

STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Fact-Finding Between

The Fraternal Order of Police,  
Ohio Labor Council, Inc.

Employee Organization

Case No. 2012-MED-09-0849

And

The Columbus and Franklin County  
Metropolitan Park District

Fact-finder: Jerry B. Sellman  
Date of Report: January 2, 2013

The Employer

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**FACT-FINDER'S REPORT AND RECOMMENDATION**

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APPEARANCES:

FOR THE EMPLOYEE ORGANIZATION:

Ms. Tracy Rader - Staff Representative FOP Inc., representing the Union

FOR THE EMPLOYER:

Traci L. Martinez, Esq. – Attorney with D Squire Sanders (US) LLP, representing the Columbus and Franklin County Metropolitan Park District

**INTRODUCTION**

This matter concerns a Fact-finding proceeding between the Columbus and Franklin County Metropolitan Park District (hereinafter referred to as the “Metro Parks”) and the Fraternal Order of Police, Ohio Labor Council, Inc. (hereinafter referred to as the “FOP” or

“Union”). The State Employment Relations Board (SERB) duly appointed the undersigned as Fact-finder in this matter on October 29, 2012. The Parties had reached agreement on its initial Collective Bargaining Agreement (Agreement) in July 2011 on a two- year and 6 month contract after the FOP became the exclusive representative. This initial contract provided for a compensation/wage reopener in the second year of the agreement. On September 10, 2012, the FOP invoked the right to reopen on the compensation/wage provision located in Article 20 of the Agreement and the sole issue subject to Fact-finding was the wage re-opener. A Fact-finding hearing was held on December 19, 2012, at which time the Fact-finder invited the parties to enter into mediation pursuant to the Ohio Administrative Code and the Policies of SERB in an effort to find consensus on the issue of Wages/Compensation. The Parties were able to agree in principle on the need for a wage increase, but requested that the Fact-finder render his Report and Recommendation based upon the positions presented.

The Fact-finding proceeding was conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of the State Employment Relations Board, as amended. During the Fact-finding proceeding, this Fact-finder provided the parties the opportunity to present arguments and evidence in support of their respective positions on the issues remaining for this Fact-finder’s consideration. The parties waived the taking of a transcript.

In making the recommendations in this report, consideration was given to all reliable evidence presented relevant to the outstanding issue before him and consideration was given to the following criteria listed in Rule 4117-9-05 (K) of the State Employment Relations Board:

- (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 public service or in private employment.

## **I. BACKGROUND**

The Fraternal Order of Police, Ohio Labor Council, Inc. is the exclusive representative of the sole bargaining unit with Metro Parks, which unit is comprised of all regularly employed full-time Park Rangers who are regularly scheduled to work 40 hours or more per week for 52 weeks per year. There are 19 Park Rangers in the Bargaining Unit.

Metro Parks features seventeen natural area parks with more than 175 miles of trails and protects more than 27,000 acres of land and water in seven Central Ohio counties. Metro Parks is a separate political subdivision of the state of Ohio organized under Ohio Revised Code Section 1545 to conserve natural resources and provide natural area parks for people to enjoy. Setting Metro Parks' policy and directing the course of Park Metro Parks is a three-citizen Board of Park Commissioners appointed to three-year terms by the Judge of the Probate Court of Franklin County. Metro Parks employs approximately 165 full-time employees, which number includes the 19 Park Rangers who are members of the Bargaining Unit.

Metro Parks and the FOP first met to bargain the wage re-opener on October 4, 2012. The FOP requested a 6% wage increase for all bargaining unit members. The parties agreed to reconvene on October 10, 2012. Prior to the second meeting, Metro Parks submitted a counterproposal whereby each bargaining unit member would receive a \$.20 per hour increase effective the pay period beginning February 25, 2013, along with a lump sum payment of \$140 for each Bargaining Unit Member actively enrolled in the health benefit plan as of the pay period immediately following ratification. On October 10<sup>th</sup>, the parties met again to negotiate wages. The FOP rejected Metro Parks' proposal and instead proposed a new "10-year step system" whereby the current range of salaries for full-time rangers (\$16.18 to \$24.30) would be placed at the step commensurate with their number of years of service. In the event a bargaining-unit's current salary was higher than the proposed step, the member would go to the step that would provide an increase. In 2012, the bargaining unit members' years of service range from newly hired to 9 years of service and their current salaries range from \$16.34 - \$18.99. The FOP also requested additional pay for performing duties of a Field Training Officers; Officer-in-charge (of which no such program exists); recall to work; and court time.

