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Factfinding Report and Recommendations

in the matter of factfinding between

The Franklin County Sheriff's Office

and

The Fraternal Order of Police, Ohio Labor Council, Inc.

SERB Case No: 04-MED-11-1210

Marcus Hart Sandver, PhD

Factfinder

Hearing Date: April 27, 2005
Report Issued: May 11, 2005

Representing the Sheriff:

Mr. Michael Short
Mr. Robert Weisman
Attorneys at Law
Schottenstein, Zox and Dunn, LPA
Columbus, Ohio

Representing the FOP/OLC:

Mr. Frank Arnold
Staff Representative
FOP/OLC
Columbus, Ohio

I. Background

This case arises out of a dispute between the Franklin County Sheriff's Office (the Employer) and the Fraternal Order of Police, Ohio Labor Council (the union) regarding the wage provisions of an existing collective bargaining agreement. The agreement covers the civilian staff (support staff) of the Franklin County Sheriff's Office. The parties negotiated a collective bargaining agreement in July of 2004 which provided for a 2% wage increase in 2004 and a reopener option for wages in 2005 and 2006. The parties met to negotiate wages for 2005 in December 27, 2004. The parties reached a tentative agreement on December 28, 2004. The tentative agreement was not ratified by the members of the bargaining unit. In March of 2005, Marcus Hart Sandver was chosen by the parties to serve as a factfinder to the dispute. By mutual agreement, the date for the hearing was set for April 27, 2005.

II. The Hearing

The hearing was convened at 10:00 AM in the conference room of the Franklin County Sheriff's Office. In attendance at the hearing were:

For the FOP/OLC:

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|----|----------------|---|
| 1. | Frank Arnold | Staff Representative, FOP/OLC |
| 2. | Michele Friend | Civil Process Department, Franklin County Sheriff |
| 3. | Linette Davis | Social Services Department, Franklin County Sheriff |

For the Franklin County Sheriff:

1. Michael Short Attorney
2. Robert Weisman Attorney
3. Christy Sexton Interim Director, Office of Management and Budget
4. Patrick Garrity Director Management Services
5. Sue Wolfe Schoener Assistant Human Resources Director

The parties were instructed by the factfinder that the case would be conducted in accordance with the rules for factfinding as found in O.R.C. 4117 and administrative rules covering such proceedings as promulgated by the State Employees Relations Board (SERB).

The parties were asked to submit exhibits into the record. The employer submitted a multi-tabbed exhibit which had been delivered to the factfinder as a pre-hearing brief on April 25, 2005. This was marked as employer exhibit # 1. The Union submitted a multi-tabbed exhibit which had been delivered to the factfinder on April 25, 2005. This exhibit was marked as Union exhibit # 1. The parties waived the option of opening statements. The hearing moved to a discussion of the issue in dispute.

III. The Issue.

A. Article 18 - Wages.

1. FOP/OLC Position.

Mr. Arnold began his presentation by pointing out to the factfinder that the current collective bargaining agreement was the result of a factfinding report issued by factfinder Mitchell Goldberg on July 1, 2004. The factfinding report provided for a 2% increase in 2004 and for a reopener clause regarding wages in 2005 and 2006. The County subsequently went to factfinding for the bargaining unit which included the Deputies. The factfinding recommendation for this unit resulted in a 3 percent raise in 2004, a 3 percent raise in 2005, and a 4 percent raise in 2006. The raises were implemented.

Mr. Arnold pointed out to the factfinder that the result of this agreement has been to widen the differential in salaries between members of the Deputies bargaining unit and the support staff unit. Mr. Arnold testified that in 1994, a cook in the support staff received 47 percent of the wage rate of a deputy; in 2004 that differential had decreased to 44 percent. Similarly in 1994, an I.D. Technician in the support staff received 50.7 percent of the salary of a top step Deputy. In 2004, that differential had decreased to 47.8 percent. In 1994, a Storekeeper I received 45.5 percent of what a top step deputy was paid. In 2004, the differential had fallen to 42.9 percent.

Mr. Arnold then directed the factfinder's attention to Tab 6 in Union Exhibit # 1. In this exhibit is listed the pay range classifications for employees of the State of Ohio. Mr. Arnold pointed out that under the State pay schedule, a top step Commissary Worker I receives \$13.43 per

hour. In the County Support Staff, a Storekeeper I receives \$11.89 per hour. Under the state schedule, a top step Identification Technician receives \$16.00 per hour. In the County support staff, an Identification Technician receives \$13.23 per hour.

