

IN THE MATTER

OF

FACTFINDING

BETWEEN

AUGLAIZE COUNTY SHERIFF'S OFFICE

AND

OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

STATE EMPLOYMENT  
RELATIONS BOARD

2003 FEB 19 A 10:13

Dates of Hearing: December 11, 2002 and January 31, 2003  
Location: Auglaize County Sheriff's Office  
Case Nos.: 02-MED-10-1025; 1026; and 1027  
Date of Award: February 13, 2003  
Finding: Recommendations on each issue is more fully set forth below.

Union Representative:

Joseph M. Hegedus  
Climaco, Lefkowitz, Peca & Wilcox  
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Columbus, Ohio 43215

Employer Representative:

Paul Goldberg  
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Toledo, Ohio 43623

**OPINION AND AWARD**

Michael Paolucci  
Arbitrator

### Administration

By letter dated November 29, 2002, from Dale A. Zimmer, the Administrator with the Bureau of Mediation at the State Employment Relations Board (SERB), the undersigned was informed of his designation to serve as Factfinder in a procedure as mandated by R.C. 4117.01, et seq. On December 11, 2002, a mediation session took place where the Parties attempted to reach agreement. Subsequent to that meeting, the tentative agreement was rejected and a second day of hearing was held on January 31, 2003 where both sides presented testimony and documentary evidence in support of positions taken. The record was closed upon the submission of final arguments and the matter is now ready for final recommendations by the undersigned.

### Resolved Issues

Prior to the hearing, the Parties were able to reach tentative agreement on numerous issues. These agreed to issues are incorporated herein, and made a part hereof by reference. Included in the resolved issues (without intending to provide an exhaustive list) are the following:

1. Holiday pay at 1 ½ regular pay;
2. Call back on emergency pay;
3. Officer in charge increases;
4. \$100 shoe allowance; and
5. All other settled issues that were not discussed at factfinding/mediation.

In addition, longevity and personal leave were dropped as issues to be determined by the undersigned.

### Unresolved Issues presented

The following eight (8) issues were presented for recommendation:

1. Article 25 - Wages;
2. Article 24 - Health Care;
3. Article 18 - Compensatory Time;
4. Article 20 - Sick Leave Payout;
5. Article 20 - Sick Leave;
6. Article 23 - Vacation Leave;
7. Article 25 - Dispatcher Pay;
8. Retroactivity.

\* \* \*

The issues are addressed giving consideration to all of the necessary statutory elements.

### Factual Background

The Employer is the Sheriff of Auglaize County, Ohio; three (3) sets of its employees are all represented by the Union. The Union represents approximately twenty three (23) employees including the Dispatchers (6), Patrol Officers or Deputies (13), and Sergeants (4) in three different bargaining units. All of the issues have been addressed for all bargaining units except number 7, which is for dispatchers only.

The Parties have a relatively short bargaining history with this Agreement representing only the second collective bargaining agreement between them. The County is in a relatively rural area but has some employers in and around the area. While the County did not make an inability-to-pay argument, it did claim that its finances, like all of Ohio Government, was uncertain. The Parties were able to successfully discuss most issues and even those that remain did not represent a great disparity between positions. It was against this backdrop that the recommendations of the undersigned were made.

Contentions of the Parties

and Recommendations of the Factfinder

The following issues were presented at the hearing:

**1. Article 25 - Wages**

Recommendation

A review of the record reveals that the County is in stable financial condition and can afford a reasonable increase in wages. Moreover, based on both internal and external comparables, it is recommended that the three (3) bargaining units receive 3%, and 3.5% across the board wage increases in each year of a two (2) year contract.

**2. Article 24 - Health Care**

Recommendation

It is recommended that the language be modified so that these bargaining units be treated the same as other County employees. Thus, it is recommended that the provision be changed so that the County has the ability to modify the health care coverage and premiums if and only if the remaining County employees are similarly affected by any said changes.

**3. Article 18 - Compensatory Time**

Recommendation

It is recommended that the compensatory time provision be modified so that there is no restriction on its use on a quarterly basis. Moreover, it is recommended that the number of compensatory days allowed per year be increased from four (4) to five (5).

