

**STATE OF OHIO
STATE EMPLOYMENT RELATION BOARD
FACT-FINDING REPORT**

HEARING HELD MAY 23, 2017

SERB CASE: 2016-MED-08-0805

In the matter of

CITY OF LAKEWOOD

And

AFSCME LOCAL 1043, OHIO COUNSEL 8, AFL-CIO

Report and Recommendation of Fact-Finder Jack Buettner

APPEARANCES

For the Employer:

Jon Dileno, Attorney

Mike Summers, Mayor

Jean Youseth, HR Director

Jennifer Poe, Finance Director

For the Union:

William Nowell, Staff representative

Eugene Byrne, Chapter President

Kathleen Patterson, Recording Secretary

Matilyn Rakes, Treasurer

Dan Taylor, Chief Steward

Colleen Gillespie, Steward

INTRODUCTION

The undersigned was duly appointed by the State Employment Relations Board (SERB) by letter dated March 6, 2017, to serve as Fact-Finder in the matter of AFSCME, Ohio Counsel 8, Local 1042 (hereinafter referred to as "Union") and the city of Lakewood (hereinafter referred to as "Employer") pursuant to OAC 4117-9-05(D). As a result of phone conversations and email exchanges, the parties agreed to a fact-finding hearing set for May 23, 2017.

The fact-finding proceeding was conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of SERB. The hearing began promptly at 9:30 AM and was held in Lakewood, Ohio, at City Hall. Prior to the opening of the fact-finding hearing, this Fact-Finder attempted mediation of the issues at impasse. After joint discussion, it was agreed that a mediated settlement for the outstanding issues could not be reached. The parties agreed to submit the outstanding issues to the Fact-Finder based upon documentary evidence submitted by the parties in their pre-hearing position statements as well as discussions that were had.

The collective bargaining unit at issue is AFSCME, Local 1043, which represents the city of Lakewood's 56 clerical workers and other support staff (e.g., building inspectors) as listed in Appendix A of the Collective Bargaining Agreement (CBA). The CBA between the Union and the Employer was for the term January 1, 2014 to December 31, 2016.

The parties agreed to waive service of the Fact-Finder's report via overnight delivery and agreed to email delivery.

BACKGROUND

Lakewood is a city in Cuyahoga County that borders Cleveland. It is a part of the Greater Cleveland Metropolitan Area. The city has a population of over 52,000 people and has 32,000 housing units citywide. There are over 1900 employers with a work force of 33,000 people. The top occupation categories include 1) educational services, healthcare and social assistance; 2) sales and office occupations; 3) service occupations.

The city maintains bargaining relationships with unions representing eight different bargaining units. They are: 1) patrol officers (FOP); 2) sergeants and above in the Police Department (FOP); 3) firefighters (IAFF); 4) paramedics (Lakewood Paramedics Association); 5) administrative employees (AFSCME); 6) service and public works employees (AFSCME); 7) corrections officers (OPBA); and dispatchers (FOP/OLC). All of their contracts expired on December 31, 2016. The City has resolved negotiations with the firefighters, paramedics, corrections officers, and dispatchers.

Bargaining began on October 26, 2016 and after nine meetings the parties were able to come to agreement on a number of issues. Several economic issues including wages and insurance remained unresolved. In an effort to resolve these issues, the City presented a proposal with wage increases of 3.0%, 2.0% and 2.0%. The package also maintained hospitalization coverage and froze premium contributions for two years with a third year reopener. The Union rejected the package, asking for a 3.0% increase in each of the next three years.

OUTSTANDING ISSUES

The remaining issues after bargaining include:

1. Article 25: Wages (including job upgrades)
2. Article 29: Hospitalization and Insurance
3. Article 36: Special Licenses

CRITERIA OHIO REVISED CODE

The Ohio Revised Code, Section 4117.14 (C) (4) (e), establishes the criteria that is to be used by the Fact-Finder. The criteria are listed below and were given weight by the Fact-Finder in making his recommendations for this matter. The criteria are:

1. Past collectively bargained agreements, if any, between the parties;
2. Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
3. The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
4. The lawful authority of the public employer;
5. Any stipulations of the parties;
6. Such other factors, not confined to those above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

ISSUE

Article 25-Wages

Current Language:

25.1 Effective January 1, 2014, all bargaining unit wage and individual wage rates listed in the “special group” of the wage scale shall be increased by two percent (2%).

