



**STATE OF OHIO**

**STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of Fact-Finding Between:	)	
	)	
Ohio Patrolmen's Benemevolent Association.	)	12-MED-09-0872 & 0873
	)	
And	)	
	)	Conciliator:
Wood County Sheriff	)	John T. Meredith

**FINDINGS, OPINION AND AWARD  
ISSUED FEBRUARY 19, 2013**

**INTRODUCTION**

The parties to this Conciliation proceeding are the Ohio Patrolmen's Benevolent Association and the the Wood County Sheriff. The two bargaining units included are: 1) The non-command unit, which includes 80 full-time employees in the Road Patrol, Corrections Officer, Radio Dispatcher, Clerical Specialist and Records Management classifications. 2) The command unit, which contains 24 full-time employees, consisting of Corporals, Sergeants, and Lieutenants.

The OPBA and the Sheriff currently are parties to a collective bargaining agreement (the "Agreement") which runs from January 1, 2012 thorough December 31, 2014. Section 17.2 and Article 27 of the Agreement provide for wage reopeners in the Fall of 2012 for 2013 wages and the Fall of 2013 for 2014 wages. Pursuant to the first reopener, the parties met November 1, 2012 to commence bargaining for 2013 wages. The Sheriff declined to offer any wage proposal pending completion of the County budget process, and the OPBA promptly requested fact finding. SERB appointed Daniel



Kosanovich to serve as Fact Finder. Mr. Kosanovich issued his Report and Recommendations on December 3, 2012. He recommended a three percent (3%) wage increase for 2013. The Union accepted, but the County Commissioners unanimously rejected this recommendation.

SERB then issued a conciliation order, effective December 21, 2012, designating the undersigned John T. Meredith as Conciliator. Each party timely submitted its Position Statement with Final Offer. The Sheriff's final offer provides a 1.50% wage increase plus a 0.5% one-time lump sum payment. The Union's final offer is: "Effective January 1, 2013, all bargaining unit employees shall receive a three percent (3%) pay increase."

A hearing was held on January 25, 2013 to take evidence on the issue submitted. The hearing was conducted in accordance with the Ohio Collective Bargaining Laws and applicable SERB Rules and Regulations. Witnesses testified under oath, and the parties and their advocates also presented arguments and numerous documentary exhibits. The parties agreed to accept the written exhibits and Conciliator's notes as the record in event of an appeal, as provided in SERB Rule 4117-9-07(F).

Appearing on behalf of the Union were: Michelle Sullivan and Jon Winters, Attorneys, and Deputy Sheriffs Greg Pannity, Jill Holland, Shelly Vajen, Jack Burket and Brandon Stanford. Appearing for the City were: Steven Spirin, Labor Relations Consultant; Joneal Bender, Director of Employee Relations; Andrew Kalmar, County Administrator, and Joe Fawcett, County Commissioners' Office.

The Conciliator has now resolved the issue submitted by selecting the final offer of one of the parties. In making his decision and issuing his Award, the Conciliator has given consideration to the following criteria prescribed by the Ohio Collective



Bargaining Law, R.C. 4117.14(G)(7), and listed in SERB Rule 4117-09-05:

- (1) Past collective bargaining 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, 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) Any stipulations of the parties.
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

“Other factors” noted in the sixth criteria include the common practice among conciliators of giving very significant weight to well-reasoned recommendations of the Fact-Finding Report issued in the case, absent change in circumstances or material new evidence. (See, for example: City of Lakewood and IAFF, SERB Case No. 00-MED-04-0952 (Dennis Byrne); City of Warren and OPBA, SERB Case No. 05-MED-10-1267 (Harry Graham); City of Medina and OPBA, SERB Case No. 05-MED-08-0785 (Alan Miles Rubin). “Other factors” also may include desirability of equitable treatment among the various groups of the public employer's employees, especially those with similar job functions.

### **FINDINGS OF FACT**

#### **A. Financial and Demographic Profile**

Wood County encompasses an area located just south of city of Toledo, OH. It is



a relatively prosperous area. According to the 2010 Census, Wood County's median income or \$53,2914 exceeded the national average of \$51, 914 and the average for contiguous counties of \$49.354.

The County includes both rural and commercial areas. Bowling Green, the county seat, is home to Bowling Green State University. Perry Township includes a substantial Chrysler facility employing approximately 640 persons. CSX recently opened a new intermodal in Henry Township, creating 300 new jobs. Vehtech in Bowling Green added about 300 jobs, and several smaller operations in the County also have announced modest expansion. These employment additions no doubt will help Wood County. In fact, the County has been able to maintain relatively strong employment levels in spite of the recent recession. The County's current unemployment rate is 5.8%, compared to 6.5% statewide.

