BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

International Brotherhood of Teamsters
Local 284, AFL-CIO

Employee Organization

Case No. 2017-MED-03-0366

And

Fact Finder: Sandra Mendel Furman

Ross County Sheriff
And Ross County Board of County
Commissioners

Employer

FACT FINDING REPORT AND RECOMMENDATION

INTRODUCTION

The hearing in this matter took place in Chillicothe, Oh on October 3, 2017 at the Ross County/Chillicothe Law Enforcement Complex and Jail. (LEC) The parties presented witnesses and extensive exhibits as evidence in support of their respective positions. Bargaining committee representatives were present on both sides.

A mediation session held prior to the hearing's start resulted in several tentative agreements which are reflected below in the Report.

Counsel for Sheriff George Lavender and the Board of County Commissioners (BCC) is David Riepenhoff. Counsel for Teamsters Local 284 are Grant Shoub and Michael Moses.

FINDING OF FACTS[1]

1. The bargaining unit consists of approximately 63 employees who are in the rank of Deputy Sheriff below the rank of Sergeant in SERB Case No. 92-REP-03-0161, as amended in Case No. 96-REP-10-0230 on November 21, 1996 and as amended in SERB Case No. 2010-REP-03-0039. This unit is colloquially known as the "Blue Unit". It includes civil and communications personnel.

2. The parties have had a collective bargaining agreement (cba) for the past 7 years.

3. The cba expired on 6-30-17.

4. The parties agreed that the successor cba terms will be retroactive.

5. The Blue unit was represented by FOP/OLC from 1992-2010.

6. The County's other bargaining unit is the Gold unit within the Sheriff's Department. The Gold unit is currently in bargaining. It is comprised of deputies of the rank of sergeant and above.

7. In the negotiations for a successor collective bargaining agreement (cba) David Riepenhoff Esq. was the Chief Negotiator for the Sheriff; Grant Shoub Esq. and Michael Moses, Esq. were the Chief Negotiators for the Teamsters.

8. The bargaining teams met on four occasions in an effort to reach an agreement.

9. One mediation session was held prior to the FF.

10. Prior to the start of the FF hearing, the FF conducted a mediation session. Numerous matters were resolved in those discussions and were either withdrawn or the subject of tentative agreements. (TA) These are listed in the Report hereinafter. The parties further requested the FF note that all TAs become part of the cba.

11. Ross County is the second largest county in the state in terms of land mass: it has over 688 square miles.

12. Chillicothe is the largest population center in the county and the only city in the county.

13. The estimated County population in 2016 is 77,000; a decline from a high of 78,064 in 2010.

[1] The parties submitted extensive documents supporting the respective positions argued. The facts listed represent only a portion of the record made and reviewed. To the extent some exhibits are not referenced specifically, the FF made editing decisions so as to not unduly lengthen the report. Where there are discrepancies, the party which is the source of the content is identified.

14. Estimated population growth for Ross County is a 3.5% increase (from 2015 level) in 2020; 5.6% in 2030 and 7.5% increase in 2040.

15. Median household income is $43,345 as of 2016.

16. Nearly 20% of the population is below the poverty level.

17. The median age of county residents is 40.

18. 91% of adults have health insurance. This data is not broken down between private/public sources.18.

19. The major employers in the county are: Adena Regional Health system (the only private non-profit hospital that is open to the public); Chillicothe City Schools; Horizon Telecom; Commercial Vehicle Group/Trim systems; Kenworth Truck; PH Glatfelter Co; the County government; the VA Medical Center Hospital; WalMart; State of Ohio (including two state prisons) and Yanagawa Seiki/YSK Corp. Adena announced plans for a $36.1 million expansion.

20. Agriculture is a large contributor to the County economy. The County is about 59% rural.

21. Sales tax receipts were up 2.5% in 2016.

22. Lodging tax receipts increased by nearly 4% in 2016.

23. The unemployment rate since 2016 averages 5.5%, a slight uptick from 2015 but a decline since 2012 when the level was 8.4%.

24. The average weekly wage in 2015 for local government employees was $772.

25. In 2016, there were 72 business starts, a slight decline from the two prior years and a decline from the number of starts-122- in 2012.

26. The County is part of the Appalachian region along with 31 other Ohio counties.

27. The Appalachian region may generally be characterized as less urban, less populated and less economically vibrant.

28. Counties in Appalachia immediately adjacent to Ross are: Hocking, Highland, Vinton, Pike and Jackson.

29. The non-Appalachian counties adjacent to Ross are Fayette and Pickaway.

30. Median personal per capita income in 2016 for all counties adjacent to Ross show the closest comparables are Fayette which is slightly higher and Hocking which is slightly lower.