25.2 Effective January 1, 2015, all bargaining unit wage and individual wage rates listed in the “special group” of the wage scale shall be increased by two percent (2%).

25.3 Effective January 1, 2016, all bargaining unit wage and individual wage rates listed in the “special group” of the wage scale shall be increased by two percent (2%).

25.4 Effective January 1, 2014, the wage schedule for the Inventory Coordinator position shall be adjusted to the wage schedule of the Administrative Assistant II and the Animal Control Officer position shall be adjusted to the wage scale of the Tax Auditor.

Employer Position:

The Employer is proposing a 1.5% wage increase effective July 1, 2017, a 2.0% wage increase effective January 1, 2018, and a 2.0% wage increase effective January 1, 2019.

The Employer is proposing the following with regards to job reclassifications effective July, 1 2017:

- Building Inspector 1 from Group II to Group I
- Building Inspector 2 and Code Compliance Supervisor from Group I to Group X
- Property Maintenance Inspector 1 from Group V to Group IV lower level
- Property Maintenance Inspector 2 from Group IV lower level to Group IV upper level

Union Position:

The Union is proposing a 3% wage increase effective January 1, 2017, a 3% wage increase effective January 1, 2018 and a 3% wage increase effective January 1, 2019.

The Union is proposing the following with regards to job reclassifications:

- Accounting Manager from Group II to Group I
- Community Relations Specialist from Group II lower level to Group II upper level
- Building Inspector 1 from Group II to Group I
- Building Inspector 2 and Code Compliance Supervisor from Group I to Group X
- Property Maintenance Inspector 1 from Group V to Group IV lower level
- Property Maintenance Inspector 2 from Group IV lower level to Group IV upper level

Analysis:

The city of Lakewood and AFSMCE Ohio Counsel 8, Local 1043, have established a history of working to resolve their contractual issues in a manner that takes into consideration a variety of internal and external variables. The City submitted a number of exhibits dating from 2007 to 2017, including an estimate of expenses for the given year to demonstrate the declining general fund revenue over this period of time. The city's financial stability in the past was partly due to the estate tax proceeds from the estate of Richard Jacobs wherein the City received \$7.8 million from the settlement of that estate in 2014. Dating back to 2008, the City laid off 80 part-time and full-time employees and was forced to reduce and/or eliminate services and still has not been able to recall all the employees who were laid off. In 2017 the City is facing other financial challenges such as the closing of Lakewood Hospital and the move of the New York Life headquarters. Year-to-date income tax revenues are showing a significant drop from 2016. These factors led the City to make a change from their initial wage offer of a 3%, 3%, 2% to a 1.5 %, 2.0%, 2.0% wage offer effective July 1, 2017.

The Union's position is that the City is in a better financial situation than is presented. Tax revenues have increased each year from 2011. By March 31, 2017, the City had collected 40% of its estimated annual revenues which was nearly \$2.7 million more than it had in 2016. Additionally, the City holds monies in a "budget reserve account" that is considered "restricted" when it could be used to bolster the general fund. The Union requested a 3%, 3%, 3% wage increase which they felt is well within the City's budget.

The analysis and construction of data lends itself to more than one interpretation. The City and the Union gave different perspectives on the financial status of the City. While the City may seem financially stable, the significant loss of major businesses, jobs and revenue cannot be ignored.

Wage parity was also a consideration for the Union. Other unions that settled their contracts received a 3%, 2%, 2% increase. The Union has emphasized the idea of continuing the history of maintaining wage parity between the various unions in the city. This had led to a stable labor-management relationship over the years. But the city did, indeed, make an offer of a 3%, 2%, 2% wage increase. It was rejected.

