

STATE EMPLOYMENT  
RELATIONS BOARD

2009 SEP -8 A 10: 48

STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACT-FINDING

BETWEEN

AFSCME OHIO COUNCIL 8, AFL-CIO and  
AFSCME LOCAL (new number)

Case No. 2009-MED-01-0020  
and

The City of Athens, Ohio

REPORT OF FACT-FINDER  
JACK E. MCCORMICK

Hearing date: August 18, 2009  
Date of Report: Septemeber 4, 2009

At 10:15 a.m., August 18, 2009, a fact-finding hearing was convened in the Athens, Ohio city hall. Present for the parties were the following:

Employer

Beverly Henderson  
Personnel Director  
City of Athens

Patrick J. Lang, Esquire  
Law Director  
City of Athens

Paula Horan Moseley  
Safety Director  
City of Athens

Union

Lance Allison  
Code Enforcement Officer  
City of Athens

Brian Zoulek  
Code Enforcement Officer  
City of Athens

Teresa Gerren  
Administrative Assistant  
Ohio Council 8 AFSCME

Gary W. Arnold  
Staff Representative  
Ohio Council 8 AFSCME

All the parties present were fully advised of the laws, administrative rules, and regulations of SERB surrounding fact-finding.

The bargaining unit consists of five employees who serve as Code Enforcement Officers, which includes the classifications of Code Inspector and Administrative Assistant. This is a new local as there is no current collective bargaining agreement.

The bargaining unit engages in the inspection of residential rental units as well as businesses to determine any city code violations.

After a lengthy fact-finding hearing on all outstanding issues, the parties and the Fact Finder went into a session of mediation at which time Tentative Agreements were signed on all

outstanding issues except one. Those Tentative Agreements are before the respective governing bodies for consideration.

The parties mutually requested that the Fact Finder make a finding of fact regarding the proposed Article 6, Hours of Work and Overtime-Section 1, Scheduled Hours, and for the needs of the parties asked that the report be issued on September 4, 2009.

#### FACT-FINDING - HOURS OF WORK

Normally hours of work would be reserved by the Employer as a management right. However, in the instant case the City of Athens has agreed to make it a subject of the collective bargaining agreement.

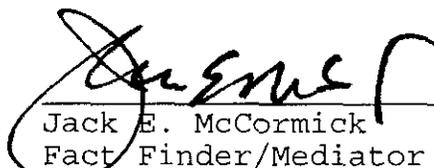
The bargaining unit members have been, for approximately five years, working the hours of 8:00 a.m. to 4:00 p.m., taking lunch breaks on an ad hoc basis. The rationale for this is that the Athens City Hall's posted hours are 8:00 a.m. to 4:00 p.m. Accordingly, there is someone in the office of Code Enforcement at all times to serve any member of the public who may walk in during those hours.

The Union proposes that these hours remain as is for two reasons. First, it better serves the public and, secondly, historically it has caused no problems within the operation of the Department. The City proposes that the hours of the Code Enforcement Unit be 8:00 a.m. to 5:00 p.m. with a one hour lunch break. However, the City failed to provide any facts sufficiently compelling to make a change in this past practice. In making his

fact-finding herein the Fact Finder adheres to the adage "If it isn't broke, don't fix it." There was presented no evidence by the City that the current practice is either disruptive to the Division's operations, nor causing any problem to the members of the public.

**FINDING OF FACT**

Based on the facts presented to the Fact Finder herein the hours of work for the employees of the Athens City Code Enforcement Unit should remain 8:00 a.m. to 4:00 p.m.

  
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Jack E. McCormick  
Fact Finder/Mediator SERB  
500 City Park Avenue  
Columbus, Ohio 43215  
(614) 221-2718  
Fax (614) 221-2719

CERTIFICATE OF SERVICE

On this 4th day of September, 2009 the foregoing was served by ordinary mail on the following:

Edward E. Turner  
Administrator, Bureau of Mediation  
State Employment Relations Board  
65 East State Street, 12th Floor  
Columbus, Ohio 43215-4213

Patrick J. Lang, Esquire  
Law Director  
City of Athens  
Law Administration Building  
8 East Washington Street, Suite 301  
Athens, Ohio 45701

Gary W. Arnold  
Staff Representative  
Ohio Council 8 AFSCME  
36 South Plains Road  
The Plains, Ohio 45780-1348



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Jack E. McCormick  
Fact Finder/Mediator SERB