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IN THE MATTER OF FACT FINDING

BETWEEN

THE SUMMIT COUNTY ENGINEER'S OFFICE

AND

AFSCME, OHIO COUNCIL 8 AND LOCAL 1032

**SERB CASE # 2013-MED-01-0066
(Service and Maintenance Unit)**

Robert G. Stein, Fact-finder

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INTRODUCTION

The parties to this matter are AFSCME Ohio Council 8, Local 1032 (hereinafter "Union") and the Summit County Engineer's Office (hereinafter "Employer," "Engineer" or "County"). The Employer is located in northern Ohio. The bargaining unit is comprised of approximately fifty-five (55) employees who hold various positions in the Employer's Service and Maintenance Department as identified in the Collective Bargaining Agreement.

General/State/Local Economic Overview: Caution and disquiet appear to be an apt characterization of the state of the current international, national and the local economies. The economy is improving but the improvement is uneven, some people survived and recovered well from the effects of the "great recession," others did not and either remained unemployed, underemployed and have often experienced a substantial reduction in their wealth. The uncertainty appears to be due to a variety of factors, both economic and political. An example of uncertainty that is both economic and political in nature is the condition commonly known as the "Sequester." It replaced the "fiscal cliff" that dominated the airwaves in December and early January, causing continued uncertainty. The Sequester has begun in a seemingly quiet way, but with no immediate hope of resolving what is predicted to become a drag on the economy in the not too distant future. However, as time goes on the effects will become apparent and will have a real life impact in northern Ohio (e.g. Head Start Programs are being cut, Cleveland Airshow being cancelled, teachers positions will likely be cut, military contract employees furloughed or laid off, etc.). Another example of disquiet is on the international front in terms of strife in Syria, Egypt, Turkey, Iran, and Iraq, with threats of instability to other countries such as Jordan being predicted. And, the debt problems in European countries, even relatively small ones such as Greece, can undermine the U.S. and have an adverse effect on Ohio's economy, regardless of the best efforts of Ohio's leaders to sustain economic growth and reduce unemployment.

At this time the economy in Ohio does continue to show signs of steady improvement from

a very long and severe national recession, 32,000 jobs were added to Ohio's economy in May and Ohio's jobless rate is at 7%. (ABJ, 5/22/13) Additionally, an increase in job seekers being offered multiple job offers is taking place compared to the recent past. However, the job gains are slower than occurred in 2012 and there is still a long way to go to make up for the over 400,00 jobs lost in the last 12+ years, many of which paid well and had good benefits. Yet, as previously stated, Ohio's economy is susceptible to the financial health of the United States and the world. A third area of uncertainty is the advent of the Affordable Care Act and its implications for hiring full-time workers versus part-time workers, in addition to many other uncertainties for employers and employees. A fourth is the general gridlock in Washington D.C., beyond the Sequester issue, that fuels increasing concern over inaction on matters that may also slow the economy, such as addressing a growing national debt, keeping Medicare and Social Security solvent, reducing unemployment, and creating jobs that pay a living wage. One only has to view the limited opportunities available to recent high school and college graduates to find evidence that a "good" job with "good benefits" remains hard to find, unless you happen to be educated or trained in one of the few areas of high demand. There are positive signs, the housing market continues showing signs of recovery and the auto industry has had record sales this spring. Yet, uneasiness persists with some twelve (12) million people remaining unemployed, and many others underemployed. And as previously stated, the recovery is uneven, depending upon location. The Summit County Engineer's office is well managed but faces financial challenges, as do many engineers offices in the state of Ohio. Underscoring that financial challenge is the fact that Summit County has a current deficit of approximately 1.36 million dollars and has had to take some difficult steps in adjusting to a world of less revenue from local and state sources.

In negotiations the parties agreed upon a Wage reopener for the second (2013) and third (2014) year of the Agreement, and they submitted one issue to fact finding, Article 18 Wages, and that is what is before the fact finder. The Engineer's contract is the last contract in the contract cycle that includes all the unions in the County. The funds to operate the Engineer's Office do not come from the General Fund.

The single item specifically addressed by the fact finder in this report is based upon the evidence and arguments proffered by the Union and the Employer. The recommendations contained in this report are intended to conform to the statutory criteria that all fact finders must follow.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

The recommendations contained in this report are listed in accordance with Articles that were open and the subject of mediation. For the sake of brevity the specific rationale proffered by the parties can be found in their position statements.