The recession did have some impact on the County. County revenues peaked in 2008, and dropped significantly in 2009. They have improved since, but have not recovered to 2008 levels. The County responded with cuts in expenditures, which took effect in 2010. As a result, since 2009, when expenditures exceeded declining revenues, the County has operated in the black and improved its unencumbered year-end general fund balances. (Ex. M-13) In fact, even in 2009, the General Fund unencumbered balance was \$11,117,771, 32% of annual general fund expenditures. The comparable figures for 2010, 2011 and 2012 are \$12,350,884 (37%), \$11,924,997 (35%), and \$12,944,162 (38%). (U.Ex. Book Tab 6) These balances comfortably exceed the minimums required for sound financial management and maintenance of the County's excellent AA3 bond rating.

There are, of course, areas of continuing concern. Of the County's four major



sources of revenue, three – property tax, interest earnings and state funding – have declined in the last five years. State funding will continue to decline, and interest earnings will not materially increase unless and until interest rates rise nationally from the present low levels. However, property tax revenues are slowly improving. More important, sales tax revenues – the single largest component of the County's general fund revenues – have significantly increased since 2009, and in 2012 they exceeded even 2008 levels. (M-13)

The overall conclusion must be that Wood County's financial condition is healthier than the financial condition of most of its neighbors and most governmental units in Ohio.

#### **B. Comparability**

The Union presented data comparing Wood County compensation (2012 rates) by classification to wage rates paid to employees in the same classifications in neighboring counties at the 1, 5, 15 and 25 year points on the salary/longevity scale. Dispatchers pay ranks fifth out of eight counties. For Road Deputies, the starting rate ranking is seventh out of nine counties. At one year, they move up to first in the group, but then drop to sixth at five and fifteen years and fourth at twenty-five years. On the other hand, the Corrections Offices rank at the top of a seven-county group in most categories. The Union produced additional data to show that the pay scales of cities and township police department in the County exceed the rates paid by the Sheriff's Department. (U. Ex. Book Tab 4)

The Sheriff focused on comparisons to the percentage wage increases granted to Ohio public employees and, in particular, deputy sheriffs for 2013. According to SERB's most recent Wage Increase Report (Ex. M-1), the average negotiated increase for Ohio



public employees was 1.47% for 2012 and 1.52% for 2013. In Region 1 (Northwest Ohio), the comparable numbers are 0.73% and 1.14%. An informal poll of the Buckeye Sheriffs Association, taken by the City for use in these proceedings, produced similar results – Sheriffs who responded reported average 2013 increases of 1.4583%. (Ex. M-3) The Sheriff also pointed out that, over time, the Wood County Sheriff's employees have received wage increases comparable to state averages. Specifically, for the period 2002-2011, County employees statewide received average increases of 2.4% and police statewide received average increases of 2.7%. During the same period, Wood County Sheriff's Department employees received an average increase of 2.6%/year. (Exs. M-6 and M-10)

### **C. Internal Wage Parity and Wage History**

In addition to the Sheriff's Department, the County negotiates with three smaller union groups: SEIU represents employees at the County Nursing Home, and AFSCME represents employees at both County Job and Family Services and the County Landfill. All three of these groups settled for a 1.5% wage increase in 2013. The County likewise granted 1.5% increases to its non-union employees. (Ex. M-7)

The Sheriff also introduced a wage increase history exhibit. (Ex. M-11) This exhibit shows that, with one exception, the various employee groups have received the same percentage increases since 2000.

## **THE CONCILIATION PROCESS AND THE PARTIES' FINAL OFFERS**

### **A. Statutory Background**

A “final offer,” once submitted, cannot be modified except by mutual agreement of the parties. SERB Rule 4117-9-06(E)(4) A conciliator is obligated to select, on an



issue by issue basis, one of the two final offers submitted to him. He has no authority to fashion a compromise or deviate from the final offers even if he would prefer a compromise solution. R.C. 4117.14 (G)(7)

**B. Union's Final Offer and Rationale**

The Union's final offer is for a 3% wage increase effective January 1, 2013. It states that the County can easily afford to pay for the 3% increase. Moreover, it should do so, as employees have lost purchasing power relative to inflation during the past three years (2009-2012), while the County's revenue has significantly increased from its 2009 low point. In addition, except for Corrections Officers, the county's wage levels are near the median for neighboring county sheriff's departments, even though Wood County is more affluent and should be paying closer to the top of the scale. Finally, the Conciliator should give significant weight to the Fact Finder's recommendation for a 3% increase.

