

\*\*\*RECEIVED AFTER BUSINESS HOURS, PROCESSED NEXT BUSINESS DAY\*\*\*

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the matter of Fact Finding between:

**Fraternal Order of Police,  
Capitol City Lodge No. 9**

Employee Organization

and

**Franklin Township,  
Franklin County, Ohio**

Employer

SERB CASE No.  
2013-MED-04-0445

**FINDINGS  
AND  
RECOMMEDATION**

Stephen Kubic  
Fact-Finder

Date of Issuance of Report – May 12, 2014

**Appearances:**

For the Fraternal Order of Police,  
Capitol City Lodge No. 9

Russell E. Carnahan, FOP Attorney  
Jaci Tipton, Attorney  
Jeff Simpson, V.P. FOP Lodge #9  
Wade Steen, CPA - Witness  
Terry Taylor, Negotiations Team  
David Ratliff, Negotiations Team  
Byron C. Smith Negotiations Team

For Franklin Township

Don Cook, Franklin Twp. Trustee  
John Fleshman, Franklin Twp. Trustee  
Tim Guyton, Franklin Twp. Trustee



## 1. INTRODUCTION

The State Employment Relations Board appointed Stephen Kubic to serve as Fact Finder in the above referenced case in compliance with the Ohio Revised Code 4117.14 (C). The Fact Finder was notified of the appointment by e-mail dated February 19, 2014. However, on or about February 24, 2014, the parties agreed to an Extension Agreement to provide time for additional bargaining. These negotiations did not result in an agreement. Therefore, a fact-finding hearing was held in the headquarters of the Franklin Township Fire Department on May 1, 2014. The parties are to be commended for the manner in which they addressed each other, as well as the fact-finder during that hearing.

On multiple occasions during the hearing, the Fact-finder, offered to mediate a settlement. On each such occasion the parties indicated an interest in mediation to attempt to arrive at a successor CBA. However, on each such occasion, the parties remained intransigent in their respective positions throughout the process; therefore, it was ultimately decided that the parties would present evidence and receive the Fact-finder's findings and recommendation.

## 2. BACKGROUND

In compliance with the Ohio Revised Code Section 4117.14 and the Ohio Administrative Code Rule 4117.905 (j) and 4117.905 (k) the Fact-finder considered the following criteria in making the findings and recommendations contained in this report:

1. Past Collective Bargaining Agreements 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 the 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, 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 the issues submitted to mutually agreed upon dispute settlement procedures in the public service or in private employment.

Franklin Township is one of the seventeen townships of Franklin County Ohio. The 2010 census indicated that 10,271 people live in the township, 9,651 of whom lived in the unincorporated portions of the township. Located in west central Franklin County, the township consists of many small "islands" separated from each other by municipal annexations. With few exceptions, these islands are completely surrounded by the city of Columbus. Most of what was originally Franklin Township has been annexed by the city of Columbus, Ohio. The township is governed by a three-member board of trustees. There is also an elected township fiscal officer<sup>1</sup>.

As mentioned above, over the years the city of Columbus, Ohio has annexed portions for Franklin Township. Such an Annexation was recently agreed upon between the Franklin Township Board of Trustees and the Council of the City of Columbus, Ohio. That agreement has an effective date of January 1, 2013. It covers approximately 108 acres of land on which CD Gaming Ventures, LLC has built and is operating a Hollywood themed gaming facility and other related improvements and was formally a portion of Franklin Township. This agreement recognizes that the location of this Casino will cause the Township to expend additional economic resources addressing the impact of the Casino and therefore sets up a revenue sharing agreement between the City of Columbus and Franklin Township. As part of this agreement, given percentages of the taxes collected from the property which was annexed by the city of Columbus will be shared with Franklin Township. The percentage of revenue shared fluctuates over the period of the agreement, and is intended to continue through 2062.

As part of this agreement the parties agree that it is in their best interest to foster and promote compatible development in the vicinity of the Property. It proposes to do this through the establishment of a Joint Economic Development District (JEDD) which

---

<sup>1</sup>Wikipedia

will also be jointly funded by Franklin Township and the city of Columbus. In addition, the Township would like to fund projects of its own through the use of this revenue. One currently being planned is an extension of its water line. All parties concerned recognize that this Annexation Agreement has the potential to provide both significant additional revenue, as well as additional expenditures for the Township.