However, in summary the parties' positions on the issues of wages are as follows:

Summary of Employer's Position on Wages. The Employer proposes no increase for 2014 and a 1.5% increase for 2015, which is the patterned settlement in the County. The Employer strongly argues that County revenues during the past several years have been severely impacted by the "Great Recession" with a subsequent decline in revenue from some 111 million dollars in 2008 to approximately 95 million dollars in 2012, while expenses have remained the same or have increased. In response to this decline the County has implemented a County-wide hiring freeze, cut budgets of departments in 2009 and 2010, offered voluntary severance packages in 2009, disapproved COLA increases for non-bargaining unit employees, and in 2009 instituted furlough (or cost saving days, "CSD") days for most union and non-union employees, with a few exceptions, one of those being the Engineer's Office. Unlike most employees in Summit County, no employees in the Engineer's Office has had to have his/her pay reduced under the CSD plan. The Employer asserts that 2009, 2010, and 2011 were three of the worst recessionary years that the County has experienced in a long time. Despite the financial hardship experienced in the County, the Engineer honored the 3% increase for the bargaining unit, while other County employees agreed to no increase in wages for 2011, argues the Employer. The bottom line argument proffered by the Employer is that the bargaining unit should accept what has become the pattern in bargaining with all the unions in the County that preceded it. See the Employer's complete arguments submitted by the Engineer's Office in its position statement.

Summary of Union's Position on Wages. The Union proposes a 4% wage increase beginning April 1, 2013 and a re-opener in the third year of the Agreement. However, during the fact finding hearing, the Union indicated its willingness to accept a 4% lump sum payment in lieu of a 4% wage increase in year two of the Agreement, along with its original proposed re-opener for year 3. It cites the fact that the Engineer's Office has a separate

funding source and is not dependent upon the General Fund, and that the Engineer's Office has a cushion of 12-15% in its budget for emergencies. The Union also points out that another small local union in the County, Local 18, has a me-too clause, which is counter to the Employer's argument that all unions in the county follow a pattern. The Union also states that although bargaining unit employees did not have to reduce their pay through the imposition of CSD days, the bargaining unit did suffer layoffs during the recessionary years mentioned above. Finally, the Union points out that some 14 non bargaining unit employees will be receiving a 2.5% increase, although 4% was originally proposed. (See Ux. 4)

Fact-finder's overall Findings.

Patterned bargaining in negotiations is a time tested tradition. In the history of bargaining generally, both labor and management use patterned bargaining to bring about equity and labor peace. Probably the most well-known patterned negotiations occur in the American auto industry, where the Union negotiates with one of the big three auto makers and then takes the pattern into negotiations with the remaining two companies. But in the public sector in Ohio patterned bargaining is often in play, particularly with employers that have several bargaining units. While there have been some recent different wage settlements with the bargaining unit versus others in the County (most notably in 2011, when the bargaining unit received a 3% increase, while others received no increase), it appears that the parties have had a long history of applying patterned bargaining to their settlements. While I understand the sometimes frustration of being "last" in rounds of bargaining, it can either have its benefits or consequences depending upon settlements or fact finding/conciliation findings that precede it. It is not the funding source that is often

controlling in these matters, but rather it is internal equity that takes on great significance in maintaining comparable labor peace among all bargaining units under one employer.

The issue of the 14 employees who are slated to receive a 2.5% increase is not a matter of comparing “apples to apples” in that these employees, unlike those of the bargaining unit, have not had an increase in pay since 2008. (Ux. 4) What the Employer is proposing is more strongly supported by the statutory criteria stated above that emphasizes past collective bargaining agreements, comparisons, and the interest and welfare of the public.

RECOMMENDATIONS:

Article 18 Rates of Pay-Section 18.4 Classification Pay Rates:

- **Maintain wages with no increase for 2013**
- **1.5% increase effective April 1, 2014**

TENTATIVE AGREEMENT

Any tentative agreements reached by the parties as well as any current language that is not changed or not addressed above shall be considered to be recommended in the successor Collective Bargaining Agreement.

The fact finder respectfully submits the above recommendations to the parties this ____ day of July 2013 in Portage County, Ohio.

Robert G. Stein, Fact finder