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IN THE MATTER OF CONCILIATION

BETWEEN

THE PUTNAM COUNTY SHERIFF'S OFFICE

AND

THE OHIO PATROLMEN'S BENEVOLENT ASSOCIAITON

SERB CASES # 10-MED-05-0693 (DEPUTIES)
10-MED-05-0694 (SERGEANTS)
10-MED-05-0695 (COMMUNICATIONS)
10-MED-05-0696 (CORRECTIONS)

Robert G. Stein, CONCILIATOR

ADVOCATE FOR THE UNION:

Justin D. Burnard, Esq.
ALLOTA, FARLEY & WIDMAN CO. LPA
2222 Centennial Road
Toledo OH 43617

ADVOCATE FOR THE EMPLOYER:

Benjamin S. Albrecht, Esq.
DOWNES FISHEL HASS KIM LLP
400 S. Fifth Street, Suite 200
Columbus OH 43215

INTRODUCTION

The parties in this matter are the Putnam County Sheriff (hereinafter "Sheriff", "PCSO" or "Employer") and the Ohio Patrolmen's Benevolent Association (hereinafter referred to as "OPBA" or "Union"). There are four (4) bargaining units that are part of this conciliation process. The parties agreed to the issuance of one report containing rulings for each unit as dictated by the issues at impasse. The bargaining units (hereinafter "units") are comprised of Deputies (approximately 10), Sergeants (approximately 5), Dispatch/Communication Officers (approximately 8), and Correctional Officers (approximately 18). By the very nature of their duties these employees provide essential services to the citizens of Putnam County.

Putnam County is located in a predominately rural area of Northwest Ohio. Based upon the evidence and interaction with the parties, it is apparent that the Sheriff's Office operates in a very professional manner and employs dedicated and competent personnel. In recent years, the County's budget, which from the evidence appears to have been managed very well by the Board of County Commissioners, has become challenged, which has impacted the Sheriff's operating revenue. Challenging the County's operating budget are the effects of the national recession experienced during the past two plus years, and the significant cuts that have occurred and will become more pronounced if the Governor's proposed budget is passed by the Ohio State Legislature. The parties were successful in reaching tentative agreement on several issues in negotiations and mediation, but six (6) issues were carried forward to fact finding. A fact finding hearing was held on December 16, 2010, a report was issued and was subsequently rejected by all four bargaining units as a final resolution to the unresolved issues. The parties' dispute then proceeded to conciliation and the conciliator made an attempt to first resolve the issues through mediation. This effort failed to resolve the parties' impasse and a conciliation hearing was then convened on the same day.

National/State/Local Economic Outlook: Cuts in spending and in existing programs appear to be of central interest at the national level and state levels of government. The economic recovery in the country varies widely depending upon geographic location. The economy in Ohio is still experiencing the effects of a national recession and with a few exceptions appears to be slowly recovering. While officially considered to have reached an end, the impact of the recession upon Ohio's revenue stream is starkly plain and it is now translating into substantial cuts in revenue, services, and personnel. Additionally, the Ohio legislature has passed a substantial overhaul of Ohio's 27 year old public sector collective bargaining law that if defeated through referendum, will have far reaching affect for all governmental entities who participate in collective bargaining. In Ohio, unlike many other states, there has historically been a substantial lag time between a declared end to a recession and recovery from it. Yet, the current decline in revenue, caused by what many call the "Great

