

**STATE OF OHIO  
IN THE MATTER OF FACT FINDING  
BETWEEN THE  
  
ADAMS COUNTY SHERIFF  
AND  
FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.**

SERB Case #'s: 2016-MED-09-0883  
2016-MED-09-0884  
2016-MED-09-0885

E. William Lewis, Fact Finder

Date of Hearing: May 11, 2017

Fact Finding and Recommendations

Appearances:

For the Union:

Mr. Mark Scranton, Staff Representative  
FOP, Ohio Labor Council  
222 East Town Street  
Columbus, Ohio 43215

For the County:

Mr. Brett A. Geary, Regional Manager  
Clemans-Nelson, and Associates  
420 Loveland Ave., Suite 101  
Loveland, Ohio 45140

**AUTHORITY**

In the matter brought forward before Fact Finder E. William Lewis, in Keeping with applicable provisions of Ohio Revised Code 4117 and related rules and regulations of the Ohio State Employment Board. The parties have complied in a timely manner with all procedural filings. The matter before the Fact Finder is for consideration and recommendation based on merit and fact according to the provisions of Ohio Revised Code 4117, particular those that apply to Safety Forces and mutual directives of the parties.

In attendance for the Sheriff:

Mr. Brett Geary Management Consultant

Mr. Kim Rogers Sheriff

In attendance for the FOP:

Mr. Mark Scranton Staff Representative

Mr. Rick Paquette Staff Representative

Mr. Randy Walters Deputy/Union President

Mr. Thomas Wilson Lieutenant

**BACKGROUND:**

The Adams County Sheriff's Office, hereinafter known as the Employer/Sheriff, provides safety services to approximately 28,000 County residents. The Fraternal Order Of Police, hereinafter known as the Union/FOP, represents approximately thirty-two employees. There are two separate Collective Bargaining Agreements(CBA), a Multi-Unit Agreement and a Supervisory Unit Agreement.

The Multi-Unit Agreement is composed of sworn Deputy Sheriffs', including Deputy Investigators, Deputy Patrol Officers, Deputy Jailer, Deputy Dispatcher. The non-sworn full-time employees in the Multi-Unit are Dispatcher, Corrections Officer, and Cook. There approximately twenty-seven (27) members covered by the Multi-Unit Agreement.

The Sergeants (Supervisors) Agreement consist of sworn Deputy Sheriffs at the rank of Lieutenant and Sergeant. There are approximately five (5) members in the supervisors' unit.

These are successor Agreements to CBA's that expired on December 31, 2016. The parties have had a bargaining relationship since 1985. During the current bargaining process the parties have had three negotiating sessions prior to the Fact Finding Hearing. All open issues were resolved except three. The three unresolved issues are the same in both Agreements, they are: (1) Layoff and Recall, (2) Wages, and (3) Duration.

This fact finder was appointed by the State Employment Relations Board(SERB), on November 22, 2016. After the final negotiating(2/21/17) session, the parties contacted the fact finder to schedule a Hearing. By mutual agreement between the parties and the fact finder, a Hearing was scheduled for May 11, 2017.

All the necessary procedural filings were made by the parties. At the Hearing the advocates agreed to submit the three open issues to mediation with the fact finder. During the mediation process an agreement was reached on a revised Layoff and Recall Article for both Agreements. Therefore, a tentative agreement was signed by the parties on Article 17-LAYOFF AND RECALL.

In accordance with Ohio Revised Code 4117.14(C)(4)(e), in making recommendations the Fact Finder takes into consideration the following factors:

- (1) Past Collectively bargained agreements, if any, 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 factor peculiar to the area and the classification involved;

- (3) The interest and welfare of the public, the ability of the 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;
- (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 in private employment.

### **THE HEARING:**

The Articles addressed in the Fact Finding Hearing are as follows:

ARTICLE 37 WAGES, Section 37.1 and Appendix A(Multi-Unit Agreement)

ARTICLE 48 DURATION, Section 48.2(Multi-Unit)(Re# to 48-vs-47)

ARTICLE 37 WAGES, (Supervisors Agreement)

ARTICLE 48 DURATION, Section 48.2(Supervisors Agreement)

The format of this Report will be to identify the issue followed by the party's position, and then the fact finder's discussion with his recommendation. Where appropriate, the recommended Agreement language will be included or attached. There were no witnesses brought forward, however, the Advocates presented their arguments accompanied by exhibits.

The following Exhibits were submitted into the Record.

Employer Exhibit #1	3-Ring Binder, composed of 7 Tabs, accompanied by alphabetical sub-topics
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Union Exhibit #1

3-Ring Binder, composed of 5 Tabs, accompanied by  
Numerically #ed sub-topics

ARTICLE 37 WAGES, Section 37.1, 37.3(new) & Appendix A.  
Multi-Unit

Employer Position:

Section 37.1. Current wages for contract years 2017 and 2018, as listed in Appendix A.

