

Before Louis V. Imundo, Jr., Fact Finder

STATE EMPLOYMENT
RELATIONS BOARD

In the matter of fact finding between

Sinclair Community College

2007 NOV 16 P 12: 35

and

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

SERB Case No. 06-MED-04-0507

SERB Case No. 06-MED-04-0508

The Fact Finder was jointly selected by the Parties.

This matter was heard before Louis V. Imundo, Jr., Fact Finder, in Dayton, Ohio on November 1, 2007.

1.0 Introduction

1.1 Appearing For the College

- Douglas C. Anspach Jr., Attorney at Law
- Mark R. Zunich, Attorney at Law
- Janet C. Jones, Director, Human Resources
- Kenneth A. Moore, Senior Vice President
- Ronald Adams, Jr., Captain

1.2 Appearing For The Union

- Chuck Choate, Staff Representative
- Aaron Crawford, Deputy Director of Administration
- Mark Scranton, Staff Representative
- Hollis Hatten, Police Officer
- Mary Donofrio, Police Officer
- Tom McMurtry, Police Officer

After many, many months of negotiations that yielded little positive results the Parties jointly asked the Fact Finder if he would serve as a Mediator. The Fact Finder agreed to do so and meetings were held on September 25th and 26th.

The sudden and unexpected death of Mr. Guy Kauffman, the FOP/OLC Staff Representative resulted in Mr. Chuck Choate being brought into the negotiations as the Union's chief negotiator.

The September 25th and 26th meetings proved to be very productive. While, at times, discussions were intense both Mr. Anspach and Mr. Choate with input from their respective teams focused on the common objective in reaching agreements on the many articles that were unresolved. The Parties negotiated in a spirit of collegiality, *open mindedness, and a willingness to compromise without abandoning important principles.* At the end of the two days only four issues remained unsettled, which necessitated fact finding.

2. Unresolved Issues in the Police Officers And Dispatchers' Agreements.

Article 3 – Term of Agreement

Article 4 – Wages

Article 5 – Insurance

Article 15 – Work Schedules

Article 3 – Term Of Agreement

During the negotiations the Parties agreed that the agreements go into effect on July 1st and expire on June 30th. The Parties agreed to three year agreements, but disagreed on the start dates. Management wanted the agreements to start on July 1, 2007 and to expire on June 30, 2010. The Union wanted the agreements to start on July 1, 2006 and to expire on June 30, 2009.

In the period beginning on May 18, 2006 and ending on August 30, 2007 the Parties met to collectively bargain on 30 separate occasions. As stated, very little resulted from these negotiations. Both Parties blamed each other for the lack of progress, which clearly resulted in the hardening of positions and a delay in producing two labor agreements whose provisions would be acceptable to the College's administration and the two units' members.

The Fact Finder thoroughly reviewed the Parties' respective positions and the arguments to support them. In the Fact Finders' opinion both Parties must share in the blame and take responsibility for the lack of progress prior to September 25th. Again, the Fact Finder congratulates the Parties for the remarkable progress that was made on September 25th and 26th.

The Fact Finder was not present at any of the negotiation sessions that occurred before September 25th and therefore has no first hand knowledge of which Party was more responsible for what happened. The Fact-Finder recognizes that if the agreements start on July 1, 2007 any wage increases and/or improvement in benefits would be retroactive back to July 1, 2007. The result would be that employees in both units would be penalized for the delay. If the Union was the Party who was significantly more responsible for the lack of progress the Fact-Finder would be inclined to recommend

that Management's position be adopted. However, as noted, the Fact-Finder does not believe that one Party was more significantly to blame than the other.

These negotiations were the first between the Parties. Therefore, it is essential that they be concluded on a positive note. What occurs and ultimately results from these negotiations could set a pattern for future negotiations. In the Fact-Finder opinion, if the agreements go into effect on July 1, 2007 the bargaining units' members will likely perceive that they are being made to pay for the extraordinary length of time it took for the two agreements to be negotiated. The bargaining units' members are likely to harbor animus toward the College's administration and this could have a chilling effect on further cooperation and teamwork, which is so essential to the College's operating and optimization of its monies.

In conclusion the Fact Finder recommends that the agreements life spans run from July 1, 2006 through June 30, 2009.

Article 4 – Wages

Without question, Wages has proven to be the most challenging matter to deal with in the negotiations. Even when money is plentiful, negotiations for wages is challenging because of the competing interests and demands for money. When money is tight and future funding/revenue streams cannot be accurately determined negotiations for current and future wages becomes even more challenging.

Based solely on the information that was made a part of the Hearing record, the Fact-Finder believes that the College's finances are sound. However, the College's future finances cannot be predicted with certainty for a variety of reasons.

The positions of the Parties are very far apart. Management proposes no negotiated wage increases for the life of the agreements with merit increases to be awarded at the College's discretion. The Union has proposed a wage structure that is separate and distinct from the current structure of pay bands. The Union proposed a four years to maximum salary scale based on the current pay bands for the dispatchers (73) and the police officers (74). They further proposed a three percent increase for 2007 – 2008 and another three percent increase for 2008 – 2009 for both bargaining units. In addition, they proposed incremental hourly pay increases for achieving specified levels of education. Last, they proposed longevity pay after specified lengths of full time permanent service.

