

STATE OF OHIO  
BEFORE THE OHIO STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Fact Finding : SERB Case Numbers: 12-MED-10-1263  
: 12-MED-10-1264  
Between the : 12-MED-10-1265  
:  
UNION COUNTY, OHIO SHERIFF, :  
:  
Employer :  
and the : Date of Fact Finding Hearing:  
: January 29, 2013  
:  
FRATERNAL ORDER OF POLICE, :  
OHIO LABOR COUNCIL, INC., :  
:  
Union : Howard D. Silver, Esquire  
: Fact Finder

REPORT AND RECOMMENDED LANGUAGE OF THE FACT FINDER

APPEARANCES

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## PROCEDURAL BACKGROUND

This matter came on for a fact finding hearing on January 29, 2013 at 9:00 a.m. in a conference room at the Union County Sheriff's Department, 221 West Fifth Street, Marysville, Ohio 43040. At the hearing both parties were afforded a full and fair opportunity to present evidence and arguments in support of their positions. Following the parties' presentation of evidence and arguments, the hearing record was closed at 12:07 p.m. on January 29, 2013.

This matter proceeds under the authority of Ohio Revised Code section 4117.14(C) and in accordance with Ohio Administrative Code section 4117-9-05. Both parties satisfied their respective obligations in carrying out pre-hearing procedures. Prior to the hearing both parties provided to the fact finder their positions on the unresolved issues raised by this fact finding case. This matter is properly before the fact finder for the issuance of a report and recommended language.

## FINDINGS OF FACT

1. The parties to this fact finding case, the Union County, Ohio Sheriff, the Employer, and the Fraternal Order of Police, Ohio Labor Council, Inc., the Union, are parties to three collective bargaining agreements that cover the three bargaining units addressed by this fact finding – full-time dispatchers in the red unit, with a contract that expires December 15, 2013; full-time deputy sheriffs in the blue unit, with a contract that expires December 31, 2013; and sergeants and corporals in the gold unit, with a contract that expires November 30, 2013.
2. The red unit contains thirteen full-time dispatchers; the blue unit contains twenty-three full-time deputy sheriffs; the gold unit contains four full-time sergeants.

3. The red unit is designated SERB case number 12-MED-10-1264; the blue unit is designated SERB case number 12-MED-10-1263; the gold unit is designated SERB case number 12-MED-10-1265.
4. This fact finding procedure arises from a reopener provision in each of the three current collective bargaining agreements between the parties, each calling for reopened bargaining on wages and shift differential.
5. The parties have agreed to retain current language on shift differential.
6. The parties have been unable to reach agreement on wages through reopened bargaining.
7. The Union County, Ohio Sheriff employs fifty-two employees of whom forty are bargaining unit members.
8. The parties bargained under the reopener provisions in good faith on October 10, 2012 and October 17, 2012.

## DISCUSSION AND RECOMMENDED LANGUAGE

### Shift Differential

At the fact finding hearing the parties agreed to retain current language about shift differential in each of the three collective bargaining agreements. The fact finder recommends the retention of current language on shift differential for each of the bargaining units.

Recommended Language: Shift Differential

Red Unit – Dispatchers – Article 23, section 23.6 - Retain current language.

Blue Unit – Deputy Sheriffs – Article 24, section 24.12 - Retain current language.

Gold Unit – Sergeants and Corporals – Article 24, section 24.7 - Retain current language.

### Wages

The Union has proposed a three percent (3%) across the board wage increase to be effective January 1, 2013 among all three bargaining units - dispatchers, Article 23, section 23.1; deputy sheriffs, Article 24, section 24.1; and corporals and sergeants, Article 24, section 24.1. In each collective bargaining agreement among these bargaining units the Union proposes the retention of current language in Article 23, sections 23.2 through 23.9 of the dispatchers' Agreement; Article 24, sections 24.2 through 24.12 of the deputies' Agreement; and Article 24, sections 24.2 through 24.10 of the corporals and sergeants' Agreement.

The Union compares the wages paid to the Union County Sheriff Department's bargaining units to comparable positions in 2012 and 2013 in political subdivisions in the general vicinity of Union County. These political subdivisions are the city of Delaware, Delaware County, the city of Dublin, the city of Marysville, and the city of Powell.