Section 37.3. The parties agree that Article 37, WAGES, of this Agreement may be re-opened for bargaining for 2019 consistent with Chapter 4117, including statutory impasse proceedings.

Union Position:

--Three percent (3%) effective January 1, 2017.

--Three percent (3%) effective January 1, 2018.

--Three percent (3%) effective January 1, 2019.

--Correct Steps 2 and 3 in APPENDIX A, the Investigator Wage Rates to \$18.01 and \$18.13 respectively.

ARTICLE 37 WAGES, Section 37.1 & APPENDIX A  
Sergeants Agreement (Supervisors)

Employer Position:

Section 37.1. Bargaining unit members current wage compensation shall be as follows and as listed in APPENDIX A:

A. The rates of pay for all Sergeants shall be at least seventy-five (\$0.75) more than a Step 5 Road Deputy with the Adams County Sheriff's Office.

Section 37.3. The parties agree that Article 37, Wages, of this Agreement may be re-opened for bargaining for 2019 consistent with Chapter 4117, including statutory impasse proceedings.

APPENDIX A

Sergeant:	2017 & 2018
	\$19.37
Lieutenant(new)	\$19.61

Union Position:

Section 37.1. Bargaining unit members current wage compensation shall be as follows and as listed below:

A. The rates of pay for all Sergeants shall be at least five percent more than a step 5 Road Deputy with the Adams County Sheriff's Office.

B. The rate of pay for all Road Lieutenants shall be at least five percent more than a top step Sergeant.

Position	2016	2017	2018	2019
Sergeant	\$19.37	\$20.14	\$21.15	\$22.21
Road Lieutenant		\$21.15	\$22.21	\$23.32

## **DISCUSSION AND OPINION:**

These negotiations have been undermined by an announcement by the Dayton Power and Light Corporation to close two of their plants located in Adams County. Jointly submitted evidence depicts the plants being scheduled for closing by June 2018. According to submitted evidence, the Adams County Auditor estimates that the County revenue loss to be nearly \$770,000/year. These closings will reduce the annual General Fund tax revenue by 32%, per submitted evidence(EE-tb.7(H). According to the Employer submitted evidence, General Fund projected expenditures in 2018 will exceed revenues by more than \$200,000, and there will be no carry-over balance(TB-7(I)).

The Union argues that management had submitted a wage proposal of 2% per year, at their first negotiating session. Management's current wage proposal of no wage increase and a re-opener the third year, is at minimum disingenuous, claims the Union. Management should have known of the pending revenue loss at the first session. However, submitted evidence shows the first newspaper article announcing the pending plant closings being issued the day following the parties first bargaining session(UE-TB,4(6)(EE-TB,7(D)).

At the Hearing there was no evidence introduced disputing the expected closings and estimated revenue losses. The fact finder must consider the impact of a general wage increase, and the Employer's future ability to fund the increase.

According to the Sheriff, his road law-enforcement personnel is already dangerously low. Thus, to fund a wage increase on the backs of others through layoffs could be a safety factor as well as being counter productive, in the fact finder's opinion.

**RECOMMENDATION:**

Based on the submitted evidence and Advocate arguments, the fact finder recommends the following:

- (1) Adjustments to Article 37, Wages in the Multi-Unit and the Supervisory Unit.
- (2) Appendix A, in the Multi-Unit and the Supervisory Unit.

Article 37, Section 37.1 (Multi-Unit) to read as follows:

Section 37.1. The bargaining unit member's 2016 wage compensation as listed in Appendix A, will remain the same through December 31, 2019. However, a lump-sum payment of two percent (2%) is to be made to each bargaining unit member based on their listed Hourly Wage Rates in Appendix A, exclusive of Longevity as of the execution of this Agreement. The payment shall be made within sixty (60) days after the execution of this Agreement.

- A. Bargaining unit employees shall receive no general increase in hourly wage rates for calendar years 2017, 2018, and 2019, other than those agreed to in this labor Agreement. However, in the event the Adams County Board of Commissioners grants a general cost of living increase(excluding e.g., rate changes due to promotion, reclassification, initial hiring, established step increases etc.) to any group of non-bargaining unit employees solely under the authority of the Board, such general cost of living increase shall be applied to bargaining unit employees.

**APPENDIX A. WAGE RATES (Multi-Unit)**

See Attachment A.

