STATE EMPLOYMENT RELATIONS BOARD
State of Ohio

MONTGOMERY COUNTY SHERIFF	)	Case No. 2013-MED-10-1261
	)	
and	)	Date of Appointment:
	)	February 19, 2014
OHIO PATROLMEN'S BENEVOLENT	)	
ASSOCIATION	)	Hearing: March 14, 2014
	)	at Dayton, Ohio
	)	
	)	Date of Report:
	)	March 26, 2014

FACT FINDING REPORT

Before Mitchell B. Goldberg, Appointed Fact Finder

Appearances:

For the Public Employer;

David S. Hale,	Major
Joseph Tuss,	County Administrator
Amy Wiedeman,	Assistant County Administrator
Kathy Duibley,	Confidential Secretary
Robert Streck,	Chief Deputy

For the Association:

Joseph M. Hegedus,	Labor Counsel
Timothy Turner,	Sergeant
Kurt Althouse,	Sergeant
Dennis Krust	
Daniel Adkins	

I. Introduction and Background.

The OPBA represented bargaining unit consists of approximately 42 sergeants in the County's Sheriff's department. They engaged in collective bargaining for a successor collective bargaining agreement ("CCA") after the expiration of the CBA that expired on December 31, 2013. The parties met on October 15, 2013, November 4, 2013 and January 16, 2014 and resolved many of their issues and proposals. They were unable to resolve three issues: (1) Article 25, Leave of Absence; (2) Article 26, Wages; and, Article 30, Insurance. The Fact Finder and the parties engaged in mediation during the hearing that was conducted on March 14, 2014 at the Sheriff's offices in Dayton, Ohio. The parties submitted timely pre-hearing statements before the hearing in accordance with SERB rules and guidelines. Through mediation, the parties were able to resolve the insurance issue. They executed a tentative agreement on this issue, leaving only the leave issues and the determination of wages as unresolved issues.:

Accordingly, the following recommendations on the unresolved issues in this Report incorporates all unchanged articles and provisions in the CBA that expired on December 31, 2013, all tentative agreements reached during bargaining, through mediation, agreements reached during the hearing, and those reached before the issuance of this Report. The following recommendations are made in accordance with the existing statutory factors and standards incorporated in Chapter 4117 of the Ohio Revised Code and in SERB Rules and Guidelines. They are: (A) past collectively bargained agreements between the parties; (B) consideration of issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved; (C) the interests and welfare of the public, 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; (D) the lawful authority of the public employer; (E) the stipulations of the parties; (F) and such other factors, not confined to those listed in this section, which are normally, or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

II. Economic Evidence.

Because the parties through their negotiations and through mediation became closer to resolving the above economic issues, their respective economic presentations shall only briefly be summarized in this Report. The County's general fund revenues have stabilized after considerable declines due to the economic recession. The declines went from $158 million in 2008, to $151 million in 2009, and to $143 million in 2010. However, 2011 general fund revenue stabilized at $143 million. The revenue in 2012 was $138.9 million, and approximately the same in 2013. Estimated revenue in 2014 is $137.6 million.

71% of the general fund revenue is from sales tax collections. This revenue has increased from a low of $58.9 million in 2009 to $70.6 million in 2013 due to the economic recovery. Property tax revenue that amounts to 9.6% of general fund revenue remains in a decline from a high of $15.3 million in 2008 to $13.5 million in 2013 (estimated to be $13.2 million in 2014). This reflects the continuing poor residential and commercial real estate markets. Investment income remains at historically low levels due to the low interest rates. Fees from provided services and from real estate fees have remained fairly stable or are marginally increasing. State casino revenues have been disappointingly low and far below what was predicted, amounting to $3 million in 2013. They are estimated to be slightly more in 2014.

The County, like other local government entities, has been severely impacted by the slashing of the state's local government fund. The state can show through its tax cutting and funding cuts that its financial house is in order, but the requirements to provide required services still exist and the burden to provide those services, much of which is mandated, has merely been passed along to local governments. The County has addressed these inequities by reduced staffing, more operating efficiencies, cost reductions, including those related to health and medical insurance costs. It lists its challenges as attempting to maintain its services with these reduced funding levels, controlling its costs, operating within its budget, and maintaining a sufficient reserve ending balance each year to address unforeseen issues.

The above budget management has produced healthy unencumbered year-end fund balance carryovers. In terms of the Sheriff's office, the County has budgeted a 2.5 % wage increase. This amount, however, includes compensation beyond an across-the-board wage increase. The budget factors in payments for automatic step increases and longevity payments.

The Association argues that its members have assisted the County and the Sheriff at every turn in weathering the recession and related financial problems. They have accepted wage freezes and substantial concessions in health insurance out of pocket expenditures. They have agreed to larger employee premium contributions, higher deductibles, higher co-insurance levels, and higher fees. To a large extent, any wage increases have been cancelled out by larger insurance payments, leaving actual pay reductions instead of increases. As a result, the large savings reductions in insurance costs that have permitted the County to better manage its budget have occurred because of the increasing absorption of higher insurance costs by the employees.

