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STATE EMPLOYMENT RELATIONS BOARD

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February 28, 2007

Andrea H. Johan
Staff Representative
Fraternal Order of Police, Ohio Labor Council, Inc.
222 East Town Street
Columbus, Ohio 43215-4611

Robert W. Cross
Cross Management Consulting Services, Inc.
631 7th Street
Portsmouth, Ohio 45662

Edward E. Turner
Administrator, Bureau of Mediation
State Employment Relations Board
65 East State Street
Columbus, Ohio 43215

Re: Case No. 06 MED 10-1171; 06-MED-10-1172
Pike County Sheriff and Fraternal Order of Police, Ohio Labor Council, Inc.

Dear Ms. Johan, Mr. Cross and Mr. Turner:

Enclosed please find the Recommendations of the Fact-finder in the above referenced matter. Also enclosed for the parties is a statement for services rendered.

Thank you for the opportunity to be of assistance.

Very truly yours,

Margaret Nancy Johnson

Margaret Nancy Johnson

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

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In the Matter of Negotiations Between:

The Pike County Sheriff	:	Case Nos. 06-MED-10-1171; 06-MED-10-1172
And	:	RECOMMENDATIONS
Fraternal Order of Police, Ohio Labor Council, Inc.	:	Margaret Nancy Johnson Fact-finder

Appearances

For the FOP:
Andrea H. Johan,
Staff Representative

For the Sheriff:
Robert W. Cross,
Consultant

In compliance with the Ohio Revised Code Section 4117.14(c)(13), the State Employment Relations Board Bureau of Mediation, hereinafter "SERB," appointed Margaret Nancy Johnson to serve as a fact-finder in the above referenced bargaining impasse. The parties convened on February 12, 2007, in a conference room, at the Pike County Administration Building in Waverly, Ohio, for the purpose of fact-finding. Prior to the hearing both parties submitted timely position statements for the review of the neutral. In the course of the hearing the fact-finder heard evidence and arguments on the issues in contention and received documentary evidence into the record. Three issues which the parties have not been able to resolve have been submitted to the fact-finder for recommendations. Issues upon which the parties have reached tentative agreement as referenced in the position statements are incorporated in this report as if fully rewritten.

Statement of the Case

Approximately thirteen (13) employees in the Office of the Pike County Sheriff, hereinafter "Sheriff," comprise the two bargaining units certified by SERB and now represented by the Fraternal Order of Police, Ohio Labor Council, Inc. hereinafter "FOP" or "Union." These employees hold the ranks of Sergeants, Lieutenants and Captains, and the classifications of Road Dispatchers, Corrections Officers, Process Servers, Deputy Corporal and Dispatcher. Law enforcement needs for citizens in Pike County are provided by the bargaining units. These duties include crime prevention, detection, and investigation as well as custody and transportation of prisoners, process serving, and dispatching.

The FOP and the Sheriff are signatories to a Collective Bargaining Agreement which expired December 31, 2006. Unable to negotiate a successor Agreement, the parties engaged in mediation and fact-finding with the SERB appointed neutral. Her recommendations for contract resolution are set forth hereinafter.

Issues

The three issues remaining in dispute are:

1. Article 36: Hospitalization
2. Article 38: Wages
3. Article 41: Promotions, Bidding and Transfers

Criteria

In submitting her recommendations the fact-finder has given consideration to those factors traditionally relied upon by neutrals and those specifically enumerated in Ohio Revised Code, Section 4117.14(G)(7).

Positions of the Parties

A. Article 36: Hospitalization

The position of the Sheriff on Hospitalization is to maintain current language which provides the bargaining unit with the same health insurance plan as all other General Fund Employees of the County. Budgeted by the County, the Office of the Sheriff does not have financial resources to afford its employees with additional hospitalization benefits.

When health insurance premiums paid by members of the bargaining units are factored in, the Union contends these employees fall below their counterparts in terms of dispensable income. The wage increase proposed by the Union is necessary to compensate employees for the higher health insurance premiums presently assessed.

B. Article 38: Wages

While the FOP seeks a 5% increase in each of the three years of the contract, the Sheriff is offering a 3% increase. The FOP contends that with current contract language on Hospitalization, a 3% wage increase is tantamount to a loss in income for its membership. In order to maintain comparability, the FOP requires more than the 3% placed on the bargaining table by the Sheriff. Moreover, the FOP proposes an increase in Hazardous Duty pay from $.50 to $1.00; an additional $.75 for all dispatchers who are also certified deputies; a shift differential of $.50 for afternoon and evening shifts; and institution of longevity pay.

