

2008 AUG 28 A 11: 32

IN THE MATTER OF IMPASSE X
X
BETWEEN X
X
CLERMONT COUNTY SHERIFF X
X
AND X
X
FRATERNAL ORDER OF POLICE X
X
LODGE NO. 112 X

**REPORT OF
THE FACT FINDER**

SERB FILE NO.: 2008-MED-02-0125

HEARING: August 1, 2008; Batavia, Ohio

FACT FINDER: William C. Heekin

APPEARANCES

For the Sheriff

Paul R. Berninger, Attorney

For the FOP

Stephen S. Lazarus, Attorney

ADMINISTRATION

By way of a letter dated May 8, 2008, from the State Employment Relations Board (SERB), the undersigned was informed of his designation to serve as fact finder regarding a successor labor contract, negotiations impasse. On August 1, 2008, and following receipt of pre-hearing submissions, a fact finding hearing went forward. There, testimony as well as document evidence was presented. The record was closed at the conclusion of the hearing and the matter is now ready for the issuance of a fact finding report.

FINDINGS AND RECOMMENDATIONS

This impasse involves a bargaining unit consisting of 79 civilian, unsworn Corrections Officers who are represented by Fraternal Order of Police Lodge No. 112 (“the FOP”) and their employer, the Clermont County Sheriff (“the Sheriff”). Thus, while mentioning that Clermont County (“the County”) is a suburban county located in Southwest Ohio with a population of approximately 192,000, the Sheriff and the FOP (“the Parties”) met a number of times in an effort to finalize a new collective bargaining agreement (“the Agreement” or “The Labor Contract”). Accordingly, the remaining unresolved issues are the subject of this fact finding report, where the recommendations made are submitted in light of the following ORC 4117.14 criteria:

* * *

- Past collectively bargained agreements between the parties;
- 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;

- The interest and welfare of the public, and 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,
- The lawful authority of the public employer.
- Any stipulations of the parties.
- 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.

* * *

Against this backdrop and in recommending that all tentatively agreed upon contract provisions be adopted, the following is recommended concerning the remaining items at impasse:

1.
ARTICLE 14. WAGES AND INSURANCE

Sheriff position: While emphasizing that this has already been budgeted by the Clermont County Commissioners, a 3% wage increase in the first year retroactive to March 1, 2008; as well as a reopener in the second year which would become effective after February 28, 2009.

FOP Position:

*Effective 3/1/08
(6%)*

*Effective 2/22/09
(6%)*

*Effective 2/21/10
(6%)*

Effective 2/22/09 – Add new top step at 3% above current top step and delete existing bottom step.

Effective 2/21/10 – Add new top step at 3% above current top step and delete existing bottom step.

* * *

In recommending a 3 year Labor Contract, it is recommended that there be a 3% increase in wages regarding the first year retroactive to March 1, 2008, as proposed by the Sheriff; a 3% increase in wages, along with a new top step as proposed by the FOP, regarding the second year; and a 3% increase in wages, along with a new top step as proposed by the FOP, regarding the third year.

This is felt to properly balance the interest of the County in maintaining fiscal responsibility when considering its recent tax revenue decline/increasing costs, financial base and reasonably compensating the Corrections Officers in light of the relevant “comparable work” categories cited, as well as their overall work performance. Regarding the latter, Clermont County Sheriff Rodenberg stated the following in a May 23, 2007 “News Release:” “The credit for our success in jail operations can directly be attributed to our excellent staff” (FOP Appendix-1).

As to the aforementioned declining tax revenues/increasing costs financial situation, this at least in part stems from the dramatic increase in the cost of both fuel and food currently being experienced around the world and across the nation. At the same time, and while pointing out that the County has one of the lowest rates of unemployment in the State of Ohio, it is felt that the record did not establish the degree of economic uncertainty which would normally justify recommending a “reopener” provision. While the evidence suggests that the longstanding trend of economic growth and development in Clermont County has recently slowed- where its very large General Fund, cash carryover balance has been reduced somewhat- there is no basis upon which to conclude that its longer term future will not reflect the same economic strength and vitality that first took root in the 1990’s. In recommending a new top step for the second and

third year, this is felt to be in keeping with the mutual interest of retaining and rewarding an experienced staff of Corrections Officers.

