

SUBMISSION

The Ohio Patrolmen's Benevolent Association is the exclusive representative of employees of the Huron County Sheriff's Office comprising four separate bargaining units: ten Road Deputies; ten Command Officers; approximately thirty Corrections Officers; and approximately six Dispatchers. The County and the OPBA engage in multi-unit bargaining. The Parties in the present negotiation have had an ongoing collective bargaining relationship, culminating in an Agreement that became effective on July 1, 2010 and obtains through June 30, 2013. Section 24.2 of that Agreement provides for a reopening of negotiations prior to June 30, 2011. Negotiations reopened under § 24.2 are limited to wages. Section 34.1 of the Agreement provides that either Party may exercise the provisions of Article 24 upon notice, subject to all rights and responsibilities under Ohio Revised Code Chapter 4117, including the impasse resolution procedures included therein.

The Parties reopened negotiations under the provisions of the Agreement, but were unable to reach mutually acceptable terms regarding wage increases. Having reached impasse, the Parties selected the undersigned neutral as Fact-finder, pursuant to the dispute resolution provisions of ORC 4117.14. In the belief that mediation of the open issue would not prove fruitful, the Parties proceeded to fact-finding, and an evidentiary hearing was held on having failed to resolve the issues at impasse, an evidentiary hearing was held on February 15, 2012. At hearing, the Parties were afforded an opportunity to present evidence and testimony, and to cross examine witnesses. The matter was declared closed as of the date of hearing.

ISSUES AT IMPASSE

Pursuant to Article 24 of their Agreement, the Parties presented the following issue as unresolved:

Article 24 – Wages and Compensation

STATUTORY CONSIDERATIONS

In weighing the positions presented by the Parties, the Fact-finder was guided by the considerations enumerated in OAC 4117-9-05(K), *et seq.*, specifically:

- 4117-9-05(K)(1)** Past Collectively bargained agreements, if any, between the parties;
- 4117-9-05(K)(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;
- 4117-9-05(K)(3)** 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;
- 4117-9-05(K)(4)** The lawful authority of the public employer;
- 4117-9-05(K)(5)** Any stipulations of the parties;
- 4117-9-05(K)(6)** Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

OPBA PROPOSAL

The Union proposes a 3% wage increase effective July 1, 2011 through June 30, 2012, with a reopening of negotiations regarding wages for the period July 1, 2012 through June 30, 2013, the final year of the Agreement.

The OPBA contends that, for members of the four bargaining units it represents, the 3% increase it seeks would amount to 1 ½% for each of the two years since members have been afforded wage increases. Members of the OPBA bargaining units took a wage freeze in 2010. Moreover, the Union asserts that its members voluntarily undertook efforts to reduce the Employer's costs, including voluntarily flexing their schedules in order to avoid overtime. By contrast, the OPBA points out that non-bargaining unit employees received a 2% wage increase in 2008. Additionally, the Union asserts that the County's Chief Financial Officer received a 20% salary increase, and another non-represented administrative employee received a 7% increase.

Submitting and citing the County's *Management's Discussion and Analysis* (Financial Analysis) for the year ending December 31, 2010, the OPBA contends that the Employer's financial position is not as dire as it presents. Among the highlights noted by the Union are the Analysis's statement that the County's assets exceeded its liabilities by almost \$49 million; that those total net assets increased by 5.8% or approximately \$2.6 million in 2010; and that at the end of 2010 the County's governmental funds reported a combined ending balance of almost \$2.5 million over the beginning of that year. Of this amount, the unreserved funds balance – which the Analysis reports as available for spending – was over \$15 million.

The Union maintains that the Analysis also reports that the County's General Fund, from which the Road and Dispatch bargaining unit wages are paid, had a balance at the end of 2010 of \$1,575,467 as against a final budget of \$0 and compared to an original budgeted amount of over \$9 million. The County's property tax collections were some \$37 million, or 99.77% of current taxes levied. The OPBA points out that the County's actual revenues deriving from the County sales tax were \$5.4 million in 2011, up from an actual amount of slightly under \$5 million in 2010.

The "Jail Sales Tax" which funds, at least in part, costs of the County's Corrections Officers had actual 2011 revenues of \$2,700,625 and was estimated in the Analysis to be

\$2,397,600 in 2012. However, according to evidence submitted by the OPBA, total sales tax revenues had increased by \$189,000 from 2010 through November of 2011.

While the Union concedes that the wages of the four bargaining units are not generally out of line with peer communities in the labor market, it reiterates that its request for a 3% increase is only 1.5% per year.

COUNTY POSITION

The County proposes a wage increase of one-half percent (.5%) for the four bargaining units represented by the OPBA.

The Employer contends that Huron County has suffered as the result of the larger economic recession that grips much of Ohio and the region. With a sales tax rate at the statutory maximum, as well as the loss of both retail businesses and manufacturing jobs, the Employer argues that its locally-generated revenues have been in decline for some time.

