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STATE OF OHIO
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Conciliation Between

Fraternal Order of Police, Ohio Labor Council, Inc.

Employee Organization — Case Nos. 11-MED-08-1034, 1036

And

Pickaway County Sheriff — Conciliator: Jerry B. Sellman
Date of Report: March 15, 2012

The Employer

REPORT AND AWARD OF CONCILIATOR

APPEARANCES:

FOR THE EMPLOYEE ORGANIZATION:

Andrea H. Johan. – Staff Representative with Fraternal Order of Police, Ohio Labor Council, Inc., representing the Blue and Gold Bargaining Units

FOR THE EMPLOYER:

John J. Krock – Vice President, Clemans, Nelson & Associates, Inc. representing the Employer.

Preliminary Information

The instant case involves an examination of two the current Collective Bargaining Agreements ("Collective Bargaining Agreements") between the Pickaway County Sheriff (hereinafter referred to as the "Employer" or the "Sheriff") and the Fraternal Order of Police, Ohio Labor Council, Inc. (hereinafter referred to as the "Union"). Case No. 11-MED-08-1034 involves individuals employed full-time as Road Patrol Deputies and Detectives (the Blue Unit); Case No. 11-MED-08-1036 involves individuals employed full-time as Sergeants (the Gold Unit). The Deputies, Detectives and Sergeants agreed to multi-unit bargaining. All issues are the same in both units. Their respective Collective Bargaining Agreements are effective from the date of signature in 2009 through August 31, 2012, and both Agreements contain provisions for re-openers on several issues.

The members in the Deputy and Detective Bargaining Units are responsible for law enforcement within Pickaway County. Generally, the Deputies are patrolling the road and responding to calls from the public; the Detectives respond to calls for assistance at crime scenes and accidents, etc. The Employees in the Sergeant Unit are responsible for supervision of the road officers. They also perform routine duties on the road. The Sergeants are the first line supervisors and serve as shift supervisors. There are approximately eighteen (18) road deputies and detectives, and six (6) Sergeants.

This is a re-opener negotiation. The parties met only one time and engaged in multi-unit bargaining on October 26, 2011. The FOP, Ohio Labor Council represents three (3) bargaining units at the Pickaway County Sheriff's Office, all of which went to Fact-finding. The dispatch/communication officer bargaining unit was deemed to have accepted the Fact-Finder's recommendation and is not part of this conciliation hearing. As a result, this conciliation hearing pertains only to the bargaining units covering the road deputies and the sergeants.

The parties were unable to agree on all issues in the re-opener and submitted three (3) issues to the Fact-Finder for resolution. Those issues involved longevity, insurance and wages. The Fact-finding hearing took place on December 7, 2011. The Fact-Finder's Report and Recommendation was issued December 21, 2011, and was rejected by both parties.

The Conciliator was appointed on January 19, 2012. The Parties mutually agreed to hold the Conciliation hearing on February 15, 2012, at the offices of the Pickaway County Sheriff. Pre-hearing statements were properly submitted by the parties. The parties waived any requirement for a transcript of the hearings.

The Conciliator is required to select the offer of one party or the other without modification. The selection between the final offers is based upon the criteria set forth in Section 4117.14(G)(7) of the Ohio Revised Code. They are:

(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 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 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 standard of public service;

(e) The lawful authority of the public employer;

(f) The stipulations of the parties;

(g) Such other 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, fact-finding, or other impasse resolution procedures in the public service or in private employment.

Issues

While three issues were initially presented to the Conciliator regarding re-openers for the time period September 1, 2011 through August 31, 2012, the only disputed issue is in regard to wages. The Fact-Finder recommended the Union's position (current language) on Health Insurance and the Employer's final offer for Health Insurance is to retain the current language. There is no dispute over Health Insurance, since both parties final offer is to retain current language. The Fact-Finder recommended the Union's position (current language) concerning Longevity and the Employer does not propose a change in current language (which includes longevity provisions) except that it proposed to freeze wages in this re-opener. There is no dispute over the longevity provisions in the contract. The only issue before the Conciliator concerns a wage re-opener for 2011-12. At Fact-finding, the Union sought a two and one-half percent (2.5%) increase in wages and the Employer sought a wage freeze. The Fact-Finder recommended a zero percent (0%) increase in wages. At this conciliation, the Union proposes a one percent (1%) increase in wages and the Employer proposes a wage freeze.

