

IN THE MATTER OF FACT FINDING PROCEEDINGS

Allen County Sheriff)	Case No.:	2013-MED-02-0119
)		
and)		
)	Hearing Date:	August 8, 2013
)		
Fraternal Order of Police/ Ohio Labor Council, Inc.)	Findings and Recommendations	

Representing the Employer: Benjamin S. Albrecht, Esq.
Attorney

Representing the F.O.P.: Andrea H. Johan
Staff Representative

Michelle Miller-Kotula
Fact-Finder

SUBMISSION

This matter concerns the fact-finding proceedings between the Allen County Sheriff (hereafter referred to as the "Employer") and the Fraternal Order of Police/Ohio Labor Council, Inc. (hereafter referred to as the "Union"). The State Employment Relations Board (SERB) duly appointed Michelle Miller-Kotula as fact-finder for this matter.

The fact-finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law, and the rules and regulations of the SERB, as amended. The Employer and Union previously engaged in the collective bargaining process before the appointment of the fact-finder.

Prior to the hearing, the parties submitted detailed position statements to the fact-finder in accordance with the Ohio revised code. These statements have been received and carefully considered. The fact-finding occurred on August 8, 2013. Subsequent to the conclusion of fact-finding, the parties agreed to extend the submission of this report. The following issue was considered during fact-finding.

Issue No. 1

Wages Rates

Article 18, Section 18.1, Appendix A

Employer Position

With respect to wages, the Employer proposes to maintain the current language with no wage increase for the 2013 re-opener. The Employer contends the parties recently received the fact-finding report and recommendation on the same issue for two other bargaining units in the Allen County Sheriff's Office, represented by the F.O.P, the

Gold and Support Units. In those fact-finding proceedings, the Employer made the proposal for no wage increases for 2013.

The fact-finder to that case found no wage increase was warranted. The Employer notes the bargaining units in the prior matter are significantly smaller than this bargaining unit. The Employer states the fact-finder carefully reviewed the data presented and recommended no increase for 2013. The Employer contends the prior fact-finder heard much if not all of the same evidence that was presented to this fact-finder.

The Employer recognizes the employees in this bargaining unit have not received an increase to their base wage rate during the life of the collective bargaining agreement (CBA). The Employer notes the wage freeze resulted because of the impasse procedure giving rise to the current CBA. The Employer states when the parties moved to binding conciliation in 2011 the Conciliator ordered no wage increase for 2011 and a reopener in 2012. The Employer contends in 2012 the parties agreed to a lump sum payment of \$400.00 for each employee and a wage re-opener in 2013. The Employer takes the position the current economic conditions in the County are very similar to the conditions in 2010 when no wage increase was awarded.

The Employer points out although it proposes a zero percent increase for 2013, the employees eligible for longevity and/or step increases would receive an increase. Thus, if applicable, employees would experience a modest increase due to either moving through the steps and/or the longevity scale.

It is the Employer's position its zero percent wage increase is based upon the current economic concerns and trends related to the general fund. The Employer presented evidence to support its position regarding the general fund budget, County

revenues and expenditures, the Sheriff's office budget and other demographic information.

The Employer asserts in the past several years the budgets governing the general fund employees have been reduced due to decreases in the total revenue fund. The Employer states the 2013 general fund total revenue estimate is less than both the 2009 and 2012 figures. The County argues it has demonstrated fiscal responsibility by maintaining the status quo as it relates to wage increases for general fund employees.

The Employer submits its revenue sources have been decreasing and changing over time. The County sales tax has provided more revenue in 2012 than in prior years but the interest income has decreased. The Employer contends Local Government funds have been cut in half since 2009. The Employer explains it receives its funding from the County's general fund, noting its budget has only been reduced 5.98 % during the period from 2008 to 2012. General fund budgets have been cut, but certain departments including the Sheriff's office continue to take up the greatest percentage of the funding and the general fund. The Employer argues its budget is no different than other County general fund budgets.

It is also noted by the Employer that expenditures continue to rise. The Employer states a shortfall is projected in 2013 as it relates to revenues and expenditures. The Employer contends the Board of County Commissioners implemented furloughs, cost saving measures, layoffs and no wage increases for certain employees to help limit its expenditures. The Employer recognizes the Sheriff's office has continued to provide services with a budget in 2013 smaller than its 2009 budget. The Employer contends a 27th pay will occur during this calendar year which is an increased cost. The Employer

recognizes more money needed to go to the Sheriff's office from the County's general fund this year due to increases in medical expenses for the jail.

In regard to demographics, the Employer points out in jurisdictions with higher pay, such jurisdictions may be doing better financially than this County. The Employer submits the County's unemployment rate is among the highest in the region. The Employer asked the fact-finder to review the comparables as well as the prior fact-finding reports. The Employer states the projected excess in its general fund would be approximately \$1900.00. If raises were to be given to 366 employees it would result in a very minimal increase.