Mr. Arnold asked the factfinder to review the SERB Clearinghouse Benchmark Report for February 25, 2005. The SERB data show that a cook in Greene County receives \$14.78 per hour and that a cook in Richland County receives \$14.42 per hour. The top step cook in Franklin County receives \$12.23 per hour. The top step clerical specialist in Lorain County receives \$15.64 per hour. The top step clerical specialist receives \$12.65 per hour in Franklin County. A clerk typist in Licking County receives \$15.36 per hour. In Franklin County a top step clerk typist receives \$12.24 per hour.

Mr. Arnold then asked the factfinder to turn his attention to Tab 6 of FOP exhibit 1 (State of Ohio Pay Scale). A review of the data showed the following differences between Franklin County and the State of Ohio.

Job Title	State of Ohio Wage Rate	Franklin County Wage Rate
Data Security	\$27.76	\$17.72
Chaplain	\$27.56	\$17.33
Account Clerk I	\$14.84	\$12.65
Account Clerk II	\$16.00	\$15.88

Graphic Artist	\$13.62	\$14.97
Social Worker I	\$18.88	\$13.49
Social Worker II	\$20.78	\$15.52

Mr. Arnold then directed the factfinder's attention to Tab 3 of Union Exhibit # 1. The data in this tab show that Franklin County permissive sales tax revenues for the month of January had risen from \$8,617,209 in January 2004 to \$8,747,355 in January 2005; an increase of approximately \$130,000. Data from the same source show that for the year 2003, sales tax revenues for the County were \$81,681,221 and were \$85,587,547 for the year 2004; a \$3.9 million increase.

Mr. Arnold directed the factfinder's attention to Tab 3 of Union Exhibit # 1. In this tab is included the County Auditor's Comprehensive Annual Financial Report for the year ended December 31, 2003. In this report the County Auditor states that "Central Ohio is among the more economically stable metropolitan areas in the United States". The report further states that "Franklin County's Triple A credit rating was reaffirmed by both Moody's Investors Service and Standard and Poor's Corporation in October 2003". The report states that "three percent of the general fund budget may be set aside for critical needs not anticipated in the budget. In 2003, \$6.8 million was set aside for this purpose, of which \$2.6 million was used during the year."

Mr. Arnold asked Ms. Linette Davis to testify for the Union. Ms. Davis testified that as a social service worker for the County Sheriff, she has a high rate of interaction with the inmates at the County Correctional Facility. Ms. Davis testified that she regularly works with and alongside the Deputies. Ms. Davis testified the Deputies received a 3 percent increase in 2004, a 3 percent increase in 2005, and a 4 percent increase in 2006; a 10 percent raise. Ms. Davis testified that the 2 percent increase received by the support staff in 2004 plus the 4 percent requested in 2005 and 2006 would equal the 10 percent received by the Deputies and would reduce the degree of salary differential between the Deputies and Support Staff that has occurred over the past 10 years.

1. Employer Position.

Mr. Short began his presentation by pointing out to the factfinder that the County has had financial difficulties since the year 2001. Mr. Short stated that the parties had negotiated a tentative agreement in 2004 for a 2 percent raise and the reopeners for 2005 and 2006. Mr. Short noted that this tentative agreement was rejected by the members of the bargaining unit. The dispute was submitted to factfinding, and the factfinder recommended a 2 percent increase in 2004 with reopeners for 2005 and 2006. The factfinder also recommended an increase in the shift differential and an increase in service credit pay. The factfinding report was not rejected by either of the parties. Mr. Short noted that a 2 percent

raise for 2005 had been tentatively agreed to by the parties in December of 2004 but had been rejected by the members of the bargaining unit.

Mr. Short pointed out that in the prior CBA the support staff received raises of 4 percent in 2001, 2002, and 2003. Further, Mr. Short reported that in the previous agreement shift differential had increased, tuition reimbursement was increased, bereavement leave was expanded and personal days were increased. Finally, Mr. Short asked the factfinder to note that the members of the support staff make no contribution to their monthly health insurance premiums. Mr. Short pointed out that in the past 2 years, these premiums have increased \$2,650 per employee; the equivalent of a wage raise of \$1.27 per hour.

