

IN THE MATTER OF FACT FINDING

BETWEEN

AFSCME OHIO COUNCIL 8 AND LOCAL 2714

AND

THE CITY OF GREEN, OHIO

SERB CASE # 2012-MED-12-1448

Robert G. Stein, Fact-finder

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INTRODUCTION

The parties to this matter are AFSCME Ohio Council 8, Local 2714 (hereinafter "Union") and the City of Green, Ohio (hereinafter "Employer," or "City"). The Employer is located in northern Ohio. The bargaining unit is comprised of approximately forty-eight (48) employees who hold various positions in the City as identified in the Collective Bargaining Agreement's Recognition clause as well as in Appendix A. The current Collective Bargaining Agreement ("Agreement") was effective April 16, 2010 through April 15, 2013.

General/State/Local Economic Overview: Caution and underlying disquiet appear to be an apt characterization of the state of the current international, national and the local economies. The economy is improving but the improvement is uneven, some people recovered well from the effects of the "great recession," others did not and either remained unemployed, underemployed and have often experienced a substantial reduction in their wealth, which may be hard to rebuild depending upon age. The uncertainty appears to be due to a variety of factors, both economic and political. An example of uncertainty that is both economic and political in nature is the condition commonly known as the "Sequester." It replaced the "fiscal cliff" that dominated the airwaves in December and early January this year and has caused continued uncertainty. The Sequester has begun in a seemingly quiet way, but with no immediate hope of resolving what is predicted to become a drag on the economy in the not too distant future. However, as time goes on the effects will become apparent and will have a real life impact in northern Ohio (e.g. Head Start Programs are being cut, Cleveland Airshow being cancelled, teachers positions will likely be cut, military contract employees furloughed or laid off, etc.). Another example of disquiet is on the international front in terms of strife in Egypt, Syria, Iran, and Iraq, with threats of instability to other countries such as Jordan being predicted. And, the debt problems in European countries, even relatively small ones such as Greece, can undermine the U.S. and have an adverse effect on Ohio's economy, regardless of the best efforts of Ohio's leaders to sustain economic growth and reduce unemployment.

At this time the economy in Ohio does continue to show signs of steady improvement from a very long and severe national recession even though Ohio's unemployment rate rose to 7.2% from 7% in June. Some 32,000 jobs were added in May and then approximately 12,500 jobs were lost in June and "wide swings between job losses and job gains have been a pattern" in Ohio in 2013, which continues to keep many Ohioans somewhere between hope and concern. (Col Dispatch, 7/19/13) Job gains are certainly a welcome change from the years of past job losses, particularly in manufacturing, however job gains so far in 2013 are slower than what occurred in 2012 and there is still a long way to go to make up for the over 400,000 jobs lost in the last 12+ years, many of which paid well and had good benefits. However, as well intended as Ohio leaders may be, Ohio's economy is susceptible to the financial health of the United States and the world. A third area of uncertainty is the advent of the Affordable Care Act and its implications for hiring full-time workers versus part-time workers, in addition to many other uncertainties for employers and employees. A fourth is the general gridlock in Washington D.C., beyond the Sequester issue, that fuels increasing concern over inaction on matters that may also slow the economy, such as addressing a growing national debt, keeping Medicare and Social Security solvent, reducing unemployment, and creating jobs that pay a living wage. One only has to view the limited opportunities available to recent high school and college graduates to find evidence that a "good" job with "good benefits" remains hard to find, unless you happen to be educated or trained in one of the few areas of high demand. There are positive signs, the housing market continues showing signs of recovery and the auto industry has had record sales this spring. Yet, uneasiness persists with some twelve (12) million people remaining unemployed, and many others underemployed. And as previously stated, the recovery is uneven, depending upon location. In the first 6 months of 2013 some 900,000 new jobs were created. However, approximately two thirds of those jobs were part time with little or no benefits. At the same time, approximately 900,000 new graduates (high school and college) entered the labor market. Those who have been unemployed or underemployed now have more competition depending upon where one lives and the job market. In June Ohio ranked second in the nation in the number of jobs lost. The City of Green, in the experience of this neutral, has demonstrated significant foresight and calm during the past "Great Recession." While admittedly in a much better position than many municipalities

regarding its relative economic position, its thoughtful management of resources and its past sensible decision making are now paying off. However, no one in this economy is “out of the woods “and it, like all other municipalities in Ohio faces financial continued challenges that required continued prudence and measured commitments. At the same time, each member of the bargaining unit has a household budget that depends on continued income and reasonable increases in order to keep up with the cost of living. A well-managed city that wishes to provide first rate service to its citizens must also assume it will have to pay a fair wage and provide competitive benefits to recruit and retain qualified employees delivering superior service.