Recession" is far deeper and broader than those of the past, and it is severely testing even the most resilient of Ohio's public employers and employees alike. Many states in the United States are attempting to cope with declining revenues and increasing costs. Counties in Ohio that were already weakened by the loss of industry, commerce, and changes in revenue sources from the state in preceding years were particularly vulnerable as the events of the recession took hold. At this point in time it is difficult to know when Ohio's economic recovery will take place in a measurable and sustained manner. Every month on a national and state level there are mixed signals being provided by various sectors of the economy and by the public. The national unemployment rate recently rose to 9% in April, yet some 244,000 new jobs were created in the country. In Ohio the unemployment rate has steadily declined over the past 14 months in a very encouraging sign. The recent net gain in jobs both nationally and in Ohio, while encouraging, is still undermined in Ohio by severe structural unemployment. One of the more certain and disconcerting aspects of the current economic times are losses of high paying skilled jobs in Ohio. Many jobs that once sustained a viable middle class lifestyle are now being performed outside of the United States. They number in the tens of thousands and clearly underscore the existing structural problems of unemployment in areas such as manufacturing and construction. Most troubling is the prospect that the loss of these high paying manufacturing jobs is permanent. This altered employment pattern will require a recovery in Ohio to take a very different course than it has in the past, when industrial facilities creating these jobs were still in the state. All the news is not negative; there are indicators of economic revival and some employers are doing well in the aftermath of the recession. The most recent sales reports indicate General Motors, Ford, and Chrysler are selling more cars, an important indicator for ancillary businesses that support these industries. This is encouraging news with hopes that it will sustain or even gain momentum. Budget data presented at the hearing indicate that sales tax and property tax revenue for the County are . To their credit public employee unions and employees in Ohio have, in the main, recognized and responded to the economic downturn and to the decline in revenue experienced by their employers. State employees and many county, city, and township public employees in and outside of Ohio continue to make unprecedented financial sacrifices in the form of layoffs, wage freezes, benefit givebacks, furlough days and in paying more for their medical coverage.

Issues: (Summary of positions are identified below, see position statements of the parties for details and rationale)

Issue 1, Article 20, Life and Medical Insurance (Issue for all 4 units). The **Employer** proposes the language recommended by the fact finder. It argues that it is important that "bargaining unit employees receive insurance pursuant to the same terms" as all other County General Fund non-bargaining unit employees and that the Board of County Commissioners has the statutory authority to contract for health insurance. The **Union** argues that "Continued rises in health care costs have virtually wiped out employee raises in the past and thus employees want some limit to the current system to prevent further financial hardship." The Union also contends that a cap on what employees must contribute to health care premiums will force the County to make more prudent decisions when it comes to health care insurance. **Discussion:** Equity of sacrifice is an important concept when dealing with a benefit such as health care. An employer and its employees are "in the same boat" when it comes to this benefit, and given the size of the bargaining unit and the County, there is wisdom in maintaining equity in the health care benefits provided to a relatively small number of employees. The conciliator understands the bargaining units concerns' with not having premium caps. It is also a fact that insurance premiums did not rise in 2010 and went up only 1.3% over 2010 rates. (Fact finder's Report, p. 10, Employer Tab 9) Additionally, an 80-20 split in costs is becoming more of the norm in health care, and having the responsibility to shoulder 80% of the costs should be sufficient incentive for any employer to act prudently when it comes to health care choices. The data in this matter does not support a departure from reasoning contained in the fact finder's recommendations. **Issues 2, 3, and 4, Article 57 Wages (including Acting Supervisor Pay), Restructure Wage Schedule, and New Article Longevity. (Issue for all 4 units)** The **Union** prior to the hearing dropped its demand for a $500 signing bonus for each of the bargaining units. Its demands on behalf of the bargaining units are as follows:

Road Patrol Deputies

4/2/2011 – 3% increase
2012 – 4% increase

Command

4/2/2011 – 3% increase
2012 – 3% increase

Communications Officers:

4/2/2011 – 4% increase
2012 – 6% increase

Correction Officers:

4/2/2011 - $0.50 increase p/h
2012 - $0.50 increase p/h

F. The dispatcher, and Non-Ranking Corrections Officers who are assigned by the Sheriff to supervise the dispatchers, and as shift supervisors shall receive additional compensation of **seventy-five cents (.75) cents** per hour worked. All such supervising assignments shall be made in the sole discretion of the Sheriff.

Longevity:

ARTICLE LONGEVITY

Longevity Pay shall be calculated as Twenty-five ($25.00) Dollars per year. However, employees shall receive no Longevity Pay until they have completed five (5) full years of service with the Office.

