

MINUTES OF THE FINANCE COMMITTEE
April 15, 2019
East Conference Room

Present: Councilmembers O'Malley, Bullock & George

Also Present: Councilmembers O'Leary, Rader, & Anderson; Director Pae, Director Yousefi, Director Butler, Chief Gilman, Chief Malley, Seth Andregg – President of Lakewood Firefighters Local 382, 3 members of Local 382, Mike Satnik – President of Lakewood AFSCME Local 1043, several members of the public, and Deputy Clerk Lascu taking minutes

Call to order: 6:02 p.m.

AGENDA: ORDINANCE 01-19 – AN ORDINANCE to establish paid parental leave benefits for full-time employees of the City of Lakewood. (Placed on 1st reading and referred to Finance Committee 1/7/19; 2nd reading 1/22/19)

Councilman O'Malley opened the meeting and deferred to Councilwoman George to give an overview of the Ordinance 01-19, which she sponsored. George stated that the ordinance gives 10 weeks of paid maternity leave for a mother, plus 2 weeks for bonding time. The ordinance gives 2 weeks for a father too. It is a 100% paid benefit and runs concurrent with the FMLA benefit that employees currently receive. She proposed this ordinance because recovering from childbirth is a significant medical condition. She believes it helps the city attract and retain top talent to its workforce. In her full-time job, she serves as a consultant with companies on their overall benefits package, and she noted that job candidates are increasingly looking at the overall benefits packages that are offered with positions. She noted that she also spoke with women who are employees of the city of Lakewood who discussed with her how a paid leave benefit would have been helpful to them during their recovery from child birth.

Director Pae spoke about some of the concerns the administration raised at the last meeting of the Finance Committee, mainly the financial implications of the proposed ordinance. She acknowledged Councilwoman George's points as good ones, but questioned if the ordinance was a solution in search of a problem. In regard to the city's ability to attract talent for jobs, Pae noted the public sector pension program, generous health insurance, and leave policy as better than many private sector companies. She noted that the administration is not seeing a dearth of candidates in many of the roles they post. During the last meeting, it was brought up that the Building and Housing Department was having difficulty attracting talent, but those are issues that are occurring with departments statewide. Pae stated that there is not an issue with employees getting enough time off and noted the city's sick time donation bank that employees can use. Director Yousefi and Chief Gilman concurred. Director Yousefi stated that the ordinance could potentially create a lot of overtime in Public Safety.

Seth Andregg, President of Lakewood Firefighters Local 382, noted that his members have never had an issue with needing more time off, but he noted that his membership only includes 1 female who has a child in college. He stated that if an employee needs more time off, that Director Yousefi has been great to work with. One of their main concerns as a union is time off, which they negotiate along with their benefits.

Councilwoman George noted that the proposed ordinance would not have any impact on any of the union's other negotiated benefits. Mr. Andregg asked about the differences between FMLA and the proposed ordinance. Director Yousefi stated that FMLA provides 12 weeks of unpaid leave. She noted that with the sick time donation bank, she has never seen someone run out of time and works with them to make sure they have enough time off. Director Pae noted that FMLA is a job protection and that if you need the time, you get that 12 weeks. She added that employees typically have enough banked time to be paid throughout their leave. Mr. Andregg asked George what brought this issue about for her to propose the legislation. George responded that she works professionally in the benefits world and that it's an equality issue for women along with being a major health issue. She noted that we are the only industrialized nation that does not provide paid family leave.

Councilman O'Malley sought clarification that when someone leaves employment with the city, do they cash out 100% of his/her vacation time and 25% of his/her sick time. Directors Yousefi and Pae confirmed. Chief Gilman stated that you can only cash out after 10 years of service with the Fire Department.

Mr. Andregg asked if any other cities offer the benefit that the ordinance proposes. Councilwoman George indicated that Newburgh Heights offers 6 months of paid leave and that Summit County offers some sort of paid leave benefit. She noted that Cleveland Heights and several counties were looking at providing it as well.