31. In terms of median household income for 2016, Ross is closest to Hocking County and next closest to Fayette. Ross is below Ohio's median by approximately $6000.

32. Ross County compared to its adjacent counties has more persons at/below the poverty line than Fayette, Hocking or Pickaway Counties. [Pickaway and Fayette are not considered Appalachian]. It is in better economic condition for this measuring factor than Highland, Jackson, Pike and Vinton counties which are all Appalachian.[2]

33. The County is primarily funded by the General Fund (GF) for each and all of its operations and entities except for the Engineer.

34. Sales tax is the primary revenue source for the GF, representing over 50% of the revenue sources.

35. Other revenue sources include licenses and permits; intergovernmental receipts; fines and forfeitures; investment income; a miscellany of other revenue sources and charges for services and property taxes.

36. Revenues are projected for 2017 to slightly exceed $25.5 million.

37. A sharp decrease is expected in revenues for 2018: projections are indicating a drop of $1million.[3] [County]

38. Ross County GF expenditures decreased in 2014-16. Expenditures are projected to exceed $27,000,000 by the end of 2017 compared to under $24 million in 2016. [County]

39. The Medicaid Managed Care Organization (MCO) sales tax is a revenue source from the State that will be lost in the immediate future, with a probable "save" for 2018 only in the amount of $1.5 million approximately.

40. MCO revenues represent slightly over 8% of the revenue stream for the County.

41. There are efforts in the Ohio Legislature to save/replace the income expected to be lost to counties (and transit authorities) from the elimination of the MCO revenue.

[2] The Sheriff considers all adjacent counties for external comparables purposes.

[3] The MOC is expected to continue for 2018. Various alternatives are being explored by political and interested advocacy groups to replace the anticipated loss of income.

42. The County does not expect increased levels of funding from the State. Local Government funds have been reduced by half; estate tax income has been eliminated in prior years.

43. The Correctional and Law Enforcement Fund (CLEF) balance after expenditures and receipts through 9/30/17 reflect a nearly $1.18 million deficit. [County]

44. The CLEF projected deficit in 2018 is more than $12,000. [County]

45. The GF balance at the end of 2016 had more than $7.7 million unencumbered. [County]

46. Projections for expenditures are slightly higher than 2017 for 2018. [County]

47. The County GF Budget indicates for 2017 end of year an unencumbered surplus of $6.63 million. [County]

48. The County GF Budget indicates for 2018 end of year an unencumbered surplus of $3.95 million. [County]

49. On a GAAP basis, the GF had an excess of revenues over expenditures (excluding transfers) of over $4.3 million including transfers, the fund balance was $2.36 million for 2016. [Union][4]

50. The County outperforms the budget every year since 2012, using the cash basis accounting method. For 2016, the excess was approximately $2.7million. [Union]

51. Since 2012-2016, the budget consistently indicated a deficit but only in 2014 was there an actual deficit. It was $2 million less than projected. [Union]

52. GF cash at the end of 2016 was over $8 million. [Union]

53. The target for cash to expenses ratio under general accounting principles is 15%. In 2016, the County ended with a 36% ratio. [Union]

54. For year's end in 2016, the GF had over 64% fund balance as a % of expenditures overall and 45% for its available (unassigned) fund balance. [Union]

55. For the State audit conducted at the end of 2016, Ross County had two warning indicators.
    a. It received a cautionary outlook regarding the expenses exceeding the revenue, noting a decline since 2013.

[4] All of the Union financial information was sourced from the CAFR to the extent it concerned county finances. Its other remarks relating to comparables were based upon a multiplicity of cbas from claimed comparable jurisdictions.

b. It received a critical outlook for the condition of its capital assets. It crossed that benchmark in 2016.

56. The Sheriff's Department is projected to have nearly a $1.2 million shortfall in 2017, improving to a nearly flat status in 2018. [County]

57. "Best practices" for carryover (unrestricted fund balance) indicate that the amount should be 15% of the total budget.[5]

58. Additional sources of revenue for the Sheriff's Department are fees which are/could be charged for housing prisoners from other jurisdictions and other revenue sources under an existing contract with the City of Chillicothe which could be charged.

59. The budget for Corrections and Law Enforcement (CLE) through 9-30-17 indicates a shortfall of $2.72 million. [County]

60. Sheriff's Department expenditures have risen steadily since 2014 with amounts approximating $9.3 million in 2017 and nearly $9.5 million for 2018. [County]

61. Bonds issued by the County have been decreasing by over 10% in the principal amount by year end 2016. [Union]

62. The amounts budgeted for 2018 include a planned renovation of the LEC.

63. The following entities/operations are housed within the LEC: Ross County Sheriff [Ross County Sheriff Road Patrol, Corrections, Dispatch, and Civil]; the Chillicothe Police Department, the Ross County Prosecutor's Diversion Program and the Ross County Law Library.

