

October 2, 1997

CONCILIATION REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
October 2, 1997

In the Matter of:)
)
)
)
)
The Mahoning County Sheriff)
)
)
and)
)
)
Fraternal Order of Police)
Ohio Labor Council)
)

96-MED-10-0878 ✓
96-MED-10-0879
97-MED-05-0564

APPEARANCES

For the Union:

Pat Daugherty, FOP/OLC Representative
John Antonucci, Deputy Sheriff
Jerome Williams, Deputy Sheriff
Joseph Uscianoswsky, Deputy Sheriff
John Beshara, Corporal
Joseph Zelk, Sergeant
Anthony Tahachino, Captain

For the City:

Mark Colucci, Sheriff's Office Representative
J. Kevin Sellards, Commissioner's Office

Fact Finder: Dennis M. Byrne

Background

The Fact Finding process involves the Mahoning County Sheriff and the personnel in his office. The employees are covered by three separate bargaining units, all of which are represented by the Fraternal Order of Police/Ohio Labor Council (FOP/OLC). In this instance the three units and the Sheriff are engaged in multi-unit bargaining, consequently the demands of the separate units are the same. The parties engaged in numerous negotiating sessions and were able to agree to a number of issues. In addition, there was a protracted mediation session prior to the hearing. During mediation the parties were able to reach agreement on most of the remaining issues. As a result, there are only three outstanding issues that separate the two sides; 1) wages, 2) hazardous duty pay, and 3) rank differential.

The Mediation phase of the Fact Finding process took place on September 9, 1997 at the Mahoning County Jail. The Fact Finding Hearing conducted on September 25, 1997 at the jail. The Hearing commenced at 9:30 A.M. and was adjourned at 12:15 P.M. The Ohio Public Employee Bargaining Statute sets forth the criteria the Fact Finder is to consider in making his recommendations. The criteria are set forth in Rule 4117-9-05.

The criteria are:

- (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 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 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 final offer settlement through voluntary collective bargaining, mediation, fact-finding or other impasse resolution procedures in the public service or private employment.

The Report is attached and the Fact Finder hopes the discussion of the issues is sufficiently clear to be understandable. If either or both of the parties require a further discussion, however, the Fact Finder would be glad to meet with the parties and discuss any questions that remain.

INTRODUCTION

These negotiations take place against a backdrop of some turmoil. The Mahoning County sheriff's department personnel filed a petition with the State Employment Relations Board (SERB) for an election to determine if they would continue to be represented by the FOP/OLC. The election took place in the Spring. The FOP/OLC was not decertified and, consequently, remains the

certified bargaining agent for the department. As a result of the time needed to conduct the election, negotiations for a new contract did not begin until April.

This impacts the outcome of the negotiations because the parties have agreed to make the new contract retroactive to April 1, 1997 rather than retroactive to the expiration date of the current labor agreement.

A further complicating factor is that the County's financial condition is somewhat unsettled. At the present time a referendum is scheduled on a continuation levy. If the referendum is successful, then the County will have less revenue in its general fund than it anticipated when negotiations began. Of course, if the referendum is defeated there will be no impact on the County's finances. However the referendum has, at a minimum, added a degree of uncertainty to the County's financial situation and the current negotiations. Given this fact the County's negotiating team made every effort to present what it considered to be a realistic picture of the County's financial position. It must be noted that the County never claimed an inability to pay. Rather the contention is that the County may not be in a position to fund significantly increased expenditures.

The Union indicated that it was aware of the County's concerns, but stressed that its membership had not received any pay adjustments for over a year. Furthermore, the Union's position is that the membership is engaged in a hazardous occupation that requires a highly trained labor force that has a unique set of skills. The Union believes that its members deserve to be paid a wage

wage that reflects the skills they possess and which also takes into account the dangerous nature of police work.

The result is that the issues outstanding are issues of first impression. The differences between the parties are over the bread and butter issues that are the traditional fare of collective bargaining.

Issue: Article 34 Rank Differential

Union Position: The Union demands a 10% differential between all ranks.

County Position: The County's position is that the existing rank differential be maintained.

Discussion: The current rank differential payment is a 7% differential between deputy II and a corporal, a 7% differential between a corporal and a sergeant, a 12% differential between a sergeant and a lieutenant, and a 12% differential between a lieutenant and a captain. The Union's demand is for a 10% differential between all ranks which would increase the differential at the lower ranks and reduce the differential at the higher ranks.