These parties<sup>2</sup> have been signatories to several successive Collective Bargaining Agreements (CBA) dating back for at least the last twenty five (25) years. They are currently signatories to a CBA with effective dates of July 1, 2012 through June 30, 2015. The Bargaining Unit encompassed by this agreement consists of all sworn, regular full-time members of the Franklin Township Police Department who hold the rank of and/or are designated as Patrol Officers. In addition the Township maintains CBAs with two other bargaining units. These units consist of the Firefighters and Road Department.

The Parties timely filed the required pre-hearing statements pursuant to section 4117-9-05 of the rules of the State Employment Relations Board (“hereinafter SERB”). In these pre-hearing statements, the parties, each identified the two issues involved in these negotiations. Those unresolved issues appear in Section 28.2 of their CBA. It is titled “Reopener Negotiations” and reads:

***The Township and the Lodge agree to reopen negotiations to establish the terms of Article 15 and 22 of this Agreement for the period July 1, 2013 – June 30, 2015. such reopener negotiations shall commence on or before June 1, 2013 and shall be conducted in accordance with the provisions of Chapter 4117 of the Ohio Revised Code.***

Article 15 of the CBA is titled “wages” and Article 22 is title “Insurance”. The Township indicated that it believes that there are “no monies available to support wages increases for the rank and file, now or into the foreseeable future. Additionally to help us with the finances of the department, the Township has

---

<sup>2</sup>The Franklin Township, Ohio and the Fraternal Order of Police, Capital City Lodge No. 9 (FOP)

bargained that the Police Officers should pay 20% of the premium of their insurance costs”<sup>3</sup>.

Conversely, the FOP has proposed a wage increase of three percent (3%) which would have an effective date of the first full pay period after July 1, 2013 and a three and one half percent (3.5%) increase which would be effective on the first full pay period after July 1, 2014. The FOP has proposed no change in the language of Article 22, Insurance.

### **3. DISCUSSION AND RECOMMENDATIONS**

Evidence introduced at the hearing indicates that the Police Officers who are members of this bargaining unit are paid at a level which is among the lowest paid to bargaining units in Franklin County who perform similar duties. The central reason for this has been the Township's inability to provide compensation on a level of the municipalities within the county. However, it must be noted that when compared only to other townships within the county their rank on the pay scale does not improve significantly. In fact, should the increase proposed by the bargaining unit be adopted, their position, relative to other similar bargaining units in Franklin County would not change. Therefore, should it be determined that the Township has the ability to finance and administer such an increase the Fact-Finder believes that such an increase is justified.

As mentioned above, Franklin Township maintains CBAs with two other units, Firefighters and Road Maintenance. These units, although not directly involved in these negotiations have an effect on them. Traditionally, all parties involved have tried to maintain some sort of parity between these units. Both of these units have agreed to wage freezes during the current year of their respective agreements. In return, their respective contribution to insurance premiums has not changed.

What may have changed is the financial condition of the Township. As noted in the reopener language quoted above, the instant negotiations were supposed to commence no later than June 1, 2013. However, even though the Township had received projections

---

<sup>3</sup>Employers pre-hearing statement

on additional revenue due the Township<sup>4</sup> all parties recognized that basing their discussions on actual revenue, rather than projections might well be in their mutual interest. In January of 2014, the Township received a check from the city of Columbus which indicated that it represented the Township's portion of the revenue from the annexed property for the period October 8, 2012 through December 31, 2013. This check was in the amount of \$332,473.50. The Township has yet to receive an accounting of exactly what is included in this amount and points out that this figure falls short of the projections made for it and introduced at the hearing as Union Ex. 3. The Township also indicated that it was required by the agreement with the City to commit \$125,000 of that amount to certain improvements in the area of the Casino.

The Fact-Finder would like to acknowledge the testimony of Mr. Steen, who was a witness for the Union in this matter. He is a CPA with several years of experience working with both the preparation and analysis of public sector budgets. His experience includes that of a Deputy Auditor (State of Ohio), Franklin County, Ohio Treasurer, and Fiscal Officer in Cuyahoga County, Ohio. Therefore, significant weight must be given to his analysis and conclusions regarding the financial condition of Franklin Township. Had the Township chosen to have its Fiscal Officer present at this hearing it is possible that it may have been able to refute portions of his testimony. However, it chose not to have its Fiscal Officer present.

