

IN THE MATTER OF CONCILIATION

BETWEEN

U. A. W. INTERNATIONAL UNION, REGION 2-B, LOCAL 70

AND

CUYAHOGA COUNTY SHERIFF'S DEPARTMENT

SERB CASE # 09-MED-09-0950

(Correction Officer Corporals)

ADVOCATE FOR THE UNION:

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ADVOCATE FOR THE EMPLOYER:

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INTRODUCTION

The United Automobile, Aerospace and Agricultural Workers of America represents the bargaining unit (hereinafter "Union") and the Employer is the Cuyahoga County Sheriff (hereinafter "Employer", "Sheriff"). The bargaining unit involved in this case is comprised of approximately thirty-seven (37 Correctional Officer Corporals, who are responsible for the supervision of approximately five hundred and twenty-seven (527) Correction Officers, who in turn are charged with the supervision, care, and custody of jail inmates who at any given time number between 1800 and 2050 and are housed in two separate facilities. The contract contains re-opener language provided for under Article 14, Section 3, p. 8 of the Collective Bargaining Agreement, and the sole issue before the conciliator is wages, as which expires on December 31, 2010. The pertinent language in this matter is as follows:

"SECTION 3. The parties shall reopen negotiations on the issue of wages for 2010. Such wage re-opener negotiations shall be governed by the same statutory negotiation and impasse procedures as provided in Ohio Revised Code Chapter 4117"

A mediation/conciliation hearing was held on February 12, 2010 over one issue, Wages. The parties amended their original positions statements and subsequently provided them to the conciliator via e-mail. The parties waived

the statutory requirement imposed on the conciliator concerning the making of a verbatim transcript in the instant proceeding, given the extensive discussion during the attempted mediation process.

Both Advocates represented their respective parties well and clearly articulated the position of their clients on the issue in dispute. Prior to a formal submission of evidence the conciliator, sensing the parties interest in reaching an amicable resolution, made an offer to mediate the dispute. Several offers were explored and exchanged, but no final agreement was reached thereby necessitating an award to be issued by the conciliator. The conciliator shall not restate the actual text of the parties' proposals on each issue, but will instead reference the Position Statement of each party (EP – Employer, UP – Union) along with a summary discussion.

OVERALL RATIONALE FOR DETERMINATIONS

There appear to be growing signs of gradual recovery in some sectors of the national economy, currently led by a relatively optimistic and sometime volatile stock market. Recent events in Greece and their effect upon the United States' economy demonstrate once again the interdependence of the world economy. Ohio's prospects for recovery remain, in the main, unclear. The troubled domestic auto industry and its multitude of suppliers, many of whom have plants in Ohio, have yet to show sustained signs of recovery. Job losses in

Ohio number in the tens of thousands and underscore the existing structural problems of unemployment in areas such as manufacturing and construction. A recovery in Ohio is likely to take a very different path given what appears to be the permanent loss of high paying hourly jobs in the auto and auto supply sectors. The state of Ohio continues to struggle to find ways to fund the many obligations it shoulders such as Medicaid costs, education, job growth, and a myriad of other pressing economic demands. The Governor, who has warned of a multi-billion dollar shortfall in the next biennium budget (beginning July of 2011), may yet ask Ohio citizens, and public employees, to make greater sacrifices in order for Ohio to meet its basic obligations in the years ahead. One can only hope that in the coming months Ohio's economy will improve beyond current projections.

CRITERIA

OHIO REVISED CODE 4117

In the finding of fact, the Ohio Revised Code, Section 4117.14 (G) (7) establishes the criteria to be considered for conciliators. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements, if any, between the parties;
2. Comparison of issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employers doing comparable work, giving consideration to factors peculiar to the area and classification involved;
3. 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;
4. The lawful authority of the public employer;
5. The stipulations of the parties;
6. Such factors not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to final offer settlement through voluntary collective bargaining, mediation, conciliation, or other impasse resolution procedures in the public service or in private employment.

These criteria provide the basis upon which the following recommendations are made. These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made:

Issue 1 Wages

Employer's Position

The Employer's amended position in this matter is as follows:

SECTION 3. Retroactive to January 1, 2010, there shall be a one percent (1%) increase to the current hourly wage rate of \$24.6919 for calendar year 2010 (new hourly rate: \$24.9388).

*[Concurrent with this wage offer is a Memorandum of Understanding relative to Article 22: "Holidays" wherein, in consideration for the one percent (1%) wage increase, Employees in the unit would forfeit thirty-six (36) hours of holiday pay as a cost-savings measure. The holiday pay would be deducted from the first three (3) scheduled holidays on which an Employee is scheduled to and actually works a twelve (12) hour shift, effective the first holiday following the conciliation award. The Employee would still receive compensation at the rate of one and one-half (1 ½) times the regular rate of pay for working the holiday. Employees would also receive a total of three (3) twelve-hour compensatory time days to be used **no later than March 31, 2011 (unless extenuating circumstances prevent use by that date) and will not be subject to pay-out in the event they are not used.** Scheduling of such "comp days" shall be by mutual agreement and in accordance with seniority, if scheduled by a mutually-agreed "deadline date"; thereafter, on a "first come" basis. Subject to unanticipated situations, Employees' requests shall be granted unless it would result in scheduled staffing below previously-agreed "minimum staffing levels".]*

The Employer argues that the ability of the Employer to provide raises is severely hampered by the "...abysmal state of the economy, regionally, nationally, and internationally. The Employer argues that during this difficult financial time, it has also attempted to avoid layoffs, putting further pressure upon any efforts to provide additional compensation. The Employer points out that personnel costs related to salaries and benefits make up over seventy-five percent (75%) of the Sheriff Office expenses and the Sheriff's Office projected budget deficit is approximately \$3.5 million dollars for fiscal year 2010. Additionally, for the third straight year there has been no increase in wages for non bargaining unit

personnel in the Sheriff Office and the number of Correction Officers has been reduced from approximately 573 to approximately 527.

Union Position

The Union is seeking a one and one half percent (1.5%) increase in wages.

The Union, while recognizing the difficult economic times being experienced in northeast Ohio and in the world in general, argues that its members should be provided a wage increase, even a modest one, during these times based upon modest wage increases realized during the first two years of the Agreement. In addition the Union cites the service provided by this bargaining unit.

Discussion:

It is recognized that the bargaining unit provides a valuable service to the citizens of Cuyahoga County, yet the extraordinary economic conditions currently in existence in northeast Ohio require temporary unconventional measures to be taken in order to maintain the economic viability of the Employer and to preserve jobs. Hopefully the economy, which has been showing some recent signs of recovery, will continue to improve to a point where employees and employers alike will be able to address wages, hours and working conditions in a reasonably normal fashion.

Award:

The position of the Employer is awarded.

TENTATIVE AGREEMENT

Any and all tentative agreements are part of the award contained in this report.

The Conciliator respectfully submits the above award to the parties this ____ day of May 2010 in Portage County, Ohio.

Robert G. Stein, Conciliator