The Union contends that external comparable regional data demonstrate that like workers in these four units are paid considerably less than other like workers who work in the surrounding counties. Additionally, the Union points out that employees in the four bargaining units did not receive an increase in 2010, while non-bargaining unit employees received a bonus. The OPBA also argues that its proposal for longevity helps employees cope with rising costs and that many of the surrounding comparable employers provide longevity for their employees. (see Union Tab 2) The **Employer** prior to the hearing removed its 80 cents supplement due to its inclusion in the current wage schedule. The Employer proposes the following:

.50 p/h effective 4/2/11* (all 4 units)
.30 p/h effective 1/1/12 (all 4 units)

Drop the bottom entry level step of the salary schedule and re-number the remaining 5 steps.

*Effective date of the (G) (11) Agreement

The Employer argues that the PCSO's budget was reduced by 20% (approximately $500,000) in 2009 and it had to lay off 6 employees for approximately 5 months. It was able to recall them and prevent further cuts with the help of federal grant money. In addition, two positions remain unfilled, and if the grant money is not renewed the Sheriff faces further reductions in revenue. Moreover, the cuts in local government funding being proposed in Columbus could result in more lost revenue. The Employer also argues that its cents-per-hour wage proposals are more equitable than a percentage increase. The Employer rejects the Union's proposal to reinstitute longevity, which was removed from collective bargaining agreements years earlier. **Discussion:** The data indicate that all non-bargaining unit employees received a lump sum payment of $500 in 2010, while the four bargaining units in this matter received no increase. The Employer is proposing in the first year what is roughly equivalent to a 3% increase, and when you consider the 4/2/11 implementation date, this increase mirrors or may even be less in terms of summative costs (verses overall percent costs over the life of the Agreement) than what the

Union is proposing in the first year of the Agreement for the Deputy's unit, the Correction Officer's unit, and the Sergeant's unit. The Communications unit is asking for a higher percentage than the other three units and the aggregate amount that will be paid out during the remainder of 2011 may be even or slightly higher than what the Sheriff is proposing. However, over the life of the Agreement the Communication unit's proposal considerably exceeds what the Employer is proposing and is twice the increase the Union is proposing for the Correction Officer's unit in the second year. Comparable data provided by the Union is in Union Tab 1 and the data supplied by Employer in Employer Tab 6, when viewed together support the Union's position for two of the four units, the Deputies unit and the Corrections unit. This is particularly true in counties, such as Paulding, Henry, Hardin, and Van Wert, where permissive sales tax revenue is less and in three counties substantially less than what is collected in Putman County. (See Employer Tab 4) Based upon Employer's Tab 6, the Deputies unit makes approximately 85% of the average for surrounding counties. In the Correctional Officers unit the comparable data demonstrates a similar disparity of the unit's maximum salary it is also approximately 85% of the average for surrounding counties. The Sergeant's unit has fared better than the other units, and while below many counties, at the top of the salary range, Sergeants make approximately 95% of the average. Communication Officers make approximately 88% of the average according to Employer Tab 6; however, the Union's proposal of raising their salaries (currently equal to Correction Officer's salaries) by 10% over two years cannot be justified given the economy and what other bargaining unit employees are proposing in this matter. Had the Communication Officer's unit proposed a more modest increase similar to that of the Correction Officer's unit, its bargaining position in conciliation, where a conciliator is restricted to choosing between the employer's and the union's last best offer, would have been strengthened. There is insufficient data to support the introduction of longevity for any of the units, particularly when budgets are being scrutinized closely and the Union has been awarded its position with regard to some of the units.

