

STATE EMPLOYMENT
RELATIONS BOARD
2010 DEC -3 P 1:42

IN THE MATTER OF IMPASSE X
X
BETWEEN X
X
HAMILTON COUNTY SHERIFF X **REPORT OF**
X **THE FACT FINDER**
X
AND X
X
THE BENEVOLENT EMPLOYEES OF THE X
HAMILTON COUNTY SHERIFF X

SERB FILE NO.: 2010-MED-06-0848

HEARING: November 17, 2010; Cincinnati, Ohio

FACT FINDER: William C. Heekin

APPEARANCES

For the Sheriff

For the Union

Brett A. Geary, Clemans/Nelson & Associates

Stephen S. Lazarus, Attorney

ADMINISTRATION

By way of a letter from the State Employment Relations Board (SERB) dated September 22, 2010, the undersigned was informed of his designation to serve as fact finder regarding an initial labor contract, negotiations impasse. On November 17, 2010, following receipt of pre-hearing submissions and a mediation session which took place that same day, 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 made up of approximately 136 employees of the Hamilton County Sheriff (“the Employer” or “the Sheriff”) who hold various positions (including clerical, computer training, data entry technician, purchaser, and mechanic) and are represented by the Benevolent Employees of the Hamilton County Sheriff (“the Union”). Hamilton County (“the County”) encompasses an urban/suburban geographic area in southwestern Ohio which includes Cincinnati. Presently, the total number of employees employed by the Sheriff is 828. Prior to the fact finding hearing, the Sheriff and the Union (“the Parties”) met on a number of occasions in an effort to finalize an initial collective bargaining agreement (“the Agreement” or “The Labor Contract”). Thus, the remaining unresolved issues are the subject of this fact finding report, where the recommendations contained herein are made 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.

* * *

Accordingly, in addition to the following, it is recommended that all tentatively agreed upon contract provisions be adopted.

1.
ARTICLE 19: WAGES

Sheriff's Position 0% increase for 2011, a "me-too" provision for 2012, and a reopener provision for 2013.

Union's Position 4% increase for 2011, 4% increase for 2012, and a 4% increase for 2013. In addition, it seeks a shift differential payment of \$1.00 per hour for all employees whose regularly scheduled shift begins after 2:00 pm, as well as a longevity pay schedule.

It is recommended that Article 19, Wages, as proposed by the Union and as herein modified be adopted so as to include the following:

Section 19.1. Effective for calendar year 2010, the annualized pay levels for all bargaining unit employees shall be as provided in Attachment 1, which shall effect no increase over current rules.

Section 19.2 The listing of annual salaries is not a guarantee of annual earnings, but is shown only as the basis for calculating bi-weekly, hourly, and overtime rates of pay. The bi-weekly rate of pay is determined by dividing the annual

salary by twenty-six (26) irrespective of the number of pay periods in a year. The hourly rate for all purposes except the computation of overtime is determined by dividing the biweekly salary by eighty (80).

Section 19.3. Wages for contract years 2011, 2012, and 2013 shall be determined by amending the entire wage scale in Attachment 1 as follows:

January 1, 2011	0% Increase
December 23, 2011	3% Increase
December 22, 2012	4% Increase

Section 19.4. Beginning on the first day of the pay period within which an employee completes the required number of years as provided in Section 11.2 of this Agreement, he/she will receive an automatic adjustment in his/her rate of pay equal to and in accordance with the following:

Ten (10) years of service	One percent (1.0%)
Fifteen (15) years of service	One and one half percent (1.5%)
Twenty (20) years of service	Two percent (2%)

The amount of the adjustment will be added to the employee's rate of pay.

* * *

Section 19.6. Any employee assigned to perform a majority of the regular work duties of a different classification within the bargaining unit in excess of ten (10) consecutive scheduled work days shall receive the rate of pay associated with that classification for all hours assigned if such pay is greater than the employee's regular rate of pay.

* * *

Regretfully, a 0% increase for 2011 that is included in the "2011 County Administrator's Recommended General Fund Budget" is supportable in light of the severe economic recession that arose in the Fall of 2008 which is widely viewed by economists to be the worst since the 1930's. Furthermore, while a longevity pay schedule is supportable in light of internal comparables on this issue, it is not felt that a shift differential pay provision as asked for by the Union can be recommended at this time. Accordingly, this is against the backdrop of the recession having been centered on a collapse in real estate values and real estate sales activity

where property taxes are a major revenue source for the County, while the other major revenue sources – a sales tax and the State of Ohio – have been greatly reduced as well. Thus, 153 employees of the Sheriff's Office were laid off in 2008. Out of this, approximately 40 bargaining unit employees remain laid off.

However, after several years of recession and what could reasonably be hoped for in light of economic history, there now are signs that the Hamilton County economy and beyond is starting to rebound, although with little likelihood that there will be a significant increase in 2011 County revenue flows. In other words and while greatly pointing out that this particular group of employees who until recently were not represented in collective bargaining have not received a pay increase since 2007; the Employer did not directly refute the array of evidence presented by the Union that the local economy, which has a lot of resources, is beginning to grow. At the same time, there are a number of major development projects in the works, including one involving casino gambling coming to downtown Cincinnati, which are expected to be fully operational by 2013. Thus, in looking beyond 2011, it is felt that the record provides a basis upon which to recommend a 3% increase in 2012 and a 4% increase in 2013.