Mr. Short directed the factfinder's attention to Tab I of the Employer Exhibit # 1. In his conciliation report of August 11, 2004, conciliator Charles Kohler awarded the members of the Patrol Communications Officers (dispatchers) bargaining unit a 2 percent wage raise for 2004, 2005 and 2006. Mr. Short noted that a 2 percent increase is the amount most union and non-union County employees will receive in 2005.

Mr. Short stated that in the factfinding hearing for the Deputies in 2004, the county position on wages was for a 1 percent increase in 2004, and reopeners in 2005 and 2006. The factfinder's report recommended a 3 percent raise in 2004 and 2005, and a 4 percent raise in 2006. The report was not rejected by either of the parties. Mr. Short pointed out to the

factfinder the dramatic difference between the duties of a County Deputy Sheriff and the duties of the members of the support staff. The support staff has no law enforcement authority and call upon the Deputies if a disruption occurs in the correctional facility (a point also noted in the Goldberg factfinding report of July 2004).

Next, Mr. Short asked the factfinder to review the data in Employer Exhibit # 1, Tab F. The data in Tab F are a summary of the Franklin County General Fund Resources from 1998-2004 (actual) and 2005 (budgeted).

Mr. Short called upon Ms. Christy Saxton, Office of Management and Budget Interim Director, to point out the salient points of the budget data to the factfinder. Ms. Saxton testified that the County began experiencing financial difficulties in the year 2001. Ms. Saxton testified that sales tax revenues have increased from approximately \$85 million (actual) in 2004 to approximately \$88 million (projected) in 2005. Ms. Saxton testified that total general fund expenditures are projected to increase from approximately \$247 million (actual) in 2004 to \$277 million (budgeted) in 2005. Ms. Saxton testified that local government allocations from the State to the County are projected to be cut approximately 6 percent in 2006. Ms. Saxton testified that the biggest decrease in the County revenues came in 2003 when investment income decreased from approximately \$32.9 million in 2002 (actual) to \$16.6 million (actual) in 2003 to approximately \$13.0 million in 2004 (actual). Investment

earnings are projected to be approximately \$16.6 million in 2005. Ms. Saxton testified that one of the most serious problems in the County budget has been the steady decrease in "carry-over" funds which have declined from approximately \$99.4 million in 2002 to \$88.4 million in 2003 to \$72.6 million to \$50.5 million (projected) in 2005. In a graph on page 2 of Tab F, the data are shown to indicate that County expenditures have exceeded revenues each year from 2002 to 2005 and that the gap between expenditures and revenues has been funded by drawing down the beginning balance (carry over) from the previous year. Mr. Short asked Ms. Saxton to estimate what the carry over will be from 2005 to 2006. The witness testified that she would predict a carry over into 2006 of approximately \$10 million to \$20 million. Ms. Saxton directed the factfinder's attention to page 9 of Tab F which shows that the expenditures in the Sheriff's Department have grown significantly from 1998-2004 and testified that the Sheriff's Department accounts for the largest share of the general fund's expenditures.

On cross examination, Mr. Arnold asked Ms. Saxton if she knew the amount the County had invested in investment accounts. The witness testified that she did not know the answer to the question. Mr. Arnold asked Ms. Saxton what would happen if the carry over budget was depleted. Ms. Saxton testified that if this were to happen then there would have to be a County wide hiring freeze and perhaps layoffs.

Mr. Short summarized Ms. Saxton's testimony by stating that County expenditures have exceeded revenues since 2002; as a result the carry over has steadily declined. The result of this financial situation is that the county can only afford to pay the Sheriff's support staff a 2 percent raise in 2005 and will reopen negotiations for 2006 regarding the wage issue.

Mr. Short pointed out to the factfinder that the comparisons Mr. Arnold made between Franklin County employees and State of Ohio employees are deceptive due to the fact that State of Ohio employees make monthly contributions to their health insurance while Franklin County employees make no contributions to health insurance premiums; for either single or family coverage. Mr. Short asserted that comparison of the earnings of Franklin County employees to employees of other counties may also be problematic due to differences in job duties as well as differences in items such as insurance contributions, longevity pay and other factors.

