

STATE EMPLOYMENT
RELATIONS BOARD

FACT-FINDER REPORT
Before the
State Employment Relations Board 2006 JAN -9 A 11: 55
State of Ohio
January 7, 2006

In the Matter of:

**OHIO PATROLMEN'S BENEVOLENT
ASSOCIATION**

Employee Organization

and

**MEIGS COUNTY SHERIFF'S
DEPARTMENT**

Employer

Cases Nos. 05-MED-10-1264 ✓
05-MED-10-1265
05-MED-10-1266

INTRODUCTION:

The Meigs County Sheriff's Department (herein called "the Employer" or "the Department") operates a law enforcement agency headquartered in Pomeroy, Ohio which includes 20 employees in three collective bargaining units: 15 full-time Deputy Sheriffs (3 on layoff), 4 Sergeants and Lieutenants, and 1 full-time Civilian Dispatcher, all of whom are represented by the Ohio Patrolmen's Benevolent Association ("the Union", "OPBA", or "the Association"). The Employer and the Union are parties to a collective bargaining agreement effective from January 1, 2005 through December 31, 2007, which covers all three bargaining units. That agreement includes, in Article 23, Wages, the following provision: "Section 23.2 There shall be a wage reopener for 2006 and such reopener shall occur no later than December 1, 2006." The parties met and bargained, but they failed to reach agreement on new wages. Subsequently, the parties selected the undersigned, who was appointed by the State Employment Relations Board ("SERB") to serve as Fact Finder in this matter, pursuant to Ohio Revised Code ("ORC") Section 4117.14(C)(3). A fact finding hearing was conducted on January 4, 2006. At the hearing, the parties agreed to extend the time for fact finding to January 7, 2006. Having considered the evidence presented at the hearing, the Fact Finder hereby issues the following report and recommendations.

James L. Ferree
Labor Arbitrator
AAA • FMCS • SERB

5678 West Broad Street, #213
Galloway, Ohio 43119-8127

Phone: (614) 878-0571
Fax: (614) 878-0961
Cell: (513) 600-8933

January 7, 2006

Pat Story, Prosecutor
Meigs County Prosecutor's Office
117 West Second Street
P. O. Box 685
Pomeroy, OH 45769

Matthew B. Baker, Esq.
Ohio Patrolmen's Benevolent Association
555 Metro Place North, Suite 100
Dublin, OH 43017

Craig R. Mayton, Exec. Dir./Administrator
Bureau of Mediation
State Employment Relations Board
65 East State Street, 12th Floor
Columbus, OH 43215-4213

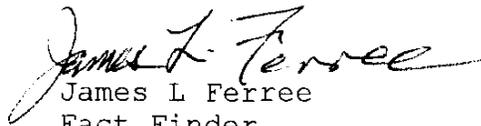
2006 JAN - 9 A 11: 55
STATE EMPLOYMENT
RELATIONS BOARD

RE: Meigs County Sheriff
SERB Fact Finding Case

Dear Sirs:

Enclosed is a copy of my Fact Finder's Report. My bill will follow under separate cover. Thank you for enabling me to be of service.

Yours truly,


James L Ferree
Fact Finder

cc:
Sheriff Robert Beegle
Meigs County Sheriff's Office
104 East Second Street
Pomeroy, OH 45769

I. HEARING:

DATE: January 4, 2006, 1:00 p.m.
LOCATION: Meigs County Court House, Pomeroy, Ohio
ATTENDANCE:
For the Employee Organization:
Matthew B. Baker, Attorney, O.P.B.A.
Edward E. Patterson, Director
Donald S. Mohler, Assistant Director
For the Employer:
Pat Story, Meigs County Prosecutor
Robert Beegle, Sheriff
Nancy Grueser, County Auditor
Fact Finder:
James L. Ferree

II. MEDIATION:

At the hearing, the parties declined the Fact Finder's offer to mediate, but took the opportunity to bargain, outside his presence. The parties did not reach an agreement.

The remaining unresolved issue is Article 23: Wages

III. CRITERIA:

Consideration was given to the criteria listed in Rule 4117-9-05 of the State Employment Relations Board:

(J) The fact-finding panel, in making findings of fact, shall take into consideration all reliable information relevant to the issues before the fact-finding panel.

(K) The fact-finding panel, in making recommendations, shall take into consideration the following factors pursuant to division (C)(4)(e) of section 4117.14 of the Revised Code:

- (1) Past collectively bargained agreements, if any, between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (4) The lawful authority of the public employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

IV. ISSUES AND RECOMMENDATIONS

Issue 1: Article 23, Wages

The recently expired collective bargaining agreement included the following:

ARTICLE 23 WAGES

Section 23.1 Effective January 1, 2005, bargaining unit employees shall receive a *three percent (3 %)* wage increase.

