



STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

STATE EMPLOYMENT
RELATIONS BOARD

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In The Matter of Fact Finding Between

Lake County Narcotics Agency	}	
	}	Case No. 10-MED-02-0114
	}	
AND	}	
	}	
Ohio Patrolmen's Benevolent Association	}	Fact Finding Report Michael King, Fact Finder
	}	

This matter was heard on July 19, 2011, in the City of Painesville, Ohio.

APPEARANCES:

For The Employer:
 Thomas Grabarczyk
 6800 W. Central Avenue, Suite L-2
 Toledo, Ohio 43617

John A. Germ, Executive Director

For The Union:
 Kevin Powers
 Ohio Patrolmen's Benevolent Association
 10147 Royalton Road, Suite J
 North Royalton, Ohio 44133

Daniel Kosanvich
 Brian Dombeck

I. Introduction And Background

The undersigned, Michael King, was appointed Fact Finder by the State Employment Relations Board (SERB) on March 23, 2011. As Fact Finder the undersigned was tasked to conduct a hearing and issue a report with recommendations on each of the unresolved issues between the parties in their negotiations for a Collective Bargaining Agreement (CBA) to succeed the three-year CBA that expired March 31, 2010.

Lake County Narcotics Agency is believed to be the only stand-alone narcotics agency operating in the State of Ohio. The Agency is funded by its own levy, and supervised by an independent board. That board is composed of one county commissioner, the county prosecutor, the mayor of Willoughby, and four police chiefs from various Lake County municipalities. Traditionally, the county sheriff also participates in board meetings, though the sheriff isn't a member. (The agency is ultimately subject to oversight of the Lake County Commission.)

The bargaining unit consists of six (6) Narcotics Agents and two (2) Pharmacy Investigators. These agents and investigators are deputized by the county sheriff, and their law enforcement authority flows from this action.

The parties held several negotiating sessions, and reached tentative agreement on all issues. However, the bargaining unit voted to reject the proposed wage settlement. As a result, wages remain the only issue at impasse.

On June 2, 2011, the parties participated in mediation on the issue of wages. The mediation was unsuccessful, and a fact-finding hearing was scheduled for July 19, 2011.

II. Fact-Finder's Report

In reviewing the issue at impasse, and arriving at a recommendation, I considered the parties' written submissions and exhibits, oral presentations and testimony and the following factors as required by law:

- 1] Past collectively bargained agreements, if any, between the parties;
- 2] 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;

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] Any stipulations of the parties;

6] 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.

In preparing this report I have attempted to make recommendations that are reasonable based on the evidence presented, and that balance the legitimate economic interests of both parties.

The fact-finding hearing in this matter occurred on July 19, 2011, and the record was closed immediately thereafter.

III. **Unresolved Issue**

Issue # 1 WAGES

Employer Position:

As noted above, the parties previously reached a tentative agreement on wages. Although the bargaining unit rejected that tentative agreement, the Employer maintains that those wage numbers are the appropriate basis on which to resolve this matter. Specifically, the Employer makes the following wage offer:

- Zero (0) percent increase for 2010;
- 45 cents per hour increase for all wage scales effective upon approval of the contract by the Lake County Narcotics Agency Board;
- A one-time cash payment (in lieu of backpay) calculated based on the cents per hour times the number of weeks elapsed since April 1, 2011;
- 44 cents per hour increase effective March 25, 2012.

Under the expired CBA (Joint Exhibit 1), the final hourly wages for Special Agents were as follows:

Level 1	22.63
Level 2	23.85
Level 3	25.07
Level 4	26.29
Level 5	27.62

For Pharmacy Investigators the wage schedule was as follows:

Level 1	22.13
Level 2	23.35
Level 3	24.57
Level 4	25.79
Level 5	27.12

On a percentage basis, the wage increases as offered to Special Agents, would range from 1.6 % to slightly under 2% in the first year. For Pharmacy Investigators, wage increases would range from 1.65% to 2% in the first year.

The Employer argues that any larger wage increase wouldn't be prudent. It believes that any wage increases for this bargaining unit must be evaluated in light of the overall labor and economic conditions of Lake County and the State of Ohio. Some pertinent facts on the Lake County economic and labor situation are as follows:

- Non-bargaining employees in Lake County have not had a wage increase in three (3) years;
- Many county offices have taken austerity measures including layoffs, short-term furloughs, and allowing vacant positions to go unfilled; (Employer Exhibit 5 and Employer Exhibit 9);
- County income is down from all various sources including investment income, real estate conveyance fees, property and sales taxes, and intergovernmental payments and grants. (Employer Exhibit 8)

To buttress its point, the Employer notes that wage rates for safety forces in Ohio have outpaced growth of median household income in Ohio. (Employer's Exhibit 1) Between 2000 and 2009, police wages grew by more than 33%, while median household income grew less than 14%.

