which the Employer wields broad discretion. Managerial decisions are not questioned by the fact finder but these organizational decisions are not found to have affected the ability of the Employer to pay a reasonable wage increase based on the financial circumstances of the Columbus Zoo and Aquarium.

The fact finder considers the strategic vision of the Employer, the financial circumstances of the Employer, in particular, the financial circumstances reasonably projected for 2009, 2010, and 2011, the years of the successor collective bargaining agreement, and the reasonableness of wage increases based on those circumstances. The fact finder finds the increased costs to be shouldered by bargaining unit members in health insurance deductibles and the increases in costs of prescription drugs to be somewhat ameliorated by the increase in benefit holidays, pay periods during which contributions from employees for their health insurance coverage are not required. The fact finder nonetheless finds that the wage increase proposed by the Employer is less than can be reasonably expected based on the zoo's current financial situation, by about twenty-five percent, and the fact finder therefore recommends that the parties' successor collective bargaining agreement include a 2.5% wage increase for each of the years of the successor Agreement, 2009, 2010, and 2011, and the initial wage increase under the successor collective bargaining agreement be retroactive to January 1, 2009. The fact finder views this recommended wage increase as affordable by the Employer, reasonable under the financial circumstances of the Employer, and a deserved wage increase for bargaining unit members who have contributed greatly through their work to the Columbus Zoo and Aquarium's splendid reputation, public support, and favorable financial condition.

The 2.5% wage increase recommended by the fact finder is less than that which has been proposed by the Union. The positive financial circumstances of the zoo cannot be considered in a vacuum. The sobering financial realities of local, state, and national economies constrain the fact finder from proposing a greater increase in wages. The retroactivity suggested by the fact finder eliminates uncertainty as to when a pay increase may be expected and promotes greater administrative ease and precision in administering the wage increases over the three years of the parties' successor Agreement.

RECOMMENDED LANGUAGE

Article XI, Wages and Benefits

Section 11.1 Salaries

Wages shall be paid according to Appendix "A" attached hereto and made a part of this Agreement. Appendix "A" reflects percentage increases for all covered employees of two and one half percent (2.50%) for 2009 (retroactive to January 1, 2009); and two and one half percent (2.50%) for the year 2010; and two and one half percent (2.50%) for the year 2011.

Section 11.2 Service Credit

A service credit payment shall be paid during December of each year to those full-time employees of the Zoo. The computation of

the total years of continuous service as set forth in the following schedule shall be based upon continuous active service in a full-time paid status as of November 30, 1975, and each year thereafter as of that date. For the sole purpose of determining service credit in this Section, the years of service in the schedule shall include military leave without pay, Family and Medical Leave Act leave, and the Union leave without pay. No service credit shall be allowed or paid to any employee for time lost for any other leave without pay or time lost as a result of disciplinary action.

Service Credit Schedule

5 Years or more of continuous service	\$ 50.00
8 Years or more of continuous service	\$150.00
14 Years or more of continuous service	\$200.00
20 Years or more of continuous service	\$275.00
25 Years or more of continuous service	\$325.00

Section 11.3 Ten Year Wage Adjustment

For all persons who have been a full-time employee of the Zoo for ten years, a one-time, twenty-five cent (\$.25) per hour wage increase shall be granted such employee on his/her tenth anniversary of continuous service.

Section 11.4 Temporary Wage Adjustment

Any employee who is required by management to perform the job of higher bargaining unit job classification for more than two weeks shall be compensated at the pay rate of the higher job classification for the duration of the assignment.

This provision does not apply if the assigned higher level work lasts less than two (2) weeks.

Section 11.5 Contribution to OPERS

- (A) For employees hired prior to January 1, 1997, the Zoo shall pay directly to OPERS 9% of the employee contribution and the employee will pay all future OPERS employee contribution rate increases. The Zoo will pay the full employer's statutory contribution to OPERS for these employees.
- (B) For employees hired between January 1, 1997 and December 31, 2005, the employer shall pay directly to OPERS the full employer statutory contribution and the employee, through payroll deduction, shall be responsible for the full statutory employee contribution, except for the one-half percent contribution increase in 2006. These employees will be responsible for paying any future OPERS employee contribution rate increases. For these employees, a service credit shall be applied commensurate to the employee's anniversary date of Zoo employment as follows:

After five (5) full continuous years of Zoo employment, the employee will receive a 1% credit against the required employee statutory contribution;

After ten (10) full continuous years of Zoo employment, the employee will receive a 2% credit against the required employee statutory contribution;

After fifteen (15) full continuous years of Zoo employment, the employee will receive a 3.5% credit against the required employee statutory contribution.