The Employer argues it has increased its efforts to attain public and private ventures. The Employer notes the Port Authority has been revamped to lure business and grow its existing business. Other efforts have been ongoing to attract new business and expand the existing employers. The Employer states the Board of County Commissioners attempted to raise the sales tax, but its referendum efforts were rejected by the voters. The Employer states it receives casino revenues, however, the funds received have been placed in the capital fund to take care of its needs for building repairs. The Employer recognizes the casino revenue is unpredictable because it is an unstable source of revenue. Thus, it is more appropriate to consider using it for capital improvements if and when it becomes available.

The Employer concludes the fact-finder should accept its position of a zero percent wage increase for the year 2013 based on the current status of the general fund.

Union Position

The Union proposes a wage increase of three percent (3%) effective January 1, 2013. The Union contends the parties are at a mid term of the CBA covering the period of January 1, 2011 through December 31, 2013. The Union argues the fact-finding that resulted during negotiations recommended a zero (0%) percent increase for 2011 with a wage re-opener for 2012. The Union notes the Conciliator awarded the Employer's position on wages: zero percent (0%) increase for 2011 with a wage re-opener for 2012. The Union explains although the CBA does not indicate the parties were to engage in a re-opener for the 2013 wages, the Memorandum of Understanding that the re-opener for 2012 established the re-opener for 2013 and the parties agreed to waive the provisions of O.R.C.4117.14 (G)(11).

It was noted by the Union the re-opener negotiations for 2012 resulted in a one time lump sum of \$400.00 to each bargaining unit member. The Union submits its members have not had an increase in their wage rate since 2010 when an across the board increase occurred. The base rate has remained the same since that time. The Union notes the lump sum payment in 2012 failed to improve the employee's wages for the retirement benefit calculation. The Union states this employer can become less competitive because of the flat hourly wage rate. The Union also notes it does not help the morale of the department for wages not to be increased.

It is the Union's position if a lump sum payment for 2012 had been given as an hourly increase in pay, it would have resulted in a 19 cent per hour gross increase with the percentage ranging from a .09 percent increase to a two percent increase, based on the employee's position on the wage scale. The Union recognizes the employees on the scale

have received step increases and longevity supplements. However, these increases are only applicable to those employees who began their fifth year of employment.

The Union presented statistics from the comparable jurisdictions. The Union contends although the County's population is the largest of those counties on the comparison chart, its wages for the bargaining unit employees appear to be in the middle of the wage scale. The Union argues the comparables the Employer presented should not be accepted based on the fact they do not represent the same type of data provided by the Union.

The Union also takes the position there has been an increase in the sales tax from last year to this year. The Union contends the amount the Employer received in casino revenue has increased each year since the casinos have opened in Ohio. The Union recognizes other counties have not received increases, but notes some source of money has been given to the employees in those jurisdictions.

In conclusion the Union requests for the fact-finder to accept and adopt its position on this issue. The Union further asks that the fact-finder reiterate as part of the recommendation and report that all articles and/or sections not part of the CBA re-opener remain in full force and effect for the remainder of the CBA term until modified by the parties.

FINDINGS AND RECOMMENDATIONS

I have carefully considered and reviewed all of the submissions and supporting documentation provided by the parties. Upon reviewing such documentation, it becomes readily apparent the opportunity for the Employer to secure increased revenues is remote. The sales tax proceeds have increased over the past several years. Although the Board of

County Commissioners attempted to increase the sales tax percentage even higher through a voter referendum, its efforts were rejected by the voters. The income rate has been shown to decrease, but the evidence further shows that funding by the local government has decreased significantly since 2009.

The general fund of the County has not increased in the past several years. In fact, because the funding levels of several areas have decreased it has been necessary to reduce general fund spending to the level of spending that occurred years ago. The County has received money from the casinos like other counties in Ohio have received. The money this County received has been prudently placed in its capital spending account to offset projects that need to be done to the buildings. The Employer contends this is the best manner to deal with casino funds it may receive since these funds are unpredictable.

It is evident to this fact finder that the County has implemented many cost saving measures to help limit its expenditures. Layoffs, furloughs, and other cost saving methods including no wage increases for several years and other spending curtailments in many areas have helped to curb its expenditures. However, many of the departments such as those involved in public safety or with the courts have found costs to be increased in order to deal with the issues of society. The Employer pointed out there is an extra pay this year that will cause financial difficulty to the County. It is also noted that increases to the jail expenditures have created more costs for the Sheriff's Office.

The parties also presented evidence of a prior fact-finder's report and a Conciliation award. These particular awards resulted in a zero percent increase for the

year 2013 for two other bargaining units within the County's Sheriff Office which are represented by this same Union.

It is, therefore, my recommendation after reviewing all of the contentions, arguments and positions of the parties that the Employer's position be adopted. The wages for 2013 must remain unchanged. The Employer is unable to obtain increased revenues to support the economic proposal of the Union and therefore no increases to the wages should occur. Furthermore, the economic conditions in the County and surrounding areas are not strong and fail to support the recommendation of the Union.

CONCLUSION

In conclusion this fact-finder submits her findings and recommendations as set forth herein.

Michelle Miller-Kotula
Fact-Finder
October 9, 2013