64. Description of the renovation work to be done regarding the LEC include the following: [6]
    a. make the entry doors ADA compliant and re-do the entry area regarding planters, pavers and approaches
    b. replace cement plaster on South and East elevations
    c. remove metal mansard roof and replace the membrane roof
    d. replace the overhead doors in the sally port and vehicle bay with electrical work required
    e. repair/replace detention doors frames, locks, hinges and locks
    f. retrofit for a new 40 bed cell block
    g. retrofit infirmary as exercise area

[5] Unrestricted fund balances consist of the total of the committed find balance, the assigned fund balance and the unrestricted fund balance.

[6] These items are listed in summary form only. There was no testimony as to whether each and every item listed was a "must" or a wish list for improvement. A meeting memorandum dated 3-9-17 indicated the Commissioners' review that trimmed back some of the items on the original bid. The Union presented no testimony that indicated the listed items on the bid were frivolous or excessive.

h. retrofit space for a new infirmary
i. retrofit space for K-9 residence
j. build a new storage room for food [dry storage and freezer]
k. retrofit space for a new Property room
l. replace two elevators with electrical work required
m. ADA upgrades for bathrooms, doors and holding cell
n. Cell toilet replacements
o. Replacement of miscellaneous non-security doors and frames
p. Fire protection upgrades
q. HVAC system modifications and replacements
r. Updates for audio communication equipment
s. Updates for video equipment
t. Updates for television control switches
u. Update Housing control, SECS, CCTV systems
v. Update booking control and establish connections
w. Link and coordinate systems with SECS

65. The earlier bid [DLZ] exceeded the RFP and was not accepted.

66. There is a new bid for the desired renovation/repair work open until November 8, 2017.

67. The Auditor estimated the LEC renovation to cost $5 million.

68. Another infrastructure project in the County expected to occur during the term of the cba is the extension of State Route 207. Expectations regarding costs are between $1.5-2 million. This will be slated for late 2018.

69. Ross County has two law enforcement agencies within its borders: the Sheriff's Department and the City of Chillicothe Police Department.

70. Under an existing contract in place since 1995, Chillicothe City is required to pay a per diem for its prisoners housed in the County Jail. It is also required to pay for medical services rendered. Additional stipulations exist in the contract regarding housing "able bodied" and non-mentally ill persons who are dangerous. There is provision regarding the City's role in providing escort services for court appearances and transport. City arrested prisoners are to be charged under City ordinances.

71. The County has not pursued payment for any of the services and enforcement of other items listed in the contract between it and the City for many years.

72. Projections of revenue for these services were not part of the record.

73. Moody's January 2017 report on the County indicated its credit position is very strong and that its rating reflects a "robust financial position."

74. In 2014, 26 employees were replaced; in 2015, 23 employees and in 2016, 30 employees.[7] The average annual replacement cost for the Department for pre-employment testing and interviewing and training is over $419,000.

Statutory Factors

RC 4117.14(C)(4)(e) and (G)(7)(a) through (f) direct the FF "to take into consideration" the following criteria in reaching recommendations on each of the issues in dispute:

(a) Past collectively bargained agreements, if any, between the parties;

(b) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those 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) 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.

The FF considered each and all of the above factors in her recommendations as relevant and as noted below. The discussion below may highlight some factors in

[7] Not all of the replacements were due to retention issues. Some were retirements; the breakdown was not part of the record. Regardless in a unit of 60 employees, it appears as though more than 1/3 and at one point up to ½ of the unit turned over in the past 3 years. Even if the numbers include retirements, this is an unusually high ratio.

particular in certain instances. Other factors had no relevancy to the particular recommendation.

ISSUE 1 Article 40- Insurance

Employer position

The Employer maintains that current language is appropriate. No additional testimony or exhibits were offered other than the cost impact of the Union's proposal.

The current premium contribution levels have been in place since 2012. They were the result of the negotiation process and Fact Finding. *In re: Teamsters Local Union No. 284 and Ross County Sheriff*, 10-MED-09-1357 (Braverman). The FF awarded the Employer's health insurance proposal partly in consideration of increasing the wage increase percentage that the parties had agreed upon in pre-Fact Finding mediation.

The parties agreed upon these levels in the current cba. Union employees pay 15% towards their plan (whether single or family). Other County employees pay 10% towards a single plan and 17% towards a family plan.

The Union proposal also would have a significant cost impact. It is estimated to cost the County an additional $221,111.96 over the cba duration if recommended and ratified.