The Fact-Finder has considerable education and practical experience in the design, development, and administration of performance evaluation and compensation systems. Based on what the Fact-Finder learned at the Hearing about the College's salary structure it is not well suited for the employees in both bargaining units. The Fact-Finder

believes that it unrealistic for police officers and dispatchers and wholly impractical where a collective bargaining relationship exists.

In the Fact-Finder's opinion the College and the Unions' respective positions on wages are unrealistic and patently unfair. If Management's position were adapted it would undermine the process of collective bargaining and likely be perceived by both bargaining units' members as punishing them for having sought union representation. Conversely, if the Union's position is adopted it would result in the members of both units being significantly overpaid.

The Fact-Finder recommends that a pay grade structure based on years of service be adopted for both bargaining units. The pay grades or pay levels reflect the amount of time it takes, on average, for police officers and dispatchers to reach the highest levels of knowledge and proficiency in their respective professions. The recommended annual salary/hourly rates for the pay grades/levels embodies considerations of the wages at comparable colleges and universities, the current wage levels, the College's ability to pay, and other factors.

POLICE OFFCIERS

Annual Salary/Hourly Pay Rate, By Years Of Continuous Full Time Service

Years	0-1	2-3	4-5	6-8	9-10	10+
Annual	33,600	35,800	38,000	40,200	42,400	44,600
Hourly	16.1538	17.2115	18.2692	19.3269	20.3846	21.4423

DISPATCHERS

Years	0-1	2-3	4-5	6-8	9-10	10+
Annual	29,250	31,400	33,550	35,700	37,850	40,000
Hourly	14.0625	15.0961	16.1298	17.1635	18.1971	19.2307

The Fact-Finder recommends against the adoption of the Union's "education increment" and "longevity" proposals. The Fact Finder recommends that the employees in both bargaining units receive a three percent (3.0) increase in their hourly wage rates for the second year of the agreements (July 1, 2007 – June 30, 2008). The Fact-Finder recommends the same percentage increase in hourly wage rates for the third year of the agreements (July 1, 2008 – June 30, 2009).

Considering that the wage increases are retroactive to July 1, 2006 many of the bargaining units' members will be owed monies. The payments should be in a lump sum, with the appropriate amounts for taxes, FICA, etc. deducted and cover the period July 1, 2006 to the pay period when the agreements are approved by the College and ratified by the employees in the respective units. Employees, who, under the proposed salary structure are overpaid should have their wages frozen until such time as they are eligible for wage increase.

Management retains the authority to conduct performance appraisals and when necessary to take corrective action if job performance is unsatisfactory. However, under the recommended wage structure, Management will no longer be able to exercise discretionary judgment by giving or withholding merit raise increases in hourly wage rates.

Article 5 – Insurance

In the Fact-Finder's opinion, if both agreements are to go into effect on July 1, 2006 then the bargaining units employees should be required to pay the same percentage of their healthcare, life and disability insurance premiums as all other College employees retroactive to the date that the copay increased for all of the other College employees covered by the College provided healthcare. The premium sharing or copay schedule for College employees is: 14 percent 2006, 17 percent 2007, 20 percent 2008.

The Fact-Finder further recommends that Management's proposal for healthcare insurance be adopted for both agreements.

The proposal reads: The College will provide the same level of medical, dental, prescription, life and disability insurance benefits that are provided to all other employees of the College. Such benefits will be provided at the same cost as those benefits are provided to all other employees of the College.

Article 15 – Work Schedules

The Fact-Finder recommends that Management's proposed language be adopted for both agreements. The language should read as follows:

15.1: The scheduling of bargaining unit members to work is a right designated as a "management right" by Ohio law. Accordingly, the scheduling of bargaining members' shift and hours of work shall be in the sole discretion of the College, except as outlined herein. Under current practice, the bargaining unit members' workweek begins as 12:01 a.m. Monday and ends at midnight the following Sunday and bargaining unit members are typically scheduled for a work week of forty (40) hours. Work schedules will be prepared by the College on or about January 1 of each year and will be distributed to each bargaining unit member after the completion of the schedule.

15.2: Changes in the bargaining unit members' established work schedules shall be provided to the bargaining unit member in writing a minimum of five (5) calendar days prior to the effective date of change and posted on the daily detail log except when changes are necessitated by emergency. The announcement shall specify the anticipated duration of the schedule change.

15.3: Each member of the bargaining unit may be afforded the opportunity to bid on a work schedule by departmental seniority.

15.4: The College may reassign bargaining unit members from one shift to another when the College determines such action is necessary (i.e., Officer shortages, emergencies, etc.).

15.5: No bargaining unit member shall work continuously for more than 16 hours, except when an emergency has been declared by the Chief of Police or his/her designee.

Tentative Agreements.

The Fact-Finder recommends that all of the tentatively agreed to articles in both agreements be adopted.

November 15, 2007
Date

Louis V. Imundo, Jr.
Louis V. Imundo, Jr.
Fact Finder