

2005 OCT 17 A 11: 32

**IN THE MATTER OF FACT FINDING**

**BETWEEN**

**OHIO PATROLMEN'S BENEVOLENT ASSOCIATION**

**AND**

**WAYNE COUNTY SHERIFF**

**SERB CASE # 05-MED-06-0665, 0666, 0667**

**ADVOCATE FOR THE SHERIFF:**

**Howard Heffelfinger, Executive VP  
CLEMANS, NELSON & ASSOCIATION, INC.  
2351 South Arlington Road, Suite A  
Akron, OH 44319-1907**

**ADVOCATE FOR THE UNION:**

**Joseph M. Hegedus, Esq.  
OHIO PATROLMEN'S BENEVOLENT ASSOCIATION  
555 Metro Place North, Suite 100  
Dublin OH 43017**

compromise on the remaining unresolved issues could not be achieved in order to bring about an agreement. The parties then reverted to their position statements. The fact-finder, who has previously served as a neutral in the contract between the parties, is somewhat familiar with the history of the bargaining relationship. This prior experience provided the fact-finder with the ability to better understand the background of the issues in dispute during attempted mediation. In the opinion of the fact-finder, the parties have a good working relationship, which has recently been tested by the difficult economic times that employees in Ohio are experiencing. Moreover, the demeanor and conduct of the participants from both bargaining teams exemplify the sincerity in which the parties view their roles. The individuals present during the fact-finding process representing both management and the bargaining unit demonstrated a sincere interest in providing quality service to the citizens of Wayne County and in treating employees of the bargaining unit as fairly as possible.

Both Advocates represented their respective parties well and clearly articulated the position of their clients on the issue in dispute. In order to expedite the issuance of this report, the fact-finder shall not restate the actual text of the parties' proposals on each issue, but will instead reference the Position Statement of each party along with an overall rationale.

## CRITERIA

### OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C)(4)(E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made:

## **OVERALL RATIONALE FOR RECOMMENDATIONS.**

These are uncertain times for Ohio public employees and employers. The state of Ohio continues to struggle with a shortfall between revenue and expenses that is tallied in the billions of dollars, and the state's most recent biennium budget does not provide additional government funding for local public entities, including counties. The fact is the federal government is reducing aid to the states and in turn the states, when experiencing shortfalls in revenue, are reducing aid to counties. Pressure is clearly on local governments to be less dependent on the state and to generate more of their own revenues.

However, the effect of dwindling state support for counties has not affected all jurisdictions in the same way. For example, Franklin County, which includes Columbus, Ohio, is considered to be one of the most economically stable counties in Ohio and in the United States (2004 Franklin County Auditor's Report). In contrast, other counties that are near Wayne County are struggling to maintain services. From the information provided (Union Ex. 12), Wayne County appears to be somewhere between these extremes. According to the 2004 audit conducted by the offices of Betty Montgomery, Auditor of the State of Ohio, the economy of Wayne County is diversified and has been "...steady over the past several years." The Auditor's report goes on to say that the

unemployment rate in the County is "substantially lower than the State average" and the outlook of the County "appears to be positive."

In the last round of negotiations, the conciliator ordered wage increases of 3%, 3.5%, and 4%, largely based upon recommendations of the fact-finder. It is noteworthy that prior to conciliation and during fact-finding the Union proposed salary increases of 5% for each year of the agreement, while the Employer was proposing a wage freeze. Subsequent to the Employer's rejection of the fact-finder's report, the Union adopted the position of the fact-finder and the County changed its position to proposing a final offer of 2.5%, 2.5%, and 4.5%. The County's altered position going into conciliation was a far cry from a position of having to freeze wages. While this may have been a negotiation ploy, it appears to reflect a developing pattern of negotiation that entails pre-negotiations posturing by the County prior to negotiations.

According to evidence in the last and current round of negotiations, the County communicated to the entities under its jurisdiction that it would not provide funding for wage increases beyond a certain threshold. While I can appreciate the difficulty the County Commissioners have in dealing with rising costs and increased demand for services, particularly with the reality of dwindling state support, the fact is that such declarations can only serve an internal purpose. They have no meaningful impact upon neutrals due the specific statutory requirements place upon fact-finders in ORC 4117. Both the fact-finder and conciliator in the last round of negotiations were not deterred in

the execution of their statutory duty by the reality that the Sheriff would have to makeup the difference between what the County would fund and the negotiated terms of the agreement. They simply and appropriately applied the statutory criteria as required by law. The current fact-finder is legally bound by the same requirements contained in ORC 4117. Again, I can appreciate the County's need to control costs, and Administrator Herron made some important points about the need for the County to be prudent in its approach to managing its revenue and costs (Employer Ex. B). However, declarations made by county commissioners to their various jurisdictions cannot reasonably be considered in the fact-finding or conciliation proceedings as anything more than internal managerial strategy and or cost shifting. The same would be said if a parent union declared to one of its locals, prior to bargaining, that it must see certain concessions exacted from the Employer, or otherwise it will take some type of action. A neutral fact finder would be acting in a manner contrary to his charge if he would base a determination (even in part) upon union threats to take action or upon employer mandates to limit funding for wages to one of its units.