The parties again met on October 17<sup>th</sup>. After analyzing the financial impact of the Union's proposal on Metro Parks, Metro Parks rejected the FOP's "10- year step system" proposal. Metro Parks then countered with an offer of a straight 1.5% increase for all bargaining unit members. The FOP rejected this proposal stating that it would accept only one of the following: (1) a 5-½% increase plus a lump sum payment of \$420 for those on the health benefit

plan without step increases; or (2) the implementation of a 10-year step system plus the lump sum of \$420.

Unable to resolve their differences, the issue of Wages/Compensation proceeded to Fact-finding.

**UNRESOLVED ISSUE**

**1. ARTICLE 20 – WAGES/COMPENSATON**

The Union’s Position

The Union proposed the following wage step system and lump sum payment at Fact-finding:

Section 20.1. Effective the first pay period in March of 2013, the following wage rate shall be applied to each bargaining unit employee according to their number of years of service with the Columbus and Franklin County Metropolitan Parks:

Years of service	Hourly Wage
Probationary	\$16.18
1	\$16.59
2	\$17.00
3	\$17.41
4	\$17.82
5	\$18.23
6	\$18.64
7	\$19.05
8	\$19.46
9	\$19.87
10	\$20.28

Additionally, effective the first pay period of March 2013, a payment of \$420.00 shall be paid to all Bargaining Unit members that are under the Insurance plan of the employer.

The Union argues that bargaining-unit Park Rangers are not being compensated

based upon their level of experience, which is standard in the industry. They have not received the level of increases as their non-bargaining unit peers at the Metro Parks and they have not received additional “bonuses” to offset the increased cost of their health insurance plan. The only way to correct these deficiencies is to establish a Wage Step System that increases each bargaining-unit employee’s hourly wage for each year of service with the Metro Parks and to treat the bargaining-unit employees equally with non-bargaining employees by providing a bonus or stipend to offset the increases in health insurance costs.

The Park Rangers are underpaid in comparison to their counterparts performing similar duties for other employers. The proposed step increases will result in a more comparable wage for all of the employees at their respective experience level.

While the Union recognizes that Metro Parks is facing declining revenues and increased expenses, it cannot argue that it does not have funds to pay increased wages to the Park Rangers. It has agreed to pay its non-bargaining employees an additional 2% increase, while it is only proposing to pay this unit a 1.5% increase.

The Union is only asking that its employees be paid fairly and that is not the case under the proposal of Metro Parks.

#### The Employer’s Position

The Employer proposes a wage increase of 1.5% per hour to each bargaining member’s base salary effective the pay period beginning February 25, 2013, and issued on the March 22, 2013 pay day.

While Metro Parks would like to provide greater wages increases for its employees for the outstanding work they perform, it is facing financial challenges that it has not experienced in decades. Its revenue sources have been deteriorating over the past 3 years. More recently, revenue has declined by approximately \$8.8 million (26%) from the 2010 actual to the 2013 budget.

Metro Parks' receives its sources of revenue from property taxes (a .75 mill levy), local government funds, golf course operations, government grants, operation of its park facilities, government partnerships investments, donations and bequests and other small miscellaneous sources. During the last several years, grant money and State and Federal funding for parks is declined and will continue to decline in the future. Funding from tangible personal property tax has completely disappeared. Property tax revenue declined 5.5% for Metro Parks in the past year. Local government funding has been reduced by 50% over the past two years and projections assume that the remaining 50% will be phased out as well. All of this will reduce Metro Parks' revenues by millions of dollars this year and into the future.

Adding any increased expenses only compounds the problems facing Metro Parks prior to the expiration of the current levy in 2019. Current projections indicate that before the end of the levy period in 2019, if proactive cost cutting is not undertaken, expenses will exceed revenue. Due to this reality, Metro Parks has set in motion plans for aggressive cost savings measures.