The two issues at impasse are specific; they deal with the percentage of contribution in the health insurance premium paid by employees and the amount of the salary increase for the bargaining unit each year of the Agreement. All other provisions of Articles 30 and 35 have been agreed upon, but for convenience are listed below. The fact finder has evaluated the position of the parties based upon the evidence and arguments proffered by the Union and the Employer, and the recommendations contained in this report (in shaded sections) are intended to conform to the statutory criteria that all fact finders must follow.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

The recommendations contained in this report are listed in accordance with Articles that were open and the subject of mediation. For the sake of brevity the specific rationale proffered by the parties can be found in their position statements.

The summary the parties' positions on the issues of wages increases and health care employee contribution toward the premium are as follows:

UNION'S POSITION:

The Union's position on changes in employee health insurance premium rates in Article 30 and the amount of wage increase in Article 35 is as follows (only the amount of contribution in Section 3 of Article 30 and the amount of the wage increase in Section 1 of Article 35 are in dispute, all other sections of these articles have been agreed upon)::

ISSUE 1 ARTICLE 30 HEALTH AND LIFE INSURANCE (Section 3- contribution rates):

The Union proposes to eliminate the current maximum amount ("cap") on contribution rate, making the new employee contribution rate during the life of the Agreement to be:

1ST YR: 6% of the COBRA Rate

2ND YR: 10% of the COBRA Rate

3RD YR: 10% of the COBRA Rate

ISSUE 2 ARTICLE 35 COMPENSATION:

1ST YR Retroactive to April 16, 2013 a 3% wage increase (all steps and classifications)

2ND YR: Effective April 16, 2014 a 3% wage increase (all steps and classifications)

3RD YR: Effective April 16, 2015 a 3% wage increase (all steps and classifications)

The Union argues that the financial position of the Employer is very strong, and states "that

unlike other municipalities across the County, the City of Green steadily grew its reserves throughout the economic downturn.” It argues the City is in very good financial condition and can afford the positions it espouses on wages and on employee health care insurance premiums. In support of this arguments the Union points to the City’s ending balance for FY 2012 of \$22.6 million dollars, which represents over 100% of its FY 2012 cash expenditures. The Union also anticipates that in FY 2013 the City may even improve on that performance. The Union also cites the City’s AA+ bond rating, its income levels, and access to the economies of both Akron and Canton as indicators of its future economic strength. Affordability is not an issue in this matter, asserts the Union. (See Union’s February 4, 2013 Financial Analysis) In addition, the Union argues that non-bargaining unit employees in 2013 received merit raises that mirror its proposed general wage increase. (See Union Exhibit, City Resolution 2013-R27)

CITY: The City’s position on changes in employee health insurance premium rates in Article 30 and the amount of wage increase in Article 35 is as follows (only the amount of contribution in Section 3 of Article 30 and the amount of the wage increase in Section 1 of Article 35 are in dispute, all other sections of these articles have been agreed upon):

ISSUE 1, ARTICLE 30
HEALTH AND LIFE INSURANCE BENEFITS

Section 1. The City shall provide all full-time employee(s) covered by this Agreement group hospitalization, surgical, medical, prescription drug, vision and other related health insurance benefits under the same terms and conditions as provided to other **non-**

bargaining employees of the City. Such group insurance may be provided through a self-insured plan or an outside provider. Cost containment measures may be adopted by the Employer in consideration of projected costs, market availability of coverage(s), utilization, options available to it under and compliance with the requirements of the Patient Protection and Affordable Care Act and the Health Care Education Reconciliation Act of 2010, hereafter "Affordable Care Act" or "ACA." The City shall meet and confer with the Unions (all recognized bargaining units) regarding costs and levels of coverage, but the City shall make the final determination if a consensus is not reached.

Section 2. Provider Changes. The City shall provide the Union with no less than fifteen (15) days written notice of a change in insurance providers during the term of this Agreement. Notice will be provided through the Health Care Committee.