## Article 37 – Wages (Supervisor Unit)

Section 37.1. Bargaining unit members current wage compensation shall be as follows and as listed in Appendix A:

- A. The rates of pay for all Sergeants shall be at least seventy-five cents (\$0.75) more than a step 5 Road Deputy with the Adams County Sheriff's Office.
- B. Bargaining unit member's 2016 wage compensation as listed in Appendix A, will remain the same through December 31, 2019. However, a lump-sum payment of two percent (2%) is to be made to each bargaining unit member based on their listed hourly wage rate in Appendix A, exclusive of Longevity as of the execution of this Agreement. The payment shall be made within sixty (60) days after the execution of this Agreement.
- C. Bargaining unit employees shall receive no general increase in hourly wage rates for calendar years 2017, 2018, and 2019, other than those agree to in negotiations for this labor Agreement. However, in the event the Adams County Board of Commissioners grants a general cost of living increase (excluding e. g., rate changes due to promotion, reclassification, initial hiring, established step increases, etc.) to any group of non-bargaining unit employees solely under the authority of the Board, such general cost of living increase shall be applied to the wage rates of the bargaining unit employees.
- D. (New) Effective upon the execution of this Agreement, the rate of pay for all Road Lieutenants shall be \$19.88(same as the Fiduciary Lieutenant). See Appendix A.

Section 37.2. Longevity—current language.

APPENDIX A(new)  
WAGE RATES

Position	2017-2018-2019
Sergeant	\$19.37
Road Lieutenant	\$19.88

**ARTICLE 48 DURATION**

Employer Position: (Multi-Unit and Supervisor Unit)  
(re-number Multi-Unit Article 48)

Section 48.1. Current language.

Section 48.2. This Agreement shall become effective upon execution except as otherwise indicated herein, and shall remain in effect up to and including December 31, 2019, and shall automatically renew itself from year to year thereafter, unless written notice to terminate or amend this Agreement is given by either party to the other at least sixty (60) days prior to December 31, 2019, or prior to the date of expiration of any annual renewal hereof.

Section 48.3. Current language.

Section 48.4. Change to read as follows: Pursuant to the limitations described in Section 37.3 of this Agreement, the parties agree that Article 37, Wages, of this Agreement may be re-opened for bargaining for 2019 consistent with Chapter 4117, including statutory impasse proceedings.

Union Position: (Multi-Unit and Supervisor Unit) (re-number Sections in Multi-Unit Agreement)

Section 48.1. Current language.

Section 48.2. Change dates to reflect a three year Agreement effective January 1, 2017 through December 31, 2019.

Section 48.3. Current language.

Section 48.4. Delete

**DISCUSSION AND OPINION:**

Both parties are proposing a three year Agreement expiring on December 31, 2019. Neither party is challenging the future expected closing of the DP&L plants. Furthermore, there has been no submitted evidence disputing the expected tax revenue loss resulting from the plant closings. Management's submitted evidence of the General Fund being in deficit spending mode by 2019 is compelling to the fact finder. If the closings occur as predicted a general wage increase, which has in perpetuity costs, will create an ability to fund issue for the County and the Sheriff.

The "me-to" language is intended to protect the bargaining unit members in case the expected funding crisis fails to materialize, and the Commissioners find some available dollars.

**RECOMMENDATION:**

--Multi-Unit and Supervisor Unit.

Section 48.1. Current language.

Section 48.2. Change to read as follows: This Agreement shall become effective

upon execution except as otherwise indicated herein, and shall remain in effect up to and including December 31, 2019, and shall automatically renew itself from year to year thereafter, unless written notice to terminate or amend this Agreement is given by either party to the other at least sixty (60) days prior to December 31, 2019, or prior to the date of expiration of any annual renewal.

Section 48.3. Current language.

Section 48.4. Delete

## **CONCLUSION**

The fact finder enjoyed meeting and working with the parties, and I wish them well.

The Fact Finding recommendations contained herein were arrived at giving consideration to the positions and arguments of the parties, and the criteria enumerated in ORC 4117.14(C)(4)(e). Additionally, the Fact Finder incorporates into this Report, as part of his recommendations, any tentative agreements reached between the parties and the language of the expired Agreement which remains unchanged by the parties.

This concludes the Fact Finding Report.

Respectfully submitted this 2<sup>nd</sup> day of June 2017.

E. William Lewis

Fact Finder

/s/

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of this Fact Finder's Report was served by e-mail upon Mr. Brett Geary, Regional Manager, Clemans-Nelson, for the Adams County Sheriff, 420 West Loveland Avenue, Suite 101, Loveland, Ohio 45140, and Mr. Mark Scranton, Staff Representative, for the FOP, 4230 Pekin Ct., Batavia, Ohio 45103, and Mr. Don Collins, Esq., General Counsel, State Employment Relations Board, 65 East State St., Columbus, Ohio 43215.

E. William Lewis

Fact Finder

/s/