Mike Satnik, President of Lakewood AFSCME Local 1043, noted that he could've used the benefit in the proposed ordinance a year and a half ago. He agrees with Councilwoman George that there is nothing like being home with a newborn child and being able to be there to help one's wife. He stated that we're fortunate to work with the city to accumulate sick time, however he does not like the way FMLA is used sometimes. He does not agree with the fact that he in the past has had to use FMLA time and vacation time concurrently. His members have not spoken about the parental leave issue. He estimates that in the Public Works sector of the city that there may be 15% female employees (Director Yousefi added that there are closer to 30% when you include administration). He added that the ordinance will affect a very small percentage of employees presently. He supports the 2 weeks of bonding provided for the male and the female. He believes families need to be together after child birth, but does not know for how long. He offered to take this ordinance back to his membership for their review and Councilman O'Malley asked him to do so.

Councilwoman George stated that the legislation does not have a huge impact on the number of people who take maternity benefits. She noted that in the last 3 years, there have been 4 maternity claims. Councilman Rader added that there are 5 states that currently have partial to full paid family leave (California, Rhode Island, New Jersey, New York, and Washington), which covers about 50 million Americans.

Council President O'Leary stated that he appreciates the feedback and informed Mr. Satnik that as the legislation is currently written, FMLA would have to be used concurrently with the leave time. Councilwoman George stated that she believes that language had to be in the legislation to meet legal requirements and Councilman Rader asked for clarification on the concurrent usage matter. Director Yousefi stated that federal law requires FMLA be used in order to keep your job. O'Leary added for clarification that it appears one would still have to draw down their FMLA balance. Chief Gilman stated that the Fire Department has never had a problem with anyone running out of FMLA time and that employees in his department have had 4 babies in the last 2 years. He claimed that due to minimum staffing required by the fire union's contract, it could cause overtime everyday. Councilman O'Malley asked if an employee will take more time off now under the proposed legislation than usual. Chief Gilman replied that he or she potentially might do so.

Councilman O'Malley asked 3 members of Local 382 how the legislation might affect how much time they would take off. One member stated that he took a month of time off for his first child and 2 weeks for his second one. He would be inclined to state that it could create more overtime and surmised that someone might take more time than he/she would have before. He added that how the city is doing financially directly affects their benefits. If the proposed ordinance creates a hardship on the city, it could create an impact on potential contract negotiations moving forward. Mr. Andregg noted that the union currently has a good deal of young guys who could be starting families in the future and the department could have 5 guys off in 1 summer. The department could have 12 employees off in a year. He stated that the firefighters plan the time as best as possible and usually time off jumps during the spring and summer time. He added the leave benefit does not account for injuries on the job. The department has multiple guys off on injury or sick leave. The union has 80 members and the general fear is that the fire department could come under extraordinary scrutiny if a good deal of overtime is created due to a combination of minimum mandated staffing levels and people taking extra time off due to the leave benefit.

Councilman Bullock asked if the concurrent usage of FMLA is a federal requirement and why that is. Director Yousefi stated that yes it is federally mandated due to court cases that have created precedent. Bullock stated that the goals of the proposed policy are good goals and that the city has a record of supporting employees through good pay and benefits and asked rhetorically how the city can continue to achieve that while being respectful to child birth. He said that the mechanism to achieve that result would not be through ordinance, but through contract negotiations, adding that Council could give a directive to the administration on

employee compensation packages, as this issue is 1 element to complicated compensated agreements between the city and 8 different bargaining units. It sounds like there is a difference in preference between the bargaining units. Bullock asked if the city rolls sick and vacation days together and Director Yousefi replied that they are held in separate banks. Bullock stated that the proposed ordinance seems to not show context and sensitivity to each bargaining units' preference, as they value different things such as pay increases versus time off. He proposed that Council pass a resolution or send a letter to the administration outlining the goals of the ordinance and to consider them when negotiating contracts with the bargaining units. Councilwoman George stated that Bullock's proposal would not achieve the highest outcome and does not fit the goal she has for the proposed policy. She stated that the proposed ordinance addresses the fear that it could impact various bargaining chips.