Also, given the limited resources of the Sheriff and the facts, Section F., which deals with temporary assignment to supervision, should remain the same. And, the Employer's proposal to eliminate the first step of the salary schedule and renumber the remaining steps is also supported by the facts. **Issue 5, Article 21 Hours of Work (Deputy's Unit only),** The **Employer's** proposal reflects its original proposal in fact finding and what the fact finder awarded. It argues for reasons of accountability, accuracy, and compliance with wage and hour regulations, that it is necessary to have a verifiable paper trail for hours of work and that is best accomplished through the use of time clocks for road deputies. The Employer also points out that accommodations can be made in the instance of a road deputy having to respond to a law enforcement matter that may arise on his/her way to work to punch in. The **Union** argues that deputies are working from the time they enter their take home vehicles and there are situations of having to respond to citizens on the way to the Sheriff's office. The Union also points out that there are no pre-shift meetings reducing the need to have deputies report to work, and that all police cruisers are equipped with GPS tracking so the Sheriff knows where every car is located in the County. **Discussion:** Reasons of accountability and compliance with federal law (FLSA) have taken on greater significance for employers, and the Employer in this matter has a right to require all employees to clock into work, even though said procedure may appear to an individual employee as being illogical or redundant. Moreover, the Employer's proposal (Section G) is responsive to the situation where a Deputy may have to respond to a call in route to the Sheriff's office. The conciliator finds no reason to depart from the recommendations of the fact finder on this issue. **Issue 6, Article 41 Uniforms (Deputy's Unit only):** The **Union** is seeking to modify the provisions of Article 41 that in substantial part mirror the recommendations of the fact finder to remove the words "up to" from the maximum amount ($450) of the uniform allowance for Deputies. The Union is also proposing to modify the language of the provision to reducing the amount of uniform money the Employer would have to spend on new hires. The Union also points out that the Sheriff "…has limited employee purchases to $300 claiming a need to save money. The **Employer's** position is to maintain current language providing the Sheriff with latitude in providing the uniform allowance benefit in terms of his budget. Moreover, the Sheriff argues that in the past "…no employee has been denied a necessary uniform allotment. **Discussion:** The conciliator agrees with the findings of the fact finder on removing the words "up to" that precede the amount of the uniform benefit. Just like any other provider of services, each Deputy has a right to be able to count on a certain level of benefit in the Agreement. In any other setting it would be rare to find a contract that would include paying someone for services with an "up to" qualifier, particularly if it excluded at least a minimum. Also, the Union's proposal to cover the cost of repairing or replacing eye glasses and watches damaged in the line of duty is not unreasonable with the firm caveat that acts of negligence are excluded. The Union's proposal is not unreasonable, particularly considering its proposed language to reduce the cost to the Sheriff for new hires.

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 determinations are made:

Based upon the above the following determinations (in bold and italicized) are made:

Issue 1	Article 20 LIFE AND MEDICAL INSURANCE

DETERMINATION:

The Employer's position is awarded for all 4 bargaining units.

Issue 2, 3 Article 57 WAGES

DETERMINATION:

The <u>Union's</u> position on wage increases for Deputy's unit and Correction Officer's unit is awarded.

The <u>Employer's</u> position on wage increases for Sergeant's unit and Communication Officer's unit is awarded.

The <u>Employer's</u> position on F. Maintain current language is awarded in addition to its proposal on "cleaning up" language for all 4 bargaining units.

Issue 4 Article 57 WAGES – SALARY STRUCTURE

The <u>Employer's</u> position on modifying the salary schedule by eliminating step 1 and renumbering the steps is awarded for all 4 bargaining units.

Issue 5 New Article LONGEVITY

DETERMINATION:

The <u>Employer's</u> position is awarded for all 4 bargaining units.

Issue 6 Article 21 HOURS OF WORK, TIME CLOCK

DETERMINATION:

The <u>Employer's</u> position is awarded for the Deputy's bargaining unit.

Issues 7 UNIFORMS

DETERMINATION:

The <u>Union's</u> position is awarded for the Deputy's bargaining unit.

TENTATIVE AGREEMENT

During negotiations, the parties reached tentative agreements on several issues. These tentative agreements and any unchanged current language are part of the determinations contained in this report.

The conciliator respectfully submits the above determinations to the parties this _____ day of May 2011 in Portage County, Ohio.

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Robert G. Stein, Conciliator