Union position

The Union seeks to move the Employer contribution from 85% (current language) to 90% of the premium cost. It argued that the employees have borne increases in premium amounts of 10% in 2016 and an additional 10% in 2017. These increases were effective on January 1 of the respective years.

As of the date of hearing, there has been no announced increase for 2018. Based upon established past patterns an increase is expected and likely to be known yet in October.

Insurance premium increases directly affect take home pay. Wage gains have not been commensurate. The proposed adjustment in the premium reimbursement due would assist in addressing the wage inadequacies.

Analysis

The Employer presented no direct evidence on the issue of the insurance provision other than cost projections. These were submitted both at hearing and in a post hearing submission.

The Union presented its arguments primarily on the basis that insurance increases affect take home pay. As it maintains take home pay is already well below comparables, the proposed 5% downward adjustment in the insurance reimbursement will do something towards assisting employees in having more take home pay.

The parties acknowledge that rising costs plague any discussion of benefits and plans for health insurance. Additionally the parties are dealing with an unstable health care environment on the national level and in the marketplace itself. There is an assumed mutual desire to seek to provide predictability and stability for its workforce with little of either quality being available in the marketplace. With the expected increase unknown each year until the October preceding the January effective date, there is increased uncertainty for ability to handle rising costs. This is a given uncertainty not new or unique to this unit.

The anticipated increased premium costs to be borne by the members while real are unlikely to be unduly onerous. Any increase will not be welcomed by employees. But those living in the world of employer paid health insurance bear a responsibility to partner and participate in the management of expenses. The FF also notes that neither side discussed at FF or made proposals that reflected a mutual effort to control health insurance costs. The contents of the plan were unknown and not part of the record.

The Employer's position is reinforced by external comparables. The average family premium contribution in the Columbus region (which includes Ross County) in 2017 has increased to over 16% and is expected to continue to rise. Employees in this region contribute more than 20% more than the statewide average for single coverage and nearly 24% more for family coverage. Thus Ross County's proposal to retain current language seems on target for individuals and fares better than the average for family coverage. A counterpoint to the Employer's position is that other County employees pay 10% for single plans. But this is only one factor considered by the FF.

The historical bargaining evidence was also considered as a counterweight to the disparate internal comparables.

SERB's Cost of Health Insurance survey found that employees in this region (which includes Ross County) were contributing 14.9% for single plans in 2017.[8] SERB figures assume the plans include prescription coverage. The parties' plan likewise includes prescription benefits. Additional information in SERB's statewide survey indicated the following: annual increases between 2016-17 were under 5% for both single and family coverage; monthly premium costs have trended upward steadily since 2010 for all counties; counties have the highest monthly costs for family premiums and for all counties statewide single premium coverage averages 14.4% and 14.7% for counties the size of Ross.

A clear trend is that percentage increases in health insurance premiums far and away outstrip average wage increases. The cost in premiums likewise exceed inflation every year since 1994 with the single exception of 1996 (costs were nearly equal). This is a losing battle perhaps-as medical care costs historically outstrip the inflation rate and outstrip wage increases. This problem is systemic and beyond the scope of a single bargaining cycle to address.

On the record as a whole, based upon external comparables the FF recommends as indicated. The health insurance picture this year is particularly uncertain as the instability at the national level impacts insurers everywhere. The parties may well see a dramatic rise in premium costs over the term of the cba-or not. But the percentage allocation is sufficiently stable and not on its face inequitable or outside of established norms. There was not sufficient persuasive evidence to reduce down the percentage contribution from current language.

[8] The Kaiser Family Foundation and Health Research and Educational Trust Annual Trust report for 2016 indicated an average of 18% employee contributions for premiums for single coverage and 30% for family coverage. That report focusses on private employers.

RECOMMENDATION: [9]

Current Language

ISSUE 2 Wages

Article 41.1- Wages

Employer position

The Employer offered to eliminate the bottom step of the wage scale in Article 41.1 and increase each step as follows: Effective July 1, 2017 = 2.5%, eliminate bottom step; Effective July 1, 2018 = 2.5%; Effective July 1, 2019 = 1.0%.

The Employer proposed lump sum payments to “red-lined” employees as follows: Upon Execution = $250; July 1, 2018 = $250; July 1, 2019 = $250.[10]

The Employer’s proposal is appropriate in any economic climate.

There is economic uncertainty facing the GF.

The Employer’s proposal is also in line with internal and external comparisons. Internally, non-bargaining unit GF employees received a 2.5% wage increase in 2017. Externally, a 2.5% annual increase is higher than increases most employers are offering.