In the instant fact-finding, the Union is proposing wage increases of 4% each year of the agreement. In contrast, the Employer is proposing wage increases of 1.5% each year of the agreement. The Employer's proposal is below the average increases being negotiated in counties contiguous to Wayne County (see SERB data). In the experience of this neutral, 3% still

remains a commonly negotiated wage increase in public entities with stable revenue streams and manageable costs. The average salary increase in these counties over the last several years has hovered around 3%. (Union Ex. 10). A notable piece of evidence in this matter also revealed that although the County is taking the position of holding increases to around 2% per year, it has not opposed (voted to reject) within the last year a salary increase of 9% over three years for its 911 own Dispatcher's unit, who are directly employed by the County Commissioners.

The Union pointed out that the history of negotiations of the parties has also demonstrated pattern of wage settlements in excess of inflation. The arguments made by the Employer and the testimony given by Administrator Herron make evident that such a pattern is not sustainable given the continued unstable economic environment in Ohio (Union Ex. B). When the last contract was settled in conciliation, the state of Ohio was far more supportive of county government in terms of providing local government funds, energy costs were high, but no where near the levels seen recently, the country was not in a protracted and costly war in the Middle East, and major employers like Delphi, with several plants in Ohio, were solvent.

In terms of reducing steps in the salary schedule, the SERB data (Union Ex. 9) demonstrates that many sheriff departments have salary schedules with fewer steps. The more common number of steps appears to be between 4 and 6. However, given competing demands for salary adjustments in areas other than

step adjustments, along with the need to move cautiously in the area of financial expenditures, a graduated reduction in the steps is supported by the data as well as past bargaining history. In addition, the data supports an incremental improvement in longevity as a matter of simply keeping up with inflation.

It is clear from the experience of this neutral that in many public sector jurisdictions in Ohio, employees have had to pay an increasingly larger portion of the premium toward their health care for several years. The Union submitted SERB data on health care demonstrating that bargaining unit members pay more in premiums than the average employee. However, the problem with this data, unlike wage data, is that it is difficult to compare coverage along with costs. Some employees may be paying less for a far more inferior plan than what the bargaining unit pays for good coverage. The Employer's arguments and data in support of its proposal regarding health care are persuasive (Employer Ex. A). A carve-out health care coverage plan just for the Sheriff's department would not be cost feasible in today's health care climate. Economies of scale must be maintained in order for the County to have greater negotiations leverage with carriers in order to maintain more reasonable rates of coverage. One catastrophic illness in a small group of 70 employees, who must cover said costs, can have a devastating effect on future premium costs and may even make it difficult to maintain coverage. And, it is far more likely that rates will increase more dramatically in a smaller covered group. There is

insufficient data to support a change in the premium percentages at this time. An 85 –15 split is not an unreasonable percentage of payment to maintain over the life of the Agreement.

<b>Issue 1</b>	<b>Wages</b>	<b>Article 31</b>
----------------	--------------	-------------------

**Determination:**

(General wage increases to be applied to all bargaining units)

1 <sup>st</sup> year (retroactive to the beginning of the CBA)	2.5%*
2 <sup>nd</sup> year.....	3%*
3 <sup>rd</sup> year.....	3.5%*

\*Apply to Deputies Unit based upon the following revised steps schedule:

**New Step Schedule for Deputies:**

<u>9/1/2005</u>	<u>9/1/2006</u>	<u>9/1/2007</u>
0 yrs	0 yrs	0 yrs
1	1	1
2	2	2
3	3	3
4	4	4
6	5	5
7+	7+	6+

## Section 4

	<u>Length of Completed Full-Time Service</u> <u>Annual Longevity</u>
After 10 years	<b>\$300.00</b>
After 12 years	<b>\$400.00</b>
After 14 years	<b>\$500.00</b>
After 16 years	<b>\$600.00</b>
After 18 years	<b>\$700.00</b>

The employee's annual longevity payment shall be divided by two thousand one hundred forty-five (2,145) and added to the employee's hourly rate of pay. Longevity shall not be cumulative, i.e., upon the completion of the applicable number of years of service an employee shall be eligible for the annual longevity amount for that category only, as set forth above.

## Section 5

**Section 5.** Increase to **\$1.00 per hour** for all hours designated as being on call in addition to any other compensation, per tentative agreement reached in mediation prior to fact finding.

<b>Issue 2    Benefits    Article 25</b>
--

### **Determination:**

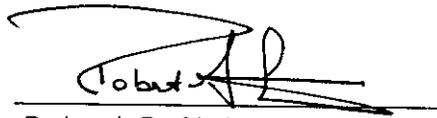
Maintain current language.

2005 OCT 17 A 11: 32

## TENTATIVE AGREEMENT

During negotiations, mediation, and fact-finding the parties reached tentative agreements on several issues. These tentative agreements and any unchanged current language are part of the recommendations contained in this report.

The Fact-finder respectfully submits the above recommendations to the parties this 14<sup>th</sup> day of October 2005 in Portage County, Ohio.

  
Robert G. Stein, Fact-finder