Director Pae stated that a benefit is a benefit and must be accounted for regardless of how it came into existence. She hypothesized that if the city were to fall back on hard financial times and the city and the unions were to enter into arbitration, an arbitrator may find that the city gave this benefit and may require labor to give up another benefit in return. Arbitrators look at the entirety of a benefits package, whether a benefit is mandated by ordinance or is negotiated. Mr. Andregg asked if Council could repeal the law if the city falls back onto financial hardship, adding that the union has been in situations before where they were asked to do more with less pay and benefits. He stated the parental leave might be great to have now, but in 15-20 years the city may not be as financially well off. He stated that if the benefit were to be made part of their contract with the city, then it's a protected negotiated benefit and could be used as a bargaining chip in the future.

Councilman O'Malley sought further clarification on the actual cost of the ordinance. He stated that anyone that's taking paternity leave is still getting paid by the city if this ordinance were to pass, they would just not be using their vacation time, which is an accrued benefit, meaning the true cost of the ordinance is in the accrued benefit of vacation time that would eventually need to be paid out upon retirement. Director Yousefi added that the most the city has had out on FMLA in a year over the last several years is 10 people.

Councilman Anderson stated his appreciation to Councilwoman George for bringing this issue to the attention of Council. He added that these accruals are liabilities on the books that the city has to budget for in the future. Director Pae concurred and stated that everyone's accrued time is accounted for and the city has to know how much to pay out. Anderson asked how many at-will employees the city has and Director Yousefi said about 100, which includes Court employees. Anderson stated that it seems like members prefer increases in wages over the benefit and that these unions are mostly made up of males.

Councilman Bullock stated that private sector companies don't have as generous of accruals and Councilman Anderson added that he is capped at 80 days of accrued time. Bullock asked if Councilwoman George's priority with the legislation was focused on the backend accrual or is it

more focused on the front end that does not impede people from enjoying the benefit of spending time with their newborn. George stated that the benefit to recover from child birth is the focus and intent of the law. She added that women should get the time that they need to recoup from the serious medical condition. Bullock replied that Europe does a better job than us at treating people better as employees. He questioned whether the ordinance as currently crafted is the right tool to achieve a good parental leave policy and thought that setting minimum guidelines for labor negotiations might be a better route.

Chief Malley stated that the issue is a great idea and the he has benefitted through 3 childbirths from FMLA time. He said the process being discussed however goes against benefits being negotiated in unions' contracts. He added that Council has the option to turn down contracts once they have been negotiated by a union and the city and that Council could go forward with installing a benefit without input. He warned that this sets a precedent where an employee could go directly to Council if they feel they are not getting enough vacation time through negotiations. Chief Gilman noted that the Fire Department did not have FMLA time when he had his kids and that where we are policy wise today is exponentially better than where we were. He stated that this law will create overtime and that the department has lost staffing in the past due to overtime costs. Councilman Anderson asked for clarification on that statement. Chief Gilman stated that they were forced to completely restructure the Fire Dept. due to overtime. Chief Malley stated he has the largest unit of females in Public Safety as part of the Police Dispatch unit and overtime can have an impact on employees' performance.

Council President O'Leary stated that this is an important issue and it is not a question of whether Lakewood can afford equality. He stated the collective bargaining agreement exists to negotiate benefits and that a referee looking at future contracts is going to see a codified benefit that he or she cannot impact, causing an impact on future labor negotiations. He added collective bargaining units should have the leeway to negotiate their own benefits packages.

Councilman O'Malley stated that we should digest what we heard today, deliberate, and move forward with an action at the next Finance Committee meeting.

Mr. Andregg stated that his union has never been a part of a meeting like this and he would be open to meeting with Council in the future, as labor negotiations have changed over time. Mr. Satnick concurred with Mr. Andregg's points. Councilman O'Malley added that Council would like to hear from the unions around budget time.

Councilman O'Malley made a motion to adjourn the meeting, which was seconded by Councilwoman George.

The meeting was adjourned at 6:56 p.m.