IN THE MATTER

OF

FACTFINDING

BETWEEN THE

HARDIN COUNTY SHERIFF

AND

OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

STATE EMPLOYMENT
RELATIONS BOARD

2007 JUN 18 P 12: 32

Issue:	Factfinding
Date of Hearing:	June 8, 2007
Location:	Hardin County Courthouse
Case No:	06-MED-09-1083; 06-MED-08-1084
Date of Award:	June 14, 2007

Union Representative:

Matthew Baker
OPBA Labor Counsel
92 North Woods Blvd., Suite B-2
Columbus, Ohio 43235

Sheriff Representative:

Rufus Hurst
Downes & Hurst
400 S. Fifth Street
Columbus, Ohio 43215

REPORT AND RECOMMENDATIONS

Michael Paolucci
Arbitrator

Administration

By letter dated February 21, 2007, from Edward E. Turner, the Administrator with the Ohio Bureau of Mediation, the undersigned was informed of his designation to serve as Factfinder in a factfinding procedure between the Parties. On June 8, 2007, a hearing went forward in which the Parties presented testimony and documentary evidence in support of positions taken. The record was closed at the end of the hearing and the matter is now ready for a factfinding report with recommendations.

Unresolved Issues presented

This factfinding was over a wage reopener. Therefore only one (1) issue was presented for factfinding:

1. Article 20 – Wages.

* * *

Under R.C. 4117.14(E) & (G)(7), a Factfinder is required to give consideration to certain factors in choosing between the Parties' proposals, on an issue-by-issue basis. That statute reads as follows:

> (e) The board shall prescribe guidelines for the fact-finding panel to follow in making findings. In making its recommendations, the fact-finding panel shall take into consideration the factors listed in divisions (G)(7)(a) to (f) of this section.
>
> * * *
>
> (G)(7) After hearing, the conciliator shall resolve the dispute between the parties by selecting, on an issue-by-issue basis, from between each of the party's final settlement offers, taking into consideration the following:
>
> (a) Past collectively bargained agreements, if any, between the parties;
> (b) 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;

(c) The interests 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;

(d) The lawful authority of the public employer;

(e) The stipulations of the parties;

(f) Such other factors, 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 procedures in the public service or in private employment.

* * *

The unresolved issue has been addressed giving consideration to all of the necessary statutory elements.

Factual Background

The Sheriff is located in a relatively rural County in Northeast Ohio, with the county seat of Kenton, Ohio; the Union is comprised of two (2) separate bargaining units with eleven (11) Deputy Sheriffs in one (1) unit and four (4) Sergeants in the other. The County finances are stable, but are under pressure from the stagnate economy. Revenues are flat and cuts in spending have been made. It has kept its fund balance stable by recognizing the economic trends and responding in a timely manner.

The top steps of the bargaining units are fairly compensated and have remained at a consistent spot among their peers. The County's current proposal would fall a little behind with the top step, but only marginally so. The bottom step is seriously underpaid when compared to the same peers and only with seniority is the gap closed. Thus, there is a problem within the bargaining unit between the younger deputies and the more senior ones – where one is keeping in step with comparables, the other has fallen significantly behind.

Contentions of the Parties

1. Article XIII – Wages.

The City proposes a tiered wage schedule. It proposes the first tier of younger employees receive wage increase of 3%, 3% and 2%, in each year of a three (3) year Agreement; it proposes the second tier of middle range seniority employees receive a 2% wage increase in each year of a three (3) year Agreement; and it proposes a 0%, 1% and 2% wage increase for employees at the top of the wage scale for each year of a three (3) year Agreement.

The Union proposes a wage increase of 3% in each year of a three (3) year Agreement plus an additional fifteen cents ($0.15) per hour increase in each year of a three (3) year Agreement.

Party Contentions

The Parties were unable to reach Agreement because of a disparity that exists between younger and older employees. Whereas the Sheriff concedes that younger employees are underpaid compared to other jurisdictions, it argues that employees at the top of the wage scale are paid more than their peers. The Union's position is that any raise that is given must be done across the board to treat all bargaining unit employees the same.

The Parties showed that they are sophisticated and that they made a good faith effort to attempt to resolve the issue. The Sheriff's persuasive arguments showed that younger employees are underpaid, but that more senior employees are above their comparables. They attempted to resolve the issue, but could not without risking an internal conflict to the bargaining units.

Recommendation

It is recommended that the bargaining units receive a 3% wage increase in each year of a three (3) year Agreement.

There is a sense that the bargaining unit believes that even though the more senior employees may be fairly compensated, that those employees should not be "punished" by accepting something less than the remainder of the bargaining unit receives. There is a sense that they would be punished for their seniority and therefore the Union would only accept an across the board raise consistent for everyone.

The Sheriff believes that the Union's proposal is based on some of its proposals that were made to correct the inequity between the younger and older Deputies. It complains that the Union took its already generous proposal of 3% for some of the employees and then added the additional fifteen cents ($0.15) because of other proposals made that were intended to correct the problem for younger employees only. It asks that this proposal of the Union be considered as an attempt to take all that has been offered instead of helping resolve the issue.

The recommendation has taken all of these into consideration and is based on the belief that the problem that has been identified is best resolved by the Parties instead of being imposed by the undersigned or the conciliator that may follow. The 3% wage increase is fair, is comparable to other jurisdictions, and maintains the level that the bargaining units currently hold. While it does not begin to address the internal inequities, such is felt best left to the Parties to resolve.

Therefore, the foregoing recommendation is made.

April 13, 2007

Cincinnati, Ohio

Michael Paolucci