Dispatchers working for Delaware County in 2012 were paid at \$21.00; dispatchers working for the city of Marysville in 2012 were paid at \$21.75; Union County dispatchers in 2012 were paid at \$21.81; dispatchers working for the city of Dublin were paid at \$27.52. The average dispatcher salary among the political subdivisions cited by the Union is \$23.42 in 2012 and \$24.04 in 2013, leaving Union County dispatchers in the red unit \$1.61 behind the average wage for dispatchers in 2012, 6.82% of the 2012 average, and \$1.58 behind the average wage for dispatchers in 2013, 6.57% of the 2013 average if the red unit were to receive the 3% wage

increase effective January 1, 2013 proposed by the Union. Without the 3% January 1, 2013 wage increase proposed by the Union, Union County dispatchers would lag behind the 2013 average wage for dispatchers by \$2.23, 9.29% of the 2013 average.

It is noted that the appropriated funds for the salaries needed to operate the 911 center in 2012 amounted to \$703,700 but only \$507,106 of this appropriated amount was spent, leaving an unspent appropriation of \$196,594. The Union notes that in 2012, in a budget totaling \$1,135,255, only \$817,240 was spent and unspent funds in the amount of \$398,601 were returned. The Union argues that this carryover provides more than sufficient funds to provide a 3% wage increase to the dispatchers.

When the Union County deputy sheriffs' pay in the blue bargaining unit, with a pay level of \$26.80, is compared to the city of Delaware, Delaware County, the city of Dublin, the city of Marysville, and the city of Powell, whose average salary level in 2012 was \$34.02, it can be seen that the Union County deputy sheriffs lag behind the 2012 average wage for deputies by \$7.22, 21.22% of the 2012 average.

In 2013, city of Delaware deputies were to receive a 2.0% wage increase; Delaware County deputy sheriffs were to receive a 2.25% wage increase; city of Dublin deputies were to receive a 3.0% wage increase; city of Marysville deputies were to receive a 3.0% wage increase, and city of Powell deputies were to receive 2.0% wage increase. The 2013 wages among deputies employed by the city of Delaware, \$34.52; Delaware County, \$30.52; city of Dublin, \$39.53; city of Maysville, \$35.07; and city of Powell, \$34.65, present an average 2013 deputy salary of \$34.86, with Union County deputies, in the absence of a 2013 wage increase, left at \$26.80, \$8.06 less than the 2013 average wage for deputies, 23.12% of the 2013 average. With

the 3% wage increase proposed by the Union, Union County deputy sheriffs would lag behind the 2013 average wage for deputies by \$7.26, 20.83% of the 2013 average.

For sergeants, the Union presents salary data for 2012 and 2013 among the city of Delaware, Delaware County, the city of Marysville, the city of Dublin, and the city of Powell. The 2012 salaries for sergeants in the city of Delaware, \$38.92; Delaware County, \$33.48; the city of Dublin, \$44.72; the city of Marysville, \$34.05; and the city of Powell, \$38.73, produce an average 2012 sergeant salary of \$37.98. With Union County Sheriff Sergeants at \$31.26, Union County Sergeants lag behind the 2012 average wage for sergeants by \$6.72, 17.69% of the 2012 average.

For 2013, the Union points out that the city of Delaware has promised its sergeants a 2% wage increase, to \$39.70; Delaware County has promised its sergeants a 2.1% wage increase, to \$34.18; the city of Dublin has promised its sergeants a 3% wage increase, to \$46.06; the city of Marysville has promised its sergeants a 3% wage increase, to \$35.07; and the city of Powell has promised its sergeants a 2.5% wage increase, to \$39.68. These 2013 sergeant salaries produce an average 2013 sergeant salary of \$38.94, and in the absence of the January 1, 2013 3% wage increase proposed by the Union, Union County sergeants would remain at \$31.26, lagging behind the 2013 average wage for sergeants by \$7.68, 19.72% of the 2013 average.

The Union points out that in 2010 the Union County Sheriff returned to the Union County General Fund unspent appropriated funds in the amount of \$678,831, and in 2011 the Union County Sheriff returned \$421,404 in unspent appropriated funds to the Union County General Fund.

