



BEFORE THE STATE EMPLOYMENT RELATIONS BOARD  
FOR THE STATE OF OHIO

FRATERNAL ORDER OF POLICE : CASE NO. 12-MED-09-0819  
OHIO LABOR COUNCIL, INC.,

:

AND

HEARING DATE  
MARCH 19, 2013

:

THE CLINTON COUNTY, OHIO SHERIFF

REPORT OF FACT FINDER JACK E. McCORMICK

March 26, 2013



Pursuant to an Appointment letter dated January 24, 2013 from the State Employment Relations Board a fact-finding hearing was held at 10:00 am March 19, 2013 at the offices of the Clinton County, Ohio Sheriff .

Present at the hearing were the following:

For the Employer:            Jeffrey A. Stankunas, Esq.  
   Brian L. Prickett, Chief Deputy CSO r

For the Employees:         Mark Scranton, FOP/OLC  
   James K. Mills, Corrections Officer  
   Bryson R. Thompson    “    “  
   William Muterspaw    “    “

The parties were fully advised by the Fact-Finder of the applicable law as well as the Rules regarding fact-finding.

Clinton County Ohio is located in the southeastern part of the state. The Bargaining Unit is comprised of 20 non-sworn civilian Corrections Officers, who man the jail. The collective bargaining agreement under consideration is for the years 2011 through December 2013. The current agreement provides that the parties agreed to a wage re-opener for the year 2013 and that is the sole issue for fact-finding..

#### BACKGROUND

The negotiating teams have met on October 1, December 12, and December 27, 2012.

The parties agree that wage increases for this unit are in order, but disagree on what those increases should be. The nexus of their disagreement is the Employer's ability to pay.

In the first year of the current CBA (2011) this unit received no wage increase, and was frozen at their step as of December 22, 2008. In the second year effective



December 19, 2011 they received a wage increase of \$.45 per hour, but remained frozen in step.

#### DISCUSSION OF THE ISSUE

The Union proposes that effective in the first full pay period in 2013 they receive an increase of \$.45 per hour and that they be placed in their appropriate step. In addition, they propose replacing the current five step pay scale to eleven steps and increasing the Corrections Corporal rate to one dollar (\$1.00) above the highest step for corrections Officers.

The Employer proposes wage increases of \$.35 an hour and to keep the current step increase freeze in effect.

The Union's proposal would cost the Employer \$48,591 however it asserts that this would be more than off-set by already realized attrition of higher paid employees. Furthermore, it points to the fact that the *status quo* will result in a projected salary surplus of \$69,780. It also points out several cost savings options that, if implemented would not reduce the Unit and could result in salary savings of between \$74,562 and \$111,230. The Employer's wage proposal (above) would cost \$18,591.

#### ABILITY TO PAY

Chapter 4111 of the ORC and SERB rules provide that any finding on any economic issue(s) must include a statement by the neutral that the employer has the ability to pay for that finding. Therefore a thorough examination of this employer's finances is required. It is important to note that since the Clinton County Sheriff's office is funded by General Revenue Funds this examination is not limited to the Sheriff's budget,

This employer, as with all other local government entities has been hard hit by the 2008 recession and the dramatic reductions in the State's Local Government Fund and the elimination of the estate tax. Clinton County has been also struck by the loss of a



major employer, i.e., DHL Express. In January 2013 the county had the twelfth highest unemployment rate in the state.

On the bright side is the fact that things seem to be improving. In October 2012 the county's unemployment rate fell from 9.8 percent in September to 9.3 percent. This compares to a 12.1 percent rate one year earlier. On January 10, 2013 the Wilmington Mayor predicted that in 2013 "at least 750 new jobs will be coming" to the county. In the fall of 2013 a company named Polaris industries is expected to add up to one hundred jobs with \$2.6 million in annual payroll.

The Employer notes that the sheriff's 2013 appropriation is only \$7,538.00 more than 2012. However it is noted that the sheriff's unexpended funds at the end of the years 2009 through 2012 have been substantial.

Those funds were for 2009 \$158,395.52, in 2010 \$64,731.69, in 2011 \$122,278.19 and in 2012 \$159,387.25. The unexpended funds in the 2012 Salary Account were \$57,974.85. One presumes these funds were returned to the county's GRF, or carried over to his 2013 budget. The Union projects that with the *status quo* the Salary Account in 2013 will end with a surplus of \$69,779.65. Accordingly the Sheriff's Office is not a drag on the County's GRF, but rather has augmented the County's ability to fund other operations.

