

Mark Tiberia

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## Argument for **Rejecting** Health & Human Services Ordinance HHS 01/19/21

To:

John Litten (Chair), and Members of the Health and Human Services Committee, City of Lakewood, OH

After reading John Benson's article in the 01/28/21 Sun News "Mayor urges council to approve paid parental leave", I sent e-mails to John Litten, Thomas O'Malley, and Finance Committee Members Bullock and Neff on 01/29/21 expressing my deep concerns about the article and more importantly disapproval of Ordinance HHS 01/19/21 for paid parental leave, primarily on the grounds that it appears to be circumventing public sector collective bargaining, and Lakewood's budgeting process.

Following a response from Mr. Bullock, I copied all 7 members of City Council with further notes, once again declaring my objection to The Mayor's "political theatrics" and questioning WHY a municipality would openly put forth an ordinance for health care benefits for union employees outside the normal collective bargaining process, which occurs during the contract renewal timeframe.

Subsequent e-mail responses were received from both Council Members Neff and Kepple, with Ms. Neff stating that City Administration would have to weigh in how they plan to implement and fund. She further stated, "...and your point about **incentives should be addressed at the bargaining table is well taken**, and I acknowledge **this is the typical order of business which should be seriously taken into account**".

My recommendation to this Committee is at a minimum, a full evaluation and analysis into the four major points that I've outlined below:

- **Timing/Affected Parties**
- **Pitfalls of Collective Bargaining in the Public Sector**
- **Total Cost Impact and Budgeting Process**
- **"Equity and Inclusion"**

### **Timing/Affected Parties**

As of 11/20/21 the City of Lakewood employed 401 full-time employees, with a 2021 budgeted level projected to increase to 410 full time employees. (Lakewood 2021 Budget pg.13 "Organization and Staffing Summary"). Furthermore, on pg.21 of the budget, according to the "City of Lakewood Financial Policies and Guidelines", "Expenditures are projected based on the following, but not limited to, the following factors:" • **the terms of the City's eight collective bargaining unit contracts.** This is further delineated on pg. 176 "Collective Bargaining Contractual Obligations" dimensioning, the 354 union members across the 8 bargaining units (representing 88% of the city's full-time employees), with police and fire unions representing 196 employees, and AFSCME's union representing 158 full-time employees. Of significant note is not only the number of full-time employees, but also that the contractual obligations as stated (**Annual Wage Increases**) run into the **2022 Calendar Year**, which begs the overall question, and one of my main reasons for rejection of this ordinance-**WHY** is the Mayor publicly bringing this up NOW, and in this forum, when clearly the current union contracts exist into 2022?

I do realize that approximately 47 full-time employees are currently NOT represented by unions, but my assumption is that health care benefits for non-union employees generally follow suit after union negotiated benefits and are

generally not as comprehensive, based on public/private sector analysis. Hence, the remainder of the paper will focus on union represented employees.

The last point I wish to make on timing (and budgeting process) stems around the “City of Lakewood Financial Policies and Guidelines (Budget pg.18) whereby it states “All funds, except agency funds, are legally required to be budgeted and appropriated” ...and “the legal level of budgetary control has been established by City Council at the fund level for all funds.” Nowhere can I find mention of paid parental leave, or funding of, in the City’s 2021 Approved Budget of \$156 Mil.

### **Pitfalls of Collective Bargaining in the Public Sector**

Many studies have been issued on differences between Public and Private Sector Collective Bargaining, with Public Sector Bargaining frequently referred to as “Political Collective Bargaining” for obvious reasons.

My paper is based on the numerous University of PA, School of Law periodicals...

Let’s begin with the fact that collective bargaining in the public sector indirectly affects the level of taxes paid by taxpayers and the level of services they receive, which inevitably falls back to the City’s budget, which is probably the City’s most important political decision. Studies further demonstrate that the closeness of public officials to their employees, particularly Mayors, makes them more vulnerable to the “financial pitfalls” of the “Political Collective Bargaining” process. And herein lies a major concern, as I mentioned with Mayor George’s “political theatrics” article in the Sun News (“**I knew once I became Mayor I wanted to reintroduce this benefit, because it’s been a long passion of mine**”). Which, may I remind you of AFSCME Council 8’s July, 2019 endorsement of Meghan George for Mayor? Coincidentally, let’s look at the AFSCME’s website where they state: “**The long-term goal is for all workers—union and non-union, public and private sector—to have access to paid family leave. This is one of the issues AFSCME looks at in evaluating support for candidates and elected officials.**” NO surprise.....So, the question I ask the Committee is WHO comprises the City’s bargaining committee and have **they** weighed in on this ordinance ? I would hope at a minimum that members from the City’s Legal, HR and Finance, would be included in these discussions and fully vet this Ordinance and the impact on not only the eight bargaining units, but also the impact on bargaining within other municipalities. We have seen the affect that “patterned bargaining” has on communities with similar union representation.