The Union presented recent newspaper articles from the *Marysville Journal-Tribune*, a newspaper of general circulation in Union County, wherein various local office holders and

experts are quoted predicting an improved economy in Union County. In ThisWeek Community News published on January 7, 2013 a Union County Commissioner is quoted as saying that the Union County Commissioners would very much like to build raises for their employees into the permanent budget.

The Union notes that at the conclusion of 2012 the Union County Commissioners had a nine million dollar unencumbered carryover for 2013. The Union points out that sales tax for Union County is 17% higher than had been predicted by the independent contractor employed by the Union County Commissioners to evaluate Union County's financial situation. This independent contractor, Bob Fry, stated that sales tax in Union County was more than 17% higher than he had predicted, unemployment in the County is low, and people with jobs are spending. Mr. Fry is of the opinion that the public feels better about the economy in Union County and projected Union County revenue of \$18.015 million dollars in 2013.

The Union argues that there are sufficient funds available for the modest wage increase proposed by the Union for 2013, a 3% across the board wage increase for all three bargaining units. The Union points out that all three bargaining units joined in the effort to meet the financial hardships that arose from a recession that began in 2007. All three bargaining units shared in the sacrifices needed to meet the shrinking resources available to operate Union County and its Sheriff's Office.

The Union contends that the sacrifices accepted by the bargaining units during lean times qualify the bargaining units to share in the additional revenues available to Union County during times of an expanding economy. The Union argues that this is an appropriate time to provide a modest wage increase to the bargaining units so as to avoid lagging farther behind the wages paid by political subdivisions in the vicinity of Union County.

The fact finder is urged by the Union to recommend a 3% across the board wage increase for each of the three bargaining units effective January 1, 2013 and retain unchanged the remainder of the language within the Articles addressing wages in each of the three collective bargaining agreements.

The Employer, the Union County Sheriff, does not agree to the 3% wage increase proposed by the Union.

The Union County Sheriff's Office is funded through the Union County General Fund at the direction of the Union County Board of Commissioners. It is noted on behalf of the Employer that it is traditional among agencies funded by the Union County Commissioners that some percentage of each agency's appropriated budget at the end of the year be returned unspent to the Union County General Fund.

The Employer notes that the non-organized employees of the Board of Union County Commissioners have not had a wage increase in five years. It is noted that while the economy in the area has produced greater confidence, the projected increases in Union County revenue have not as yet been realized by the Union County Sheriff's Office in increased appropriations.

The Employer points to the appropriations and expenditures for the Union County Sheriff's Office from 2007 through 2012, an appropriation in 2007 of \$4,705,434 that increased to \$5,018,429 in 2008, decreased to \$4,984,428 in 2009, decreased to \$4,887,424 in 2010, decreased to \$4,516,524 in 2011, and decreased to \$4,143,754 in 2012. The shape of the curve that mirrors the rise and decline of appropriations for the Union County Sheriff's Office from 2007 through 2012 is the same curve produced by tracking the expenditures for the Union County Sheriff's Office for each of the years from 2007 through 2012, rising and then decreasing in the same ratios as had occurred with appropriations. The appropriation in 2012 was 11.81%

less than the appropriation in 2007. This same curve may be seen when tracking salary and benefit expenditures during these years, 2007 through 2012.

The Employer points out that the budget for 2013 for the Union County Sheriff's Office, when compared to the prior year, 2012, is flat, neither increasing nor decreasing substantially. The Employer argues that what has been appropriated by the Union County Commissioners for 2013 for the Union County Sheriff's Office is based upon what was spent by the Union County Sheriff's Office in 2012, not what was appropriated for the Union County Sheriff's Office in 2012.

The Employer points out that in the Union County Sheriff Office's budget for 2012, with appropriations amounting to 4.4 million dollars, \$60,864 was returned unspent to the Union County General Fund at the end of the year, 1.4% of the Union County Sheriff Office's appropriated budget for 2012.

The Employer points out that the appropriated budget for 2013 for the Sheriff's Office, Employer's Exhibit 5, does not present \$120,000 in health care coverage costs that will be required to be included in this budget.

