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Arbitrator, Mediator, Factfinder
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PURSUANT TO O.R.C. 4117.14(C)
UNDER THE AUSPICES OF THE
STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER BETWEEN)	
)	
FULTON COUNTY SHERIFF)	
)	FACTFINDER'S REPORT
and)	
)	SERB CASE NO.
OHIO PATROLMEN'S BENEVOLENT)	09-MED-10-1115
ASSOCIATION -- SERGEANTS)	

This Factfinding arises pursuant to Ohio Revised Code Section 4117.14(C). The Parties, the Fulton County Sheriff ("the County") and the Ohio Patrolmen's Benevolent Association -- Sergeants ("the OPBA"), selected Susan Grody Ruben to serve as sole, impartial Factfinder, whose Recommendations are issued below.

Hearing was held May 12, 2010 in Wauseon, Ohio. The Parties were represented by counsel and were afforded full opportunity for the presentation of positions and evidence. Pre-hearing submissions were received from both Parties.

APPEARANCES:

for the County:

**Paul S. Goldberg, Esq., 8043 English Garden
Court, Maumee, OH 43537.**

for the OPBA:

**Michelle T. Sullivan, Esq., Allotta, Farley &
Widman, L.P.A., 2222 Centennial Road, Toledo,
OH 43617.**

FACTFINDER'S RECOMMENDATIONS

Statutory Criteria

In reaching Recommendations on the open issues, the Factfinder has reviewed the parties' pre-hearing submissions, and the evidence and positions presented at the Factfinding Hearing. The Factfinder has analyzed this information in the context of the statutory criteria found in Ohio Revised Code Section 4117.14(G)(7):

- a) Past collectively bargained agreements ... 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; and
- f) Such other factors, not confined to those listed ... 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.

Bargaining Unit

The Sergeants' bargaining unit consists of 2 sergeants. This is a first contract.

Incorporated Articles

The Factfinder hereby incorporates into her Recommendations the following articles, with the changes, if any, agreed to by the Parties at the

Factfinding Hearing:

Preamble/Purpose

- Article 1 Union Recognition**
- Article 2 Conflict with Law and Separability**
- Article 3 No-Strike/No-Lockout**
- Article 4 Management Rights**
- Article 5 Union Representation**
- Article 6 Nondiscrimination**
- Article 7 Waiver in Emergency**
- Article 8 Labor-Management Meetings**
- Article 9 Dues Deduction**
- Article 10 Discipline**
- Article 11 Posting and Bidding**
- Article 12 Probationary Periods**
- Article 13 Grievance Procedure**
- Article 14 Seniority**
- Article 15 Layoff and Recall**

Article 16	Safety
Article 17	Communicable Diseases
Article 18	Drug and Alcohol Testing
Article 19	Hours of Work and Overtime
Article 20	Holidays
Article 21	Vacation Leave
Article 22	Sick Leave
Article 23	Bereavement Leave
Article 24	Occupational Injury Leave
Article 25	Family and Medical Leave
Article 26	Maternity Leave
Article 27	Paternity Leave
Article 28	Unpaid Leaves of Absence
Article 29	Civil Leave
Article 30	Overtime Call-Out
Article 31	Special Deputies/Off Duty Work
Article 32	Critical Incidents
Article 33	Uniform Allowance
Article 34	Call in/Court Time Pay
Article 37	Shift Trades
Article 38	Personnel Files
Article 39	Bulletin Boards
Article 40	Canine Unit
Article 41	Work Rules/Procedures/Personnel Policies
Article __	Miscellaneous

Unresolved Issues

1. Article 35 Health Insurance

County's Proposal

The County proposes the bargaining unit pay 12% of the health insurance premiums.

Previously, employees had paid 10% of the health insurance premiums. As County revenues have dwindled, non-union employees are now paying 12% of the health insurance premiums. In the interest of fairness, the bargaining unit employees should also pay 12% of the health insurance premiums.

It should be noted premium costs did not increase in 2010.

OPBA's Proposal

The OPBA proposes bargaining unit employees pay 10% of the health insurance premiums, with the employee contributions not increasing more than 15% during the term of the Agreement.

The OPBA also proposes the County will continue to provide Health Savings Accounts for bargaining unit members. During the term of the Agreement, the County will continue to contribute annually a minimum of \$720/year for a single plan and \$1920/year for a family plan.

The OPBA proposes maintaining the current contribution levels for health insurance premium payments. The County has increased the non-union employee percentage to 12%. However, the premium cost per employee has decreased each year for the past three years. Therefore, the OPBA believes the County lacks any reason to increase the employee portion of the health insurance premiums at this time.