For many years, the Metro Parks has improved its parks through land acquisitions and capital improvements primarily from capital improvement funds. Because of systematic improvements over the years, Metro Parks has a truly unique Park System with which few other

states, if any, can compare. Metro Parks' commitment to its public has always been to realize its mission of "conserving open spaces while providing places and opportunities that encourage people to discover and experience nature." Due to the economic realities it is facing, Metro Parks' land and capital improvement budget, which historically has exceeded personnel costs, is being drastically cut from approximately \$18 million in 2010 to nothing beginning in 2018.

Wages are a large portion of Metro Parks' expenses. In 2013, personnel costs will comprise 54.3% of its budget. It is estimated that by the last year of the levy, personnel costs alone will exceed 75% of the budget. With projected lack of revenues and escalation of operational costs, including wages paid to employees, it is clear that Metro Parks must be proactive in cutting all expenses. All of the Metro Parks' employees were notified of the declining financial outlook and were informed that Metro Parks will continue to implement cost saving measures such as reducing the number of positions through attrition, and reallocating staff to locations where the need exists.

While cuts are being made, it is nonetheless imperative that Metro Parks' properties are maintained and remain open for the enjoyment of the public. To accomplish this, Metro Parks recognizes the necessity of paying its employees, who play a valuable role in maintaining the facilities, adequate and fair wages. In light of this, all of its non-bargaining employees were informed that they would receive increases in wages in the coming year on a merit basis. The Board of Park Commissioners approved merit increases of 2% or 50¢ per hour (whichever is greater) to eligible full-time employees who receive at least an "Achieves" rating on the annual performance evaluation in 2013. Metro Parks also proposed increasing the wages of the members

of its Park Ranger bargaining unit, but argues that it cannot afford the level of increases sought by the members in this wage re-opener.

Metro Parks cannot afford to award the bargaining-unit employees the step increases they desire. The cost of implementing the Union's proposal for wages only, without any other bonuses sought, amounts to \$6,631,976 over the remaining levy period (2013-2019). The current state of the economy, public opinion and the future uncertainty of revenues will not permit Metro Parks to approve a step system that guarantees wage increases for the next 10 years. While the Metro Parks wants each bargaining-unit member to receive a fair and comparable wage increase to his or her peers at Metro Parks, the Union's proposal would provide increases of approximately .85% to over 5%, depending on the bargaining unit member's placement in the step. Importantly, bargaining unit members with more years of service would receive significantly higher percentage of increases than those with fewer years of service, and those senior bargaining unit members would receive greater increases than members that received Outstanding Performance Ratings in the years prior to unionization.

#### Discussion, Findings and Recommendation

The Fact-finder draws four primary conclusions from the evidence provided,: (1) revenues will predictively decline and expenses will increase in the short term for the Metro Parks; (2) Metro Parks values its commitments to the community to provide world-class places and opportunities that encourage people to discover and experience nature and has taken steps to maintain its assets, which includes keeping capable employees through the payment of fair and comparable wages; (3) establishing a wage step scale for bargaining unit members during re-

opener discussions for the last year of a collective bargaining agreement is fundamentally unsound; and (4) providing some form of parity in determining increased wages and benefits provided to employees by an employer is in the public interest and in the interest of overall employee morale.

Evidence presented indicates that the largest declines in Metro Parks' revenues have primarily occurred over the last three years, will dip further in the next two years and begin to stabilize through the remaining years of the current levy (which will expire in 2019), assuming economic conditions remain stable. It is predictable that operational expenses will increase, including personnel costs, so any increases in wages and benefits to employees must take into consideration these economic factors.

While Metro Parks' aggressive plan to tackle a \$10.8 million shortfall by 2014<sup>1</sup> involves many cuts, it has committed to paying its employees a fair wage and benefits package in order to deliver services to the public. That is sound management. It demonstrated this commitment by approving merit increases of 2% or 50¢ per hour (whichever is greater) to eligible full-time employees who receive at least an "Achieves" rating on the annual performance evaluation in 2013. This increase did not include the current bargaining unit, for the Park Ranger's collective bargaining agreement provided for a wage re-opener to determine wages in 2013.