#### **FINDING OF FACT**

**The Clinton County Sheriff's Office has sufficient funds for wage increases in the year 2013.**

This finding, on its own, does not compel the Fact-finder to recommend any wage increases. All wage proposals must be merited.

The Employer asserts that the average pay evidenced by SERB Benchmark report for similarly sized counties (\$29,522.05-35,943.44) compares favorably to the Clinton County Corrections Officers (\$27,726.40-35,817.60).

The Union countered that when looking at the surrounding counties (Greene, Warren, Clermont, Brown, Highland, Fayette and Adams) this bargaining unit is well below their neighboring colleagues. In the those counties the average starting salary is



\$15.12 per hour compared to \$13.33 in Clinton County and the average top salary in those counties is \$19.40 per hour compared to \$17.67 for this unit. These are not insignificant variances. Indeed, a Clinton County Corrections Officer with a spouse and two children and earning \$13.33 per hour might qualify for food stamps.

The Fact-finder recognizes these are not sworn personnel, nor are they road deputies, whose duties are vastly different and perhaps more hazardous, but they are surrounded daily by prisoners who they must guard, protect and oversee. They do have significant responsibilities and should be compensated in manner that recognizes their value to the citizens of the County.

#### **FINDING OF FACT**

**The Clinton County Ohio Corrections Officers Merit a Wage increase in the year 2013.**

The Union proposes, in addition to its proposed wage increase that this unit go to a eleven step structure spreading out the years between steps and keeping a \$.43 differential between each step. Without wage increases this would cost the Employer an additional \$16,783.53 in 2013. If the current five step structure were maintained and if the current bargaining unit members were put in their correct steps the costs to the Employer in 2013 would be \$50,897.

The past contracts between these parties date back to 2005 at which time there was a four step structure until 2008 when it went to the current five step structure. The Fact-finder declines to opine on the relative merits of either structure. Instead he will note that this is a re-opener in the third and final year of the CBA. Because of that fact he feels that at this point such a radical change from past practice should be left to the next negotiations in August of this year.

#### **FINDING OF FACT**

**There are not sufficient facts to justify the modification of the current five step structure of this bargaining unit.**



**FINDING OF FACT**

**There are sufficient facts to support wage increases to this bargaining unit. Accordingly all bargain unit members now in steps one through and including step five shall receive a wage increase of \$.50 per hour effective the first full pay period of 2013.**

Corrections officers:

Step 1 - \$13.83 Step 2- \$15.37 Step 3- \$16.30 Step 4-\$17.01 Step 5-\$17.72

Corrections Corporal - \$18.46

Bargaining Unit members shall remain frozen in their current steps

The Fact-finder calculates that the costs of the above to the Employer in 2013 will be \$25,480.0.

**THE FACT-FINDER FINDS THAT THE CLINTON COUNTY GOVERNMENT HAS THE ABILITY TO PAY THE FINDING HEREIN ABOVE.**

March 26, 2013

/s/ Jack E. McCormick

Fact-finder, State Employment Relations Board



**FACT FINDER'S FEE STATEMENT**

Scheduling and review prehearing statements -	2.0hr	-	\$237.50
Travel and conduct hearing -	4.0hr	-	\$475.00
Study and write report -	8.0hr	-	\$950.00
Mileage 156 miles @\$\$.50 -		-	<u>\$ 78.00</u>
Total -			-\$1,740.50

Union's portion - \$870.25

County's portion - \$870.25

/s/ Jack E. McCormick  
500 City Park Ave.  
Columbus, OH 43215-5707  
Tax ID 31-1410950

W-9 will follow under separate cover



**CERTIFICATE OF SERVICE**

The foregoing report was served upon the following by email pdf format on the 26, day of March 2013:

Jeffrey A. Stankunas, Esq  
Isaac Brant, Ledman & Teetor  
Attorney for the Clinton County, Ohio sheriff

Mark A. Scranton, Staff Representative  
Fraternal Order of Police Ohio Labor Council, Inc.  
For the Union

Donald M. Collins, General Counsel  
State Employment Relations Board

/s/ Jack E. McCormick