On the other aspect of the Union proposal there would be an exorbitant cost increase in re-engineering the steps per the Union’s proposal. For example the entry level deputy’s base rate would increase by 12% ($14.30 to $16.30).[11]

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[9] For clarity, all bolded language in a section labelled **recommendation** is the recommended changes/inclusions to the successor cba.
For purposes of not unduly lengthening this Report, unchanged language is not reproduced. The parties should take the bolded language as signifying recommended changes but also look to the current cba for the remaining provisions. A careful effort was made by the FF to indicate the intention.
[10] This was agreed to during mediation at the FF. This **is RECOMMENDED.** Note that the actual amounts received are to be determined based upon the ultimate wages set.
[11] At the FF request, the Union translated its per hour increases requested for year one into percentages. The Union’s calculations follow:

Road and Peace Officer Certified:
0-1- 14%
1-3 13%
4-7 12%
8+ 10%

Corrections (Non-Peace Officer Certified)
0-1- 14%
1-3 13%
4-7 12%
8+ 10%

The Employer projects that the Union's proposal would increase the costs of the existing cba by approximately $1,032,678.57 over the next 3 years.

The Union sought to collapse the scale to 4 steps over 8 years instead of the current 7 steps over 16 years. This results in another 16.5% increase from years 7 to year 8 in a deputy's career, on top of the annual percentage adjustments proposed by the Union.

The following example illustrates the cost of the Union's proposal: Assume a deputy has a July 1st anniversary date. S/he has been working for 5 years and is at a step rate of $15.76. Under the Union's proposal, that deputy would see a $6.60/hour increase (29.5%) over the next 3 years:[12]

Step Rate – 5 year deputy $15.76 (current)
July 1, 2017 - 6 year anniversary $17.76 (Union's proposed step scale – 11%)
July 1, 2018 – 7 year anniversary $18.29 (Union's proposed step scale – 3%)
July 1, 2019 – 8+ year anniversary $22.36 (Union's proposed step scale – 18%)

Communications:
0-1- 2.9%
1-3 2.7%
4-7 3.5%
8+ N/A

Civil:
0-1- 7%
1-3 6.7%
4-7 13.6%
8+ 6.5%

The Employer reviewed these computations and submitted its own calculations regarding the actual increases. This submission was carefully reviewed as well. It is not reproduced herein.

For reasons discussed *infra* the actual dollar amounts to be received by employees will be a matter of actual calculation when/if the proposed adjustments are effective. It is the FF's belief that to re-examine/analyze each party's calculations is not productive. If the Recommendations are followed, the FF is convinced the employees will be paid as agreed. That is sufficient for this Report.

[12] The Employer points out that the Union's scale also appears to contain an error in the Communications step years 4-7, placing a Communications officer at $17.84/hour and higher than a deputy sheriff's rate in the same number of years. The margin continues for the successive years. The FF as explained below did not attempt to determine the claims as to the progression calculations of either party.

The County is projected to increase the costs of the existing cba by $298,699.78 over the next 3 years if its proposal is recommended. In view of the pressures ahead, its wage proposal (and offer to reduce one step of the pay scale) is generous, reasonable and in line with market conditions and fiscal realities.

Union Position

The Union proposed a $2 across the board increase effective date of 7-1-17 for the Road and Corrections Officers and a $1 across the board increase 7-1-17 for the Communications and Civil classifications. The Union also proposed a collapsing of the step increase system from its current configuration to allow for a progression to maximum step within 8 years versus the current 16 year schedule.

After the step adjustments and "market adjustment" increases are made, the Union proposed 3% annual increases for 2018 and 2019.

The unit's wages have fallen behind comparable departments. The entry wage is $4 below a 15 county average. After 4 years as a deputy, wage disparity in Ross County equates to more than $7/hour.

Wage disparities also exist vis a vis the Communications and Civil staff. These classifications receive $1.44/hr. less on average for the Communications unit and $1.83/hr. for the Civil staff. Over four years, the gap increases to $4.10/hr. for the Communications unit and $4.34/hr. for the Civil staff.

Analysis

The FF states that the parties made very detailed preparations of financial information. In reviewing the Finding of Facts, it is clear that there are anomalous statements depending on the party presenting the figures. The parties drew different conclusions about the financial health, status and surplus/deficit status of the County. The Union through its review showed a County in strong financial health with existing surpluses both present and projected in to the future. In contrast the County indicated deficits and projected declining revenues.[13]

[13] The Employer and the Union's cost projections do not line up with exactitude. As will be seen from the RECOMMENDATION, the Union's position is recommended in part and modified in part. Therefore, it will be up to the parties to ultimately calculate the costs in their ratification meetings-or not. The real-time cost of the Union's proposal is spread out over the term of the cba, as the dollars adjusted will thereafter affect

With full review having been made of all the materials presented, the FF is convinced there is not an inability to pay. The recommendations here which follow should not result in a deficit, should not result in borrowing and the County should be able to fully fund the proposal as recommended.