Countering comparability arguments made by the FOP, the Sheriff argues that while Pike County does not have the same tax revenues as those available to its neighboring counties, nonetheless, its employees are compensated comparably and fairly. Based upon finances, geography and population, the wage proposals made by Pike County are fair and reasonable. In addition to external comparability, comparisons within the County justify the 3% wage increase offered by the Sheriff.

C. Article 41: Promotions, Bidding and Transfers

The FOP proposes adding a section to Article 41 which would provide employees with some shift selection options. These selections would be subject to final approval of the Sheriff and would not interfere with man power needs. Other counties have similar shift selection opportunities.

The Sheriff proposes no change in contract language. As the department is very small, meeting the operational needs of the Office is already a challenge. The Sheriff simply cannot justify relinquishing the administrative control required to man the office properly and efficiently. An inherent managerial prerogative, shift assignments must be retained by the Sheriff.

Discussion

A. Hospitalization and Wages

Both the Union and the Sheriff have correlated their wage and hospitalization proposals. Without some wage adjustment, the Union contends its bargaining unit members can not afford the employee share of the hospitalization plan. As part of the County budget, the Office of the Sheriff argues it can not grant this bargaining unit a modified hospitalization plan or a wage increase greater than the 3% it has proposed. Additionally, the Sheriff argues that these bargaining units are compensated at a rate comparable to those in similarly situated counties, even though Pike County ranks as the smallest in terms of population and geography and is deemed a financially distressed region.

The fact-finder recognizes the fiscal constraints confronting this Employer. A predominantly rural community, the County shares many of the characteristics of its contiguous neighbors, including high unemployment, low median income, and limited revenue sources. A review of the evidence establishes that wage rates and increases provided to the two bargaining units by the Sheriff are very consistent with those negotiated by comparable jurisdictions. Additionally, the fact-finder understands the difficulty of recommending wage adjustments and modifications in hospitalization which would set these units apart from other employees of the County.

Nonetheless, the need to grant some increase in wages to the bargaining units so as to off-set increased health care costs is also apparent. In the past law enforcement agencies in the State of Ohio have utilized longevity as a means for increasing compensation for employees. Currently, however, many jurisdictions are phasing out this benefit in favour of other methods of service merit. Moreover, Longevity Pay, Shift Differentials and Certification Pay as proposed would not provide the consistent unit-wide wage increase sought by the bargaining unit. Accordingly, the fact-finder can not recommend Longevity Pay or the other wage enhancements proposed by the Union. However, since all members of the bargaining unit receive hazardous duty pay, an increase in this benefit would, in fact, translate into a consistent wage increase for each employee. Accordingly, the fact-finder recommends an $.08 increase in hazardous duty pay for each year of the three year contract.

As the 3% wage increase proposed by the Sheriff is consistent with wage increases within the county as well as in comparable jurisdictions, the fact finder recommends a 3% wage increase for each contract year. This increase coupled with the Hazardous Duty Pay provides all employees with a wage increase sufficient to off-set some of the insurance costs assumed by employees. The fact-finder further recommends status quo in remaining wage and hospitalization provisions.

B. Promotions, Bidding and Transfers

The Union has proposed a modification to Article 41 enabling employees to engage in some shift selection, a proposal the Sheriff has rejected. While the Sheriff has pointed out that the size of the bargaining unit requires retention of this inherent managerial right, the Union has not demonstrated any unit-wide hardship which Article 14 imposes on employees.

Although the fact-finder recognizes that employees in the bargaining unit are required to work non-traditional hours for which families must make accommodations, this is not unique to public safety agencies. Law enforcement needs are not confined to the traditional work day but must be provided around the clock. Absent some evidence of recurrent and unit-wide problems associated with scheduling or without some quid-pro-quo for a modification of this managerial right, the fact-finder does not recommend the same. Contractual changes of this nature ought to be negotiated rather than imposed.

Recommendations

A. Article 36: Hospitalization

The fact-finder recommends current contract language.

B. Article 38: Wages

The fact finder recommends a 3% wage increase in each year of the three year contract.

The fact finder recommends increasing hazardous duty pay by $.08 in each year of the three year contract.

C. Article 41: Promotions, Bidding and Transfers

The fact-finder recommends current contract language.

D. The fact-finder recommends incorporation of all Tentative Agreements previously reached by the parties.

Respectfully submitted,

Margaret Nancy Johnson
Fact-finder

Dated and submitted by Express Mail this 28th day of February, 2007, to Andrea H. Johan, Staff Representative, Fraternal Order of Police, Ohio Labor Council, Inc., 222 East Town Street, Columbus, Ohio 43215-4611; Robert W. Cross, Cross Management Consulting Services, Inc., 631 7th Street, Portsmouth, Ohio 45662; and by regular mail to Edward E. Turner, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215.