The Township Trustees are to be commended for the manner in which they have attempted to insure that should some unforeseen event befall the township, there would be sufficient funds to weather the storm. A graphic example of their diligence was provided by Union Exhibit 9. The Township's yearend Cash to Expense Ratio over the last 5 years was targeted to be twenty percent (20%). In each of these years the Township exponentially exceeded this target which provided a significant cash and investment roll over at each year's end.

---

<sup>4</sup>FOP exhibit #3

A review of the Township's analysis of its basic financial information<sup>5</sup> reveals that the Township had a significant amount of pooled cash and investments (\$361,318) at the end of 2013<sup>6</sup>. The Township Trustees pointed out that the intent of that roll-over is to be used as operating capital at the beginning of each year until the Township begins to receive its revenue for the new year. In addition, the Township recently received its first payment from the Annexation Agreement. Testimony at the hearing indicated that a portion of that amount, \$125,000 was committed to improvements, in the area of the new Casino, which it had committed as part of the Annexation Agreement. Additionally, the Township Trustees pointed out that there were a number of projects which they hoped to complete with the revenue from the Annexation Agreement, however, they indicated that none of the remaining revenue from the initial check had been spent or committed at the time of the hearing.

There was some discussion at the hearing as to whether or not the amount of the check was accurate for the period in question. However, using the projections<sup>7</sup> compiled by the attorney who represented the Township in its negotiations with the city of Columbus, the amount of the check seems to exceed projections by about 12%.

The Board of Trustees points out that there are certain limitations on the revenue received from this payment. However, Article 4 of the Annexation Agreement indicates that "The Township will also provide, or cause to be provided, supplemental police response to such area<sup>8</sup> upon the request of the City". This section requires the Township to secure police response for this area to supplement that of the City. Consequently, expenditures by the Township to secure a portion of the cost of this service must be treated in a similar manner to the improvements to the area for which the Township has set aside \$125,000.

However, if only the portion of the payment which should represent the Annexation Payment of the check is considered one must conclude that once the

---

<sup>5</sup>Union Ex #8

<sup>6</sup>It must be noted at this point that even though this document is a Union exhibit, it was provided to the Union by the Township and is maintained among the Township's financial records.

<sup>7</sup>Union Ex#3

<sup>8</sup>The area annexed by the city of Columbus (i.e. the area around the casino).

Township received this check from the city of Columbus, it possessed at least \$138,000<sup>9</sup> which *could* be used as the Board of Trustees saw fit, including increasing the pay of the members of the bargaining unit. In addition, the Township has an agreement with the city of Columbus which should provide the Township with revenue for the foreseeable future.

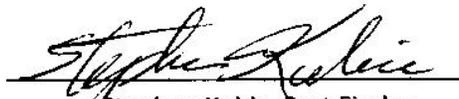
Based upon the forgoing, the Fact-Finder concludes that as of January 1, 2014, the Township possessed the ability to finance and administer the pay increase sought by this bargaining unit. Therefore, it is recommended that this bargaining unit be granted a three percent (3%) pay increase effective the first full pay period after January 1, 2014. In addition, it is recommended that the three and one-half percent (3.5%) increase sought by the bargaining unit, will become effective the first full pay period after July 1, 2014<sup>10</sup>.

Finally, with regard to the increase in the police officers contribution to insurance premium sought by the Township, a review of the contribution to insurance premium made by other police officers in similar jurisdictions indicates that those contributions are comparable to that made by the officers in the instant bargaining unit<sup>11</sup>. Therefore, no increase in officer's contribution to insurance premium is recommended at this time.

#### 4. TRANSMITTAL

This report regarding the finding of facts and recommendations on the unresolved issues is hereby transmitted by e-mail to the Employer, the Union, and the State Employment Relations Board.

Issued at Belmont County, Ohio on May 12, 2014.

  
Stephen Kubic, Fact Finder

---

<sup>9</sup> Union Ex#3 – calculation of the attorney representing Franklin Township in annexation negotiations

<sup>10</sup> Total cost of this increase over the two year period has been calculated at \$33,026.

<sup>11</sup> The officers currently pay 10% of the premium or a given dollar amount, dependent upon marital and dependent status. This amount may be reduced by completing up to 3 “healthy rewards” which are designated by the CBA.