The Employer points to wages by position compared to income benchmarks in 2011 in Union County that show *per capita* income of \$27,608, median earnings for workers of \$35,638, and median household income amounting to \$64,509. Union County dispatchers at their top step are paid \$45,365; Union County deputies at their top step are paid \$55,744; Union County sergeants at their top step are paid \$65,021; Union County administrators at their top step (non-union) are paid \$54,935; the Commander of the Patrol Division (non-union) is paid \$64,875; and the Chief Deputy (non-union) is paid \$68,141.

Within Employer's Exhibit 6 is 2011 payroll data for the Union County Sheriff's Office presenting salaries, overtime, compensatory time, holiday pay, and shift differential. The top paid sergeant on this listing is paid a total of \$66,917; the top paid deputy on this listing is paid a total of \$62,461; the top paid dispatcher on this listing is paid a total of \$57,306.

Employer's Exhibit 7 presents the growth in bargaining unit wages in comparison to non-bargaining unit wages and the consumer price index, from 2002 through 2011. Total growth in inflation from 2002 through 2011 was 20.41%; the increase in Union County non-union employees' pay from 2002 through 2011 was 23%; the total growth in Union County Sheriff's Office deputies and sergeants' pay from 2002 through 2011 was 40.40%; and the total growth in Union County dispatchers' pay from 2002 through 2011 was 43.40%.

The Employer, in Employer's Exhibit 8, compares Union County to other Ohio counties that have populations comparable to the population of Union County. Union County's population is 52,300. The Ohio counties compared to Union County by the Employer have populations that are within twenty thousand of Union County's population of 52,300. The Ohio counties compared to Union County by the Employer have populations ranging from 32,058 in Hardin County to 70,354 in Belmont County. Delaware County and Franklin County are listed, with populations of 174,214 and 1,163,414, respectively. The Employer points out that the wages of Union County sergeants, deputies, and dispatchers are above all comparable positions except positions in Delaware County and Franklin County. See Employer's Exhibits 9 and 10.

The Employer points out that Union County levied \$1,504,212 in tangible personal property taxes in 2007; this amount was reduced by more than one-half to \$677,352 in 2008; was reduced further to \$31,083 in 2009; was reduced to \$14,433 in 2010; and in 2011 and 2012 Union County's revenue from tangible personal property taxes had been zero.

The Employer points out that the local government fund, a source of revenue for Union County from 2007 through 2012, produced to the benefit of Union County in 2007, \$1,471,641; in 2008, \$1,784,364; in 2009, \$1,549,545; in 2010, \$1,535,693; in 2011, \$1,534,656; and in 2012, \$1,096,388.

The Employer contends that the Employer has formulated policies that have intended to avoid as much as possible layoffs in the bargaining units addressed by this fact finding. It is noted that the Union County Department of Job and Family Services laid off thirteen employees; the Union County Commissioners laid off one of their three staff members; the Maintenance and Risk Department laid off one person.

The Employer agrees that there are reasons to be optimistic about the economy of Union County and the economy in the region. The Employer points out, however, that the anticipated gains from the increased economic activity in the region have not yet been realized by Union County. The Employer contends that attention to the infrastructure of Union County, which has been postponed due to the downturn in the County's finances, demands attention at this time. The Employer argues that while wage increases are desirable, they are not fiscally feasible at this time. The Employer emphasizes the sacrifices shared by all employees of Union County and urges that the fact finder leave the language of the parties' collective bargaining agreements unchanged, thereby recommending no wage increase for 2013.

The comparable positions presented by the parties are different because the parties have applied different metrics in determining which political subdivisions are to be compared to Union County's dispatchers, deputies, sergeants, and corporals. In the case of the comparable positions presented by the Union, proximity to Union County is the overriding factor applied, comparing both municipal and county positions to the Union County positions.

The Employer does not use proximity to Union County as the overriding factor in determining what positions to compare to Union County dispatchers, deputies, sergeants, and corporals. The Employer limited its comparable positions to the same type of political subdivision to which the positions are to be compared, a county. The Employer compared counties with populations within 20,000 of the population of Union County, 52,300.