The County indicated that its major concern was not with the concept that the Union was presenting, but with any potential cost implications. The parties have a long established practice of paying a rank differential, therefore, payment of a rank differential is not in dispute. The County indicated that it is indifferent to the exact percentages between ranks as long as the overall cost is not increased dramatically. In addition, the County understands the Union's desire for greater equity in the differential between ranks.

The Union's proposal will increase the cost of the differential, but the increased payment is not large. Given all of the facts, the Fact Finder believes that the Union's equity argument is persuasive in this instance. The Union's proposal benefits its membership and has a modest impact on the County's budget.

Finding of Fact: The Union's demand leads to greater equity between the various ranks within the Sheriff's department and has very little effect on the County's budget.

Suggested Language: The pay scales contained in Article 34 of the contract shall be amended to show an across the board rank differential of 10%, regardless of the rank considered.

Issue: Article New: Hazardous Duty Pay

Union Position: The Union demands a "hazardous duty" payment of \$750.00 per year for each year of the proposed contract.

County Position: The County's position is that the contract reflect the status quo, i.e., no hazardous duty payment.

Discussion: The discussion on this issue took place against the background of the overall economic packages presented by the parties. The Union presented evidence that contracts in most surrounding jurisdictions have a hazardous duty payment clause. As a result, the Union argued that it was treated inequitably compared to comparable jurisdictions in this matter. In addition, the Union

argued that police work is hazardous and a payment reflecting that fact is justified by the nature of police work.

The County argued that it understood the Union's position, however, the County strongly argued that the Union's demand is excessive by any standard. That is the County believes that the \$750.00 payment proposed by the Union cannot be justified. The County stated that it was willing to discuss the concept of a hazardous duty payment based on the evidence presented at the hearing, but only as part of an overall economic package.

Finding of Fact: the Union proved its contention that a hazardous duty payment is becoming a standard payment in comparable police jurisdictions within the Youngstown area. However, the Union did not prove that \$750.00 was a reasonable payment.

Suggested Language: Article New.

Each bargaining unit member shall receive a hazardous duty payment equal to 1% of his/her base wage.

Issue: Article XXXIV Wages

Union Position: The Union demands a 4% pay raise in each year of the proposed contract.

County Position: The County is offering a 3% pay raise in each year of the proposed contract.

Discussion: The parties disagree on the relative rank of the sheriff's department with regard to the surrounding jurisdictions. The Union contends that

its membership is relatively underpaid, and that a 4% pay raise is justified. The County pointed out that it is offering a raise that is similar to the raises negotiated in comparable jurisdictions. Additionally, the County claims that the uncertainty generated by the upcoming vote on the tax levy make offering more than 3% problematic. Finally, the County presented evidence that other County employees are receiving a 3% raise, therefore, the County claims that internal parity should apply in this situation.

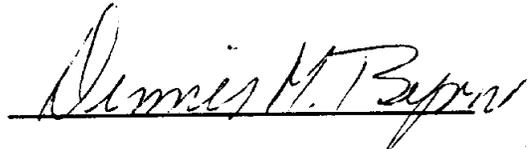
This is a situation of equal and competing interests, both sides made a strong argument for their positions and presented evidence to buttress their demands. However, in this situation the Fact Finder agrees with the County. This is especially true given the fact that a hazardous duty payment has been recommended for inclusion into the contract. The facts of the situation are such that the Fact Finder cannot recommend that the Union membership receive both a 4% increase and the hazardous duty pay. Given the County's uncertainty over its financial picture, and the total cost of all the contract items combined, the Fact Finder believes that the County's position on this issue is reasonable.

Finding of Fact: The total cost of all contract clauses, taken as a package, indicate that the County's wage offer is justified by the facts of this situation.

Suggested Language: The pay scales listed in Article XXXIV shall be amended to reflect a 3% across the board pay raise in each year of the proposed contract.

Note: The parties discussed a new pay scale to cover all the department's personnel including the corrections officers. In a separate negotiation the CO's

have reached agreement on a new contract, and the parties are attempting to define a pay scale that reflects the CO agreement in addition to the agreement outlined in this report. If the parties can agree on the proposed scale, that scale should be included in the contract in Article XXXIV.

A handwritten signature in cursive script, reading "Dennis M. Byrne", written over a horizontal line.

Dennis M. Byrne, Fact Finder