

**FACT FINDING REPORT  
STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD  
December 27, 2013**

**IN THE MATTER OF FACT FINDING BETWEEN:**

Shawnee Township Employer

CASE NO. 2013-MED-07-0795

and

FACT FINDER: Howard B. Tolley Jr.

Fraternal Order of Police, Ohio Labor  
Council, Inc. Union

**Fact Finding Hearing:**

December 20, 2013, Shawnee Township Administration Building

Appearances

**FOP, Ohio Labor Council Inc.**

Andrea Johan, Esq., Staff Representative  
Craig Hoffer, Union Representative  
Christopher Miracle, Union Representative

**Shawnee Township**

Benjamin S. Albrecht, Township Representative  
Dave Belton, Township Trustee  
Michael P. Keith, Police Chief

## **Introduction**

The employer, Shawnee Township in Allen County Ohio has collective bargaining agreements with the International Association of Firefighters (IAFF, 21 members) and with three units in the Police Department represented by the FOP, Ohio Labor Council – Sergeants (3 members), Dispatchers (6 members) and the unit involved in this fact finding, Patrol Officers (7 members). The Township with a 2010 population of 12,433 also has about 8 unrepresented employees.

In two negotiation meetings followed by two sessions with a SERB mediator the parties signed off on all but two articles, and all of their agreements are incorporated into this fact finder's recommendations. Although the parties had not signed Article 38 Duration, both agreed to a three year term, October 1, 2013 through September 30, 2016, with a wage reopener for 2015 and 2016.

The parties reached impasse on Article 11, Section 11.1 wages for 2014, the sole issue addressed in this fact finding.

The parties exchanged and submitted pre-hearing position statements and prepared supporting documents presented at the hearing to address the criteria established by the Ohio Public Employees Bargaining Statute in Rule 4117-9-05:

- 1) Past collectively bargained agreements, between the parties
- 2) Comparison of 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 standard of public service;
- 4) The lawful authority of the public employer;
- 5) Any stipulations of the parties; and,
- 6) Such other actors, 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 in private employment."

## **Union Position ARTICLE 11**

After the members voted to reject the Employer's offer of a \$650 lump sum payment, the FOP proposes a 1% across the board wage increase for 2014. Prior three year contracts starting in 2003 provided annual increases of 3% to 3.5%. The union's proposal of 1% for 2014 is identical to the increases granted in two prior one year agreements covering 2012 and 2013.

The FOP provided six police contracts from four comparable jurisdictions to show that its 1% proposal fell below external annual pay increases of 1.5% to 2.6% through 2016. The SERB Annual Wage Settlement Report shows statewide police received a 1.2% increase in 2012 and Township employees 1.01%.

The union argued the Township has the ability to pay based on recent hiring and pay increases for part time employees, about \$500,000 of income from sale of assets obtained with the dissolution of Fort Shawnee Village, and potential increases of \$169,000 in property tax revenue from village residents. The estimated cost of the FOP proposal, \$9,000 for the seven patrol officers and three Sergeants, is well within the Township's ability to pay. The Patrol Officers workload has increased with the incorporation of Fort Shawnee Village.

## **Employer Position ARTICLE 11**

The Township seeks to avoid the cost of compounding that would result from a 1% increase to base by providing all its employees with a lump sum payment for 2014. The IAFF bargaining unit accepted a \$750 lump sum payment for its 21 members, and the Sergeants' unit represented by the FOP also accepted a \$750 lump sum for its three members. The employer's prudent management of health care insurance will also result in savings in premiums.

The employer provided police and sheriff contracts from three neighboring jurisdictions in Allen County and nine jurisdiction in five contiguous counties to show that Shawnee Township Police currently receive the highest base pay, well above the average. The SERB Annual Wage Settlement Report shows statewide increases since 2003 below those received by the Township police. The proposed \$650 lump sum is sufficient, and no across the board increase is justified.

The Police Department has run a deficit for the past four years, drawing down the cash reserves. Projected expenditures for 2013 will exceed revenues from three property tax levies dedicated to police by an estimated \$160,087. The cost of an across the board increase would recur annually and be extended to sick leave, overtime, call in and related expenses incurred by the Township at the same time all estate tax revenues are lost and income from the local government fund is cut in half.

## **Analysis**

Ability to Pay Prior to 2010 the three property tax levies and other revenues dedicated for the Police Department generated a large surplus resulting in a substantial cash reserve. When special fund dedicated revenues are not sufficient, Ohio requires local governments to to expend General Fund revenue to offset any deficit. In 2012 the Trustees transferred rental revenues from the General Fund into the Police Department Fund for the purchase of a cruiser. The Trustees may also use forthcoming general fund revenues from the sale of Fort Shawnee Village assets for Police Department capital expenditures such as the needed replacement cruisers.