The Fact-Finder examined all the exhibits, documents, and heard testimony from both sides in order to make a recommendation. Heavy weight was given to the criteria listed in ORC Section 4117.14 (C)(4)(e). Additional weight was given to the State Employment Relations Board Annual Wage Settlement Report which shows for jurisdictions including cities, counties, townships, and school districts wage increases have averaged 2.5 %. Past collective bargaining history has shown that parity is an important aspect of wage bargaining within the many bargaining units in the City. This Fact-Finder had to take into consideration the bargaining relationship with the

other units, some who had reached an agreement with the City. Therefore, the recommendation is that the wage increase be a 3%, 2%, 2%. This keeps parity with the other unions that accepted a 3%, 2%, 2% wage increase and maintains the bargaining pattern.

The parties were unable to reach an agreement concerning retroactivity. In considering this issue, the changing financial situation of Lakewood cannot be ignored. Taking that into account, it is recommended that the wage increase be effective June 1, 2017. A wage increase of 3% effective June 1, 2017 would be approximately a 1.5% cost to the City for the full year of 2017. It would, however, add the 3% increase to the base salary for all succeeding years. This is in keeping with the other union agreements, the City's financial situation, and with the criteria set forth under ORC Section 4117.14 (C) (4) (e).

Another issue within Article 25 was the job upgrades for particular positions. The Union and the Employer tentatively agreed to the following:

- Building Inspector 1 from Group II to Group I
- Building Inspector 2 and Code Compliance Supervisor from Group I to Group X
- Property Maintenance Inspector 1 from Group V to Group IV lower level
- Property Maintenance Inspector 2 from Group IV lower level to Group IV upper level

At issue was the effective date as well as the inclusion by the Union of two other positions: Accounting Manager from Group II to Group I and Community Relations Specialist from Group II lower level to Group II upper level.

The recommendation is that the tentatively agreed upon upgrades would be effective June 1, 2017 in line with the general wage increase. The Fact-Finder did not have enough substantial information to make a fair recommendation concerning the two other proposed upgrades. Therefore, Accounting Manager from Group II to Group I and Community Relations Specialist from Group II lower level to Group II upper level will not be added.

RECOMMENDATIONS:

Article 25-Wages

25.1 Effective June 1, 2017, all bargaining unit wage and individual wage rates listed in the "special group" of the wage scale shall be increased by three percent (3%).

25.2 Effective January 1, 2018, all bargaining unit wage and individual wage rates listed in the "special group" of the wage scale shall be increased by two percent (2%).

25.3 Effective January 1, 2019, all bargaining unit wage and individual wage rates listed in the “special group” of the wage scale shall be increased by two percent (2%).

25.4 Effective June 1, 2017, the wage schedule for the following positions shall be adjusted to:

- **Building Inspector 1 from Group II to Group I**
- **Building Inspector 2 and Code Compliance Supervisor from Group I to Group X**
- **Property Maintenance Inspector 1 from Group V to Group IV lower level**
- **Property Maintenance Inspector 2 from Group IV lower level to Group IV upper level**

ISSUE

ARTICLE 29- HOSPITALIZATION AND INSURANCE

Current Contract Language:

29.01 The City agrees to provide for full-time employees and their dependents a choice of a “90/10” health care plan including dental and prescription drug coverage, provided the City may change carriers or delivery systems if the benefits and provider networks are comparable to the present plan. The City shall not offer fewer than two (2) plans: a PPO and HMO selected by the City. The City shall not be required to pay any premium to an HMO in excess of the annual cost of the PPO. Prior to changing a health care plan or delivery system, the City shall meet and confer with the Union.

29.02 The City agrees to maintain current Aid to Preventive Dentistry Plan with fifty (50) percent of the total cost paid by the employee.

29.03 In 2014 the City shall contribute to the AFSCME Care plan \$170.00 per month for each full time, hourly employee within the bargaining unit. Said contribution shall provide supplement coverage as follows:

Component	Cost
Hearing Aid	\$.50 per month
Life Insurance	\$7.50 per month
Vision (Level 2)	\$12.00 per month
Prescription Drug	\$150.00 (ends 12/31/2014)
Total:	\$170.00 per month

Additional prescription needs for a plan participant who exceeds the \$2000.00 AFSCME maximum prescription coverage shall be covered under the Major Medical component of the

health care plan or the City's self-funded program on a twenty percent (20%) co-pay basis. The AFSCME Health Care Plan must provide written certification to the Office of Human resources that the plan participant has exceeded the \$2000.00 annual maximum.