After twenty (20) full continuous years of Zoo employment, the employee will receive a 6% credit against the required employee statutory contribution.

- (C) For employees hired on or after January 1, 2006, those employees shall pay the full employee statutory contribution to OPERS and will pay all future OPERS employee contribution rate increases. These payments will be made via payroll deduction on behalf of the employee.

APPENDIX A
WAGE SCHEDULE

	<u>2009</u>	<u>2010</u>	<u>2011</u>
Commissary Worker #1	14.25	14.61	14.97
Commissary Worker #2	15.48	15.87	16.27
Commissary Worker #3	16.09	16.49	16.90
Custodian #1	14.53	14.89	15.27
Custodian #2	16.94	17.36	17.80
Custodian #3	18.08	18.53	19.00

	<u>2009</u>	<u>2010</u>	<u>2011</u>
Fleet Mechanic	22.43	22.99	23.56
Grounds Maintenance Foreman	22.03	22.58	23.15
Grounds Maintenance Worker #1	15.22	15.60	15.99
Grounds Maintenance Worker #2	17.63	18.07	18.52
Grounds Maintenance Worker #3	18.84	19.31	19.79
Grounds Maintenance Worker #4	19.60	20.09	20.59
Head Custodian	19.13	19.61	20.10
Head Zookeeper	22.09	22.64	23.21
Heating/Air Mechanic	22.43	22.99	23.57
Landscape Maintenance Foreman	22.03	22.58	23.15
Maintenance #1	17.11	17.54	17.98
Maintenance #2	19.05	19.53	20.01
Maintenance #3	20.42	20.93	21.45
Maintenance #4	21.43	21.97	22.51
Maintenance Carpenter	22.43	22.99	23.57
Maintenance Electrician	22.43	22.99	23.57
Maintenance Foreman	23.20	23.28	24.37
Maintenance Plumber	22.43	22.99	23.57
Refuse Collector/Packer Operator	20.80	21.32	21.85
Warehouse Worker #1	14.25	14.61	14.97
Warehouse Worker #2	15.58	15.97	16.37
Warehouse Worker #3	16.09	16.49	16.90
Zookeeper #1	16.70	17.12	17.55
Zookeeper #2	19.05	19.53	20.01
Zookeeper #3	20.42	20.93	21.45
Zookeeper #4	21.06	21.59	22.13

	<u>2009</u>	<u>2010</u>	<u>2011</u>
Biome Horticulturist 1	16.70	17.12	17.55
Biome Horticulturist 2	19.05	19.53	20.01
Biome Horticulturist 3	20.42	20.93	21.45
Biome Horticulturist 4	21.06	21.59	22.13

Article XIV, Insurance

Section 14.1 Insurance

The Zoo shall enter into contractual agreements with any insurance carrier or carriers, or self-insurer, or any other form of managed health care, for the purpose of providing hospitalization, surgical and major medical benefits, dental benefits, optical benefits, hearing aid benefits and life insurance benefits, either by insurance coverage or self-insurance, or any other form of managed care, except as modified in the following paragraphs, and pay all premiums for both the employee and family coverage, except that each employee shall contribute an amount equal to 12% single coverage and 10% family coverage, of the premium per month for the hospitalization, surgical and major medical coverage in which they are enrolled. The Zoo may fulfill its obligation by contracting all benefits with a single carrier, or by obtaining separate insurance for some or all of the individual benefits, totally at the discretion of the Zoo. Health insurance premium contributions will be deducted biweekly.

Section 14.2 Life Insurance Modification

The Zoo shall increase life insurance benefits for employees so that the death benefit is at least equivalent to one and one-half a year's salary of such employee but not to exceed \$50,000.