2.
ARTICLE 21: INSURANCE

Sheriff's position That bargaining unit members be eligible for health insurance the same as other employees of the County with the exception of the law enforcement officers and law enforcement supervisors units.

Union's position It proposes the following language:

* * *

Section 21.1. The Employer shall make available to all bargaining unit employees the same major medical/hospital care insurance plans, life insurance plans, and dental plans that are available to non-bargaining unit Hamilton County employees at the rate such plans are provided to non-bargaining unit employees, except as provided herein. All insurance requirements, specified for non-

bargaining unit Hamilton County employees shall also be applicable to bargaining unit employees.

Section 21.2. The Employer agrees to indemnify and defend any bargaining unit employee from actions arising out of the lawful performance of his/her official and/or assigned duties.

Section 21.3. All insurance premium contributions provided for in this Article shall be through payroll deductions.

Section 21.4. If the Hamilton County Personnel Department determines that it is desirable to establish any committee or procedure for the purpose of seeking employee input on any insurance benefit provided to bargaining unit employees, such committee or procedure shall include the participation of one (1) bargaining unit employee. The bargaining unit employee who participates in such committee or procedure shall be selected by the Association. The formulation of any committee or procedure as described in this Section shall be at the sole discretion of the Director of the Hamilton County Personnel Department or the Director's designee.

Section 21.5. The co-payment paid by bargaining unit employees for any specific insurance plan provided for in Section 21.1 shall not increase from year to year by more than the percentage wage increase received by the employee's classification group.

* * *

It is recommended that the Sheriff's proposal, which includes a "no cap" requirement (the central issue), be adopted. In essence, it is understood that without a "cap" on the employee contribution side, the County has greater flexibility and bargaining power as to putting together a comprehensive health insurance package for all of its employees, including the employees of the Sheriff's Office. Additionally, employee health insurance is at least in part impacted by the same financial circumstances which surround the "Wages" issue. In acknowledging as the Union points out that the Sheriff's Office has two law enforcement units who are more highly paid and who do have a "cap", nevertheless, this is seen as the better option at the present time. Importantly and while fully recognizing the cost burden on employees that is involved, the County's package of insurance plan choices, including co-pay costs, have been set for 2011.

3.
ARTICLE 35: PARKING

Sheriff's position Not include any article regarding "Parking".

Union's position Include its proposed Article 35, "Parking" provision.

The Union emphasizes that this is a current employee benefit enjoyed by 57 bargaining unit members and involves a County parking lot that is immediately adjacent to the Hamilton County Justice Center. It proposes to keep this number of Sheriff's Office section, parking spaces regarding those who currently have spaces on a seniority basis until there is a break in service. In contrast, the Sheriff, while asserting that this proposed provision would amount to a contractual benefit not enjoyed by any other County bargaining unit, argues that it would lead to a costly "spillover effect" as to other County collective bargaining agreements.

It is recommended that the Article 35, "Parking" provision as proposed by the Union be adopted with a modification as to the therein included Section 35.4:

* * *

Section 35.1. The Employer shall provide at least fifty-seven (57) parking spaces to members of the bargaining unit at no cost to the employees. Employees who are assigned a parking spot on August 1, 2010 shall retain their parking spot until they experience a break in service from the bargaining unit.

Section 35.2. The fifty-seven (57) parking spaces are divided among the Sheriffs' Office sections as follows: Employee Services (6), T.I.D. (7), Jail Records (9), Property (11), Social Services (7), Corrections Administration (9), Court Services (2), Identification (3) and Records (3).

Section 35.3. When a parking space is no longer being occupied by an assigned individual, it shall be reassigned in that section by seniority from among those assigned to first shift.

Section 35.4. The parking spaces shall be maintained so long as the County maintains the fenced in parking lot adjacent to the South Building of the Justice Center.

* * *

What tips the balance is that this has historically been a unique benefit enjoyed by the instant group of employees, albeit never before on a contractual basis. Accordingly, with this uniqueness, it cannot be accepted that there necessarily would be a future "spillover effect" as to any other County collective bargaining agreement. At the same time and in light of this history, it cannot be seen as adding to the budgetary cost of the Sheriff's Office since it already exists and has for a long time. Importantly, Section 35.4 makes clear that, should the County and/or the Sheriff decide in the future to make a different use of the land area involved, this employee parking benefit would be superceded and, thus, not stand in the way.

Finally, it is felt best that no recommendation be made as to the pay grade issue which was addressed towards the end of the factfinding hearing. Instead, the undersigned would greatly suggest that the Parties address this important matter at an appropriate time in the future.



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December 2, 2010
Cincinnati, Ohio

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RE: SERB File No. 10-MED-06-0848; The Benevolent Employees of the Hamilton
County Sheriff – Hamilton County Sheriff; impasse/factfinding

Gentlemen:

Enclosed, please find two (2) copies of the **REPORT OF THE FACT FINDER**. Also,
enclosed is a copy of the INOVICE.

It has been a privilege to have served as fact finder.

Cordially yours,



William C. Heekin

WCH:bwh

enclosure

cc: Mary Laurent (w/enclosure) ✓

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