Section 3. Contribution Rates. Employees electing to participate in the City's health insurance and fully participating in the City Health Fair shall contribute a sum equal to ~~five percent (5%)~~ of a percentage of the total monthly premium (COBRA cost less administrative fees as calculated by the City's stop/loss carrier) in effect for family or single coverage as elected by the employee as follows:

Full Health Fair Participants

Year 1 Employee Contribution: 10.0%
Year 2 Employee Contribution: 12.5%
Year 3 Employee Contribution: 15.0%

Less than Full Health Fair Participation/Non-Participants

Employee Contribution: 15%

For purposes of the phrase "full participation," an employee will be considered a full participant by voluntarily undergoing all offered screening, testing, and other medical services offered at the City health fair. In the event that an employee does not wish to receive testing, screening, or services through the City health fair, he shall be able to be considered as being a full participant if he undergoes all screening, testing, or other medical services provided at the health fair through his private physician. In order to certify alternative participation, the employee shall be required to complete a City form certifying that the screening, testing, or other medical services have been provided and complete a release that will permit the Employer to verify with the health provider the date/time when completed.

~~For the term of this Agreement, the maximum per month employee contribution shall be thirty dollars (\$30.00) for single coverage and seventy five dollars (\$75.00) for family coverage. Such contribution shall not exceed the maximums permitted by the ACA. The parties recognize that employee affordability under the ACA will be measured based upon the bronze plan (i.e., lower tier plan being offered) for a single plan and~~

the employee's household income effective as provided by law. Any employee who believes his contribution exceeds the maximum allowable by law of his household income should submit a written request for review to the HR Director.

Section 4. Coverage Coordination. If both spouses are employed by the City, they shall be offered one (1) family coverage but they may select the spouse that will make the premium contribution.

Section 4 5. Insurance Committee. The City will establish a joint committee on health care benefits which includes representative(s) from each of its bargaining units. The joint committee will evaluate periodically the benefits and costs, and make recommendations to the City for cost containment measures. Should the City find it necessary to change the levels of benefits during the term of this agreement, the Employer will present any proposed changes to the Health Insurance Committee and the Union at least thirty (30) days prior to the effective date of any such changes. Upon the request of the Union, the Employer will meet with the Union to discuss the proposed changes and any alternatives. If the parties are unable to reach agreement, the Employer may implement the changes.

Section 5 6. The City will maintain life insurance in the amount of fifty thousand dollars (\$50,000) for each full-time bargaining unit employee.

**ISSUE 2, ARTICLE 35
COMPENSATION**

Section 1. Wage Rates. The wage schedules for employees are set forth in Appendix B which are attached hereto and incorporated herein. General wage increases shall be as follows:

For the first year of the Agreement	0% 1.5% increase
For the second year of the Agreement	0% 1.5% increase
For the third year of the Agreement	0% 1.5% increase

Section 2. Out-of-Classification Pay. An employee who is permanently and/or temporarily promoted to a higher classification shall be paid at the lowest step in the higher classification, which will result in a wage increase.

Section 3. Wage Schedule Administration. All members of the bargaining unit hired prior to July 1, 2010, shall be grandfathered into the previous wage schedule and shall not be subject to the time based step limitations contained in Appendix C, Wages. Those members shall move through the previous steps of the wage scale until such time as they reach Step 6 of Appendix C, Wages. At that time members hired prior to July 1, 2010, shall transition onto the new scale and receive increases as may be applicable under Appendix C, Wages. ~~For the first year of the Agreement, those members at the Step 6 rate shall remain there and shall receive the negotiated lump sum payment. Thereafter, those members shall receive increases in accordance with Appendix C, Wages.~~ Those members after July 1, 2010, shall receive pay and advance through the applicable classification in accordance

with Appendix C, Wages. The parties agree that movement within the step system is only effective to the extent that the parties' agreement is in effect, and that movement between steps shall not occur in any future negotiations after the expiration of the parties' agreement until such time as a new agreement is in effect.