The following summarizes the positions of the parties, the evidence and arguments offered in support of each party's wage proposal, the Conciliator's analysis and the Conciliator's Award on the issues presented.

Article 24 – Compensation
Appendix A – Wage Scale

The Union proposes a one percent (1%) increase for 2011 retroactive to October 1, 2011.

The Employer is proposing a wage freeze.

The Union's Position

The current contract was negotiated in 2009. The parties *did not* reach impasse on any issues, including wages. The Employer proposed, and the members *voluntarily* agreed to accept a zero percent (0%) increase in wages for 2010 (with re-openers for 2011 and 2012). As a result of the zero percent (0%) increase from the first year and in 2011, the bargaining unit cannot afford another year of no increases.

The Union argues that there is sufficient carry-over to pay the modest increase sought. It calculates that a one percent (1%) increase will amount to approximately Eighteen Thousand Dollars ($18,000). Since there is a projected $2.2 million dollar to a $2.3 million dollar carryover from 2011 for 2012 and 80%-85% of that carryover will be used for payroll (for all County employees) in the first quarter of the year, adequate funds are available and the Sheriff can afford this increase

This amount of carry-over was confirmed after the Fact-Finder's Report in the *Circleville Herald* wherein it was reported that County Commissioner Glenn Reeser told an assembled group at a budget hearing that the County would enter 2012 with a $2.4 million surplus. Even if the County used a full eighty five percent (85%) of the carryover for first quarter wages there would still be an approximate $400,000 left from which to conduct further business.

The Union is cognizant of the economic climate in which the parties are bargaining, both in Pickaway County as well as state wide. The Union submits that some wage increase for 2012 is necessary and warranted to prevent the net loss of income for current members, particularly because of the increase in contributions to each employee's health insurance. The Union reiterates that it is proposing a very small increase.

Although there have been some recent news reports that seem to indicate an upswing in the economy, the Union recognizes that the economic climate has seen brighter days. To even suggest a third year with no increase in wages borders on the unconscionable. Continued flat wages with an increase in health care costs (through the elimination of a specified premium split) results in a severe loss of income for the members which cannot be recouped. Further, continued lack of increases in income, encourages members to look elsewhere for employment. When they leave, they take all their skills and training, paid for by this Employer with them.

<u>The Employer's Position</u>

Declines in the economy have resulted in decreases in General Fund Revenues in Pickaway County, while projected expenditures are remaining flat. Based upon current data for 2012, Pickaway County is projected to receive a decrease of one million dollars in general revenues from 2011.[1] The loss of local government contributions from the State of Ohio, the loss of tangible personal property taxes, a reduction in investment income and a reduction in sales taxes account for the decrease in revenues. While real estate taxes are projected to increase in 2012, that increase cannot offset the reductions in collections from the other areas.

In the County budget, the Sheriff's budget is $5.6 Million to $5.7 Million Dollars, or about forth-five percent (45%) of the overall county budget. Because of the decrease in revenues, the Sheriff cannot increase its budget without damaging its office, as well as other county service offices.

The County has been able to pay its expenses in light of declining revenues because it has prudently managed its money in the past and it has had sufficient carry-overs to cover the decreased in revenue. It is now, however, basically deficit spending to maintain operations, which it cannot continue to do. While there was a $3.5 Million dollar carry-over in 2011, the

County expects that the carry-over will be reduced to $1.8 Million Dollars by the end of 2012. If the carry-over is reduced much beyond that, layoffs will need to occur to because there will be insufficient cash to pay the first quarter expense of the County.

The County points out that while wages have been frozen over the last couple of years, employees have benefited as a result of the Employer's pick-up of health insurance premium increases. While it has the contractual authority to assess the employees for the increases, the County has paid them so as not to further negatively impact the employees' take home pay.