Regarding the collapsing of the current step system, the FF appreciates that this action would if recommended constitute a significant historical change. It would also be “dramatic” if understood only as a percentage increase and not within its historical context.

The Employer is willing to eliminate one step in the pay scale but not more. External comparables indicate a 16 step progression is anomalous. Likewise, it is cumbersome in terms of accounting.

The adjustment to the Union proposed step progression will cost the County money both short term and long term. It is noted that cost estimates related to making *just* that adjustment were not present in the record presented by either party, as the estimates related to both components of the Union’s proposal being funded. The balance is in wage equity and a means of addressing historic imbalances vis comparable jurisdictions. The FF recommends the wage scale progression be collapsed to an 8 year progression.

Regarding the Union’s proposal to add $2 and $1 to the disparate groups within its bargaining unit in year one, that adjustment has merit based on the record and is recommended.

There is significant merit to the Union’s position about external comparables supporting its request. The Sheriff’s deputies have been under the median for wages for many years. The effects of the relatively lower wages have been lower retention rates. Disparity in wages has also been the norm for Civil and Communications unit members. Although there was no clearly stated evidence that retention rates for Civil/Communications groups are poor or problematic, that lack of evidence does not militate against the clear evidence of a significant gap.

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the across the board rates as well. The Union’s calculations also cease at 8 years, consistent with its proposal to top off the steps at 8 years.

The Auditor's estimates for the total Union proposal is $1.1million over the life of the 3 year cba, in line with the Union estimates. Under the facts and circumstances of the current budget and other County priorities, both adjustments as sought by the Union cannot stand in their current "ask." The 3% increase plus the year one adjustment are too expensive at this time.

Statewide, wage increases in 2016 averaged 2.18%. In the Columbus region overall, averages were slightly higher: 2.3%. County averages were slightly lower at 2.23% and Police at 2.3%.

The County's proposed across the board increases in 2017 of 2.5%; 2.5% in 2018 and 1% in 2019. It also proposed to eliminate the bottom step leaving 15 instead of 16 steps. Cost of this proposal were $298,699.78.[14] It did not claim it could not afford more; it claimed it had other priorities pending: the renovation of the LEC. It also claimed financial prudence and good accounting practices present a barrier to fully finding the Union demands.

The evidence in this case was a moving target in terms of cost assumptions and calculations. The FF does not intend to herself "cost-out" either party's proposals. Instead the FF relied upon the latest assumptions and numbers offered by the parties. Unfortunately because there is no apples to apples comparison involved, the FF balanced all the relevant statutory factors to support the ultimate recommendation.

The FF was convinced that the wages of the Blue Unit have not kept pace with its peers. The FF was convinced that health care costs will inevitably rise each January: the only variable was by what percentage. The FF was convinced that any wage increase will be offset to a certain degree by the increased cost of health care premiums in addition to inflation.

Overall there is a need to balance very important and competing interests. The County is interested in fiscal responsibility, internal equity and funding the LEC renovations without borrowing or issuance of bonds. On the other side, the Union noted that its workforce is behind its peers and the gap is greater each passing year. It pointed

[14] A supplemental Union filing challenges the County's assumptions as to the cost of its proposed adjustments. Instead of approximately $300,000 the Union recalculates the County's proposal as costing between $485-525,000.

to retention issues and morale. It calculated the costs of replacement of employees as the turnover each year is very extensive and expensive, amounting to at least 1/3 of the workforce.

The Union said little at hearing or in its written submissions about the intended jail renovations. It did indicate that floating bonds was an alternative to paying for the intended contract through the GF. The FF cannot help but believe that the Union would acknowledge that many of the listed planed renovations affect the members' safety and welfare directly. The time to pay the piper is sooner rather than later, and the expense is considerable. The County's planned LEC renovation should be unaffected by the proposed Recommendations herein.

Upon direct questioning by the FF the County stated the burden of the costs will not fall solely on the Sheriff's Department. It is undoubtedly the primary occupant of the LEC and its employees who are not on the road on assignment are in large measure there during their working hours. The fixes are presumed necessary and the work needs to be done to avoid continuing critical reports from the Auditor and any other potential issues of health, safety and security to employees and the prisoners.

Due to the pending renovation, a *carte blanche* to the Union at this time is not warranted. The Union's case for addressing the growing wage gap between it and the surrounding departments was sufficiently strong so as to support wage increases but not in its proposed manner.