During that same ten-year period wage rates for Agents with Lake County Narcotics Agency grew more than 32%. (Employer Exhibit 2) That compares with a 12% growth in Lake County's median household income, and growth in inflation of just over 22%.

More recently, wage growth has moderated. According to the State Employment Relations Board's Annual Wage Settlement Report, settlements for 2010 have been modest at best. (Employer Exhibit 3). For County jurisdictions settlements averaged 0.94% and statewide settlements averaged 1.26%.

The Agency maintains a unified budget that includes both operational costs such as personnel, and capital costs such as building and improvements. Partly for that reason, it has tended to maintain a substantial fund balance. The Agency's operating expenses are approximately \$1.4 million annually. However, the Agency typically has a year-to-year carryover of \$2 million or more.

According to the Agency, it is now beginning to eat into that fund carryover. It says income from its dedicated levy is approximately \$1,060,480. Annual expenses for the Agency including operation and capital costs are approximately \$1,569,672. In addition to levy income, the Agency does receive other funds from sources that include forfeitures and grants. Those sources are declining, however.

UNION POSITION

The Union seeks wage increases of 3% a year for each year of a three-year contract. Such increases are appropriate, the Union argues, because its members are substantially below the wage average for other law enforcement officials in Lake County. (Union Exhibit 1) For example, a ten-year Lake County Sheriff's deputy would earn \$61,658.80, compared to \$58,099.60 for a Narcotics Agent.

Moreover, the Union says its wage demands are below what the Agency has already budgeted for management raises. (Union Exhibit2) The 2009 final appropriation for salaried employees was \$126,500. In 2010, that appropriation rose to \$131,250. For 2011, that appropriation rose to \$136,515. Those final appropriation numbers reflect a 3.75% increase for salaried employees in 2010, and a 4% increase for 2011.

(According to Executive Director John Germ, those increased appropriations haven't been paid. In fact, salaried employees will receive the same wage increase, if any, as bargaining unit members receive.)

Next, the Union states that the analysis of economic and labor conditions in other governmental bodies is irrelevant. The Lake County Narcotics Agency has a dedicated levy, and its balance sheet isn't equivalent to that of other government bodies.

FINDING AND RECOMMENDATION

I find that the appropriate comparison for members of this bargaining unit is to deputies with the Lake County Sheriff. Both parties acknowledge that as the prior benchmark. There are differences, however. Sheriff's deputies may be called on to work a variety of shifts, and to handle a wider variety of law enforcement activities including handling domestic violence matters. Narcotics Agents work consistent day shifts, and all of their work is on felony investigations. In addition to their higher pay rates, Sheriff's deputies receive other cash compensation that isn't available to Narcotics Agents. However, the prior history of bargaining is that Narcotics Agents voluntarily negotiated away some of that additional cash compensation in return for other items. Nonetheless, Narcotics Agency employees to Sheriff's employees remains the appropriate comparison.

Wage rates for Sheriff's deputies and Narcotics Agents are as follows:

Sheriff's Deputies (3/28/2010)	Narcotics Agents (4/2009)	Percentage Difference
Level 1 26.69	22.63	17.9%
Level 2 27.17	23.85	13.9%
Level 3 27.65	25.07	10.3%
Level 4 28.13	26.29	7%
Level 5 28.61	27.62	3.6%

As evidenced by this data, there remains a gap (sometimes significant) between the two pay rates. One issue peculiar to this situation is that the Lake County Narcotics Agency has a dedicated levy and thus it sits in a different financial position from the Sheriff and other Lake County agencies.

The Employer acknowledges that "on a cash basis" it is able to pay the requested wage increase. I find that to be true. I also find some merit in the Employer's concerns about the "greater picture facing government as a whole."

Based on all of the information presented to me, I believe some increase in wage rates is appropriate. I recommend no increase for the first year of the contract. I recommend a one-time cash payment to members of the bargaining unit in the amount of \$900, payable as soon as practicable after ratification of the agreement by both parties. In addition, I recommend a wage increase of 3% for the second year of the contract, effective at the beginning of the first pay period after ratification of the contract by both parties. I further recommend a 3% wage increase for the third year of the contract, said increase to be effective on the first day of year three of the contract.



Michael King
Appointed Fact Finder

Date: August 5, 2011
Westlake, Ohio

STATE EMPLOYMENT
RELATIONS BOARD

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August 5, 2011

J. Russell Keith, General Counsel and Assistant Executive Director
Ohio SERB
65 East State Street, 12th Floor
Columbus, Ohio 43215-4213

Re: SERB Case No. 10-MED-02-0114
Lake County Narcotics Agency

Dear Mr. Keith:

Enclosed please find a copy of the fact finder's opinion for the above-referenced matter.

Sincerely,


Michael L. King

Enclosure:

21312
4, Ohio 44122

J. Russell Keith, General Counsel & Asst. Executive Director
DAVID SERB
65 East State Street, 12th Floor
Columbus, Ohio 43215-4213

