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**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

In Regard to the Matter of the Fact-Finding between: }

Fraternal Order of Police, Ohio Labor Council, Inc. }
Union }
}

and }
}

Allen County Sheriff's Office }
Employer }

**SERB CASE NO:
06-MED-09-0926**

APPEARANCES:

For the Union:

Ross Rader O.L.C. Staff Representative
Anita Eberhart Corrections/Kitchen
Kerrilan S. Allen Purchasing

For the Employer:

Benjamin S. Albrecht Counsel, Downes, Hurst & Fishel Attorneys at Law
Becky Saine Allen County Administrator
Dan Reiff Allen County Commissioner
Sam Bassett Allen County Commissioner
Greg Sneary Allen County Commissioner
Judy Ellison Fiscal Administrator
Gene King Major, A.C.S.O.
Stan Hunerman Captain, A.C.S.O.
Dan Beck Sheriff, A.C.S.O.

Before: Richard J. Colvin, J.D., Fact-Finder
December 11, 2007
333 N Main Street
Lima, Ohio 45801-4434

BACKGROUND:

The Hearing:

The Fact-finder received his appointment in compliance with ORC Section 4417.14 (C) (3) on November 17, 2006. On November 30, 2006, the parties agree [d] to extend the date for the Fact Finding Report to January 31, 2007. The parties waive the provisions of 4117.14 (G) (11) in regard to wage scales, longevity, and insurance contributions which may be awarded by a conciliator in accordance with Chapter 4117 O.R. C. and agree that the conciliator may award wage scales, longevity and contributions to be retroactive to December 16, 2006, or other agreed date, for the Gold Unit and January 1, 2007, or other agreed date, for the Support Unit, the Unit that is the subject of this Fact-Finding Hearing.

At the direction and agreement of the parties, a hearing was convened on December 11, 2007, in the City of Lima, Ohio and County of Allen at 10:00 A. M. and was adjourned at 11:55 A.M. Timely, and in advance of the hearing the parties provided the Fact-Finder with Fact-Finding Position Statements regarding the above-captioned matter as required by Ohio Administrative Code Rule 4117-09-05 (F).

The Employers' Position:

This matter involves one bargaining unit with a SERB certification consisting of several classifications, commonly referred to as the Support Unit. The classifications contained in the SERB certified bargaining unit include: Clerk/Typist, Cook, Head Cook, Mechanic, Mechanic's Assistant, Commissary Officer, Purchasing Agent. There are approximately fourteen (14) employees in the bargaining unit.

Commencing in 2006, the parties have met for multiple bargaining sessions in order to negotiate a new agreement. However, the parties have been unable to negotiate a resolution due to reaching an impasse with respect to a single remaining issue. It is the Employer's understanding that the parties have reached agreement on all outstanding issues, except the percentage of the wage increase to be effective January 1, 2007. See Article 18 Wages. The parties have, however, agreed to wage increases of **three percent (3%) in 2008 and in 2009**, similar to the agreement of the parties with respect to the "Gold Unit." The Employer is proposing a **one and seven-tenths percent (1.7%) wage increase for the year 2007 effective January 1, 2007**. The 1.7% wage increase is consistent with the wage increase received by all other non-bargaining general fund employees of Allen County. All other non-bargaining unit, general fund County employees received a 1.7% wage increase effective January 1, 2007. Furthermore, in the Employer's opinion statistics show that in the rest of Ohio, Cooks and Clerks in Allen County are paid above the average.

The Employer argues that a 1.7% wage increase is comparable to the wage increase received by the "Gold Unit" negotiated by the parties. That unit is represented by the same Union and is comprised of Sergeants and Lieutenants. For 2007, the "Gold Unit" proposed modifying the longevity scale. Based upon information provided by the Union, if the modified longevity scale were implemented by the Employer on January 1, as proposed by the Union, the increase would be the equivalent of slightly greater than a 3% increase. The parties ultimately agreed to implement the modified longevity system effective May 24, 2007, which date approximates a period equal to one-half of the calendar year 2007. Thus, the impact of the modified longevity scale in the "Gold Unit" agreement is approximately 1.7%.

The Union's Position:

The Employer's position represents one of "unwillingness" rather than one of "inability" to pay the proposed first-year general increase of 3%. The County Commissioners rejected the Union's last proposal.

What is at issue here is some \$4,800.00: This is the difference between the Union's and the Employer's proposals.

As for the negotiation of the "Gold Unit" Agreement, the Union did not fight for retroactivity to January 1, 2007 because the Union wanted to help this unit; the increase actually was greater than 1.7% since the increase was effective May 24, 2007 not in the middle of the year as claimed by the Employer.

Our bargaining unit members have worked one-member short, at least through 2007 and, back on August 31, 2006, an employee resigned. Our bargaining unit employees operate behind the scenes supporting the sworn employees, doing the work that has to be done, such as, by way of example, providing them with correct warrant information: Bargaining unit employees provide the necessary details that keep things going. Although not visible to the public, their job is important."