4.

#### **Article 20 - Sick Leave Payout**

The Union proposes increasing the current sick leave payout on the retirement of an employee. The current language allows for a statutory amount, one-fourth (1/4) of their accumulated sick leave, if an employee has less than twenty five (25) years; and if more than twenty five (25) years, the employee will be paid one-half (1/2) their accumulated sick leave up to a maximum of sixty (60) days. The Union proposes increasing the amount by ten (10) days on each tier, or seventy (70) days.

#### Union Position

The Union argues that it accepted a mediated settlement on this issue by giving up on other benefits it believes were deserving. It contends that the mediated settlement would compensate dedicated employees at the end of their career. It argues that, as an example, it would be a reasonable argument that it deserves more than the 3%, 3 1/2% wage increases, but gave that up for some benefits in this area. It argues that its good faith bargaining should be rewarded by granting it the benefits it asked for on this issue. Since there was no argument on ability to pay by the County, it contends that its position is reasonable.

#### County Position

The County rejects the notion that because the Union gave up other benefits, then it should receive more on this issue. It cites the well-accepted principle that there is give and take throughout negotiations and to segregate this issue from any other is illogical. Since both parties presented many packages, then it argues as inaccurate to characterize this issue as being dependent on one or other specific issue. It argues that the entire state is doing poorly on economics and contends that the county is no different. Counter to the Union's ability to pay claims, it argues that the prior year was

not a banner year; that there are not many employers in the area; and that its surplus is not huge. Moreover, although there is some surplus, it argues that it is not all in the general fund where wage increases must come

The County claims that it is above the state minimums. It asserts that the ten (10) days is that much above where the County already is and is therefore not economic.

### Recommendation

It is recommended that the Union's proposal be adopted. The proposal is modest, requires minimal increased payouts at the end of an employee's career, and ends up motivating employees to use as little sick leave as possible. It is not only a benefit for employees, it is beneficial for employers who might otherwise suffer higher expenses during the period in which the benefit is acquired if employees use the maximum benefit. As a result of these factors, the Union's proposal is recommended.

## **5. Article 20 - Sick Leave**

### Recommendation

It is recommended that the Union proposal for extra sick leave if an employee goes six (6) months without being absent be adopted. Moreover, it is recommended that funeral leave be exempted from any bonus calculation. If an employee must attend a funeral, then any bonuses that may accrue should not be affected. Funeral leave is unavoidable and has nothing to do with the dedication of the employee. As a result, no adverse affect should occur because of such an unavoidable event and it is recommended that this reality be recognized by adopting language that

exempts funeral leave from any bonus calculation.

**6. Article 23 - Vacation Leave**

The current language only allows the accrual of additional vacation leave if an employee has been with the County for twenty (20) years. The Union proposes changing that benefit so that work with any other political subdivision within the County should count toward the accrual of vacation leave at the twenty (20) year level.

Union Position

The Union argues that the statutory minimum is not much different than that existing in the current agreement. It asks that the employees be rewarded for their loyalty to the county even if the employment was not with the County itself. Since there is no practical difference between working for the government in the County and working for the County itself, it asks that the benefit recognize that an employee has been in the County government for a long period and reward an employee accordingly.

County Position

The County does not see a need to change the benefit. It argues that the entire level of benefits are fair and equitable. It asserts that it is not in business to benefit the employees; that this benefit would only apply to two (2) employees; and that what already exists is fair. Since the current benefit level is fair, it asks that it remain.

## Recommendation

It is recommended that the Union's proposal be adopted. While the City's arguments are accurate in that the current benefit level is not unfair, it fails to recognize that the change would benefit it as well as the two (2) employees who would be directly impacted by the change. It is not unusual for an employee to begin their government employment at some smaller entity before qualifying or otherwise being able to move into a more desirable position with a larger, better paid employer. One of the obstacles in motivating such an employee to move from their current employment to a new one would be the loss of accrued benefits. If the employee were highly skilled, and the County would otherwise want to hire that individual, it is foreseeable that the County might lose the opportunity to have that employee because of the loss of accrued benefits. This change would remove that obstacle and would cost the County very little.