The FF recommends a one-time adjustment of the scale in the manner sought by the Union: $2/hr. for deputies and $1/hr. for the remainder of the unit. This will become effective 7-1-17. The evidence presented by the Union of the glaring disparity between its members and those of 15 other jurisdictions in counties of comparable population [within 20,000 persons] to size was unrebutted. Even recommending the sought for adjustment does not bring this group up to the average of its peers-a significant finding in support of the recommendation.

The picture for the Civil and Dispatch classifications is also one of gaps between it and its peers. The gap at the entry level is not so large as exists for the Deputies. As the Union exhibits illustrate, the gap widens to more than $4/hr. at the 4 year mark.

Again recommending the sought for adjustment does not bring this group up to the average of its peers. It makes the gap smaller but does not close it.

The FF further finds sufficient merit in the Union request to collapse the steps to 8. In review of the Union's external comparables, the step system currently in place is twice as long as any other jurisdiction listed in the Union's external comparables. This action in shrinking the number of years the employees need to work to "top out" will eventually move the unit closer to approaching parity. Perhaps it will alleviate also concerns regarding retention, morale and the unknown yet inevitable rise in medical premiums.

As a balance to the dramatic move in wages the employees will see in year 1, the FF believes that the 2.5% proposed by the County for year 2 is equitable and found insufficient reasons for the County's proposed drop to 1% in year 3.[15] The FF instead recommends across the board adjustments of 2.5% effective July 1, 2018 and 2.5% effective July 1, 2019. Although no large cost difference exists between the .5% proposed by the Union in year 2 and that offered by the County, the County will be making financial adjustments if it adopts these recommendations that will be larger than budgeted, necessitating a give and take between the positions.

The construction/renovations have not yet begun. The County plans to fully fund the project without bonds and without any other type of borrowing. The FF cannot find fault with that decision as it is based on good faith analysis and budgetary and accounting principles that are consistent with stated interests and goals. However, the employees working in that building have been left behind for a number of bargaining cycles and the problem grows each year there is not equity [market] adjustment. The building fund is an insufficient barrier to begin the steps to approach parity.

The Union pointed out that the County has by negligence, willfulness or otherwise failed to collect revenues due to it through the contract between it and the

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[15] The FF notes that these first year adjustments that viewed *only through the lenses of percentages* will be striking. But looking at the actual dollars involved, the amounts are not significant to the point of "breaking the bank" or winning the lottery amounts. The evidence convinced the FF that historic undervaluing of the employees' wages has occurred in Ross County. In view of the current economies of the Employer, it is now prudent and possible to address same through means of a onetime market adjustment.

City of Chillicothe. There was clearly a lack of political will expressed by the Sheriff on this subject. His reluctance is based upon experience and perhaps some realpolitik concerns as well. Regardless the FF is without authority to order the County to collect revenues due it. There are both legal and extra-judicial means of resolving the efficacy of the contract for services the Union introduced as an exhibit. Further discussion is outside the scope of the decision. However as a general statement the case must be decided upon existing revenue streams and those reasonably certain to exist. (i.e. the MOC "save" for 2018)

Reviewing the record as a whole, there are sufficient revenues to fund the Union's year one request and the County's year 2 proposal and a "discount" on the Union's year 3 proposal [2.5% vs. 3%]. The Union gains in collapse of the pay scale and the market adjustment require less salary advancement in years 2 and 3. [i.e. 2.5% instead of 3%]

RECOMMENDATION

The step pay scale shall be retroactively adjusted to 7-1-17 to include a $2/hr. increase for the Deputy classifications. The Communications and Civil staff shall likewise receive a $1/hr. adjustment to the base rate effective the same date.

The pay scale shall be collapsed effective 7-1-17 to reflect an 8 year progression.

The unit shall receive across the board adjustments of 2.5% on July 1, 2018 and 2.5% on July 1, 2019.

Article 41.4 Longevity

Employer Position

The Union proposal seeks to re-insert a longevity amount that it agreed to delete in the last cba as it overlapped the then newly established wage step scale. The wage step scale covers 16 years. It is unnecessary to have an overlapping longevity amount. The Union's proposal would also increase the costs of the cba by about $30,000 over the next 3 years.

The Employer proposed maintaining the current longevity pay benefits for bargaining unit members.

Certain geographically proximate Sheriff's Offices provide no longevity supplement. External comparables support the Employer position.

Union position

The Union seeks to add a lower level of persons eligible to receive longevity: employees with 10 years of service. Those persons reaching that threshold would receive $.30/hr. added into the base. Additionally the Union proposes an increase of $.10/hr. for persons with 15-19 years of service; and an additional $.10/hr. for those with 20 or more years of service.