The comparable positions presented by the Union show the collective bargaining units at issue in this proceeding to be lagging behind the average of the city of Delaware, Delaware County, the city of Dublin, the city of Marysville, and the city of Powell, with most of the difference arising from the substantially higher wages paid by the city of Dublin in comparison to the other political subdivisions cited. In the case of deputies, sergeants, and corporals, the discrepancy is particularly obvious.

Using the comparable positions presented by the Employer, the Union County bargaining unit members lead in wages, exceeded only by Franklin County and Delaware County, counties with much higher populations than Union County that are very different from Union County.

The fact finder finds no flaw in either grouping of comparable positions. The parties emphasize different factors and reach different conclusions. The Union favors geographic proximity to Union County over the type and size of political subdivisions to be compared to Union County; the Employer's comparable positions emphasize a similar size and type of political subdivision to be compared to Union County, comparing a county to a county, and comparing Union County to counties with populations ranging from 32,300 to 72,300.

The fact finder finds the presentations of the parties to have been logical, reasonable, and persuasive. The fact that the parties' presentations lead to different conclusions does not mean that either of the positions is illogical or untrue or wrong.

Beyond the comparable positions presented by the parties, the fact finder is impressed by the broad application of belt tightening to all employees of Union County, organized and non-organized, in meeting the challenges of a national recession, a reduction in revenue for the operation of Union County and its Sheriff's Office, and increasing health care coverage costs. The Union's arguments as to the 2013 unencumbered carryover are accurate but focus exclusively on the short-term. The carryover figure must be understood in the context of fiscal facts presented in the hearing record that date to 2007, the beginning of the national recession. A substantial part of the 2013 carryover relates directly to needed capital improvements that were not accomplished due to shrinking resources. These needed capital improvements remain undone, thereby saving the cost of their performance, but these needed capital improvements are now becoming even more urgent.

The three bargaining units addressed by this fact finding proceeding responded positively to sacrifices requested of them in contributing to the maintenance of the operation and administration of the Union County Sheriff's Office during a time of falling revenue and rising expenses. These sacrifices were agreed in recognition of the necessity of forgoing wage increases and these sacrifices have been shared by all employees of Union County.

There is a preponderance of evidence in the hearing record that encourages confidence in the return of more robust economic activity in Union County and the benefits that flow from an improved economy. The fact finder understands the urgency of the arguments made by the Union as to the fairness of benefitting bargaining unit members who have made sacrifices and now wish to share in the increased good fortune of Union County.

The fact finder's difference with the Union's position on wages is limited to a single point, that being whether effective January 1, 2013 Union County's General Fund and the

monies available to staff and operate the Union County Sheriff's Office are sufficient for the wage increases proposed by the Union. The fact finder agrees that Union County is moving in the direction of having the wherewithal to underwrite a wage increase for the three bargaining units in question. The fact finder is not persuaded that the public funds necessary for such a wage increase are available at this time and finds an insufficient factual basis upon which to recommend the wage increase proposed by the Union to be effective January 1, 2013.

The fact finder does not recommend a wage increase for the three bargaining units at issue in this proceeding under the 2013 wage reopener language.

Recommended Language: Wages

Red Unit – Dispatchers – Article 23, section 23.1 – Retain current language.

Blue Unit – Deputy Sheriffs – Article 24, section 24.1 – Retain current language.

Gold Unit – Sergeants and Corporals – Article 24, section 24.1 – Retain current language.

In making the recommendations presented in this report, the fact finder has considered the factors listed in Ohio Revised Code sections 4117.14(G)(7)(a) to (f), as required by Ohio Revised Code section 4117.14(C)(4)(e) and Ohio Administrative Code section 4117-9-05(K).

Howard D. Silver

Howard D. Silver, Esquire  
Fact Finder

Columbus, Ohio  
March 5, 2013

CERTIFICATE OF FILING AND SERVICE

I hereby certify that the forgoing Report and Recommended Language of the Fact Finder in the Matter of Fact Finding Between the Union County, Ohio Sheriff and the Fraternal Order of Police, Ohio Labor Council, Inc., SERB case numbers 12-MED-10-1263, 12-MED-10-1264, and 12-MED-10-1265, was filed electronically with the Ohio State Employment Relations Board at [MED@serb.state.oh.us](mailto:MED@serb.state.oh.us) and served electronically upon the following this 5<sup>th</sup> day of March, 2013:

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