Section 23.2 *There shall be a wage reopener for 2006 and such reopener shall occur no later than December 1, 2006.*

Section 23.3 *There shall be a wage reopener for 2007 and such reopener shall occur no later than December 1, 2007.*

Effective January 1, 2005, the following pay scale will be used to compensate Deputies:

	<u>January 2005</u>
0-1 years	\$9.07
1-2 years	\$9.47
2-3 years	\$9.86
3-4 years	\$10.27
4-5 years	\$10.68
5-6 years	\$11.08
6-7 years	\$11.48
7-8 years	\$11.89
8-9 years	\$12.29
9-10 years	\$12.69
<i>10-11 years</i>	\$13.09
<i>11-12 years</i>	\$13.51

On January 1, 2005, employees will be placed on the appropriate step based on completed years of service on that date with the Meigs County Sheriff and shall advance to the next step on their anniversary date of employment.

Section 23.4 Effective January 1, 2005, Sergeants shall be paid three percent (3%) above the top Road Patrol Officer. Effective January 1, 2005, Lieutenants shall be paid three percent (3%) above the pay rate for the Sergeants.

Section 23.5 Effective January 1, 2005, the following pay scale will be used to compensate Civilian Dispatchers:

January 1, 2005

0-1 years	\$8.44
1-2 years	\$8.71
2-3 years	\$8.97
3-4 years	\$9.23
4-5 years	\$9.50
5-6 years	\$9.80
6-7 years	\$10.11
7-8 years	\$10.44
8-9 years	\$10.77
9-10 years	\$11.12

On January 1, 2005, employees will be placed on the appropriate step based on completed years of service on that date with the Meigs County Sheriff and shall advance to the next step on their anniversary date of employment.

~~Section 23.5 The effective dates of the wage increase is January 1, 2002 through December 31, 2003. The parties agree to reopen negotiations on wages and related economic benefits prior to January 1, 2003.~~

Section 23.6. Longevity Pay. All full time bargaining unit employees in the classification of Deputy, Sergeant or Lieutenant who have completed twelve (12) years of continuous service in the employment of the County, shall have, commencing on the anniversary date beginning their thirteenth year of service, an additional twenty cents (.20) added to their hourly base pay effective January 1, 2005, this amount shall increase to twenty five cents effective January 1, 2006, and again increase to thirty cents (.30) effective January 1, 2007.

Section 23.7. Longevity Pay. All full time bargaining unit employees in the classification of Dispatcher who have completed ten (10) years of continuous service in the employment of the County, shall have, commencing on the anniversary date beginning their eleventh year of service, an additional twenty cents (.20) added to their hourly base pay effective January 1, 2005, this amount shall increase to twenty-five cents effective January 1, 2006, and again increase to thirty cents (.30) effective January 1, 2007.

Position of the Parties:

The Union proposes a 4% wage increase for all bargaining unit members effective January 1, 2006. The Employer proposes that wages remain as provided for in the current Agreement.

Union's Case:

The Union pointed out that Article 23 provides deputies with eleven longevity-based pay steps, each about 3.5% to 4.5% above the previous year's step, and nine steps for the dispatcher. Sergeants are compensated 3% above the top Road Patrol Officer, and lieutenants are paid 3% above the top pay rate for sergeants. The Union's proposal for a 4% across-the-board increase is based on the bargaining unit employees' need for a living wage.

The OPBA submitted Union Exhibit 1, a computer-generated report from the State Employment Relations Board Clearinghouse showing data for the sheriffs' departments in 10 southeastern Ohio counties, including the Employer. That report shows the Employer's deputies starting at the lowest entry rate among the ten, including two counties with smaller populations, Morgan and Vinton. The Meigs County sergeants' pay is next to the lowest among eight counties reported, and the lieutenant's pay is lower than the rate reported for the only other county listed. The Meigs County dispatcher's starting pay is next to the lowest among nine southeast Ohio county sheriff's offices.

Union Exhibit 2 summarizes the statistics derived from Union Exhibit 1:

1. The Meigs County Sheriff's Lieutenants are paid **35% below the starting wage average**, and **35% below the top wage average**.
 2. The Meigs County Sheriff's Sergeants are paid **6% below the starting wage average**, and **15% below the top wage average**.
 3. The Meigs County Sheriff's Deputies are paid **29% below the starting wage average**, and **9% below the top wage average**.
 4. The Meigs County Sheriff's Dispatchers are paid **20% below the starting wage average**, and **11% below the top wage average**.
- ... The average known wage increase in 2006 is **3.25%**.

The last sentence, above, refers to Union Exhibit 3, a SERB Clearinghouse "Wage Increase Report" showing the most recent percentage increases in wages for the same 10 southeast Ohio counties' sheriff offices.