In addition, and in referring to almost any of the “comparable work” categories argued for at the hearing where the Sheriff has acknowledged some slippage; it is very important to note that these Corrections Officers -at best- come in at an average/below average level regarding wages. Furthermore, it should be pointed out that the County’s Sheriff Deputies and Deputy Supervisors are receiving a 3.5 % wage increase for 2008 and will receive a 3.5% wage increase in 2009.

2.

ARTICLE 15. HEALTH INSURANCE

Sheriff position: Current language

FOP position: Adopt the following language:

* * *

Section 15.1. Bargaining unit members shall accept and receive the county health insurance program and shall make the required Employee contribution on the same basis as all other county Employees to a maximum of ~~twenty one percent (21%)~~ **fifteen percent (15%)** of the cost, **not to exceed \$175.00 per month**. In the event that the County’s contribution, as set forth in Section 15.4 is increased to the benefit of all other county Employees covered by the general county health insurance plan, then such increase shall be made by the County to the benefit all bargaining unit members.

Section 15.5. ***Any employee who opts out of the county health insurance shall be provided an annual stipend of \$3,000 paid on November 1 of the year in which the employee opts out. In the event that an employee opts out and then elects coverage as a result of a qualifying event, the employee shall be entitled to a pro-rata share of the annual stipend. Any employee whose spouse utilizes the Employer’s insurance shall not be eligible for the opt out.***

* * *

It is recommended that the position of the Sheriff be adopted.

3.
ARTICLE 16. HOLIDAYS

Sheriff position: Delete a portion of Article 16, Section 16.4, as follows:

* * *

Section 16.4 All Employees shall receive holiday pay equal to their normal daily work hours, if the Employee is in active pay status on his scheduled work days preceding and following the holiday. An Employee required to work on a holiday, shall, in addition to holiday pay, receive one and one-half (1-1/2) hour's pay for each hour worked, ~~or, at his option, compensatory time equal to the holiday hours worked at time and one-half (1-1/2). Compensatory time off is scheduled at a time mutually agreeable to the Employee and the Employer. Any compensatory time earned under this Section which has not been taken prior to December 31 of any calendar year, shall be paid off at the rate of one (1) hour's pay for each hour credited. Employees may request to receive any unpaid accumulated holiday pay held for more than two (2) pay periods, at any time during the calendar year.~~

* * *

FOP position: Current language.

It is recommended that the position of the FOP be adopted.

4.
ARTICLE 18. SICK LEAVE

Sheriff position: Delete a portion of Article 18, Section 18.1, as follows:

* * *

D) Sick leave is earned at the rate of ~~4.6~~ 3.1 hours per period of active status. Active pay status may be defined as hours worked, hours on vacation, hours **and** hours on holiday leave, ~~and hours on paid sick leave.~~

E) The amount of sick leave any one Employee may accrue is unlimited, but may not exceed ~~one hundred twenty (120)~~ eighty (80) hours in an anniversary year.

* * *

FOP position: Current language.

It is recommended that the position of the FOP be adopted.

5.
ARTICLE 38. DURATION

Sheriff position: Current language:

FOP position: Adopt the following language:

* * *

This Agreement shall be effective the 1st day of March, ~~2006~~ **2008**, and shall remain in full force and effect until midnight of ~~the last day of February, 2008~~ **February 19, 2011**. Should either party desire to terminate or modify this Agreement, they shall give written notice to the other party not later than sixty (60) days prior to the expiration of ~~the last day of February, 2008~~ **Labor Agreement**.

* * *

It is recommended that the position of the FOP be adopted. Here, the undersigned basically concurs with its contention that this modest change in contract language would better allow for an orderly, contract-to-contract transition as to the calculation of pay rates.

6.
FTO PAY (New Section)

Sheriff position: Not add a "FTO Pay" provision.

FOP position: Add a "FTO Pay" provision which states as follows:

* * *

Any member assigned an FTO shall receive a 1 percent (1%) increase in their base pay for all hours in which they are responsible for a trainee and for all hours spent training other members of the Bargaining Unit.

* * *

It is recommended that a new "FTO PAY" provision, as proposed by the FOP, be adopted. Accordingly, the undersigned accepts the FOP contention that this pay increase is justified as a

reward to those Corrections Officers who train other Corrections Officers. Indeed both sides acknowledge that this is a valuable service to the Sheriff Department.



William C. Heekin
August 25, 2008
Cincinnati, Ohio