Employer's Exhibit 4 page 3 provides a cash summary of all 16 Township Funds through November 30, 2013. On January 1, 2013 the General Fund had a beginning balance of \$2.64 million. As a result of deficit spending the General Fund Nov. 30 current balance was \$1.97 million. In addition, police, fire and other funds have significant deficits in 2013. At the conclusion of the hearing the fact finder requested a General Fund budget history, and the Township provided a Financial Report dated 6/30/2012 showing actual revenues and expenditures for 2010 and 2011. The union was also provide a copy of that document, but it was not reviewed or discussed by either party at the hearing.

Based on the data provided, the fact finder concludes that despite recent deficit spending the Township's cash balance and unencumbered reserve considerably exceeds the minimum recommended by Moody's financial Services and required by the state of Ohio. In January 2010 the General Fund Cash balance was \$1,720,819, and on November 30, 2013 that cash balance was \$1,974,014. In 2012 the General Fund had extraordinary final revenue from the estate tax of \$1.35 million, but there is no future projected estate tax income in Ohio. The Police Department receives about two thirds of its funding from two permanent property tax levies as well as a third five year levy subject to renewal by the voters in 2016.

## Comparables

*Internal:* Two of the Township's four bargaining units have accepted a lump sum payment of \$750 per member, and the Police Dispatcher's Unit represented by the FOP has not yet negotiated a new agreement. Unrepresented employees, including the Police and Fire Chiefs have not received any pay increases.

*External:* In order to avoid the distortion caused by extremely high or low pay rates, the fact finder compares wages and increases to the median rather than to the average paid in comparable jurisdictions. The fact finder used Employer's Exhibit Tab 5 to identify comparable jurisdictions including Shawnee Township. The maximum hourly five year wage for Township patrolmen is \$23.91, 14% higher than the \$20.61 median for three other jurisdictions in Allen County, and 8% higher than the \$22.21 median paid by nine comparable employers in five contiguous counties.

For thirteen jurisdictions with data for a 2013 wage increase, the median, increase was a \$400 lump sum payment for Allen County Sheriffs. Six jurisdictions provided less -- one a \$200 lump sum payment and five jurisdictions granted no increase -- Delphos City, St. Mary's, Auglaize County Sheriffs, and Kenton. Six jurisdictions including Shawnee provided more, an across the board per cent increase of at least 1%.

## **Conclusion**

Although the fact finder concludes that the Township has the ability to pay the union's proposed 1% increase, the internal and the external comparables, for both wages and recent increases, lead to a recommendation for a one time payment in 2014 of \$700. The Township's payment of \$750 to each Sergeant is 1.4% of their annualized hourly wage. For five year Patrol Officers 1.4% of the annualized wage of \$49,732.80 is \$696.

In October the parties will for the fourth consecutive year renew wage negotiations. The fact finder urges the parties to seek a multi year agreement that minimizes future third party dispute resolution to better serve their own needs as well as the public interest.

## **FACT FINDER'S RECOMMENDED CONTRACT LANGUAGE**

### **ARTICLE 11 - COMPENSATION**

#### **Section 11.1. Wages.**

In lieu of a percentage wage increase for 2014, Patrol Officers shall receive a one-time payment of seven hundred (\$700). The parties agree to re-open this article no later than October 1, 2014 for the sole purpose of negotiating wages for 2015 and 2016.

### **ARTICLE 38 DURATION**

**Section 38.1 Effective Dates.** This agreement shall be effective October 1, 2013 except as otherwise provided herein, and shall remain in full force and effect through September 30, 2016. The parties agree to re-open Article 11 no later than October 1, 2014 for the sole purpose of negotiating wages for 2015 and 2016.

All other contract provisions agreed to by the parties are incorporated with the above recommendations to complete a new agreement.

Respectfully submitted,  
Howard Tolley, Jr.,  
Professor Emeritus, University of Cincinnati

**CERTIFICATE OF SERVICE**

I hereby certify that an exact copy of the foregoing Fact Finding Report has been served via electronic mail to Andrea Jordan , Staff Representative, FOP, Ohio Labor Council [ajohan@fopohio.org](mailto:ajohan@fopohio.org), Benjamin Albrecht, Township Representative, [balbrecht@fishelhass.com](mailto:balbrecht@fishelhass.com), Dave Belton Township Trustee [trusteedave@shawneetownship.com](mailto:trusteedave@shawneetownship.com), Michael Keith [policechief@shawneetowhship.com](mailto:policechief@shawneetowhship.com) and to the State Employment Relations Board, Columbus, Ohio [Med@serb.state.oh.us](mailto:Med@serb.state.oh.us) on this 27th day of December, 2013

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Howard Tolley

December 27, 2013

Date