

arbit:TrumbullSheriff.OPBA.FactFinding

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

OHIO PATROLMEN'S
BENEVOLENT ASSOCIATION

CASE # 2013-MED-04-0487
2013-MED-04-0489
2013-MED-04-0490
2013-MED-04-0491

and

TRUMBULL COUNTY SHERIFF

REPORT & AWARD OF
FACT FINDER

APPEARANCES

For the Union

S. Randall Weltman, Attorney
Brian Kaintz, Committee Member
Lt. Peter Lucic, Committee Member
Steve Sabulsky, Committee Member
Tim O'Leary, Committee Member
Valerie Hostutler, Committee Member

For the City

Curtis J. Ambrosy, Attorney
Leslie Stredney, Personnel Director
Paul Heltzel, Commissioner
Debbie Santangelo, Senior Accountant, Auditor's Office
Harold Firstler, Major

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Introduction

Two Collective Bargaining Agreements (“CBA”) between the Trumbull County Sheriff, (the “Sheriff”) and the Ohio Patrolmen’s Benevolent Association (the “OPBA” or the “Union”) cover five bargaining units. Unit One is the full time road deputies. Unit Two covers both the Sergeants and Lieutenants. Unit Four covers the Assistant Wardens and Unit Five covers the cooks, secretaries, clerks and maintenance employees who work for the Sheriff. This Fact Finding involves Units One, Two and Five: i.e., the road deputies, the Sergeants, the Lieutenants and the cooks, secretaries, clerks and maintenance employees who work for the Sheriff.

The current CBAs between the OPBA and the Sheriff expire December 31, 2013 but have wage re-openers for 2013.

Negotiations failed. The matter went to mediation with a mediator from SERB. That effort also failed to reach a resolution.

The undersigned was duly appointed Fact Finder. The hearing was set by agreement of the parties for August 13, 2013, and was heard in the conference room of the Trumbull County Bar Association in Warren, Ohio.

Both sides presented such evidence as they desired. No transcript was taken. All documents were received without objection from the other party. This includes the position statements, Union Exhibits 1-11, Sheriff’s Exhibits 1-18, the verbal statements made at the hearing, the testimony of Mary Schultz, a CPA specializing in forensic investigative accounting and Lieutenant Pete Lucic on behalf of the Union and Commissioner Heltzel, Jim Keating, Human Resources Director, Leslie Strudney, Personnel Director, Major Harold Firstler and Debbie Santangelo, Senior accountant in the Auditor’s office on behalf of the Sheriff. The Fact Finder thanks both parties for their

professionalism and courtesy.

In reaching the recommendations made in this report, the Fact Finder considered the criteria set forth in Ohio Administrative Code Rule 4117-9-05 which are:

- 1) Past collectively bargained agreements, if any.
- 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, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standards of public service.
- 4) The lawful authority of the public employer.
- 5) Any stipulation 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 the public service or private employment.

Facts

The current CBAs covering these bargaining units are for the period January 1, 2011 to December 31, 2013. There is a wage re-opener in both of these CBAs for the year 2013. It is stipulated that any adjustment in base wages will be effective from January 1, 2013.

In negotiations leading up to their current labor agreements, all Trumbull County bargaining units accepted a wage freeze for 2011-2013 except the units in this matter which bargained for and

obtained a clause providing for a wage re-opener in 2013. The freeze did not affect step increases.

Issue

There is but one issue: Should an adjustment in base wages be granted to the bargaining units in this matter? If so, in what amount?

Union Position

Prior CBAs were negotiated under the pressure of the pending Senate Bill 5 and the 2008 financial meltdown and subsequent recession. The Union has had no increase in wages or benefits since 2008. That's four years without any adjustment to the wages.

Looking at wages paid in counties adjacent to Trumbull, all pay higher wages except for Mahoning County.

Internally, while other Trumbull County employees had a freeze on base wages, the other employees receive step increases at 7½, 10, 15, 20 and 25 years of service. Sheriff's employees receive a step increase after 5 years of service but not after that. Further, other employees saw their portion of the pension pickup raised from 8½ to 9% in 2006 while Sheriff's employees remain at 8½%.

The Union asks for an across the board raise for all bargaining units of \$5 per hour in order to restore wages to the pre freeze level and make these wages comparable to surrounding departments.

The County asserts an inability to pay. Through its expert, the Union disputes that assertion.