The Union's request for a new wage step system in the last year of their collective bargaining agreement, during re-opener negotiations, is not fundamentally sound for several reasons. A re-opener is designed to take into consideration economic changes over the life of the current collective bargaining agreement; it is not designed to change the method of

compensation, i.e. step increases, longevity and other forms of automatic built-in increases, which are more appropriate subjects in negotiating a new collective bargaining agreement. Secondly, once a wage step schedule is adopted, it results in ongoing obligations of the employer to fund wage increases well beyond the life of the current collective bargaining agreement. That is rarely an appropriate action in a re-opener negotiation. Finally, the re-opener negotiation should focus on the current economic reality to determine if a wage increase is appropriate based upon changed economic circumstances from the time the current collective bargaining agreement was ratified. The Union will have the opportunity to reintroduce this concept, if it so chooses, in the negotiations of a new collective bargaining agreement.

While a wage step schedule is inappropriate at this time, the evidence supports an increase in wages to the bargaining-unit members. Metro Parks has agreed to increase the wages of its non-union employees under its current merit system. While those employees must receive at least an “Achieves” rating on their annual performance evaluation to receive the increase, it is likely that most will receive an increase. With 146 other full-time employees eligible for this increase in 2013, not only can Metro Parks afford to pay these 19 bargaining-unit members a wage increase, it is the right thing to do under the fundamental concept of parity within the employment group.

A wage increase for this bargaining unit comparable to that of the other employees is appropriate and such an increase is in the public interest.

Evidence reveals that other Metro Parks’ employees were given a bonus or stipend to offset the cost of their increased health insurance premium contributions over the last year. The

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<sup>1</sup> Revenues in 2010 were \$33.6 Million and revenues are projected to be \$22.8 Million in 2015.

bargaining-unit members did not receive any similar “bonus” because their wage package was set in the collective bargaining agreement prior to the decision to provide the additional benefit. In this re-opener, it is only fair to provide a similar benefit to the members of this bargaining unit.

The Fact-finder recommends that the appropriate wage increase for the Park Rangers be an additional 50¢ per hour to their base salary in 2013. This increase would be effective February 25, 2013, and would appear in the employee’s paycheck on March 22, 2013. While other employees will be given merit increases of 2% of 50¢ per hour, whichever is greater, it appears that the 50¢ per hour is a more beneficial rate increase to the bargaining-unit members and most appropriate. Additionally, the Fact-finder recommends that each bargaining-unit employee actively enrolled in Metro Parks’ health benefit plan should receive a lump sum payment of \$140 to offset the insurance premium contribution costs that they have incurred. This lump sum payment should be paid the first pay period after acceptance or ratification of this Recommendation.

### **RECOMMENDATION**

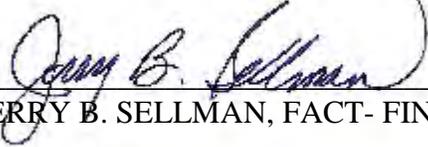
**It is recommended that wages of the bargaining-unit members be increased by an additional 50¢ per hour in 2013. This increase would be effective February 25, 2013 and would appear in the employee’s paycheck on March 22, 2013. Further, it is recommended that each bargaining-unit employee actively enrolled in Metro Parks’ health benefit plan should receive a lump sum payment of \$140 to offset the insurance premium contribution**

**costs that they have incurred. This lump sum payment should be paid the first pay period after acceptance or ratification of this Recommendation.**

**CONCLUSION**

In conclusion, this Fact-finder hereby submits the above referenced recommendation on the outstanding issue presented to him for his consideration.

January 2, 2013

  
JERRY B. SELLMAN, FACT- FINDER

## CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the Fact-finder's Report was sent by E-mail on January 2, 2013 to:

SERB

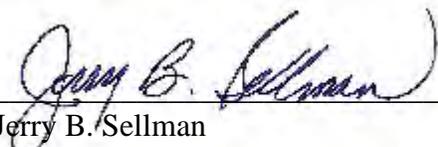
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