29.04 Beginning January 1, 2015, the City shall contribute to the AFSCME Care plan \$20 per month for full-time, hourly employees within the bargaining unit. Said contribution shall provide Life Insurance, Vision, and Hearing Aid coverage through the AFSCME Care plan.

29.05 AFSCME Administrative Unit Members on the 90/10 medical plan will move to the City's 90/10 Prescription coverage effective January 1, 2015 and the City's contribution for prescription drugs under section 29.03 shall cease. Effective January 1, 2015, members who are not enrolled in a City sponsored health insurance plan may purchase the Pharmacy benefit as a stand-alone plan at 10% of the COBRA Rate for family coverage or 13% of the COBRA rate for single coverage. (See the stand-alone Prescription plan rate structure in Appendix C.)

29.06 Newly hired employees shall have their health care plan effective on the first day of the month following their date of hire.

29.07 Effective January 1, 2014, monthly employee premium contributions shall be ten (10) percent for family coverage and thirteen (13) percent for single coverage, on a pre-tax basis, based on COBRA rates (medical and prescription drug), with a cap of \$125.00 per month for family and \$75.00 per month for single.

Effective January 1, 2015, monthly employee premium contributions shall be ten (10) percent for family coverage and thirteen (13) percent for single coverage, on a pre-tax basis, based on COBRA rates (medical and prescription drug), with a cap of \$167.00 per month for family and \$100.00 per month for single.

Effective January 1, 2016, monthly employee premium contributions shall be ten (10) percent for family coverage and thirteen (13) percent for single coverage, on a pre-tax basis, based on COBRA rates (medical and prescription drug), with a cap of \$180.00 per month for family and \$125.00 per month for single.

Health Insurance Plan design changes described in Appendix C have been agreed to for the period of this contract.

The City shall pay the remaining cost of the plan premium. The employee contribution shall be withheld via payroll deduction on the first and second pay period of each month.

The City may discontinue offering the 100% medical plans. However, if the City continues to offer these plans, it retains discretion to set the employee premium contributions for these plans.

Employer's Position:

The Employer's position is to keep employee premium contribution levels for 2017 and 2018 at 10% for family coverage and 13% for single coverage but with an increase on cap of \$180.00 per month for family and \$125.00 per month for single. There would be a reopener on insurance only in 2019.

Effective July 1, 2017, employees would have the same prescription drug options under the 90/10 or 100% plans as other AFSCME employees.

The Employer proposes maintaining the \$20 per month AFSCME Care plan contribution.

The employer is proposing a healthcare committee to discuss possible modifications to benefits and to provide options to invoke the proposed insurance reopener in 2019.

Union's Position:

The Union's position is to keep employee premium contribution levels for 2017 and 2018 at 10% for family coverage and 13% for single coverage but with an increase on cap of \$180.00 per month for family and \$125.00 per month for single. In 2019, the cap would be \$205.00 per month for family and \$140.00 for single.

The Union proposes increasing the \$20 per month AFSCMME Care plan contribution to \$35.00 with the distribution as follows:

Component	Cost
Hearing Aid	\$.50 per month
Life Insurance	\$7.50 per month
Vision (Level 2)	\$12.00 per month
Prescription Card Plan	\$15.00
Total:	\$35.00 per month

The Union is proposing a Wellness Plan Committee that would meet monthly to explore cost-saving measures through the implementation of a wellness committee. The committee could not implement any plan that would increase costs as set forth in the agreement.

Analysis:

Several sections were at issue in Article 29. While each could be scrutinized individually, this Fact-Finder looked at the total article in making the final recommendation. This allowed for some give and take between the Union's and the Employer's positions. Also considered were internal comparables. Four other unions had accepted the City's position on monthly employee premium contributions of 10% for family coverage and 13% for single with a cap of \$180.00 per month for family and \$125.00 for single. The other four unions also accepted language concerning the formation of an Insurance Committee with a reopener on health insurance only in 2019. Parity between unions, a concern for both parties, was a key point in making the final recommendation.