Sheriff's Position

The Sheriff proposes that the freeze on base wages continue through 2013. All other County employees accepted a wage freeze for 2011-2013 in exchange for the County's promise that there

would be no layoffs and, in fact, contrary to the experience in other counties, in Trumbull, there have been no layoffs. An ASCME's Engineers Unit just voted to accept a Fact Finder's Recommendation that wages remain frozen for the 2013-15 period.

Despite the freeze, the OPBA units did receive a "longevity equity agreement" for 2012 which ranged from \$250 to \$1,500 per employee based on length of services.

The wages paid are comparable to those entities that most closely resemble Trumbull, i.e., Mahoning County as well as the police in the cities of Warren and Niles.

Given the economic downturn and the cuts in funds from the State, there is an obvious financial problem. The County simply does not have the ability to fund a pay raise, especially one of the magnitude sought by the OPBA.

Discussion

While the Sheriff's employees may be deserving of an increase in base wages, if the County lacks the ability to pay, no increase can be granted.

The Union's presentation says that the glass is half full and the prospects for the future are on the rise. The County says the glass is half empty and paints a bleak picture for the future.

Some basic facts are not in dispute. The County's Comprehensive Annual Financial Report for the year ending December 31, 2012 ("CAFR") shows that:

- 1) The County's population is stagnant - 210,157 for 2009 and 210,312 for 2012.
- 2) The unemployment rate in Trumbull county, while it is still high, has declined from 13.3% in 2009 to 8.1% in 2012.
- 3) There has been a significant change in the principal taxpayers of Real Estate Taxes. In 2003, 9 of the top 10 were manufacturing companies. In 2012, only 2 of

the top 10 were manufacturers.

4) In 2003, the 10 largest employers in the County, 6 of which were manufacturing companies, employed 25,673 individuals out of a total employment in the county of 105,000 persons. In 2012, the 10 largest employers, 2 of which were manufacturing companies, employed 12,780 out of a total county wide employment of 92,200.

The Sheriff's office is funded through the County's General Fund. General Fund receipts come principally from:

- a) The County's sales tax. Sales tax receipts have increased from \$20,461,000 in 2010 to \$23,140,000 in 2012.
- b) Real Estate tax collections. These have declined modestly from \$5,016,000 in 2010 to \$4,757,000 in 2012.
- c) Local Government funds, received from the State. These have been reduced from \$4,563,000 in 2010 to \$3,242,000 in 2012 and are anticipated to fall further in 2013 to \$2,478,000.
- d) Casino revenues, which are new in 2013, are budgeted at \$1,000,000.

There was a great deal of testimony regarding the Reserve Fund. The General Fund showed a surplus for 2013 of \$3,143,000 but that just takes into account anticipated revenues and disbursements for 2013. The 2013 budget does not include any carryover of funds from 2012. As pointed out by the Union's expert, a forensic accountant, the County's Reserve Fund at December 31, 2012, was \$6,317,000. However, her report shows that the total in the Reserve Fund is essentially unchanged from the \$6,393,000 for 2011 and is considerably less than the \$7,125,000 for 2010 and the \$11,775,000 that was in the Reserve Fund at the end of 2009.

While the balance in the Reserve Fund at the end of 2012 sounds like a lot, the expert's report states:

The Government Finance Officers Association advises that a reasonable carryover balance should be two months of expenditures which equates to 16%.

The County's budget for 2013 anticipates expenditures of \$43,432,000, 16% of which is \$6,949,000. Using the Union's expert's analysis of the budget, the Reserve Fund at the end of 2012 is 14.5% of the budget. The exception noted in the report that state governments and large cities and counties may keep a significantly smaller reserve than the recommended reserve of 16% is limited to entities that have revenues and expenditures that are more diversified and potentially subject to less volatility. That does not appear to apply to Trumbull county where finances depend on continued improvement in sales tax receipts which is dependent on both improvement in employment opportunities and the general economic climate, no further reductions in real estate values as a result the foreclosure debacle, the certainty of further reductions in local government funds from the state and the uncertainty of just how much can be relied upon from casino revenues.

In *Trumbull County Engineers and AFSCME Local 11, SERB # 2013-MED-02-0124* in a report issued June 5, 2013, Fact Finder William Miller Jr. found:

. . . the economic conditions in the Employer's area are not strong and would not support the requests of the Union (for a raise and improved benefits).

As applied to 2013, I agree with Fact Finder Miller. At this point the county's finances are too uncertain.

Recommendation

No change in wages for 2013.

Robert M. Lustig

Robert M. Lustig,
Fact Finder
Cleveland, Ohio
September 6, 2013

A copy of this Fact Finding was emailed to the parties representatives and to SERB
this date.