Reduction or elimination of Ohio Local Government and other funds will impose even more limitations on the County's expenditures, according to the Employer. In addition to an estimated fiscal year 2012-2013 cut of \$1,548,892 in Local Government Funds, the Employer presents evidence projecting additional losses through elimination of Estate Taxes amounting to \$282,232 and \$606,048 in lost revenue due to the phase out of Tangible Personal Property and KWH taxes. With the inclusion of education cuts and elimination of State Fiscal Stabilization Funds, the Employer asserts that Huron County will lose a total of almost \$7 million in FY 2013 state funding as against 2011 levels.

In response to what it maintains are dire financial projections, the County Commissioners set the 2012 interim budget at 2010 levels. Among the significant measures necessary to effect such decreases are significant reductions in the Sheriff's Office budget, which, according to an appropriations worksheet submitted by the County, would decrease the Sheriff's budget from a 2011 appropriation of \$1,562,873 to \$1,469,873 in 2012.

The Employer points out that public sector wage agreements have decreased substantially since 2007 and 2008. SERB's annual Wage Settlement Report indicates that wages in the county comparator group went from over 3% on average in 2008 to .94% in 2010; among police units, average wage settlements at 3.28% in 2008 were half that level at 1.39% in 2010. Moreover, the County argues that SERB data indicates that employees in counties of 50,000 to 149,999 population pay 13% of single coverage health insurance, and

15% of family coverage. By contrast, members of the bargaining units here pay only 8.95% of both single and family premiums under the Standard PPO plan, and only 7.1% under the Basic PPO offering. While offering such comparisons, the County notes that sales tax revenues for Huron County are far less than those in adjacent Erie and Lorain Counties, and thus render direct wage comparisons inapplicable.

While the Employer concedes that OPBA members agreed to a wage freeze in 2010, it points out that members of the OPBA bargaining units received 3% increases in each of the three years covered by the 2007 through 2009 Agreement. By contrast, the Employer argues that non-bargaining unit employees received a 2% pay increase in 2008, but no increases in 2009 or 2010. More significantly, the County's unrepresented workers took a 10% reduction in both hours and pay, effectively reducing their income by 20%. It was only after the budget was finalized in April of 2011 that the non-bargaining unit employees received a 2% increase; they are not to receive any increase in 2012.

The County contends that its financial situation simply cannot sustain even a 1% wage increase for members of the instant bargaining units.

FINDINGS & RECOMMENDATION

There is little question that Huron County and its almost 60,000 residents are affected by the broader economic difficulties confronting the state and the region. Landlocked and largely agricultural, the County has lost some 2,000 manufacturing jobs, according to the Employer, and suffered an unemployment rate of over 10% in October of 2011. That loss of revenues, coupled with decreases or total elimination of almost \$7 million in state funds previously available to the County's General Fund certainly presents the County with difficult budget decisions in the near term.

Notwithstanding the revenue decreases the Employer may be facing, it is also presently in a solid financial position, thanks possibly, to prudent husbandry of its resources in better times and/or astute management of its fund allocations and transfers. The County's unreserved General Fund balance was \$2.85 million in 2010 and its assets exceeded its liabilities by some \$49 million at the end of 2010 and had increased by 5.8% over the course of that fiscal year. By any established understanding, the County is not without the ability to "finance and administer" wage increase sought by the Union.

However, according to evidence presented by the County and unrefuted by the

OPBA, the proposed 3% wage increase would bear a total cost of more than \$78,000. Possibly urged by lean economic times, neutrals interpreting and applying OAC §4117-9-05(K)(3) have increasingly begun to broaden the provision to contemplate whether a public employer's ability to finance a proposal is prudent rather than entirely impossible.

Into that calculus enters consideration of the other statutory factors, primarily the market wage rate as indicated by compensation offered by comparable jurisdictions, which affect an employer's ability to attract and retain qualified personnel. Here, no difficulty in recruiting or retaining Sheriff's Department employees was presented. Nor, by the Union's acknowledgement, is there question that members of all four units are at or near the top of market rates in their respective areas. External comparables do not militate for the increase sought by the OPBA here.

Neither does internal parity strongly weigh in favor of a 3% increase for these bargaining units. County employees not represented by labor organizations have received only modest wage increases and also suffered substantial wage and hour decreases over a period in which OPBA members have done reasonably well against the cost of living. Certainly those employees have every right to band together in concerted activity, and to organize and join unions. Nonetheless, internal parity is a statutorily mandated consideration for neutrals in Ohio, and must be considered.

For these reasons, the one-half percent (½%) increase offered by the County is recommended, with a reopening of negotiations for a further increase in the final (2012-2013) year of the Agreement.

/s/ Gregory James Van Pelt

Gregory James Van Pelt

Respectfully submitted this 12th day of April, 2012
At Shaker Heights, Cuyahoga County, Ohio