Section 29.03 was also at issue. The Employer proposed at \$20.00 contribution to the AFSCME Care plan while the Union proposed at \$35.00 contribution. This \$35.00 contribution includes an increase of \$15 which would go to the Prescription Card Plan. This is an ancillary benefit which would help offset some of the increased prescription costs when a new plan was initiated. This Fact-Finder recommends the Union's proposal.

In some areas, such as Section 29.01, both the Union and the Employer submitted in their pre-hearing statements that a 100% health care plan option made available. Both submitted the deletion of the following language: **The City shall not offer fewer than two (2) plans: a PPO and HMO selected by the City. The City shall not be required to pay any premium to an HMO in excess of the annual cost of the PPO.** This language is accepted by the Fact-Finder. Other sections not stated in the recommendation remain as current contract language.

RECOMMENDATION

29.01 The City agrees to provide for full-time employees and their dependents a choice of a "90/10" health care plan and a 100% health care plan including dental and prescription drug coverage provided the City may change carriers or delivery systems if the benefits and provider networks are comparable to the present plan. Prior to changing a health care plan or delivery system, the City shall meet and confer with the Union.

29.03 Upon ratification of this contract, the City shall contribute to the AFSCME Care plan \$35.00 per month for each full time, hourly employee within the bargaining unit. Said contribution shall provide Life Insurance, Vision, Prescription Card Plan, and Hearing Aid coverage as follows:

Component	Cost
Hearing Aid	\$.50 per month
Life Insurance	\$7.50 per month

Vision (Level 2)	\$12.00 per month
Prescription Drug Card	\$15.00 (Expires 12/31/18)
Total:	\$35.00

29.04 Delete current contract language since it is repetitious of 29.03. Renumber succeeding sections.

29.05 (New 29.04) AFSCME Administrative Unit Members on the 90/10 medical plan will move to the City's 90/10 Prescription coverage effective July 1, 2017.

29.06 (New 29.05) Maintain current language.

29.07 (New 29.06) Effective June 1, 2017, monthly employee premium contributions shall be ten (10) percent for family coverage and thirteen (13) percent for single coverage, on a pre-tax basis, based on COBRA rates (medical and prescription drug), with a cap of \$180.00 per month for family and \$125.00 per month for single.

Effective January 1, 2018, monthly employee premium contributions shall be ten (10) percent for family coverage and thirteen (13) percent for single coverage, on a pre-tax basis, based on COBRA rates (medical and prescription drug), with a cap of \$180.00 per month for family and \$125.00 per month for single.

The parties agree that for the period commencing January 1, 2019, reopener negotiations will commence no later than October 31, 2018, for the purpose of negotiating proposals related solely to health insurance benefits (plan designs and premium contributions).

The dispute resolution process of ORC Chapter 4117 shall apply to these reopener negotiations and any neutral (fact-finder or conciliator) rendering a decision as part of the dispute resolution process will have authority to recommend or award modifications with an effective date no earlier than January 1, 2019.

Health Insurance Plan design changes described in Appendix C have been agreed to for the period of this contract.

The City shall pay the remaining cost of the plan premium. The employee contribution shall be withheld via payroll deduction on the first and second pay period of each month.

The City will continue offering the 100% medical plans. However, It retains discretion to set the employee premium contributions for these plans.

29.07 (NEW SECTION) The Employer shall establish an Insurance Committee of one (1) to three (3) representatives from each of the City's bargaining units, if they choose to be represented, and a minimum of one (1) representative of the Employer. The Committee shall meet at least once a month for the purpose of exploring cost saving measures and/or alternative health plans. The Committee shall make recommendations regarding health care coverage and such recommendations shall be presented to each bargaining unit as well as to the City Administration. This Committee shall be administered pursuant to Appendix D, attached hereto.

Appendix D: Insurance Committee Rules

At the conclusion of the bargaining unit's current collective bargaining negotiations, an employee-management committee ("the Committee") represented by one to three employees from each of the City's bargaining units and at least one representative of management shall be formed. The employer shall and the members of the Committee may provide advisors or facilitators to assist the Committee regarding health care issues. The committee will meet as often as necessary to complete its work, with a target of at least one meeting per month.