In general the City asserts that while it is in sound financial condition, it has maintained this position through fiscally responsible management of its resources and judiciously avoided being placed in a position of not being able to meet its present and future financial obligations. Yet, it has faced challenges of declining revenue and anticipates that it must continue to be fiscally farsighted in anticipation of more uncertainty in the future. (See City Section 2, Ex. G through M) The City also points out, that unlike many municipalities and other public entities in the area, no employees in the City were subjected to a loss of work days through furlough, nor was there a need to institute wage reductions or benefit reductions. Regarding health care insurance premiums, the City argues that the Union has benefited from "extremely" low employee contribution rates for health insurance of five (5) percent with a cap of \$30 per month for single and \$75 per month for family coverage. It believes it is time employees assume a more "meaningful" share of the cost of health insurance premium given the uncertainty both parties face with the institution of the Affordable Care Act in 2014. In terms of wages, the City contends it is proposing a "conservative, yet reasonable compensation package due to its business minded approach that it has taken in dealing with its employee costs.

Fact-finder's overall findings:

Health Care Insurance: The Employer's proposal to shift more of the continuing increasing cost of the health insurance premiums to bargaining unit employees is consistent with both national and statewide trends. (See City Section 1, Ex. E) In both the private and public sectors employees are paying a greater share of the cost of health insurance than what the bargaining unit has paid historically. (See City Section 1, Ex. C, D) And while the Union proffered some strong arguments regarding the firm financial condition of the City, having employees pay a greater portion of their health care premium, within reasonable limits and where the Employer still shoulders the "lion's" share of such a benefit, is not unreasonable. (See City Section 1, Ex. C, D) Sharing a portion of costs of health care that is subject to increases provides employees with more of a sense of the cost of this important benefit as well as an incentive to pay attention to plan design to avoid excessive costs in the future. However, the fact finder is also aware of the history of employees sharing the cost and the burden it places upon employees if shifting of substantial costs is too sudden. Therefore, a shift of this nature should be more gradual, especially in a situation where the facts do not indicate that an employer must have immediate financial relief.

Compensation: Based upon the absence of any demonstrable evidence that finds wages far in excess or far below comparable jurisdictions and where no financial exigency is being claimed, it is reasonable to consider wage adjustments that comport with the cost of living and with maintaining the relative position of the City's wage structure when compared with nearby comparable cities. (See City Section 2, Ex. B) Wages appear to be in the middle when compared to other applicable jurisdictions; there is no compelling data to support

the need to have wages receive an extra bump because they are not competitive. However, increases in compensation should be sufficient to maintain the bargaining unit's relative wage position and value, reflective of the stable financial condition of the City and as a matter of recruitment and retention. While it is always difficult to predict what comparable cities will provide in compensation, the fact finder finds the City's position to be low in regard to the cost of living trend in 2013 and the known wage increase trends in Ohio, but somewhat closer than what the Union is proposing. In 2012 the CPI-U was 1.7%. The "new normal" wage increase of 2% for public entities in Ohio that are fortunate to have the sound fiscal footing will provide employee's wage increases that in general keep up with the most recent data on the cost of living which is currently hovering around 2%. (See last 12 months of the Consumer Price Index (CPI-U) Cleveland-Akron, July 2013, released August 15, 2013)

Based upon the facts presented and the application of the statutory criteria the following recommendations (see shaded areas) are made:

RECOMMENDATIONS:

ISSUE 1, ARTICLE 30 **HEALTH AND LIFE INSURANCE BENEFITS**

Section 1. The City shall provide all full-time employee(s) covered by this Agreement group hospitalization, surgical, medical, prescription drug, vision and other related health insurance benefits under the same terms and conditions as provided to other **non-bargaining** employees of the City. **Such group insurance may be provided through a self-insured plan or an outside provider. Cost containment measures may be adopted by the Employer in consideration of projected costs, market availability of coverage(s), utilization, options available to it under and compliance with the**

requirements of the Patient Protection and Affordable Care Act and the Health Care Education Reconciliation Act of 2010, hereafter "Affordable Care Act" or "ACA." The City shall meet and confer with the Unions (all recognized bargaining units) regarding costs and levels of coverage, but the City shall make the final determination if a consensus is not reached.

Section 2. Provider Changes. The City shall provide the Union with no less than fifteen (15) days written notice of a change in insurance providers during the term of this Agreement. Notice will be provided through the Health Care Committee.