Union Exhibit 4, a SERB “Benefits Report,” was offered to assist the Fact Finder in evaluating the Employer’s anticipated argument about economics. Meigs County has laid off deputies for five straight years, and three are still on layoff, and the budget for the Department has increased only \$2000. The County Commissioners control the Department’s purse strings, and the previous sheriff attempted to sue them for more support, unsuccessfully. Other counties have provided their employees with wage increases and good benefit packages, and the Commissioners can afford to give these bargaining unit employees a living wage.

Management’s Case:

The Employer argued that the collective bargaining agreement provided a 3% increase in 2005, and employees already enjoy step increases of 3% to 4%, without granting the Union’s demand.

The Department provided Employer Exhibit 1, a 3-page document which it had prepared for the hearing. Page 1 is a summary of the county’s 2005 allocations and expenditures, derived from a multi-page computer printout which was later offered in to evidence as Employer Exhibit 3. The bottom line of the summary shows that about \$538,000 had been allocated for the Sheriff’s budget, but over \$658,000 was actually spent, for a total over the budget of \$120,000 in 2005. The largest item in the budget is \$243,000 allocated for salaries; \$310,400 was actually spent, so the salary line item was nearly \$67,400 short of funds. Other items which went over budget were gasoline (\$10,600), prisoner housing (\$80,400), and employee health insurance (\$5,700).

Page 2 of Employer Exhibit 1 lists the 2006 pay scale for 9 Department employees, including their anniversary raises, but excluding holiday and overtime pay, and without the Union’s proposed 4% increase. The total salary costs for 2006 will total \$248,648, but only \$243,039 was appropriated for salaries in the budget, so the Department will fall \$5,608 short, even without providing pay raises.

The Employer explained that the deputies have health insurance coverage over and above that provided to other County employees. Page 3 of Employer Exhibit 1 shows that the cost of single coverage has risen by \$34.62 per month, and family coverage has risen \$196.49; the Employer’s monthly cost for 7 deputies’ health insurance is \$1,578.56.

The Employer provided its Exhibit 2, a computer-printed budget for the Department which shows that \$607,741 was actually spent in 2004; \$634,740 was actually spent in 2005 (despite only \$538,050 being requested and approved); and \$583,519 has been appropriated of 2006. As background, the Employer's representative explained that there had been unsuccessful litigation attempting to force the County Commissioners to provide more funds. The "Meigs County Single Audit for the Year Ended December 31, 2002" notes, on page 24, that the Sheriff Department spent over 50% of its total appropriations as of April 30, 2003, including 72.54% of its appropriation for employees' salaries, and:

Based on the above figures, the Sheriff has contracted a lawyer and is requesting the County Commissioners to appropriate more money so that he can pursue legal action on the budget crisis in his department. At this time, The County has taken no formal action on this matter.

On January 10, 2003, Ralph Trussell, Meigs County Sheriff, filed a motion with the Appellate Court of Meigs County seeking a writ of mandamus against the Meigs County Commissioners.

County Auditor Nancy Grueser testified that the county lost a substantial revenue source when Southern Ohio Coal ceased operations, although the 2004 revaluation helped to offset the loss of mine revenue. There will be an increase in assessed personal property taxes in five years. Some economic growth may be indicated by the beginning of razing abandoned buildings in the county.

The Employer pointed out that 100% of the deputies' health care insurance premium is paid by the Employer, an increasingly expensive benefit, and that they have the use of a County-owned vehicle. The Department pointed out that the lieutenant position is vacant.

Union Rebuttal:

The Union pointed out that the deputies' health care insurance differs from other County employees, and the Employer pays 100% of the premium, because the Union negotiated those terms in the collective bargaining agreement, making other concessions at the bargaining table to win that benefit. The Employer has some discretion to modify the insurance coverage, within limits. The Meigs insurance benefit is not unique among the ten southeastern Ohio counties, with other counties paying 100% of the premium. Other counties are not identical, but are still valid "comparables".

The Union offered Union Exhibit 5, a printout of a story on the website of the Pomeroy Daily Sentinel newspaper, dated January 1, 2006 and headlined "'06 Meigs budget set at \$3.6 million". The Union pointed out information in the news article that the County Commission certified a budget with carryover funds of \$340,000, which is up by \$90,000 from 2005, and that interest income is \$160,000.

Finally, the Union offered its Exhibit 6, a table it prepared for the hearing showing the county's General Fund end-of-year balances, and the interest revenue, for the years 2002 through 2005. The union provided the underlying State audits for 2002, 2003, and 2004; the 2005 data were based on the newspaper article (Exhibit 5). The Union pointed out that the County's "carryover" met or exceeded one twelfth of the budget, which is a test for a satisfactory financial condition.