**C. The Sheriff's Final Offer and Rationale**

The Sheriff's final offer is for a 1.5% wage increase plus a 0.5% one-time bonus payment, which for this year would be the equivalent of a two percent package. The Sheriff emphasizes both external and internal comparability. Both SERB settlement reports and the County's own poll of the Buckeye Sheriff's Association establish that 1.5% is very close to the average increase for comparable employees in the state and region. The Union's 3% proposal would be an outlier. Moreover, all other employees in the County, both union and nonunion, have accepted 1.5% wage increases for 2013. The Fact-Finding Report is not entitled to deference in this case, as substantial new evidence was presented at the conciliation hearing.



### ANALYSIS

The first inquiry in a wage case is “ability to pay”, RC 4117.14(G)(7)(3). Based on the financial analysis at pages 4-5, supra, it is clear that the County does have the ability to pay for either the Sheriff's or the Union's proposals.

The next important criteria is “comparability,” RC 4117.14(G)(7)(2). The starting point for comparability analysis is comparison of the wage rates paid for the same work in comparable neighboring jurisdictions. The thirty dispatchers and twenty road deputies are paid below the median for dispatchers in adjoining counties at most points on their pay scale. This would tend to favor an above average wage increase for these classifications. However, the forty Corrections Officers are paid at or near the top of the scales for Corrections Officers in neighboring counties at most points on their schedule. This does not support an increase above the median.

A second aspect of comparability is comparison to percentage wage increases granted to employees performing similar work for other Ohio and regional public employers. The evidence presented on this issue indicates that Sheriff's Department increases are averaging near 1.50% per year for 2013. Arguably, the Sheriff should grant more than the average, as Wood County is in a better position than most counties to pay for an increase. Averages, after all, reflect both the wage freezes imposed by employers who are least able to pay and the higher wage increases awarded by the most affluent. However, the evidence presented indicates that the Union's 3% demand is an outlier even when this is considered.

In addition to comparability, internal pay equity must be considered. (RC 4117,14(G)(7)(2 & 6). Here, all other union and non-union employees of the County are getting a 1.5% increase. Moreover, historically the County has awarded the same





percentage increases to all employee groups. (RC4117.14(G)(7)(1).

Finally, there is the question of the weight to be given to the Fact-Finding Report, which recommended a 3% increase. Like other conciliators, in past decisions I consistently have given significant weight to a well-reasoned fact finding recommendation absent new evidence or change in circumstances. Mr. Kosanavich's Report in this case was well-reasoned, in view of the evidence he had before him. However, in this case there is new evidence to consider. It appears that the Sheriff did not present the same wage increase comparability data at the Fact-Finding hearing as it presented in this conciliation. The Union argues that this is the Sheriff's own fault and it should not now be allowed to benefit from it. However, conciliation is a de novo hearing and a conciliator is obligated to consider all material evidence presented to him at the hearing. Moreover, to the extent that the Sheriff's comparability data reflects recent settlements, it is genuinely new evidence, as is the very relevant information about wage increase settlements with the County's other union and non-union employee groups.

Having considered all of the above factors and evidence, I conclude that the Sheriff's position must be awarded. It is consistent with internal equity, comparability for the Correction Officer classification, and the average percentage wage increase for other Ohio Sheriff's departments. The additional 0.5% one-time bonus affords at least some recognition of the County's relatively healthy financial situation. The Union's 3% demand is understandable, in view of the Fact-Finder's Award, comparability data for dispatchers and road deputies, and comparison of recent wage increases to the rate of inflation. However, it cannot be squared with comparability data and the local bargaining history of insuring equitable treatment for all of the County's employee groups.



**AWARD**

The Conciliator awards the Sheriff's Final Offer. For 2013, the Sheriff will increase the wages of employees in the unit by 1.5% and, in addition, pay a 0.5% bonus to each bargaining unit employee. This Award is issued this 19th day of February, 2013.

s/John T. Meredith  
John T. Meredith, Conciliator

Shaker Heights, Ohio

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing Report was electronically filed with the State Employment Relations Board and electronically served upon the parties by e-mailing it to their representatives, listed below, this 19<sup>th</sup> day of February, 2013:

Michelle Sullivan  
Allota, Farley & Widman Co., L.P.A.  
2222 Centennial Rd.  
Toledo, OH 43617

[msullivan@afwlaw.com](mailto:msullivan@afwlaw.com)

Representative of the Union

Steven Spirin  
3 New England Lane  
Perrysburg, OH 43551

[stevens333@aol.com](mailto:stevens333@aol.com)

Representative of the Employer

s/John T. Meredith  
John T. Meredith, Fact Finder