The Sheriff disputes the Union's calculations of the impact of a one percent (1%) increase. It calculates that the Union's one percent (1%) proposal will result in an increase of about $30,000. The Union did not take into consideration all of the other employee costs associated with an increase, including retirement costs, among others. This cost will be much higher, however, because of me-too provisions in other County contracts. The Sheriff receives its revenue solely from the County and with no further budgeted increases from the County, there simply is no money to pay any increase.

The Sheriff Deputies and Sergeants are paid about average for the area. They are not overpaid, but they are not underpaid. As such, they are paid a comparable wage.

Analysis

During uncertain economic times, wage re-openers are in the public interest, as well as employees' interest, for it allows the parties to retain or attain fair wages and maintain public services over a multiple year period with more current financial information. The parties in this proceeding recognized this in finalizing their Collective Bargaining Agreement. After two years of wage freezes it is understandable that the bargaining units believe some increase is justified,

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[1] $12,653,200 in 2012; down from $13,734,000 in 2011.

particularly since living expenses have continued to rise.

The evidence demonstrates while deserving, the County simply cannot afford to pay any increases to the Bargaining Unit Members in these two units. While the County does have a surplus entering 2012, one cannot overlook the fact that the County expects that the carry-over will be reduced to $1.8 Million Dollars by the end of 2012, down from $3.5 Million Dollars entering into 2011. The County is deficit spending. Revenues are projected to decrease by $1 Million Dollars in 2012, thus the projected reduction in carry-over. The County was clear that if the carry-over is reduced much beyond its current level, layoffs will need to occur. There was no evidence presented indicating that a turnaround of the downward trend of revenues was in the foreseeable future.

While the Union argues that another wage freeze may drive its members to work for other sheriff departments in other counties, which is not in the best interest of the County, wage comparables demonstrate that the members of the two bargaining units are paid in the middle of comparable wage scales.

The Union believes that it has suffered an actual wage loss due to the increases in employee contributions to health insurance premium costs. This, however, is not the case, since the County committed to, and has, paid all premium contribution increases while a wage freeze has beeen in place. Since the employees have not had to pay increases that have occurred, and will not in the final year of these collective bargaining agreements, the employees have not suffered what would otherwise be a decrease in take home pay; they have effectively received an increase in compensation.

Based upon the economic factors presented, the current wages of the members of the bargaining units relative to the employees in the bargaining units with those related to other public and private employees doing comparable work as cited, giving consideration to factors peculiar to the area and classification involved, the interest 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, I find the last best offer of the Employer to be appropriate in this case.

The Conciliator notes that the Union suggested the exploration of new sources of revenue which would help decrease the County's projected loss of revenue (such as charging for investigating false alarms in the County), but the evidence indicates that revenues from these other sources would not be enough to significantly reduce pending deficits.

The Union is correct that unemployment in the County has decreased from 8.7% to 8.5% and the economy may be improving, but the evidence does not suggest that any turnaround will sufficiently impact the County budget to permit any increases at this time.

Award

The Conciliator selects the Employer's final offer which is a wage freeze for the last year of the Collective Bargaining Agreement through August 31, 2012.

Conclusion

After due consideration to the positions and arguments of the parties and the criteria enumerated in ORC §4117.14(G)(1) and ORC §4117.14(G)(3) regarding the scope of the issues before the Conciliator and ORC 4117.14(G)(7), the Conciliator awards the last best offer of the Employer on the issue of Wages.

This concludes the Conciliator's Report and Award.

March 15, 2012
Columbus, Ohio

Jerry B. Sellman

Jerry B. Sellman

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the Conciliator's Report and Award was sent via email, receipt confirmed, and by First Class Mail on March 15, 2012 to:

SERB
Mary E. Laurent
Administrative Assistant
65 E. State Street
Columbus, OH 43215
mary.laurent@serb.state.oh.us

Andrea H. Johan
Staff Representative
FOP, Ohio Labor Council, Inc.
222 East Town Street
Columbus, Ohio 43215
ajohan@fopohio.org

John J. Krock
Vice President
Clemans, Nelson & Associates, Inc.
6500 Emerald Parkway, Suite 100
Dublin, Ohio 43016-6235
JKrock@clemansnelson.com

Jerry B. Sellman

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