The Union's representative then asked the Sheriff to comment on the "unfilled" position in the bargaining unit and the "extra" duties undertaken by bargaining unit employees. The Sheriff responded that: "The department was trying to be fiscally responsible and will keep the position vacant as long as possible to help fund other things. Examples of extra duty would be that in the Records Department employees now work with concealed weapons and illegal alien status. Bargaining unit employees have always picked-up the slack. Bargaining unit employees are, in my opinion, hard working. They have my full support."

In rebuttal, the Employer pointed to what, in its opinion, was a relatively small \$2,500,000.00 carry-over and to the approximately \$26,000,000.00 budget as well as how important it was to keep a strong carry-over. The County has been operating on a spending deficit over the past several years. The County Commissioners' job is to appropriate money. Reasonable people could also disagree on the parties being only \$5,000.00 apart in this negotiation. Most importantly, our issue is: "Consistency and comparability in settlements."

The Union's rejoinder was: "Yes, a \$2,500,000.00 carry-over isn't much, right, but it will make a hell-of-a-difference in these employees' lives. These employees are so much more than clerks. It is our position that the 3% in the first year is much more important than an effective date of January 1, 2007. There were no raises in 2001, and we have played catch-up ever since."

At this time, the Employer requested permission to caucus and consider what amounted to a counter-proposal by the Union; that the Employer reconsider a first year 3% general increase but such increase to become effective on July 1, 2007 instead of January 1, 2007. When the hearing was resumed, the Employer reported that it would be best for the Fact-Finder to address this proposal. The parties then jointly stipulated that the Fact-Finder consider it in his recommendation.

The Fact-Finder's Analysis and Recommendation:

In making his analysis and recommendations upon the sole unresolved issue, the Fact-Finder has been guided by the factors set forth in Ohio Revised Code Section § 4117.1 (C) (4) (e) and Ohio Administrative Code § 4117-9-05 (K):

- (1) "Past collectively bargained agreements, if any, between the parties;
- (2) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved 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) The stipulation of the parties;

(6) Such other facts, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution proceedings in the public service or private employment.”

Both parties to this proceeding have presented well-reasoned and well-documented positions. I have taken into account the testimony, the evidence, and the reasonableness of the parties' respective positions as well as certain factors that are peculiar to the bargaining classifications involved. In this regard, the Fact-Finder was particularly impressed by the candor of the Sheriff in assessing and evaluating the contribution by the members of the bargaining unit to the overall welfare/efficiency of the department even though the bargaining unit is, has been and may continue to operate without a full complement. Notably, the Employer has not claimed that it cannot finance the wage proposal requested by the Union nor do I find that wage proposal unreasonable under the circumstances. The argument against acceptance by the Employer has been and remains primarily consistency and comparability in settlements within all of the bargaining units.

The stipulated-to proposal advanced by the Union during this hearing, upon analysis, appears to me to be a reasonable compromise; one under which the Union and the Employer could co-exist within the concept of consistency and comparability, maintain a fiscally prudent budget and acknowledge the worth of the bargaining members' contribution.

For these reasons, your Fact-Finder does find it appropriate and does recommend:

1. There be a 3% first year general increase, effective July 1, 2007, and that **Article 18 Wages of the Agreement by and between The Allen County Sheriff and Fraternal Order of Police, Ohio Labor Council, Inc. Support Unit** be amended to reflect this increase, as appropriate.
2. That the **Agreement** also be amended to reflect any other joint agreements entered into by the parties, as appropriate.

This Fact-Finding Report was signed and dated in the City of Mason, Ohio, and County of Warren this 7th day of January 2008.

Respectfully submitted,


Richard J. Colvin

CERTIFICATE OF SERVICE

SERB Case No. 006-MED-09-0926

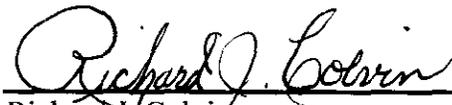
The undersigned hereby certifies that a true copy of the foregoing Fact-Finding Recommendation dated January 7, 2008, has been sent by overnight mail this 14th day of January 2008, to the following person(s):

Benjamin S. Albrecht
Associate
Downes, Hurst & Fishel, Attorneys at Law
400 South Fifth Street
Suite 200
Columbus, Ohio 43215-5430

Ross Rader
Staff Representative
Fraternal Order of Police
Ohio Labor Council, Inc.
222 E. Town Street
Columbus, Ohio 43215-4611

A copy has also been sent, by regular mail, to:

Edward E. Turner, Administrator
Bureau of Mediation
State Employment Relations Board
65 East State Street, 12th Floor
Columbus, Ohio 43215-4213


Richard J. Colvin