Section 3. Contribution Rates. Employees electing to participate in the City's health insurance and fully participating in the City Health Fair shall contribute a sum equal to the below listed percentages of the total monthly premium (COBRA cost less administrative fees as calculated by the City's stop/loss carrier) in effect for family or single coverage as elected by the employee as follows:

Full Health Fair Participants

Year 1 Employee Contribution:	6.0% (effective 4/16/13)
Year 2 Employee Contribution:	8.0%
Year 3 Employee Contribution:	10.0%

Less than Full Health Fair Participation/Non-Participants

Employee Contribution:	15%
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For purposes of the phrase "full participation," an employee will be considered a full participant by voluntarily undergoing all offered screening, testing, and other medical services offered at the City health fair. In the event that an employee does not wish to receive testing, screening, or services through the City health fair, he shall be able to be considered as being a full participant if he undergoes all screening, testing, or other medical services provided at the health fair through his private physician. In order to certify alternative participation, the employee shall be required to complete a City form certifying that the screening, testing, or other medical services have been provided and complete a release that will permit the Employer to verify with the health provider the date/time when completed.

Such contribution shall not exceed the maximums permitted by the ACA. The parties recognize that employee affordability under the ACA will be measured based upon the bronze plan (i.e., lower tier plan being offered) for a single plan and the employee's household income effective as provided by law. Any employee who believes his contribution exceeds the maximum allowable by law of his household income should submit a written request for review to the HR Director.

Section 4. Coverage Coordination. If both spouses are employed by the City, they shall be offered one (1) family coverage but they may select the spouse that will make the

premium contribution.

Section 4 5. Insurance Committee. The City will establish a joint committee on health care benefits which includes representative(s) from each of its bargaining units. The joint committee will evaluate periodically the benefits and costs, and make recommendations to the City for cost containment measures. Should the City find it necessary to change the levels of benefits during the term of this agreement, the Employer will present any proposed changes to the Health Insurance Committee and the Union at least thirty (30) days prior to the effective date of any such changes. Upon the request of the Union, the Employer will meet with the Union to discuss the proposed changes and any alternatives. If the parties are unable to reach agreement, the Employer may implement the changes.

Section 5 6. The City will maintain life insurance in the amount of fifty thousand dollars (\$50,000) for each full-time bargaining unit employee.

In general the City asserts that while it is in sound financial condition, it has maintained this position through fiscally responsible management of its resources and has not placed itself in a position of not being able to meet its present and future financial obligations. The City also points out, that unlike many municipalities and other public entities in the area, employees in the City did not suffer the loss of work days through furlough, nor was there a need to institute wage reductions or benefit reductions. Regarding health care insurance premiums, the City argues that the Union has benefited from “extremely” low employee contribution rates for health insurance of five (5) percent with a cap of \$30 per month for single and \$75 per month for family coverage. It believes it is time employees assume a more “meaningful” share of the cost of health insurance, given the uncertainty both parties face with the institution of the Affordable Care Act in 2014. In terms of wages, the City contends it is proposing a “conservative, yet reasonable compensation package due to its business minded approach that it has taken in dealing with its employee costs.

ISSUE 2, ARTICLE 35 COMPENSATION

Section 1. Wage Rates. The wage schedules for employees are set forth in Appendix B which are attached hereto and incorporated herein. General wage increases shall be as follows:

For the first year of the Agreement **2.0% increase, retro to 4/16/2013**

For the second year of the Agreement **2.0% increase**

For the third year of the Agreement **2.0% increase**

Section 2. Out-of-Classification Pay. An employee who is permanently and/or temporarily promoted to a higher classification shall be paid at the lowest step in the higher classification, which will result in a wage increase.

Section 3. Wage Schedule Administration. All members of the bargaining unit hired prior to July 1, 2010, shall be grandfathered into the previous wage schedule and shall not be subject to the time based step limitations contained in Appendix C, Wages. Those members shall move through the previous steps of the wage scale until such time as they reach Step 6 of Appendix C, Wages. At that time members hired prior to July 1, 2010, shall transition onto the new scale and receive increases as may be applicable under Appendix C, Wages. Those members after July 1, 2010, shall receive pay and advance through the applicable classification in accordance with Appendix C, Wages. The parties agree that movement within the step system is only effective to the extent that the parties' agreement is in effect, and that movement between steps shall not occur in any future negotiations after the expiration of the parties' agreement until such time as a new agreement is in effect.

TENTATIVE AGREEMENT

Any tentative agreements reached by the parties as well as any current language that is not changed or not addressed above shall be considered to be recommended in the successor Collective Bargaining Agreement.

The fact finder respectfully submits the above recommendations to the parties this ____ day of August 2013 in Portage County, Ohio.

Robert G. Stein, Fact finder