Moreover, the purpose of the provision in that it benefits employees who are loyal to the County is not diminished at all by extending it to all employees who work in the political subdivision of the County. Such an employee is part of the same tax base; part of the same voting public; and has served the County, albeit indirectly, for some part of their professional career. The County's goal of rewarding loyalty and service to the County is similarly served by such an employee who performs some of their duties in another political subdivision. Thus, the loyalty factor is not diminished and, indeed may be strengthened by extending the benefit to employees who work within the County during their professional career, even if it is not with the County directly. Because the cost to the County is minimal, and since it can be reasonably foreseen to provide it with a benefit, it must be found as reasonable. As a result, the Union's proposal must be recommended.

7.

### **Article 25 - Dispatcher Pay**

The Union proposes an additional increase in pay to Dispatchers. The Union took the average real dollar raise given to the other bargaining units and adds that number to the Dispatchers total. The result is a \$0.58 and \$0.70 raise in each year of a two (2) year agreement in addition to the wage increase already discussed.

The County proposes a one time \$0.15 adjusted in the first year of the Agreement on top of the general wage increase.

The Union also proposes a uniform allowance for dispatchers.

#### Union Position

The Union argues that the Dispatchers are the lowest paid represented employees. It argues that whenever the remaining employees get the same percentage wage increase that they do, then the real dollar result of the wage increase is much higher for the other employees since the flat dollar amount upon which the percentage is based is higher. Moreover, as time goes on and percentage raises continue to be given, it argues that the disparities increase since the percentages stay the same while the flat dollar amounts increase in their difference.

The Union argues that these dispatchers are 4.2% below average when compared to other dispatcher bargaining units. Moreover, although other bargaining units have six (6) steps, and since it has only three (3), then it argues that these dispatchers are unfairly compensated.

The Union argues that since other employees receive a uniform allowance, then the dispatchers should also receive same.

### County Position

The County claims that it wants to be fair to the dispatchers, but contends that the evidence the Union has submitted fails to prove that they are underpaid when compared to either internal or external comparables. Indeed, it argues that when compared to other rural counties, these dispatchers are doing well.

The County denies that a uniform allowance is necessary and points out that this bargaining unit does not wear a uniform. Since the external comparables are jurisdictions where dispatchers do wear uniforms, then it argues that they are distinguished.

### Recommendation

The County recommendation on a one-time adjustment to the Dispatchers pay is recommended. While the Union's argument is logical, it is not borne out by the facts. It is correct to argue that a disparity will eventually occur when flat dollars are compared over time. Since percentage increases over time will be based on flat dollar amounts, and since the difference between flat dollar amounts will, over time, become greater, then it is logical that some adjustment might be justified at some later date. In this case, the external comparables show that this bargaining unit is keeping up with other Dispatchers in the area, especially when compared to rural counties. More importantly, this relationship has only been through two (2) Agreements and thus not enough time has elapsed where a valid comparison between salary differences could be made. Since the County's proposals allows for some adjustment now even in the face of the lack of a serious disparity, then it must be found that their proposal is the best and it is recommended.

It is recommended that no uniform allowance be given until uniforms are required to be worn

by Dispatchers.

**8. Retroactivity**

It is recommended that the wage increases be made retroactive to January 1. Moreover, the adjustment should be made on all wages, not just straight time as the Sheriff proposed. The basis for this recommendation is that retroactivity is standard absent some evidence of bad faith, or similar delay. Here, the Union proceeded at all times in good faith and entered into a mediated agreement in December, 2002 – before the Agreement expired. As a result, no negative impact should be imposed on the bargaining unit employees for the failure to reach an agreement during the interim. Indeed, the County set forth no justification for not paying all wages retroactively. Absent a reason, it is recommended that all wages be paid retroactively.

February 13, 2003  
Cincinnati, Ohio



Michael Paolucci