The Committee shall be required to review the Employer's current health care plans, including its plans for medical and prescription, and recommend one or more new or revised plans that will achieve the goals of promoting cost containment with the plan and minimizing premium contributions by employees.

In fulfilling its mission, the Committee shall consider co-pays, prescription drug rates, deductibles, maximum out of pockets, wellness programs, and such other plan attributes and other related matters that may help the City achieve goals set forth above.

No later than November 1, 2018, the Committee shall vote on recommendation(s) for a health care plan or plans that meet the goals set forth above. Each bargaining unit shall be entitled to cast one vote, no matter the number of employees representing the bargaining unit on the Committee. The employer shall be entitled to cast one vote, no matter the number of representatives of management or non-union employees serving on the Committee. If the Committee unanimously approves such proposed new or revised plan or plans, then such plan or plans shall become the Employer's plan or plans, and the Employer shall be authorized and directed to implement the plan or plans. If the Committee, however, fails by September 1, 2018, to approve unanimously a new plan or plans, the City will have the right to engage the reopener provisions in this agreement with respect to hospitalization coverage for the year 2019

and the parties to the agreement will then separately engage in negotiations on that subject.

In 2019, the Committee shall meet when appropriate to consider further and additional revisions to the Employer's plan or plans in order to meet the goals set forth above. When meeting in 2019, the Committee and the employer shall continue to follow the procedures set forth above for recommending appropriate additional revisions to the Employer's health care plan or plans. However, the "reopener" provision referenced above will not apply to these follow-up meetings convened in 2019 per this paragraph. Neither party shall unreasonably refuse to participate in any Committee meetings.

ISSUE
ARTICLE 36- SPECIAL LICENSES

Current Contract Language:

36.01 Employees working in a position that utilizes the below listed licenses shall receive additional, annual merit pay, in equal installments and will be paid in the employee's regular pay check upon receipt of the following licenses issued by the state:

- Chief Building Official License (BO) \$1000
- Electrical Inspector's License (EI) \$1000
- Plumbing Inspector's License \$1000
- Notary Public \$50
- State Residential Building Inspector (RBI) \$500

Employer's Position:

The Employer is proposing the following with regards to licensing premiums effective July 1, 2017:

- Chief Building Official License (BO) from \$1000 to \$2000
- Electrical Inspector's License (EI) from \$1000 to \$1500
- Plumbing Inspector's License from \$1000 to \$1500
- Class III Building Inspector established at \$2000
- Notary Public from \$50 to \$100
- State Residential Building Inspector (RBI) from \$500 to \$1000

Union Position:

The Union's position is that the above-mentioned upgrades would be effective January 1, 2017.

Analysis:

The above-mentioned upgrades were tentatively agreed to by both parties on May 31, 2017. At issue was the effective date. It is my recommendation that these upgrades be effective June 1, 2017. Class III Building Inspector will be added to Article 36.

RECOMMENDATIONS

36.01 Employees working in a position that utilizes the below listed licenses shall receive additional, annual merit pay, in equal installments and will be paid in the employee's regular pay check upon receipt of the following licenses issued by the state:

Chief Building Official License (BO)	\$2000
Electrical Inspector's License (EI)	\$1500
Plumbing Inspector's License	\$1500
Notary Public	\$100
State Residential Building Inspector (RBI)	\$1000
Class III Building Inspector	\$2000

FACT FINDER'S RECOMMENDATIONS

Given all the testimony, the supporting exhibits submitted by both parties, and above considerations and analysis, this Fact-Finder expressly incorporates by reference and recommends all of the Tentative Agreements previously entered into between the parties. Any articles not expressly addressed remain current contract language.

CERTIFICATE OF SERVICE

The foregoing fact-finding report was delivered via email on this
the 19st day of June, 2017, to Jon Dileno, Esquire,
and William Nowell, Staff Representative of AFSCME, Counsel 8.

John (Jack) Buettner

John Buettner