

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

2011 AUG -1 P 1:01

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In the Matter of Fact Finding
between

LAKE COUNTY, SHERIFF'S OFFICE
BOARD OF LAKE COUNTY COMMISSIONERS

and

OHIO PATROLMEN'S BENEFIT ASSOCIATION
NON-COMMISSIONED CORRECTIONS OFFICERS

SERB Case No. 11-MED-01-0072

Findings &
Recommendations

Edward A. Pereles
Fact Finder

Hearing July 13, 2011
Issued: July 29, 2011

* * * * *

APPEARANCES

For the OPBA,
the Employee Organization
Jeffery D. Perry, Bus. Agent
10147 Royalton Road, Ste. J
North Royalton, OH 44133
440-237-7900 FAX 440-237-6446
jeffperryba@sbcglobal.net

For the Lake County Sheriff,
the Employer
Tom Grabarcayk, Consultant
Labor Relations Management, Inc.
6800 W. Central Ave., Ste. L-2
Toledo, OH 43617
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tomlrm@buckeye-express.com

BACKGROUND

The Lake County Sheriff's Office (hereafter the Employer or the Sheriff) and the Ohio Patrolmen's Benevolent Association (hereafter the employee organization or OPBA) for an on behalf of the non-commissioned Corrections Officers entered into a labor agreement (Agreement) for the period April 1, 2008 through March 31, 2011. However, the Agreement was extended to December 17, 2011. However, each extension did not extend to a Neutral's authority over matters with cost implications/retroactivity to April 1, 2011.

Hereafter, either the Employer or the Employee Organization may be referred to as a "Party" and when referring to both as the "Parties."

The Parties met a least three (3) times in an effort to reach a resolution for a new contract. Substantial progress was made but the Parties were unable to close the gap between them. The Parties submitted eight (8) items to the fact finding process (depending on how one views the various positions on each issue).

Prior to the Fact Finding, the Employer settled with three (3) of the eight (8) represented bargaining units in the Sheriff's Office, the three (3) smaller ones. The Correction Officer's unit, is composed of approximately seventy-five (75) employees.

During the Fact Finding Hearing, the Parties resolved a some

issues, either across the table or outside of the hearing of the Fact Finder. To place what follows in perspective, a three (3) year term was agreed to.

The Fact-Finder has given every consideration to all reliable information relevant to the issues in dispute and to all criteria set forth in Sec.s 4117.14(C)(4)(e) and Rule 4117-9-05(J) and (K) O.A.C:

(1) Past collectively bargained agreements 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) 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.

Lake County's northwestern boundary is situated on Lake Eire, east of Cleveland, with Painesville as the county seat. Lake County's 2010 population, according to the US Census Bureau, is 230,041. It has 93,121 households of which the median household income was as of 2009, \$53,880 (Union Exhibit 5).

The County's estimated revenue for 2011 is approximately \$55,100,000 and its expenditures, approximately \$54,850,000 (County Exhibit 3). And projects revenues of a little over \$12,000,000 for

2012 (County Exhibit 8),

The County's Budget Director, Mike Matas, concluded in March of 2011, that Ohio's state budget decreases will have a definite negative effect on the County's budget. In particular he concludes ". . . speaking of the general fund budget, there is great uncertainty regarding the future of revenues we would receive from both the State and Federal governments. We, also are dealing with low returns on the County's investments" (County Exhibit 2). For a more detailed longer term view see County Exhibit 5. In the County's view, it is doing the best to provide statutory responsibilities but fears that reduced state appropriation levels will like have some consequences on providing services (County Exhibit 6).

Under the current collective bargaining agreement, the Sheriff reduced forces because of reduced revenue, in large measure due to fewer out of county prisoners, for which Lake County received a fee for each prisoner per each day, and in December, 2009 had to close the new Minimum Security Prison (Union Exhibit 1).

During the fact finding hearing each Party had a full and fair opportunity to introduce material and relevant evidence through testimony or by documents, subject to the examination of the other Party.

ISSUES, FINDINGS of FACT & RECOMMENDATIONS

At the end of the Fact Finding Hearing the following items remained unresolved. My Findings of Fact and Recommendations, which

follow, will be directed solely to the following unresolved items:

1. **Wages (Article 17 but set forth in Appendix N)**
2. **Seniority Payment (Longevity) Article 15, Sec. 1))**
3. **Furlough Days (Memo dated January, 2010 (County Exhibit 8) (but only for 2012 and 2013))**

Each of the above items concern monetary matters. The Parties' economic presentations were not directed to a particular proposal but (a) as to the Employer, to the lack of funds available to the Sheriff's Office augmented by comparable, TAs for other bargaining units within the Sheriff's Office (County Exhibit 13); by Regions and other jurisdictions (County Exhibit 15); or comparable municipalities for ten (10) year employees (County Exhibit 4) and (b) as to the Employee Organization, to the fact that other similarly situated bargaining units have received various increased benefits or have higher benefits and its anecdotal view of the future of the economy in Ohio and elsewhere (See Union Exhibit 3).