Mr. Short addressed the Union's request for a \$0.75 pay raise for those employees who handle hazardous materials. Mr. Short asserted that this is a highly unusual request and stated that no other County employees receive such pay. Mr. Short stated his view that if hazardous material is to be handled then it should be handled by a Deputy. Mr. Short concluded his presentation by restating the County offer of a 2 percent raise in 2005

and reopening of wage negotiations in 2006. The hearing was concluded at 11:45 AM.

IV. Discussion

I have carefully reviewed the Conciliation Award of Charles Kohler of August of 2004 and the Factfinding Report of Mitchell Goldberg of July of 2004. In Mr. Kohler's Conciliation Award to the dispatchers he observes:

The County points out that its income has significantly reduced by unfavorable economic conditions. It points out that it had investment income of \$38.6 million in 2001, compared with \$12.1 million in 2004. Further, the sales tax revenue has decreased from a high of \$82.2 million in 2002. The amount of sales tax collected in 2004 will be less than the amount collected in 2000 (Kohler p. 4, August 11, 2004).

The Kohler award was for a 2 percent increase in 2004, 2005, and 2006.

In the Goldberg Factfinding Report, the FOP was proposing a 4% increase in 2004 and wage reopeners in 2005 and 2006. Factfinder Goldberg recommended a 2% increase in 2004 and a wage reopener in 2005 and 2006. Mr. Goldberg commented "The Union proposal is excessive in view of the present economic climate facing the County (Goldberg, p.5). The Factfinding report was not rejected by either party.

Fortunately for the County, the economic position of the county improved in 2004. Sales tax receipts were up \$3.9 million from 2003 to 2004; a 3.14 increase. Investment income did drop sharply from 2002 to 2003, and dropped again in 2004. The County's own projections show a projected increase in this portion of the budget of 26.5 percent; an increase from approximately \$12.7 million in 2004 to \$16.0 million in 2005 (Employer Exhibit # 1, Tab F, p.1). Very recent national economic news shows the economy growing in the first quarter of 2005. (New York Times, "Creation of Jobs

Surged in April and Income Rose” May 7, 2005, p.1). In addition, inflation rose 3.1 percent in 2004 and is on pace to rise at approximately the same rate in 2005 (op. cit.).

The conclusion that I draw from the foregoing analysis is that the County was at low ebb financially in 2003-2004, but that the economic trend is towards one of improvement. Thus I am recommending a 3 percent raise in 2005 and a 3 percent raise for 2006. I am aware that these raises will not restore the support personnel to the level of parity they once enjoyed with the Deputies in 1994. In my opinion, the County is in no position to fund a “catch up” which would allow the support personnel to duplicate the raises the Deputies received in their Factfinding Award of 2004. In my opinion, the \$0.75 per hour hazardous duty pay for the approximately 58 bargaining unit members who would be eligible for it is also beyond the resources available in the Sheriff’s budget, and such a provision is not currently in the Collective Bargaining Agreement.

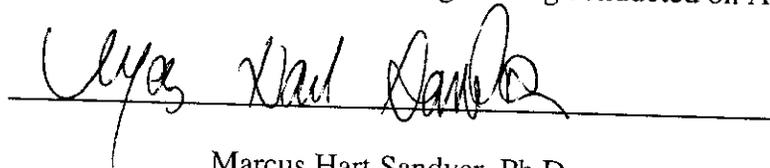
V. Recommendation.

Article 18.1. A wage raise of 3 percent in 2005 and a wage raise of 3 percent in 2006.

Article 18.2. Not to be included in the agreement.

VI. Certification.

This Factfinding Report and Recommendation was produced by me based upon evidence and testimony presented at a factfinding hearing conducted on April 27, 2005.

A handwritten signature in black ink, appearing to read "Marcus Hart Sandver", is written over a horizontal line.

Marcus Hart Sandver, Ph.D.
Factfinder

VII. Proof of Service.

This Factfinding Report and Recommendation was hand delivered by me to the FOP/OLC, the firm of Schottenstein, Zox and Dunn, and SERB on Wednesday, May 11, 2005.

A handwritten signature in cursive script, reading "Marcus Hart Sandver", written over a horizontal line.

Marcus Hart Sandver, Ph.D.