### **Total Cost Impact and Budgeting Process**

Having spent 37 in corporate finance in the private sector for a Fortune 10 Company, the one thing I can emphatically tell you is that when costs are stated for funding proposals, or bargaining demands, they are generally **understated** (for review and ease of approval), leading us to ask “what is the real **total cost impact** now and in the future”??

Mayor George stated in the Sun Article that based on the past three years, “If the legislation had been in in place, the city would have paid between \$27K and \$36K during that period.” Which of course begs the question, in addition to the applicant’s wages during their parental leave, does it account for: overtime pay for job coverage; additional temporary employees if needed or contractually required; training costs for backup coverage; and additional supplies, equipment, or materials? And, because employees would no longer have to use their accrued sick time, vacation time, or other paid time off, would there be a need for additional employees, (full or part-time) added to the rolls due the increases in absenteeism coverage. Considering the majority of City employees are union represented, what is the contractual language behind overtime and job coverage for “extended” periods of leave? Let us not forget that even if they are not union employees, if they are classified “non-exempt” (Fair Labor Standards Act), they too would be paid overtime for all hours worked greater than 40, scheduled or not.

Therefore, the underlying question is two-fold: **WHO** is responsible for evaluating the “total cost impact” and **what** is the true impact over the duration of the negotiated contracts?

(If interested, I do have a few suggestions to the negotiating team when and if this comes up for negotiations during the contract renewal phase. One would be to propose to the Unions employees “self-fund” all or a part of their paid time off by setting up a paid parental leave account similar to health savings accounts (HSA). This would require tax code

modifications for tax credits, but it would help offset the cost and taxpayer burden. Another suggestion would be to eliminate or reduce “annual wage increase” to fund the paid parental Leave. Just some suggestions.)

Lastly, what is the overall impact to the taxpayer? Will these costs be absorbed within the City’s budget by offsets in other categories, or will they inevitably be increases and potentially passed on to the taxpayer? Also, consider the ripple effect to the other unions and municipalities within the state. The Ordinance states : “the City of Lakewood seeks to be a leader in our City and region by offering these benefits and setting an example for other communities to do the same.” Note...Lakewood already has one of the highest property tax rates in Cuyahoga County, and relatively lower reciprocity reductions for other municipalities as part of the city income tax.

### **“Equity and Inclusion”**

These words proliferate “narratives” throughout the country. Let me give you a slightly different yet important twist focusing on two examples:

IF passed into legislation, this selective benefit would further divide our community between those that **have** what has already been referred to as “Cadillac” benefits with those that **have not**. Studies have shown for the most part, the public sector (especially Federal Employees) and the Private Sector (larger Companies and Companies with Union represented employees) generally provide benefits (pensions, holiday, sick time, personal days) in addition to health care, that are far better than those benefits for employees of small businesses or independent contractors due to **affordability (or negotiated demands)**. Focusing on the Public Sector, “affordability” is borne by taxpayers, by spreading the cost across the residential population. Small businesses or independent contractors have to rely on profitability and other factors, there is no spreading of the costs.

Thus the “inequity” between the “**haves and the have-nots**”

Mayor George Stated “It’s for the health, well-being and economic benefit for the women and families...”, only referring to her “Public Employees within City Employment”, not the remaining citizens of Lakewood.

Secondly, what about the number of people that legitimately take FMLA to care for a family member. It clearly seems that we don’t really care about paying them for their time off. And even more, at a Federal Level, it seems to be more one-sided. They take care of paid time off for parental leave as put into effect thru The Federal Employee Paid Leave Act (FEPLA), which covers paid parental leave, but no mention of medical leave paid time off for family attending to the serious health condition of a family member.

IF you’re proposing paid leave for parenting, why wouldn’t you also propose paid leave for family medical care? After all, the title does state Family Medical Leave Act ?

Is this ordinance really “inclusive” or selective?

**In Conclusion, I truly do hope for a complete evaluation and analysis of the Ordinance, and its subsequent REJECTION.** (and I especially appreciate the level of service performed by our men and women in our Police and Fire Dept. during these trying times)

**Thank you.**

Mark Tiberia