Section 14.3 Benefit Holiday

In 2009, employees will be granted four (4) benefit holidays, and in 2010, employees will be granted three (3) benefit holidays, and in 2011, employees will be granted two (2) benefit holidays. A benefit holiday is one pay period during which no deduction will be made for the employee's portion of applicable benefit premiums for health insurance from his/her paycheck. The Zoo Director or his/her designee shall determine when the benefit holiday(s) will occur.

Section 14.4 Optical

The Zoo will provide an optical benefit to pay for eyeglass frames to the limit of \$70.00 per person per two year period.

Section 14.5 Employee Voluntary Decision to Exempt Himself/Herself From Coverage

For all employees employed at the Zoo as of December 31, 2005, no employee will be entitled to any benefit provided by this Collective Bargaining Agreement to the extent such employee elects to be covered by any alternate benefits such as HMO, spouse's insurance or private insurance, including all benefits provided by single premium from which the employee exempts himself/herself. The

Zoo will pay to or on behalf of such employee who withdraws from coverage a sum equivalent to the premium the Zoo would make to the group insurance carrier had the employee retained coverage if the employee opts to convert to a HMO, or 50% of said amount if the employee elects to be covered by his/her spouse's insurance at the applicable rate depending upon the employee's status. If the voluntary withdrawal from the group coverage causes the insured group to shrink to the level requiring increased per capita insurance premiums, the increases will be paid pro rata by wage deductions from all employees. In no event will the Zoo pay more money for benefits than it would pay if all employees elected to be covered by the group insurance benefits. Employees hired on January 1, 2006 or later are not eligible to participate in this voluntary exemption. Should any currently enrolled employee opt out of the exemption program, he/she will not be allowed to return to the program.

Section 14.6 Union Right to Review and Negotiate

All proposed insurance contracts for provision of benefits under this Article shall be presented to the Union in advance of execution. If the Union, within twenty-one (21) days of presentation, provides management with a written objection stating specifically how the proposed contract significantly deviates from the benefits then existent or as modified by this Article, or with a written objection to including additional benefits under this Article into one insurance contract with a single premium,

management and the Union shall immediately negotiate the benefits in question during the duration of this agreement.

Section 14.7 Long Term Disability

The Zoo will obtain insurance to provide long term disability coverage which will provide for 60% of pre-disability income commencing after 60 calendar days of disability from work and continuing until the employee is able to return to the work force as defined in the insurance policy, or until retirement. The terms of qualification and delineation of specific benefits shall be determined by the insurance carrier selected by the Zoo.

The Zoo may thereafter change insurance carriers only consistent with Section 14.6.

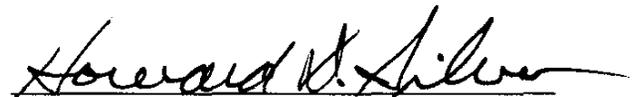
Section 14.8 Flexible Spending Accounts

Each employee will be permitted to contribute up to a maximum of \$3,000 to his/her medical flexible spending account. Employees will have fourteen and one-half (14-1/2) months in which to utilize the funds in the flexible spending account.

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In addition to the language recommended by the fact finder, the fact finder recommends by reference, as if fully rewritten herein, all other Articles that were either unopened by the parties or tentatively agreed by the parties be included in the parties' successor Agreement.

In making the recommendations presented in this report, the fact finder has considered the criteria required by Ohio Revised Code Chapter 4117., and sections 4117-9-05(K)(1)-(6) of the Ohio Administrative Code.


Howard D. Silver
Fact Finder

Columbus, Ohio
October 13, 2009

CERTIFICATE OF SERVICE AND FILING

I hereby certify that the foregoing Report and Recommended Language of the Fact Finder in the Matter of the Columbus Zoological Association and AFSCME Ohio Council 8 and Local 2950, SERB case number 2008-MED-09-1019, was filed, via hand-delivery, with the State Employment Relations Board, and hand-delivered to the offices of the following, this 13th day of October, 2009:

Pamela S. Krivda, Esquire
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Howard D. Silver
Fact Finder

Columbus, Ohio
October 13, 2009