Analysis

The Union has not convinced the FF that this adjustment to include a 10 year benchmark is necessary at this time to maintain equity with peers. External comparables do not overwhelmingly weigh in favor of the Union position; the Employer contention that some jurisdictions have no longevity supplement was also considered.

There was insufficient evidence to support the additional amounts sought for the 15 and 20 year benchmarks.

There was no compelling evidence in the record to indicate that such adjustment is needed to remedy glaring inequities from the past cbas or concessions. The wage gains recommended on the steps and the first year "market adjustment" will go a long distance towards wage fairness and parity. Other disparities while noted and reviewed did not prove as convincing.

RECOMMENDATION

Current language.

Article 41.6 Shift Differential

Employer position

A shift differential would be an additional cost item. The Employer expects that the proposal would cost at least an additional **$**57,096 over the term of the cba.

The Employer has generally no say in shift assignments for most bargaining unit members. Per Article 22.1 bargaining unit members are entitled to a shift preference based on bargaining unit seniority.

None of the non-bargaining unit employees receive a shift differential. Only about ½ of the nearby County Sheriffs pay shift differential. The Union's proposal is not supported.

Union Position

The Union proposed an additional $.20/hr. for members working midnight to 8am; $.20 for members working 11pm to 7am; and an additional $.25/hr. for members working 4pm to midnight and 2pm to 11pm.

Analysis

The rationale for recommending or not recommending this item was not fully argued by either party. It is obvious that adding in a shift differential at this point in the long history of cbas between the parties would be a substantial change in the status quo.

The fact that it is an additional cost item was weighed.

The fact that members would by dint of seniority have a chance to earn more money-or less- is neither unusual, unexpected or inequitable. The employees balance out the desire for a certain schedule when an opportunity becomes open and choose between a lifestyle/sleep cycle change versus a monetary effect. This was not a factor in the recommendation.

External comparables do not make the case compelling.

The record on internal comparables was nonexistent as no other County employees work shifts.

There was no anecdotal testimony from either side on the plus/minus of such a change. In the absence of a compelling reason to add this provision to the cba, the FF declines to make that recommendation.

RECOMMENDATION:

Current language

Miscellaneous Issues

The below listed items were agreed to in the mediation session held prior to the record hearing:[16]

Article 17 Layoff and Recall

Article 30 Sick Leave

Article 32 Injury Leave

Article 36 Vacation

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Article 41 Section 41.2 (Current language)

Article 41 Section 41.3 (Current language)

Article 47 Duration

Letter of Understanding "A" Special Duty pay[17]

RECOMMENDATION

The FF recommends that the parties incorporate each and all of the TAs listed above into the successor cba.

Conclusion

Both parties presented testimony and exhibits supportive of the respective positions taken. Post hearing submissions were also made to clarify and correct certain matters related to the hearing. The parties clearly are willing as evidenced by the significant number of matters settled prior to fact-finding and in mediation that day of fact-finding to engage in good faith in the processes set forth in Chapter 4117.14. In this round of negotiations it was the parties' practice to resolve differences whenever possible.

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[16] The Union withdrew its proposal for a new Section 41.5 Hazardous Duty Pay.
The Union withdrew its proposal for a new Section 41.7 Specialty Differential.
Footnote 8 above reflects the parties' agreements on lump sum payments to employees who are "red-lined**". <u>The FF recommends the adoption of the parties' agreement on red-lined employees</u>.** The agreed upon language will be in place regardless of the actual wages plugged into the wage increases.

[17] **The Union's proposal for a new Section 41.8 Special Duty Assignments was withdrawn as the parties tentatively agreed to Letter of Understanding "A".**

The Union sought to achieve economic gains and equity. The FF finds that can be accomplished in certain areas without sacrificing the Employer's articulated goals of financial prudence and stability and a building fund for the LEC renovation.

The issues remaining for decision by the FF were based in different interests and competing concerns. In making the above recommendations, the FF was mindful of the statute and the OAC and informed by the parties of the elements thereof which supported each party's self-interest.

The FF hopes the Report serves the parties to resolve and bring finality for this bargaining cycle to the above remaining disputes.

Respectfully submitted,

s/Sandra Mendel Furman Supreme Court #0010057

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Certificate of Service

An electronic copy of the above report was sent by electronic mail to the State Employment Relations Board, 65 East State Street, 12th floor, Columbus, Ohio 43215; to the BCC/Sheriff Lavender, c/o David Riepenhoff; and to Teamsters Local 248 c/o Grant Shoub and Michael Moses on October 25, 2017.

s/ Sandra Mendel Furman