My Findings of Fact and Recommendations reflect the testimonial and documentary evidence introduced at the hearing.

WAGES:

Position of the OPBA:

The Union is agreeable to a 0% increase for 2011 and to a wage reopener for 2013. The difference is it seeks a wage reopener for 2012.

Position of the Employer:

The Employer opposes the Union's proposal for a wage reopener in 2012, and states, if it could have agreed to this demand, the Parties would have agreed to the Wage issue.

The Fact Finder determines that it is highly unlikely that the economy will improve sufficiently by the end of 2012 to support a wage increase. Because of that finding, I cannot recommend that the Parties spend the time and money to discuss increasing wages for 2012. However, the Union presented some evidence that indicates that the economy might improve by late 2012. However, the evidence suggests that the Union should not be denied the opportunity to negotiate for a wage increase for 2013. **My recommendation is for no increase in wages for 2011 or 2012 but provides for a wage reopener for 2013.**

SENIORITY PAYMENT (LONGEVITY):

Position of the OPBA:

The Union seeks to resume longevity payments as set forth in the Agreement.

Position of the Employer:

The Employer seeks to continue the freeze for years 2011 & 2012 and is not opposed to reopener for 2013, otherwise the freeze is to be maintained.

The Fact Finder determines that the evidence offered provides for a conclusion that it is highly unlikely that the economy will improve sufficiently by the end of 2012. Because of that conclusion,

there is no reason to spend the time and money to discuss longevity payments for 2012. I find in favor of the Employer. However, the evidence suggests that the Union should not be denied the opportunity to negotiate for a resumption of longevity payments for 2013. **My recommendation is for no longevity payments during 2011 or 2012 but provides for a reopener on the longevity payments for 2013.**

FURLOUGH DAYS:

Position of the OPBA:

The Union is opposed to the Sheriff's office seeking to impose any furlough days in 2012 or 2013 (See Memo, January, 2010).

Position of the Employer:

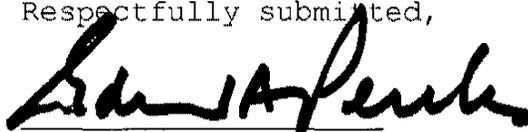
The Employer seeks six (6) unpaid furlough days for 2012 under the same terms as 2011 and for 2013, to discuss outside the contract, any additional unpaid furlough days.

The Fact Finder determines that the evidence offered provides for a conclusion that it is highly unlikely that the economy will improve sufficiently by the end of 2012. The Employer provided ample evidence that the Sheriff's office continues to have budgetary problems and will do so through at least 2012. Because of that conclusion, there is no reason to spend the time and money discussing the number, if any, of furlough days for 2012. However, as to 2013, I was not persuaded that there is a reason not to award a reopener as to the number, if any, for 2013. **My recommendation allows the Employer to schedule up to six (6) furlough days in the same manner as in 2010 for**

2012. For 2013, a reopener on the number, if any, of furlough days.

Where I have recommended reopeners for certain years, negotiations must begin on or shortly thereafter October 1, of the year before.

Respectfully submitted,



EDWARD A. PERELES

Fact Finer

Issued: July 29, 2011
at Philadelphia, PA
FAXED to the Parties
USPS to SERB
on July 29, 2011

EDWARD A. PERELES

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Sent Via FAX to the Parties
and by USPS to SERB

**For the OPBA,
the Employee Organization**

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**Re: Findings of Fact and Recommendations in the Matter of
Lake County Sheriff's Office & OPBA (Corrections Officers)
11-MED-01-0072**

Dear Messrs. Grabarcayk and Perry:

With this letter I am submitting my Findings of Fact and Recommendations in the above titled matter and my Invoice for Professional Services and Expenses Incurred.

It has been a pleasure to work with each of you and your clients. As a reminder, you must follow the Ohio statutory scheme for the consideration of these Recommendations.

By copy of this letter, I am sending an original copy of my Findings of Fact and Recommendations to SERB.

Cordially,



EDWARD A. PERELES

Fact Finder

encl as described above

cc: **J. Russell Keith**, General Counsel & Assistant Executive Director
SERB, 65 East State St., 12th Floor, Columbus, Ohio 43215-4213

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