In terms of staffing reductions, there are no longer any lieutenants in the unit. Their previous duties have been allocated between higher paid captains and the sergeants. Both parties acknowledge that at least some of the lieutenants' work has been absorbed by these unit members. But, the number of sergeants has also been reduced, producing a higher workload on the remaining sergeants.

III. Unresolved Issues.

Article 26 – Wages

Both parties provided evidence of external comparisons. Their final positions are within the ranges that they supplied. The previous CBA language tied wage increases to that received by the larger deputy unit. Unit members received a wage rate "equal to sixteen percent (16%) greater than the base rate of pay of the next lower classification/rank." The sergeants rate is calculated using the top step of the Deputy Sheriff salary schedule. The County proposed maintaining this 16% differential over deputy top rate. The Association proposed a 3% across-the-board wage increase for each of its members in each year of a 3-year contract term. It also proposed a floor or basement level so that the 16% differential may not be less than 16% higher than the top step of the Deputy Sheriff salary rate schedule during the CBA term.

The dispute arose over negotiations that are ongoing between the Sheriff and the Deputy unit, a unit that has another bargaining representative. It is possible that an agreement between the Deputy unit and the Sheriff will result in a lower across-the-board increase because the Deputies would prefer to have some of the Sheriff's funds used to restore step increases that were previously frozen. The Sheriff would consider this proposal, but only if the across-the-board increases would be less in order to fund the replaced steps.

The Association wants any increases for its unit to reflect the higher top rate that would be paid to the top rate deputy if there were no increases for step payments, or if the money that is used for step increases is factored back into the money pool. The County and Sheriff want to keep the same language that maintains the 16% differential based upon the actual top rate negotiated for the deputies, regardless if the Deputy unit takes less of an across-the-board increase than otherwise would be the case because they receive a restoration of their previously frozen steps. The following recommendation is my attempt to reconcile this impasse.

Recommendation: Article 26, Section D shall be deleted and replaced by the following language:

> In addition to any other increases set forth in this Article**,** all bargaining unit members will receive the following increases to their base rates:
>
> Year one, January 1, 2014 – December 31, 2014: 2% plus a lump sum payment not on the base rate of $425.00.
>
> Year two, January 1, 2015 – December 31, 2015: 2% plus a lump sum payment not on the base rate of $425.00.
>
> Year three, January 1, 2016 – December 31, 2016: 2% plus a lump sum payment not on the base rate of $425.00.
>
> The above lump sum payments shall be removed in the event the CBA

> between the Deputies and the Sheriff provides for an across-the-board

> wage increase of 2.5% or more.

Section 26.1 A. shall be amended to provide:

> Employees of this bargaining unit will receive a rate of pay at least sixteen percent (16%) greater than the base rate of pay of the next lower classification/rank. The base rate for the Sergeants may not be less than sixteen percent (16%) higher than the top step of the Deputy Sheriff salary rate schedule. The base rate of pay for Lieutenants will be calculated on the base rate of pay of Sergeants.

Section 26.1 C. shall be amended as follows:

> During their probationary periods, employees in both Sergeants' and Lieutenants' classification/rank will receive a rate of pay equal to ninety-five percent (95%) of the base rate of pay for their classification/rank. Upon completion of probation, all bargaining unit employee shall move to Step 2 of the wage scale.

Article 25 – Leaves of Absence

The Association proposes to add one additional personal absence day for employees who have accumulated at least 1,200 hours of available sick leave on the last day of a calendar year. The additional personal leave day would be taken the next year. Also, the expired CBA provided that an employee with 2,000 hours on the last calendar year day would be entitled to one additional personal leave day for the next calendar year. The Association proposes to reduce the 2,000 hours to 1,800 hours.

The County proposed language changes including the right to discipline employees for not complying with sick leave rules and regulations, and less sick leave conversion upon retirement. It agreed to lowering the requirement to obtain an additional personal leave day with sick leave accumulation of 1,800 hours from 2,000 if its other proposed changes are made.

Recommendation: The change from 2,000 hours to 1,800 is recommended under "PA DAY Requirements." The rest of the Article 25 language should remain unchanged, except for the last two sentences in Section 25.2 (A) that refers to maternity leaves of absence. Those two sentences should be deleted. The subject of maternity leaves is covered elsewhere in the expired CBA, making those two sentences redundant.

Date of Report. March 26, 2014

/s/______________________________
Mitchell B. Goldberg, Fact Finder

CERTIFICATE OF SERVICE

This Report was served upon the following SERB and the parties by electronic mail on the 26th day of March, 2014:

SERB: MED@serb.state.oh.us

Joseph M. Hegedus: jmhege@sbcglobal.net

Dave Hale: haled@mcohiosheriff.org

/s______________________________
Mitchell B. Goldberg