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State Employment Relations Board
Conciliation Report
August 26, 2013

In the Matter of:	)	
	)	
	)	
The Putnam County Sheriff	)	
	)	
	)	
and	)	SERB Case No. 12-MED-05-0534
	)	
	)	
	)	
The Ohio Patrolmen's Benevolent	)	
Association	)	
Bargaining Unit One - Patrol	)	

Appearances

For the OPBA:

Michele Sullivan, Allotta & Farley Co. LPA, Special Counsel, OPBA
Mark Brecht, Deputy Sheriff
Jonathan Winters, Allotta & Farley Co., LPA, Special Counsel, OPBA

For the Putnam County Sheriff:

Fred Lord, Account Manager, Clemans, Nelson & Associates
Brad Brubaker, Putnam County Sheriff's Department
Laura Huff, Putnam county Sheriff's Department

Conciliator: Dennis M. Byrne

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Introduction:

This Conciliation involves members of the Putnam County Sheriff's Department Road Patrol Deputies, represented by the Ohio Patrolmen's Benevolent Association (OPBA/Union), and the Putnam County Sheriff (Employer). The parties reached an impasse in their attempt to negotiate a successor agreement to their contract that expired on December 31, 2012. Subsequently, they availed themselves of the dispute resolution language of ORC 4117 and scheduled a fact finding. The Fact Finding Hearing took place on March 23, 2013 before Fact Finder Martin Fitts, who issued his report on April 24, 2013. That report was rejected, and the parties scheduled a Conciliation Hearing on August 20, 2013.

The parties originally listed four (4) open issues for the Conciliator to consider. The open issues are: 1) Wage increases including increases in the steps on the pay scale, 2) Life and Medical Insurance, 3) Overtime, and 4) Retirement. At the time of the Conciliation Hearing, the parties withdrew their proposals on the Life and Medical Insurance issue because they submitted identical proposals.

The Conciliator began a preliminary discussion of the issues, and both parties indicated an interest in discussing the outstanding issues. The Conciliator and the parties began a discussion that morphed into a mediation session, and the parties were able to reach an agreement on the outstanding issues. However, both parties wished for a final report, and this document is that report. The reason for the request is that neither party, especially the Union, was completely satisfied with the final agreement and both parties wanted their positions on the issues stated in a Conciliator's report.

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CRITERIA

The Ohio Revised Code enumerates the criteria to be considered by a Conciliator when making recommendations. The criteria are found in ORC 4117-9-06-H(1) to ORC 4117-9-06-H(6). The criteria are:

1. Past collectively bargained agreements, if any, between the parties
2. Comparisons
3. The interests and welfare of the public and the ability of the public employer to finance the settlement
4. The lawful authority of the public employer
5. The stipulations of the parties
6. Such other factors not itemized above, which are normally or traditionally used in disputes of this nature.

Background:

This situation presented some features that made the parties' search for a new contract difficult. The Sheriff's Department consists of four (4) separate bargaining units: the Corrections Officers, the Communications Operators, the Road Patrol Deputies, and the Sergeants. Historically, the Sheriff has negotiated a single agreement with all four (4) units. However, in the current round of negotiations, the Sheriff negotiated with all four (4) units independently. That entailed a series of negotiations over the same (similar) issues. Not surprisingly, there were some differences in the final results of these negotiations. Both sides indicated that the other party was responsible for the decision to negotiate with each bargaining unit separately.

Unfortunately, no unit reached a final agreement, and each separate unit went to fact finding. To compound the issue, the parties did not accept any of the

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fact-finding reports, and each unit went to conciliation. The patrol deputies are the third unit to be involved in a conciliation procedure. That is, two other units have gone through the conciliation process, and one report has been issued. The parties are waiting for the second report, and the final conciliation hearing will have taken place before this report is issued. However, since the Deputies and the Sheriff reached an agreement, the Conciliator in the Communications Operators negotiations will know the outcome of the Deputies' negotiation. That information may or may not affect the outcome of the Communications Operators negotiations.

The result of all of these hearings is that the parties have discussed the issues often and are moving toward a settlement on numerous issues. Moreover, some issues that may be important to either the Union and/or the Employer are not germane in settling a specific contract. For example, the Union is vitally interested in increasing the pay rate for each step on the pay scale. However, all of the road deputies have reached the top step on the scale, and therefore the pay steps have no impact on the current deputies. Of course this will change if and when the Sheriff hires new deputies. At that time the issue(s) relating to the pay steps may (will) become an issue between the parties. However, if a different bargaining unit has a number of less senior members, then the pay scale steps assume a greater importance than the issue does for the road deputies.

The Sergeants unit has reached the end of the dispute resolution procedures outlined in ORC 4117 ,and their contract is settled. That means that there is a pattern settlement for the parties to this dispute. It was pointed out numerous times during the mediation discussions that the Sergeants and the Road Deputies

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worked side by side, and consequently similar issues should be important to both bargaining units.. Therefore, some issues that divided the parties were more tractable than the actual negotiations over these issues suggested because there was a pattern agreement for the parties to follow.