In the event the trend of decreasing premiums changes, the OPBA seeks to have a cap placed on the increase they must bear with respect to the employee portion of the health insurance premiums. This would prevent rising insurance costs from eroding any gains the employees might receive in wages.

The County presently provides a Health Savings Account for its employees who are enrolled in its health insurance plan. The OPBA proposes language that memorializes the current practice and that maintains the current contribution levels.

Factfinder's Recommendation

The Factfinder recommends the bargaining unit employees pay 12% of health insurance premiums during the Agreement, or the same percentage paid by non-Union County employees, or the same percentage paid by the Deputies' bargaining unit, whichever is the lowest share of employee contributions.

The Factfinder recommends the Health Savings Account be memorialized in the Agreement, with County contributions during the Agreement to reflect the highest of the contributions received by non-Union County employees and the Deputies' bargaining unit.

2. Article 36 Wages

County's Proposal

The County proposes a 3.85% pay cut through 2011.

Due to the poor economy, County revenues are down substantially and are projected to remain so into the foreseeable future. In order to maintain a balanced budget, the County has taken two unprecedented steps. First, the County Commissioners have unilaterally increased the sales tax by ½%.

Second, in September 2009, the County Commissioners mandated all non-union County employees take 10 unpaid furlough days in 2010 and 2011. This amounts to approximately a 3.85% pay cut.

In the interests of fairness, and to avoid layoffs, the County is proposing the bargaining unit take the same pay cut as other County employees.

OPBA's Proposal

The OPBA proposes the following language:

Section 36.1 *Effective January 1, 2010, the hourly wage for the position of Sergeant shall be \$22.97 per hour. Further, in the event the Deputies receive any percentage increase for 2010, it is agreed the same percentage increase will be applied to the rate set forth in this section.*

The Parties agree to participate in a reopener on the issue of increases in economic benefits covered under this Article. The Parties agree that either Party may reopen this Article for negotiations by providing written notice to the other Party of its request to do so between September 1, 2010 and October 1, 2010 for wage rates to be effective as of January 1, 2011.

...

Section 36.3 *Each Sergeant who qualifies with a firearm shall receive a lump sum payable in the last pay period in November of each year as follows:*

November 2010 \$ 650.

The Sergeants shall receive any additional increase in the firearm qualification payment that is negotiated or awarded to the Deputies' bargaining unit.

Sergeants are currently paid \$21.69/hour. This is a mere 3.7% over the top Deputy rate of pay, which currently is \$20.88/hour. The rank differential between Sergeant and Deputy at other Departments is in the 10-15% range. The increase to \$22.97/hour represents a 9% differential over the top Deputy rate of pay.

Further, in an effort to preserve any gains the OPBA may achieve concerning the rank differential this year, the OPBA proposes a “me too” clause, wherein the Sergeants would also receive any percentage increases received by the Deputies for 2010.

The wage adjustment allowing for an increase in the differential between Deputy and Sergeant is necessary to bring the Sergeants’ pay rate in line with pay received by unionized sergeants in surrounding counties.

Further, out of 16 Deputies, 3 earned a gross pay in 2009 within \$1000 of the gross pay both Sergeants earned. The Sergeants’ pay does not adequately compensate them for the additional responsibility and liability they have taken on with their rank.

Finally, the OPBA proposes Sergeants receive a \$650 firearm qualification bonus, a lump sum payment the County customarily paid to Sergeants and Deputies.

The County has the ability to pay the wage adjustment and firearm qualification bonus proposed by the OPBA. Although the County saw a modest decrease in its sales tax collections in 2009, the General Fund ended 2009 with an unencumbered balance of approximately 23% of expenditures for the year. This balance safely exceeds the 5-10% fund balance recommended by the bond rating agencies. For 2010, the County Commissioners implemented a ½% increase in the sales tax rate. Even without the ½% increase, sales tax receipts for 2010 remain stable.

Factfinder's Recommendation

The Factfinder recommends the Sergeants receive an ongoing 9% wage differential over the top Deputy's wage rate. This ongoing wage differential – i.e., the Sergeants' hourly pay shall remain 9% over the top Deputy's wage rate throughout the Agreement – recognizes the added responsibilities and liabilities taken on by those promoted to Sergeant.

The Factfinder also recommends the Sergeants receive any and all firearms proficiency payments received by the Deputies' bargaining unit.

The Factfinder recommends the Sergeants' bargaining unit not incur a reduction in 2010 wages equivalent to furlough days taken by non-Union employees.

Finally, the Factfinder recommends either Party can request a wage reopener for 2011 by doing so between September 1, 2010 and October 1, 2010.

DATED: July 12, 2010


Susan Grody Ruben
Susan Grody Ruben, Esq.
Factfinder