Employer's Rebuttal:

Auditor Grueser explained that, in the Employer's accounting system, the carryover at the end of the year is merely cash on hand, not unencumbered funds. The County needs to carry over \$60,000 or \$65,000 to meet its January and February payrolls during months in which there is little revenue generated, other than sales tax. There was some revenue generated in 2004 from the one-time sale of land owned by the County which will not happen again. Sales tax receipts are down, and local government money has been frozen by the State.

The Employer pointed out that interest income depends on many variables, including interest rates. The County's revenue estimates are conservative because the County is required to have a carryover balance. For the Fact Finder's information, Employer Exhibit 3, a multi-page computer printout of the County's "Appropriation History" for 2005, was provided.

Sheriff Robert Beegle testified that the County gave his department some funds in November which resulted from a vacancy on the Common Pleas Court in November, and he was able to recall two laid off deputies. He said that there is now one deputy per shift covering the County.

Findings of Fact:

The Union relied upon SERB data showing that “comparable” bargaining units of sheriff department employees are more well-paid than members of this unit. The Employer submitted neither external comparables, showing contrary data from village police departments, etc. in the area, nor internal comparables regarding pay trends among other Meigs county employees. Therefore, with respect to pay scales for law enforcement officers and support staff in the area, I rely solely on the comparable data presented by the Union.

Nevertheless, I cannot accept the Union’s data arbitrarily. The Union’s data regarding wages paid by ten comparable southeastern Ohio counties actually includes only four counties which are immediately adjacent to Meigs County; the other five are geographically separated from Meigs County by another intervening county, and two of the more distant counties are more populous and include moderately large cities (Lawrence County, with Ironton; and Washington County, with Marietta).

One more populous county (Athens) is contiguous with Meigs and is arguably in the same labor market. Among the four counties abutting Meigs, their starting pay for deputies averages \$25,351 annually, as compared with the Employer’s beginning rate of \$18,866; similarly, their average top rate for deputies is \$31,323, versus \$28,100 paid by Meigs. Also, the four contiguous counties pay sheriff department dispatchers an average starting wage of \$21,674 per year, as compared with the Employer’s beginning rate of \$17,555. Other “comparable” figures were less convincing.

On the whole, however, the Union succeeded in showing that the Employer’s wage scale was lower than neighboring counties, which could prove to be an impediment to recruiting and retaining qualified employees. With members of the bargaining unit now on layoff, the ability to recruit qualified new deputies and to retain experienced employees is essential to the Department’s ability to serve the County’s population.

I note the Department’s apparent frustration with the County Commissioners’ failure to support the Department financially. The persistence of a relatively low 1% sales tax indicates the Commissioners’ unwillingness to make an effort to increase revenues. According to the State of Ohio’s audit for calendar year 2002 (page 17):

4. LOCAL SALES TAX

For the purpose of providing additional revenues, the County has levied a sales tax at the rate of one percent upon certain retail sales made in the County. Local sales tax receipts credited to the General Fund amounted to \$1,124,460 in 2002.

In last year's bargaining, the Union obtained extensions of the annual longevity-based wage increases for unit employees. The Union also gained for unit employees the promise that the Employer would pay 100% of the premium for their health care insurance. The parties were content, at that time, to leave the matter of any change in the base wage rates, over the three year term of the contract, for future bargaining, through the mechanism of wage re-openers. I am reluctant to upset that balance, struck by mutual agreement of the parties. For that reason, I will recommend a very modest pay increase.

Fact-Finder Recommendation:

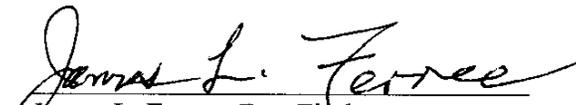
The parties should include in their new collective bargaining agreement a wage increase for all bargaining unit employees of 2.0%, effective upon acceptance of this Report.

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing Fact Finders Report regarding the findings of fact and recommendations on the unresolved issue has been sent by overnight mail carrier to the Employer's Representative, Pat Story, Prosecutor at: Meigs County Prosecutor's Office, 117 W. Second Street, P. O. Box 685, Pomeroy, Ohio 45769; and to the Union's representative Matthew B. Baker, Attorney, at 555 Metro Place North, Suite 100, Dublin, Ohio 43017.

A copy of the report has been sent by regular mail to Craig R. Mayton, Executive Director/Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213.

Issued at Galloway, Ohio this seventh day of January, 2006


James L. Ferree, Fact Finder

James L. Ferree
Labor Arbitrator
5678 West Broad St., #213
Galloway, Ohio 43119-8127

~~Callion~~

~~Supervisor - Callion - OH 43119-8127~~

Craig R. Mayton, Admin.
Bureau of Mediation
S. E. R. B.
65 E. State St., 12th Fl
Columbus OH 43215-4213

JOLAS