The following report will specify the parties' positions on the open issues and the Fact Finder's recommendations. After that, there will be a brief discussion of the issue and the Conciliator's recommendation. In all cases, the Conciliator is recommending the parties' agreement on each issue. The mediated agreement is attached as Appendix A to this report.

Issue: Article 24 - Overtime

Employer Position: The Employer demands that sick leave be deleted from the definition of time worked for the computation of overtime.

Union Position: The Union demands current contract language on this issue. That is, sick leave remains in the definition of time worked for the computation of overtime.

Fact Finder's Recommendation: The Fact Finder recommended that sick leave be deleted from the definition of time worked for the computation of overtime.

Discussion: The Sheriff's position is that adding sick leave to the definition of time worked for the computation of overtime will lead to a "pyramiding" of overtime. That is, a sick officer is not working and is using paid time off to gain overtime pay. This is true. But in order to try to reach a final agreement and in light of the

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language found in the Sergeant's contract, the Sheriff agreed to the Union's demand on this issue.

Conciliator's Recommendation: The Conciliator is recommending the parties' agreement on this issue.

Issue: Article 57 – Wages

Employer Position; The Employer accepted the Fact Finder's recommendation and offered two and one-half (2 ½%) percent in 2014 and 2015.

Union Position: The Union demanded two and three-quarters (2 ¾%) percent in 2014 and two and one-quarter (2 ¼%) in 2015. The Union also demanded a seven hundred and fifty ($750.00) dollar payment in 2015.

Fact Finder's Recommendation: The Fact Finder recommended two and one-half (2 ½%) percent in 2014 and 2015.

Discussion: The Sergeant's unit received a seven hundred and fifty ($750.00) dollar signing bonus in their contract. In addition, they accepted the Fact Finder's recommendation and received two and one-half (2 ½%) percent in 2014 and 2015. The Sheriff accepted the Union's argument that the Sergeant's Unit set a pattern and acceded to the Union's demand for a seven hundred and fifty ($750.00) dollar signing bonus.

Conciliator's Recommendation: The Conciliator is recommending the parties' agreement of a seven hundred and fifty ($750.00) dollar signing bonus and two and one-half (2 ½%) percent in 2014 and 2015.

Note: There was a second demand on the wage issue.

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Employer Position: The Employer accepted the Fact Finder's recommendation and did not add any increase to the pay scale steps.

Union Position: The Union demanded that the two and one-half (2 ½%) percent wage increase be added to each step on the pay scale.

Fact Finder's Recommendation: The Fact Finder did not recommend adding any increase to the wage scale steps.

Discussion: The Union was adamant that the wage increase be added to the steps. The Union believes that the wages paid to newly hired deputies must be increased. The Conciliator notes that this is the third contract with no step increase. That is, it is almost a decade since the wages of newly hired road deputies has changed. However, the Sergeant's contract does not increase the step payments. In addition, there are no deputies with less than five years of service, and consequently, there is no road deputy affected by the Union's demand. Therefore, the Union in an attempt to find an agreement, agreed to withdraw its demand on this issue.

Conciliator's Recommendation: The Conciliator is recommending the parties' agreement for no step increases.

Issue: Article 58 – Retirement

Employer Position: The Employer is demanding a penalty if a deputy does not inform the Sheriff when he/she intends to retire. The penalty is forfeiture of ten percent (10%) of the severance pay accumulated under Article 15 of the agreement.

Union Position: The Union rejected the Employer's demand.

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Fact Finder's Recommendation: The Fact Finder recommended the Employer's Position.

Discussion: The Union argued that the proposed language was punitive and would affect a deputy's retirement income. Moreover, the Union argued that the Sergeant's contract did not contain this provision. However, the Union finally accepted the Employer's demand in order to achieve a final agreement. It should be noted at this point that the language is simply a notification requirement. That is, the employee can rescind his/her pending retirement by simply informing the Retirement System and the Sheriff of the intention to continue working before his/her retirement date.

Conciliator's Recommendation: The Conciliator is recommending acceptance of the parties' agreement.

Finally the Conciliator is recommending that all tentative agreements between the parties be included in his recommendations by reference.

Note: The parties reduced their agreement to writing, and that document is reproduced as Appendix A.

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Appendix A

Conciliation Agreement
OPBA + Putnam County Sheriff

Article 1:

1. Effective upon ratification: $750.00 lump sum payment
2. Effective Jan. 1, 2014 increase* to all employees
3. Effective Jan. 1, 2015 increase* to all employees
   - increases not applied to steps

Article 24 – Overtime

1. current contract language

Article 58 – Retirement

1. Employer's proposal

Article 20 – Life and Medical Insurance

1. As proposed by both parties

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Signed the 26th day of August 26, 2013 at Munroe Falls, Ohio

/s/Dennis Byrne

Dennis Byrne
Conciliator